

RESPONSE TO FEEDBACK RECEIVED

5 June 2020

Proposed Revisions to the Exemption Framework for Cross- Border Business Arrangements of Capital Markets Intermediaries

MAS

Monetary Authority of Singapore

Contents

1	Preface.....	3
2	Scope of Proposed Framework	3
3	Notification Requirements	4
4	Regulatory Status of the Singapore Entity	5
5	Regulatory Status of the FRCs	6
6	Permissible Clientele under the Arrangements	8
7	Internal Controls over the Arrangement.....	9
8	Other Feedback	15

1 Preface

1.1 On 4 December 2018, MAS issued a consultation paper to seek comments on the proposal to streamline the exemption framework for business arrangements between financial institutions in Singapore and their foreign related corporations (the “FRC Framework”), by moving from the current ex-ante approval approach, to an ex-post notification approach, for such business arrangements.

1.2 The consultation period closed on 31 January 2019. MAS would like to thank all respondents for their contributions. The list of respondents is in Annex A, and the full submissions are provided in Annex B.

1.3 MAS has carefully considered the feedback received, and will incorporate them into the final framework where appropriate. MAS will also explain why we do not intend to take up some other feedback in this document. Comments that are of wider interest, together with MAS’ responses, are set out in this paper.

2 Scope of Proposed Framework

2.1 MAS proposed to include Exempt OTC Derivatives Brokers¹ and Exempt Futures Brokers² (collectively referred to as “Exempt Brokers”) within the scope of the FRC Framework. MAS also proposed to exclude licensed Venture Capital Fund Managers, and arrangements relating to the financial advisory service of issuing or promulgating research analyses or reports concerning any investment products from the FRC Framework. No comments or objections were received on these proposals.

MAS’ Response

2.2 MAS will proceed with the proposals on the scope of the FRC Framework. This means that under the proposed FRC Framework, the following types of entities in Singapore (“Singapore Entities”) will be able to enter into business arrangements with their FRCs:

- (a) Persons licensed under section 82(1) of the Securities and Futures Act (“SFA”), other than persons licensed to conduct the regulated activity of

¹ “Exempt OTC Derivatives Brokers” are persons exempted under paragraph 3A(1)(d) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (“SF(LCB)R”).

² “Exempt Futures Brokers” are persons exempted under paragraph 3(1)(d) of the Second Schedule to the SF(LCB)R.

fund management solely in respect of the management of portfolios of specified products on behalf of venture capital funds;

- (b) Persons licensed under section 6(1) of the Financial Advisers Act (“FAA”) (i.e. “licensed financial advisers”);
- (c) Exempt persons under section 99(1)(a), (b), (c) or (d) of the SFA (“exempt capital markets intermediaries”);
- (d) Exempt persons under section 23 (other than subsections (1)(ea) and (f)) of the FAA (“exempt financial advisers”); and
- (e) Exempt persons under paragraphs 3(1)(d) or 3A(1)(d) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (“SF(LCB)R”).

2.3 The financial advisory service of issuing or promulgating research analyses or reports concerning any investment product will be excluded from the proposed FRC Framework. Foreign research houses can provide this financial advisory service to any investor under arrangements with licensed or exempt financial advisers in Singapore, by relying on the existing exemption under regulation 32C of the Financial Advisers Regulations (“FAR”).

3 Notification Requirements

3.1 MAS proposed that Singapore Entities notify MAS of (i) the arrangement(s) with their FRC(s) within 14 days of commencement of the arrangement(s), and (ii) material changes to the arrangement(s) within 14 days of such changes occurring.

3.2 Respondents sought clarification on the specific information to be submitted to MAS at the point of commencement of the arrangement, and on an ongoing basis. Several respondents suggested a longer timeline for making these notifications, citing that time was needed to evaluate changes and to review the impact of any changes on an arrangement’s ongoing compliance with the exemption conditions. Two respondents also requested clarification on when an arrangement is considered to have “commenced”.

MAS’ Response

3.3 The information to be collected will be broadly consistent with what is currently required in the application form under the FRC Framework, such as information on the FRCs and types of regulated activities involved. Nevertheless, MAS intends to seek further

comments from the industry on the specific information to be submitted to MAS, both at the point of commencement of the arrangement, as well as on an ongoing basis.

3.4 MAS will maintain the 14-day notification timeline for both the commencement of and material changes to arrangements. Given that the Singapore Entity will be a party to the establishment of such arrangements, it is expected to put in place internal arrangements with its FRCs to meet the notification timeline when proposing material changes to such arrangements. MAS expects the Singapore Entity to have oversight of its FRC arrangements. In this regard, the Singapore Entity should ordinarily be involved in decisions to change, or be kept apprised of material changes to arrangements with its FRCs on an ex-ante basis. MAS will assess the validity of the circumstances and reasons if there are late notifications.

3.5 The “commencement” of an arrangement refers to the date the FRC commences or intends to commence the conduct of the relevant regulated activity under the proposed arrangement. Under the SFA or FAA, a person must be appropriately licensed, regulated, or otherwise exempt, before conducting any regulated activity or providing any financial advisory service. The same principle applies to FRCs seeking to conduct regulated activities or provide financial advisory services in Singapore, under an arrangement with a Singapore Entity.

4 Regulatory Status of the Singapore Entity

4.1 MAS proposed to retain the existing requirement that Singapore Entities be appropriately licensed or authorised to conduct the corresponding regulated activities that the FRC intends to undertake in Singapore as part of the business arrangement. This is to prevent the Singapore Entities from merely being used as a conduit to access customers, without themselves carrying out the same regulated activities meaningfully. For Singapore Entities that are exempt from licensing (such as exempt capital markets intermediaries, exempt financial advisers, exempt brokers), these entities can only enter into FRC arrangements involving activities for which they are exempted from being licensed. As an exception, MAS also proposed to allow FRCs to enter into an arrangement with a Singapore Entity to provide product financing or custodial services as a complement to the Singapore Entity’s business of dealing in capital markets products, even if the Singapore Entity is not licensed or authorised to provide product financing or custodial services.

4.2 Several respondents sought clarification on the factors MAS would consider when assessing whether the Singapore Entity plays a “meaningful role” within the FRC arrangement, and whether the Singapore Entity would be required to have a sizeable presence in Singapore, or a sizeable role in the proposed arrangement. One respondent

also sought clarification on whether a Singapore Entity needs to be licensed or authorised to deal in capital market products for the same asset classes for which the FRC intends to provide product financing or custodial services.

MAS' Response

4.3 There is no change to MAS' expectations on the role of Singapore Entities in their business arrangements with their FRCs³. MAS takes a facilitative approach to FRC arrangements, recognising that there are good reasons for many such arrangements. However, it is not MAS' intent to allow the establishment of entities in Singapore that are shell entities or that have minimal business presence, or arrangements that could undermine regulatory integrity, or pose a risk to financial stability and market confidence.

4.4 MAS will not be prescribing "materiality" thresholds on the size of the Singapore Entity's business, as MAS takes into account both qualitative and quantitative considerations holistically. MAS would already expect financial institutions to conduct meaningful activities at the point of admission. MAS will complement this with the information that we propose to collect on the FRC arrangements, to satisfy ourselves that this remains so on an ongoing basis, after the establishment of FRC arrangements.

4.5 For FRC arrangements involving product financing or providing custodial services, the Singapore Entity must be licensed or authorised to deal in capital markets products for the same classes of products⁴ for which the FRC intends to provide product financing or custodial services under the arrangement.

5 Regulatory Status of the FRCs

5.1 MAS proposed to retain the existing requirement for FRCs and representatives of the FRCs ("Foreign Representatives") to be licensed or authorised in their own jurisdiction in respect of the activities to be performed under an FRC arrangement. Specifically, MAS proposed that FRCs and Foreign Representatives be:

³ These expectations are currently set out in paragraph 5 of the "Guidelines on Applications for Approval of Arrangements Under Paragraph 9 of the Third Schedule to the Securities and Futures Act" (SFA 04-G03), and paragraph 6 of the "Guidelines on Applications for Approval of Arrangements Under Paragraph 11 of the First Schedule to the Financial Advisers Act" (FAA-G06). Illustrations of the functions the Singapore Entity is expected to perform within the FRC arrangement are set out in Appendix I of the above guidelines.

⁴ The regulated activities of "product financing" and "providing custodial services" relate to "specified products", defined in section 2 of the SFA as "securities, specified securities-based derivatives contracts, or units in a collective investment scheme".

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- (a) licensed or authorised in their own jurisdiction in respect of the activities to be performed under the arrangement;
 - (b) from a jurisdiction that is supervised for compliance with anti-money laundering and countering the financing of terrorism (“AML/CFT”) requirements consistent with standards set by the Financial Action Task Force (“FATF”); and
 - (c) from a jurisdiction that is not subject to UN Security Council (“UNSC”) sanctions.

5.2 In relation to paragraph 5.1(a), several respondents highlighted that in some jurisdictions, FRCs may not be “licensed” or “authorised” in respect of a particular activity, notwithstanding the FRCs are subject to supervision by the regulatory authority in that jurisdiction. For example, the FRC could be relying on “wholly incidental” exemptions to perform an otherwise licensable activity. Other respondents also highlighted that in some jurisdictions, Foreign Representatives may not be subject to licensing or authorisation requirements, notwithstanding the FRC itself is appropriately licensed or authorised.

5.3 In relation to paragraphs 5.1(b) and (c), some respondents sought clarification on whether Foreign Representatives would be required to be nationals/ citizens of countries that satisfy the requirements stated in these paragraphs. One respondent also sought clarification on whether the requirement in paragraph 5.1(b) would be satisfied, if the FRC was from a jurisdiction that is either a member country of a FATF Associate Member, or subject to assessment by a FATF Associate Member. The same respondent also asked about the implications to an FRC arrangement in the event the jurisdiction of an FRC is subjected to UNSC sanctions, after commencement of the FRC arrangement.

MAS’ Response

5.4 Having considered the feedback from the industry, we will revise the requirement in paragraph 5.1(a), to require FRCs to be licensed, authorised, regulated or supervised by a regulatory body in the foreign jurisdiction where the FRC is operating from. FRCs that are relying on exemptions in respect of the specific activity under the FRC arrangement but that are nonetheless licensed/authorised in the jurisdiction where they are operating from, would be allowed to conduct activities as part of FRC arrangements. Representatives of FRCs from jurisdictions that do not license or authorise individuals would also be allowed to conduct activities as part of FRC arrangements, as long as the FRC itself is licensed, authorised, regulated or supervised.

5.5 The requirements in paragraphs 5.1(b) and (c) apply to the jurisdiction where the FRC is operating from, and not the countries which Foreign Representatives are

nationals/citizens of. The Singapore Entity should consider if the AML/CFT requirements applied in the jurisdiction where the FRC is operating from are consistent with the standards set by the FATF. The fact that a jurisdiction is a member of the FATF or a member of a FATF Styled Regional Body does not automatically mean that the jurisdiction is applying AML/CFT standards consistent with the FATF standards. In this context, regard should be given to jurisdictions that have been identified by the FATF to have strategic AML/CFT deficiencies.

5.6 If a jurisdiction becomes subject to sanctions by the UNSC which (i) relate to money laundering or terrorism financing, or (ii) are targeted at the financial sector, FRC arrangements with that jurisdiction should be immediately discontinued. If such sanctions relate to any other reasons, FRC arrangements should be suspended and a review carried out immediately. MAS should be notified of any discontinuation or suspension of FRC arrangements, as with any other material change.

6 Permissible Clientele under the Arrangements

6.1 Given the additional complexity in dealing with foreign persons operating under different legal frameworks and regulatory standards, MAS proposed to retain the clientele restrictions for FRC arrangements, and to continue to restrict the clientele under FRC arrangements to non-retail customers, i.e. accredited investors (“AI”), expert investors (“EI”) and institutional investors (“II”). Where the Singapore Entity is restricted to serving specific types of customers, MAS also proposed that the FRC arrangement be restricted to those same types of customers⁵.

There were no objections to the proposed clientele restrictions. However, some respondents sought clarification on whether the status of the customer could be ascertained during the onboarding process rather than at the marketing or prospecting stage, citing practical difficulties with carrying out due diligence on investors during the marketing/solicitation process. One respondent suggested that FRC arrangements involving the regulated activity of advising on corporate finance be allowed for corporations which do not fall within the definition of AI, EI or II (and are hence retail investors).

MAS’ Response

⁵ For example, where a capital markets services (“CMS”) licence holder is restricted to serving only AI and/or II, any arrangements with its FRCs should similarly be restricted to serving only AI and/or II (and should not include EI).

6.2 MAS would like to clarify that Singapore Entities and FRCs may establish the status of customers at the point of onboarding, rather than at the marketing stage. If the customer is assessed not to be an AI, or does not opt-in to be treated as one⁶, thereby falling out of the permissible clientele categories for FRC arrangements, the customer cannot be onboarded.

6.3 MAS does not agree with the suggestion to expand the permissible clientele for corporate finance advisory arrangements to customers that do not qualify for AI, EI or II status, as they may not possess the relevant expertise, knowledge or resources to assess and mitigate the risks arising from cross-border business arrangements. For this reason, all customers (including corporate customers) are subject to the AI opt-in requirements, given the broader policy objective of ensuring that all customers make a conscious decision to be treated as AIs. It is also not MAS' intention to expand the types of permissible clientele under the FRC Framework, in moving to a notification framework. In this regard, MAS will continue to restrict the types of transactions⁷ that can be undertaken as part of corporate finance advisory arrangements.

7 Internal Controls over the Arrangement

7.1 MAS proposed to require the Singapore Entities to have in place policies and procedures to oversee the conduct of FRCs and Foreign Representatives under these FRC arrangements, similar to the requirements for existing arrangements which have been approved by MAS. The applicable policies and procedures include:

- (a) Keeping records relating to the business arrangements with the FRC, consistent with Regulation 39 of the SF(LCB)R or Regulation 25 of the FAR, as applicable;

⁶ Please refer to questions 10 and 23 of the "FAQs on the Definition of Accredited Investor and Opt-in Process".

⁷ Under the current FRC Framework, corporate finance advisory arrangements cannot include transactions which (i) involve the provision of advice in relation to an offer of securities in respect of which a prospectus, a profile statement or an offer information statement, as the case may be, is required under Part XIII of the SFA; (ii) are subject to the General Principles and Rules in the Singapore Code on Take-overs and Mergers; or (iii) involve the provision of advice to a public company, a corporation listed on the Singapore Exchange Securities Trading Limited ("SGX"), or a corporation which is a subsidiary of a SGX-listed corporation, where such advice is circulated to the shareholders of these corporations (other than shareholders who are non-retail investors), or is otherwise made known to the public. Transactions of the aforementioned categories are allowed only if the Singapore Entity is one of the contractual parties to the transaction, under an agreement with another party (not being the Singapore Entity's related corporation), and the Singapore Entity is liable, whether solely or jointly with the other contractual party, for the obligations and liabilities of the transaction.

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- (b) Maintaining a register in respect of every Foreign Representative containing the following information:
 - i. the duration of every visit to Singapore by the Foreign Representative to carry out the activity under the arrangement;
 - ii. the Foreign Representative’s relevant qualifications (including any updating of the qualifications); and
 - iii. the status of any licences relating to activities similar to the carrying out of the activity under the arrangement held by the Foreign Representative in any jurisdiction other than Singapore;
 - (c) Performing customer due diligence by the Singapore Entity in accordance with the relevant MAS Notice on Prevention of Money Laundering and Countering the Financing of Terrorism (i.e. MAS Notice SFA04-N02, FAA-N06, 314, 626, 824 or 1014, as applicable) and MAS Regulations made pursuant to United Nations Security Council Resolutions;
 - (d) Maintaining or having access to all records kept overseas by the FRC, that relate to the business arrangements (including know-your-customer (“KYC”) documents), and providing MAS with timely access to these records (in the English language) upon request;
 - (e) Ensuring that Foreign Representatives only solicit clients in Singapore through or with appointed representatives of the Singapore Entity; and
 - (f) Implementing policies and procedures pertaining to complaints handling.

7.2 MAS also proposed to require the Singapore Entity to submit an annual certification from its external auditors that the boundary conditions under the proposed framework had been complied with, and to require the annual reporting of relevant metrics on the FRC arrangements to facilitate the monitoring of risks.

7.3 The key feedback received on each of these areas, as well as MAS’ response to the feedback, is as follows:

(a) Keeping of Records on Business Arrangements

7.4 Respondents sought clarification on the specific information for which records should be kept. One respondent suggested not to impose record keeping requirements for business arrangements with FRCs, as the FRCs would already be subject to similar record-keeping requirements by foreign regulators in their own jurisdiction.

MAS' Response

7.5 Record-keeping requirements serve to ensure that there is a proper audit trail for regulated activities conducted as part of FRC arrangements. MAS will require records in the following categories to be maintained for FRC arrangements:

- (a) records of customers, including information relating to KYC or customer due diligence (“CDD”);
- (b) records of transactions entered into with or on behalf of customers, including transaction details or transaction-related documentation; and
- (c) copies of contracts or agreements entered into with customers under the FRC arrangement.

7.6 These records can be maintained and stored by the FRCs, subject to the Singapore Entity having assessed and being satisfied that there are adequate policies and procedures for keeping these records, and that access to these records is available on a timely basis.

(b) Register of Foreign Representatives

7.7 Respondents sought clarification on the information to be included in this register, including what comprises “relevant qualifications” and “any licences” of the Foreign Representatives. A few respondents also suggested not to include information on the qualifications of the Foreign Representatives in the register, as the FRC is already responsible for ensuring that its representatives are adequately qualified to carry out regulated activities in its own jurisdiction.

7.8 Two respondents asked if the Singapore Entity can place reliance on the FRC to maintain the register. One respondent asked if there would be any restrictions on the number of days Foreign Representatives are allowed to visit Singapore under the arrangement. One respondent asked how the term “Foreign Representative” is defined, and whether this includes appointed representatives of the Singapore Entity who are based overseas.

MAS' Response

7.9 The register of Foreign Representatives should contain the following information:

- (a) the name of the Foreign Representative and the corresponding FRC;
- (b) the dates of the Foreign Representative’s visit to Singapore; and

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- (c) the purpose of the visit and details of regulated activities conducted during the visit.

7.10 MAS will not require information on the Foreign Representatives' qualifications and licences to be maintained in the register. As with other information relating to the FRC arrangement, the Singapore Entity can rely on the FRCs to maintain this information. However, the responsibility for ensuring that this information is maintained falls on the Singapore Entity.

7.11 For avoidance of doubt, MAS does not intend to restrict the number of days Foreign Representatives are allowed to visit Singapore. Nonetheless, Singapore Entities are expected to put in place policies and procedures to ensure adequate oversight of the Foreign Representatives when they are conducting regulated activities in Singapore under the FRC arrangements. Foreign Representatives in the context of the FRC Framework refers to individuals conducting regulated activities on behalf of the FRC, under the FRC arrangements. This is distinct from appointed representatives of Singapore Entities who are based overseas.

(c) Customer Due Diligence

7.12 Respondents asked if the Singapore Entity can place reliance on the FRCs to perform due diligence on customers under the FRC arrangement and to maintain the KYC-related documents. They also suggested that the Singapore Entities should not be required to perform ongoing monitoring where the customer under the FRC arrangement was not a "customer" of the Singapore Entity as defined under the relevant MAS Notices on Prevention of Money Laundering and Countering the Financing of Terrorism ("AML Notice"). One respondent also sought clarity on whether accounts must be onboarded with the Singapore Entity under the FRC Framework. One respondent asked if the CDD requirements were in relation to paragraph 14.13 of MAS Notice SFA04-N02⁸, and suggested that CDD requirements should not be applied to customers under the FRC arrangements who do not contract with the Singapore Entity.

MAS' Response

7.13 The Singapore Entity should assess whether the customers of the FRC would also be considered customers of the Singapore Entity, as defined in the relevant AML Notice. If so, the Notice requirements would apply, and the Singapore Entity must comply with them. Where the FRC's customers are not customers of the Singapore Entity, the

⁸ Paragraph 14.13 of MAS Notice SFA04-N02 states "A CMI (Capital Markets Intermediary) shall have in place screening procedures to ensure high standards when hiring employees, appointing officers and representatives."

Singapore Entity will still be required to ensure that the policies and procedures in place relating to the conduct of CDD for FRC arrangements, are at least as stringent as the requirements in the relevant AML Notice.

7.14 Paragraph 14.13 of MAS Notice SFA04-N02 deals with screening procedures to ensure hiring standards when hiring employees, and appointing officers and representatives of the CMI (i.e. the Singapore Entity). For avoidance of doubt, the Singapore Entity is not required to screen the employees, officers or representatives of the FRC, unless it thinks this is necessary based on its risk assessment.

(d) Maintenance and Access to Records

7.15 Respondents sought clarity on MAS' approach to the provision of records, where the provision of such information to MAS was restricted by legal or regulatory impediments in the foreign jurisdiction.

MAS' Response

7.16 There will be no waiver of the requirement to ensure access to records by MAS, on the basis of legal or regulatory impediments in foreign jurisdictions. Given that the FRCs are conducting regulated activities in Singapore, they are expected to adhere to the applicable requirements under Singapore law. Where there are legal or regulatory impediments in a foreign jurisdiction that prevent the provision of records to MAS, the Singapore Entity or FRC can consider several options, including: (i) structuring the arrangement and implementing processes to make the Singapore Entity responsible for originating records and documents, and maintaining these records and documents in Singapore; (ii) requiring customers under the FRC arrangement to waive their rights to confidentiality, in respect of the information relating to those customers and their transactions under the FRC arrangement; or (iii) obtaining approval from the relevant foreign regulator to provide MAS with the relevant records under the FRC arrangement when required, prior to commencing any FRC arrangement.

(e) Solicitation by Foreign Representatives

7.17 Respondents sought clarification on how 'solicitation' would be defined under the proposed framework – whether this refers to solicitation of prospective or existing customers, whether it includes the initial solicitation or ongoing solicitation for new products and services, and whether networking events would constitute 'solicitation'. Respondents also asked whether physical chaperoning of the Foreign Representatives would be required.

MAS' Response

7.18 In general, ‘solicitation’ would involve influencing or inducing customers to purchase products or services, or enter into transactions. This is in contrast to providing factual information to customers, or introducing customers to a financial institution. Whether a specific activity or event involves ‘solicitation’ depends on the facts and circumstances. ‘Solicitation’ includes both solicitation of new customers for commencing a business relationship, as well as of existing customers for the offer of new products and services.

7.19 MAS’ policy intent is to ensure that there is proper oversight of Foreign Representatives soliciting customers in Singapore. MAS will include as one of the boundary conditions the requirement that the Singapore Entity ensure there are written policies and procedures governing the FRC arrangement, including for the marketing and solicitation of customers by the FRC and Foreign Representatives. Such policies and procedures may involve having country-specific guidelines on the specific types of information that can be provided to prospects, and/or requiring marketing materials used by Foreign Representatives to be approved by the local compliance. Physical chaperoning is one way of ensuring Foreign Representatives adhere to the applicable regulations when carrying out regulated activities under the arrangement, but is not mandatory, provided there are other policies and procedures in place to ensure applicable regulations are adhered to. The Singapore Entity may rely on existing global/group-level policies and procedures in this regard. However, the onus is on the Singapore Entity to assess and identify the relevant conduct risks that may arise in the process of marketing/solicitation, and ensure that the policies and procedures implemented adequately address these risks.

(f) Complaints Handling

7.20 Respondents asked whether Singapore Entities can rely on existing global policies and procedures on complaints handling.

MAS’ Response

7.21 The Singapore Entity may rely on existing global/group-level policies and procedures with regard to the handling of complaints. However, the responsibility for ensuring that these policies and procedures are adequate for handling customer complaints rests on the Singapore Entity.

Audit Certification and Annual Reporting

7.22 Respondents asked how the requirement for external audit certification and annual reporting would be operationalised – for instance whether a new regulatory form would be introduced, whether the submission of this information would be part of the

annual audit exercise, and the timeline for submitting the certification. Respondents also suggested to allow the requirement for certification to be fulfilled by an independent assurance function such as internal audit, rather than mandating certification by external auditors, so as to mitigate cost concerns. Respondents requested to be consulted on the metrics and template for data collection, and for MAS to give the industry adequate transitional time to implement the systems and processes needed to collate the relevant information.

MAS' Response

7.23 As mentioned in paragraph 3.3, MAS intends to seek further comments on the types of information to be notified to MAS, both at the point of commencement of the arrangement, as well as on an ongoing basis.

7.24 MAS will also allow the annual certification to be provided by an independent assurance function (which can be the internal audit function within the Singapore Entity or a related entity of the Singapore Entity, a service provider engaged to perform the internal audit function, or an external auditor).

8 Other Feedback

Activities of Foreign Research Analysts Pursuant to Regulation 32C of the FAR

8.1 Some respondents sought clarification on the scope of the regulation 32C exemption; in particular, whether a foreign research analyst speaking to Singapore clients about his research reports or responding to queries on the research report from Singapore clients, is within the scope of the exemption. One respondent asked if these foreign research analysts are required to be notified as appointed or provisional representatives under the FAA.

MAS' Response

8.2 Research analysts of foreign research houses relying on the exemption under regulation 32C of the FAR are allowed to explain the contents of their research reports and respond to queries on their research reports to Singapore clients, subject to the conditions prescribed under regulation 32C of the FAR. Research analysts of foreign research houses relying on the exemption under regulation 32C of the FAR are not required to be notified as appointed or provisional representatives under the FAA, provided that the type and scope of financial advisory service they provide are within the scope of the regulation 32C exemption. For avoidance of doubt, the financial advisory

service of issuing or promulgating research analyses or reports concerning any investment product is not in the scope of the proposed FRC Framework, as mentioned in paragraph 2.3.

Treatment of Existing Approved Arrangements and Transitional Arrangements

8.3 Some respondents sought clarification on the treatment of existing FRC arrangements that have already been approved by MAS. Questions raised include: (i) whether the conditions imposed on these existing arrangements would continue to apply; (ii) whether existing arrangements for issuing or promulgating research reports approved under paragraph 11 of the First Schedule to the FAA would cease; and (iii) the transitional period for existing arrangements to comply with the new requirements under the proposed FRC Framework.

8.4 Specific to Exempt Brokers, some respondents also asked if arrangements currently exempt under regulation 65⁹ of the SF(LCB)R would be subject to the proposed FRC Framework.

MAS' Response

8.5 The policy intent is to replace the case-by-case approval framework for FRC arrangements with an ex-post notification framework. As mentioned in paragraph 5.2 of the consultation paper, existing arrangements will be required to comply with the revised boundary conditions under the proposed FRC Framework, including being required to submit an initial notification to MAS of the list of FRC arrangements currently in place. An appropriate transition time of six months will be provided to submit this notification. Existing approvals granted for FRC arrangements under paragraph 9 of the Third Schedule to the SFA and paragraph 11 of the First Schedule to the FAA will expire at the end of the transition period. The conditions imposed on arrangements approved under the current framework will no longer apply, and will be replaced by the boundary conditions under the proposed framework.

8.6 Arrangements that are currently exempt under regulation 65 of the SF(LCB)R will be subject to the proposed FRC Framework. Exempt Brokers with such business arrangements will be given the same transitional period of six months to comply with the

⁹ Regulation 65 of the SF(LCB)R provides an exemption from licensing for foreign companies that, immediately before 8 October 2018, were carrying on business in specified OTC derivatives contracts or specified FX contracts, under an arrangement between the foreign company and its related corporation in Singapore, subject to specific conditions.

boundary conditions under the proposed framework, and submit an initial notification to MAS on the list of FRC arrangements in place.

Arrangements Involving Foreign Branches or Foreign Head Offices

8.7 Respondents sought clarity on the approach for business arrangements between Singapore Entities which are branches and their foreign head offices, which are outside the scope of the FRC Framework.

MAS' Response

8.8 MAS intends to introduce a notification framework for business arrangements between Singapore Entities which are branches and their foreign head offices or foreign branches that is similar to the FRC Framework. We target to issue a consultation paper on our proposal in Q3 2020.

Applicability of FRC Framework to Exemptions under Section 337 of the SFA

8.9 One respondent asked if the proposed framework would apply to arrangements approved under section 337¹⁰ of the SFA.

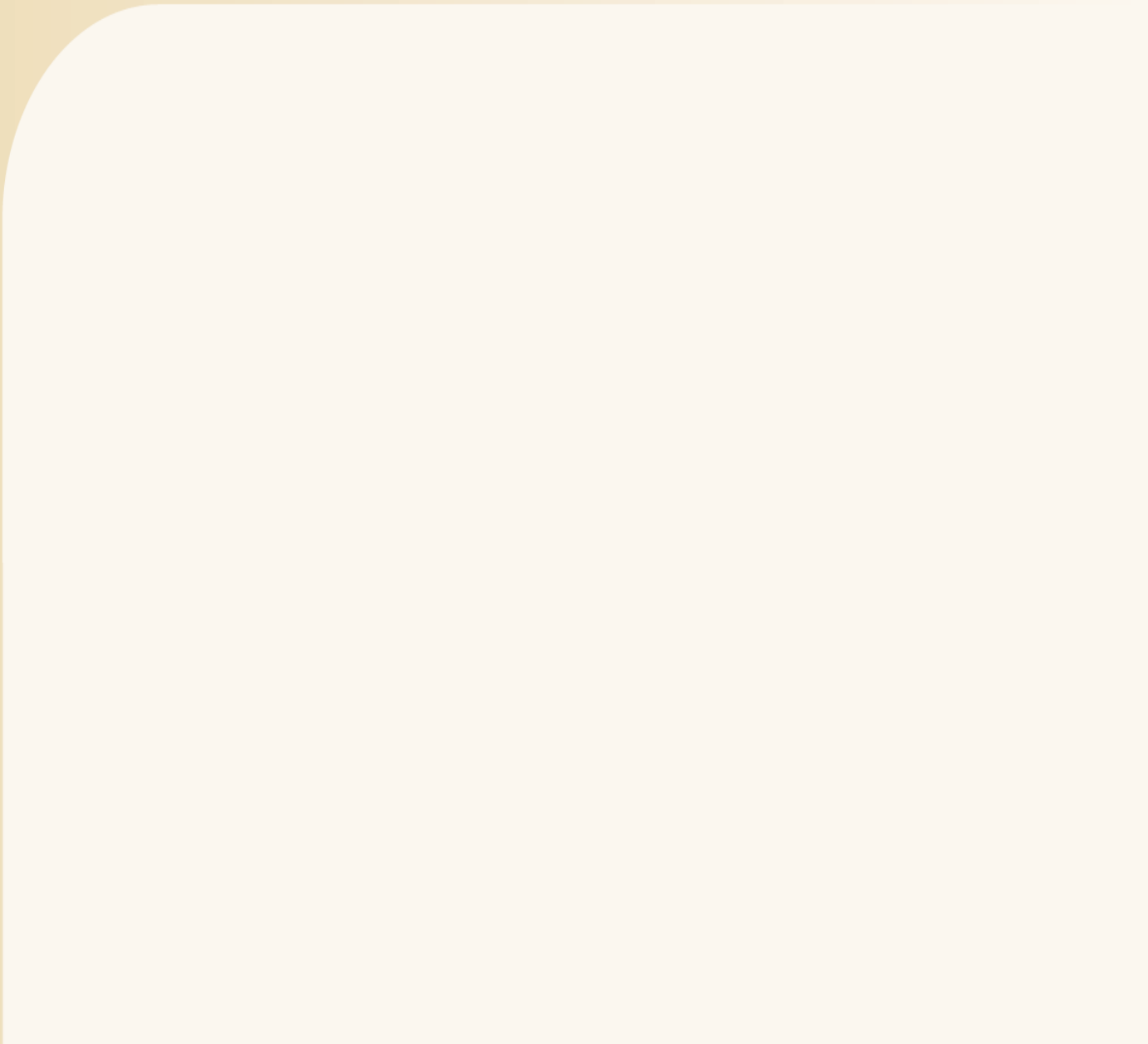
MAS' Response

8.10 The proposed FRC Framework is intended to replace the current framework for arrangements approved under paragraph 9 of the Third Schedule to the SFA, and paragraph 11 of the First Schedule to the FAA. Arrangements approved under section 337 of the SFA fall outside the scope of the FRC Framework, and the proposed revisions to the FRC Framework will have no bearing on any such exemptions already granted.

MONETARY AUTHORITY OF SINGAPORE

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¹⁰ Section 337(1) of the SFA provides general powers for granting exemptions under the SFA, and states that MAS “may, by regulations, exempt any person, capital markets product, matter or transaction, or any class thereof, from all or any of the provisions of this Act, subject to such conditions or restrictions as may be prescribed”.



Monetary Authority of Singapore