FAQs on Offers of Units in Collective Investment Schemes (including REITs) [issued on 4 May 2020]

Disclaimer:

This set of FAQs is meant to provide clarification and additional guidance on the regulatory requirements that managers of funds and Real Estate Investment Trusts ("**REITs**") are expected to comply with under the SFA amid the COVID-19 pandemic. They do not constitute legal advice. If in doubt, MAS expects industry practitioners to seek independent legal opinion, to ensure that they continue to satisfy all legal and regulatory requirements.

Q1: Can a REIT refinance existing borrowings – from the same bank or a different bank – without counting such refinancing towards its aggregate leverage limit?

A1: Under paragraph 9.5 of Appendix 6 of the Code on Collective Investment Schemes ("**CIS Code**"), a REIT may raise debt for refinancing purposes earlier than the actual maturity date of the borrowing to be refinanced without having to count such funds raised for the purposes of the aggregate leverage limit, provided that the funds are set aside solely for the purpose of repaying the maturing borrowing. The refinancing can be from the same bank or a different bank.

In addition, under paragraph 9.4 of Appendix 6 of the CIS Code, the aggregate leverage limit will not be considered breached if, due to circumstances beyond the control of the REIT manager, there is either a depreciation in the asset value of the REIT or a redemption of units or payment made from the REIT.

Q2: Does a REIT need to submit an online notification to MAS to obtain a "Restricted Scheme" status ("Notification Requirements") before making an offer of units to accredited investors and other persons under section 305 of the SFA?

A2: To streamline the fundraising process for REITs and bring it in line with the fundraising process for companies and business trusts, MAS has decided to remove the requirement for REITs to comply with the Notification Requirements when they rely on the exemption under section 305 of the SFA. MAS will be amending the relevant regulations to remove the Notification Requirements for REITs. In the meantime, REITs that are making an offer of units under section 305 of the SFA may use the SGXNet announcement relating to the offering for the purposes of complying with the requirement to submit an information memorandum. They will not need to prepare a separate information memorandum.

Q3: Are fund managers allowed to apply swing pricing as a liquidity risk management tool for authorised schemes?

A3: Yes, swing pricing is permitted under Paragraph 6.4 of the CIS Code, provided that the scheme's prospectus contains the following disclosures:

(a) the fact that swing pricing may be applied, and a general description of the trigger event;

(b) the benefits and limitations of swing pricing, including the risk that investors' stake may be diluted when net subscription or redemption is below the swing threshold;

(c) the fact that the scheme's performance will be calculated based on swung prices and that the returns of the scheme may be influenced by the level of subscription/redemption activity (which may result in the application of swing pricing);

(d) the possibility of increased variability in the scheme's returns with swing pricing accounted for in the calculation of performance returns;

(e) the fact that the fees of the scheme (including performance fees and fees based on net asset value) will be based on unswung net asset value; and

(f) the maximum amount of price adjustment under normal circumstances.

Given potential liquidity mismatches in schemes due to increased market volatility amid the COVID-19 pandemic, fund managers may be considering the use of liquidity risk management tools as part of their response to the exceptional market conditions. In such instances, fund managers should ensure that the use of any liquidity risk management tools is appropriate and in the best interests of investors. Fund managers should also ensure that scheme assets must, at all times, be fairly and accurately valued.

Q4: In conducting swing pricing, can fund managers apply a swing factor exceeding the maximum swing factor disclosed in a fund's prospectus?

A4: In light of the current COVID-19 situation, MAS is cognizant that fund managers may require additional flexibility to respond to the volatile market conditions to better safeguard the interests of investors. In this regard, fund managers may temporarily increase the swing factor for a fund beyond the maximum level stated in the prospectus provided that:

(a) the fund's constituent document and prospectus provide fund managers with the discretion to, under certain pre-defined circumstances, apply a swing factor that is beyond the maximum swing factor disclosed in the prospectus

(b) the decision to exceed the current maximum swing factor is duly justified and is made in the best interest of all investors (i.e. both existing and new investors);

(c) the adjustment to the swing factor complies with the applicable laws and regulatory requirements imposed by the home regulators; and

(d) the fund manager notifies and clearly explains to existing and new investors that a swing factor which exceeds the limit disclosed in the fund's prospectus may be applied.

Q5: Does the fund manager need to inform MAS and existing participants at least one month before any significant change takes place?

A5: Yes, this is required under Chapter 3.2(d) of the CIS Code. However under Chapter 3.2(e) of the CIS Code, where a significant change cannot be determined by the responsible person at least one month in advance, the responsible person should inform MAS and existing participants as soon as practicable. Examples of such changes include suspension of dealings and the activation of swing pricing as a result of exceptional circumstances.

Q6: Does a fund manager need prior approval from MAS before moving Singapore-based investment advisory and/or management functions to related companies overseas, for temporary business continuity purposes?

A6: The responsible person should inform MAS and scheme participants of such temporary arrangements and the circumstances under which the arrangement would be triggered, and update the prospectus, as soon as practicable.

The responsible person should retain effective oversight over the temporary arrangements, and ensure that the temporary arrangements comply with the below conditions:

(a) The overseas entity and the representatives shall be licensed in the overseas jurisdiction and for the regulated activity that they are conducting under the BCP arrangement;

(b) The overseas entity shall ensure proper segregation of client information and put in place necessary measures to preserve client confidentiality;

(c) The overseas entity shall put in place proper controls to address any potential conflicts of interest; and

(d) The overseas entity shall provide a written confirmation that the overseas representatives do not solicit Singapore clients.

Q7: Can authorised schemes increase their cash holdings and borrow to meet increased redemption requests during COVID-19?

A7: Authorised schemes may hold eligible deposits as permitted under the CIS Code, and in accordance with their investment strategies. As provided under paragraph 7 of Appendix 1 of the CIS Code, authorised schemes may also borrow from licensed deposit-taking institutions on a temporary basis, for the purposes of meeting redemptions.

Q8: Can a fund manager change the settlement period of redemption requests from T+4 as disclosed in the prospectus to T+7 as allowed under the CIS Code?

A8: A change to the settlement period of redemption requests is permitted if the fund's constituent document and prospectus provide the fund managers with the discretion to increase the settlement period under certain predefined circumstances. However, the settlement period must be kept within the T+7 business days required under Chapter 3.7(a) of the CIS Code.