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## **GUIDELINES TO ALL HOLDERS OF A CAPITAL MARKETS SERVICES LICENCE FOR REAL ESTATE INVESTMENT TRUST MANAGEMENT**

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### **1 PURPOSE**

1.1 These Guidelines are issued pursuant to section 321 of the Securities and Futures Act (Cap. 289) ["SFA"] and apply to all holders of a capital markets services licence for real estate investment trust management ["REIT managers"].

1.2 These Guidelines set out guidance relating to minimum licensing criteria and corporate governance arrangements for REIT managers. REIT managers are expected to observe these Guidelines, including the Annexes. The degree of observance with these Guidelines by a REIT manager will be taken into account by the Authority in considering whether a REIT manager has put in place measures to ensure compliance with the such applicable rules and regulations, as well as observation of good industry practices.

1.3 These Guidelines should be read in conjunction with the provisions of the SFA, the Securities and Futures (Licensing and Conduct of Business) Regulations ["SF(LCB)R"], the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations ["SF(FMR)R"] as well as written directions, notices, codes and other guidelines that MAS may issue from time to time.

1.4 All terms used in these Guidelines shall, except where the context otherwise requires, have the same respective meanings as defined in section 2 of the SFA, regulation 2 of the SF(LCB)R, regulation 2 of the SF(FMR)R and paragraph 2 of the Notice SFA-N14 ["Notice"].

### **2 CRITERIA FOR LICENSING**

#### General Criteria

2.1 A REIT manager should be a Singapore-incorporated company and have a permanent physical office in Singapore. The office should be dedicated, secure and accessible only to the REIT manager's directors and staff.

2.2 A REIT manager should satisfy MAS that it will discharge its duties, efficiently, honestly and fairly.

2.3 A REIT manager should satisfy MAS that its substantial shareholders, directors, representatives and employees, as well as the REIT manager itself, are fit and proper, in accordance with the Guidelines on Fit and Proper Criteria [Guideline No. FSG-G01] issued by MAS.

2.4 A REIT manager should satisfy MAS that its controlling shareholders, where applicable, have established track records in managing, investing in, or advising on the type of real estate to be invested by the REIT, for at least the past 5 years.

2.5 A REIT manager should satisfy MAS that its controlling shareholders, where applicable, have good rankings in their home countries.

2.6 A REIT manager should conduct the following activities, in relation to the management of the REIT, in Singapore:

- (a) accounting;
- (b) compliance; and
- (c) investor relations.

2.7 The Singapore operations of the REIT manager should have a meaningful role in the management of the REIT, relative to any other related entities or branch offices, as the case may be, which may also have responsibility for the management of the REIT. The following non-exhaustive factors are relevant to MAS' assessment of the role of the Singapore operations in the management of the REIT:

- (a) the composition and mandate of the REIT manager's board of directors and management committees; and
- (b) the extent to which the Chief Executive Officer ["CEO"] and directors who are resident in Singapore participate in the formulation of investment strategies and financing activities of the REIT manager.

#### Criteria in respect of the CEO, Directors and Representatives

2.8 Section 96 of the SFA provides that a REIT manager shall obtain the approval of MAS prior to:

- (a) appointing a person as its CEO or director; and
- (b) changing the nature of appointment of a director from one that is non-executive to one that is executive.

2.9 The REIT manager must appoint a CEO, who should be resident in Singapore. However, where the REIT manager manages a REIT that is invested primarily in foreign properties, the CEO of the REIT manager may be resident in that foreign country in which the REIT's properties are primarily invested in, if the REIT manager satisfies MAS that this arrangement is required to provide effective governance and oversight on the REIT portfolio. In addition, the REIT manager should satisfy MAS that there is sufficient oversight and governance of its operations in Singapore despite the CEO being resident in a foreign country. This includes, among others, having a board that is majority resident in Singapore.

2.10 A REIT manager should notify MAS of the resignation of a director or the CEO as soon as practicable, and no later than 14 days from the date of the resignation.

2.11 The CEO and directors of a REIT manager should have at least 10 years of relevant experience, including five years at a management level.

2.12 The REIT manager should have a minimum of 3 full-time representatives (which may include the CEO) who are resident in Singapore and who each have at least 5 years of experience relevant to REIT management.

2.13 Individuals who are engaged in the following functions on behalf of the REIT manager should be appointed as the REIT manager's representatives:

- (a) investment management;
- (b) asset management;
- (c) financing;
- (d) marketing; and
- (e) investor relations.

2.14 Individuals who are based overseas and engaged in these functions on behalf of the REIT manager should be appointed as representatives of the REIT manager, but they will not count towards satisfying the minimum of 3 full-time Singapore-resident representatives.

### Base Capital

2.15 Regulation 3 read with the First Schedule to the SF(FMR)R provides that a REIT manager shall have a base capital of S\$1 million.

### Financial Resources

2.16 A REIT manager shall satisfy the financial resources requirements set out in the SF(FMR)R.

### Letter of Responsibility / Letter of Undertaking

2.17 MAS may, pursuant to section 88 of the SFA, impose a condition requiring the REIT manager to procure a Letter of Responsibility<sup>1</sup> or a Letter of Undertaking<sup>2</sup> (in a form satisfactory to MAS) from its controlling shareholder or parent company.

### Professional Indemnity Insurance

2.18 A REIT manager should procure professional indemnity insurance, with coverage that complies with the minimum requirements set out in Annex 1.

## **3 CORPORATE GOVERNANCE ARRANGEMENTS**

3.1 A REIT manager should comply with all principles and guidelines set out in the Code of Corporate Governance<sup>3</sup> [“CG Code”]. Any deviation from the CG Code should be clearly explained in the annual report of the REIT.

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<sup>1</sup> The Letter of Responsibility is a commitment from the controlling shareholder or parent company that it will maintain adequate oversight over the applicant's operations, financial position, compliance with laws, management and other relevant issues.

<sup>2</sup> The Letter of Undertaking sets out the maximum liability of the controlling shareholder or parent company in support of any liquidity shortfall or other financial obligations.

<sup>3</sup> Issued on 2 May 2012, as from time to time amended, modified or supplemented.

### Independence of a Director

3.2 Regulation 13D to 13H of the SF(LCB)R sets out the requirements relating to the composition of the board of directors of a REIT manager including criteria for determining when a director is considered independent.

3.3 An independent director of the controlling shareholder who also sits on the board of directors of the REIT manager will not, given his relationship with the controlling shareholder, be considered an independent director of the REIT manager.

### Board Committees

#### *Audit Committee*

3.4 Paragraph 5 of the Notice provides that the Audit Committee of a REIT manager shall comprise only non-executive directors, the majority of whom, including the Audit Committee Chairman, shall be independent. The Audit Committee of a REIT manager shall comprise at least three directors.

3.5 Individuals with control or back-office responsibilities<sup>4</sup> in the controlling shareholder or its related companies may be appointed as members of the Audit Committee. In such cases, the Audit Committee should comprise at least 3 other directors who are independent.

#### *Nominating and Remuneration Committee*

3.6 A REIT manager should consider constituting a Nominating Committee and a Remuneration Committee, in accordance with the guidelines in the CG Code. If a REIT manager does not set up these committees, it should clearly explain its rationale in the annual report of the REIT. Annex 2 provides guidance on the type of disclosure expected.

### Conflict of Interest and Time Commitment

3.7 The board of directors and senior management of the REIT manager should take all necessary steps to avoid conflicts of interest, and if such conflicts arise, resolve the conflicts fairly and equitably.

3.8 To avoid any potential conflict of interest, the CEO and executive directors of the REIT manager should not concurrently hold roles in:

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<sup>4</sup>Examples of such responsibilities would be in the areas of finance, audit, risk management, and compliance.

- (a) the controlling shareholder or its related entities; or
- (b) another entity with competing interests (e.g. property company).

3.9 A REIT manager should ensure that its CEO and executive directors are fully committed to the REIT manager's operations. This includes ensuring that they:

- (a) are employed full-time in the day-to-day operations of the REIT manager; and
- (b) do not take up an executive role in another entity.

#### **4 DISCLOSURE REQUIREMENTS ON REMUNERATION OF DIRECTORS AND EXECUTIVE OFFICERS**

4.1 Paragraph 3 of the Notice sets out the disclosure requirements on remuneration of directors and executive officers.

4.2 In disclosing the remuneration policies and its procedure for setting the remuneration of directors and executive officers, the REIT manager should state whether such remuneration is paid in cash only or if it comprised other non-monetary compensation.

4.3 The disclosure on remuneration of directors and executive officers (i) paid in the form of shares or interests in the controlling shareholder or its related entities; or (ii) linked (directly or indirectly) to the performance of any entity other than the REIT should include information such as the proportion of such forms of remuneration as a percentage of annual remuneration of the directors and executive officers. Annex 3 provides guidance on the type of disclosure expected.

## 5 COMPLIANCE ARRANGEMENTS

5.1 In assessing the adequacy of the internal controls of the REIT manager<sup>5</sup>, the board of directors of the REIT manager should take into account the nature, scale and complexity of the REIT manager's operations, such as but not limited to the following:

- (a) consider the type of properties that the REIT invests in when assessing the nature of the REIT manager's operations;
- (b) take into account the size of the REIT's property portfolio when assessing the scale of the REIT manager's operations;
- (c) take into account:
  - (i) the frequency and value of related party transactions, including the materiality of any functions that the REIT manager may have outsourced to the controlling shareholder; and
  - (ii) the transparency of laws in the jurisdiction(s) in which the REIT's properties are located,when assessing the complexity of the REIT manager's operations.

5.2 For REIT managers managing REITs with property portfolios of more than S\$1 billion, the REIT manager should put in place an independent and dedicated compliance function in Singapore with staff who are suitably qualified and independent from the front office. REIT managers may obtain compliance support from an independent and dedicated compliance team at its parent company, or at an overseas related entity. Compliance staff may perform other non-conflicting and complementary roles such as that of an in-house legal counsel.

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<sup>5</sup> For compliance with Rule 1207(10) of the Listing Manual of the Singapore Exchange Securities Trading Limited.

**A1 Professional Indemnity Insurance [“PII”] for REIT Managers**

**Table A1-1 – Minimum PII Coverage**

Net Asset Value of the REIT	Min PII	Remarks
< S\$100m	S\$2m	<ul style="list-style-type: none"> <li>• Copy of PII should be made available to MAS upon request.</li> <li>• Amount of PII deductible should not exceed 20% of the REIT manager’s base capital.</li> </ul>
S\$100m to less than S\$200m	S\$3m	
S\$200m to less than S\$300m	S\$5m	
S\$300m to less than S\$400m	S\$7m	
S\$400m to less than S\$500m	S\$9m	
S\$500m to less than S\$600m	S\$11m	
S\$600m to less than S\$700m	S\$13m	
S\$700m to less than S\$800m	S\$15m	
S\$800m to less than S\$900m	S\$17m	
S\$900m to less than S\$1b	S\$19m	
S\$1b to less than S\$10b	S\$21m	
S\$10b and above	S\$25m	

**Table A1-2 – Minimum PII Coverage**

Feature	Coverage
Persons covered	The REIT manager and all of its representatives.
Areas to be covered	<p>Baseline:</p> <p>(i) Breach of professional duty by the REIT manager or its representatives.</p> <p>(ii) Infidelity or dishonesty of the REIT manager, its employees, agents or contractors.</p>



	<p>(iii) Loss of documents evidencing title of assets belonging to customers.</p> <p>This list represents the minimum standards, and is not exhaustive. The REIT manager should also undertake its own analysis and obtain adequate PII coverage that is commensurate with the nature, scale and complexity of its business.</p> <p>The minimum amount applicable to a REIT manager, as set out in Table A1-1, should apply to each of the baseline items (i), (ii) and (iii) under the PII policy.</p> <p>Where a claim is awarded under a formal legal proceeding, the minimum limit of indemnity available for the settlement of claims to customers should be as set out in table A1-1. For instance, REIT managers may either obtain a PII policy where legal costs are paid in addition to the minimum limit of indemnity or by sufficiently increasing the level of cover to take legal costs into account.</p>
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- Letter of Undertaking - In lieu of a PII, MAS may consider a Letter of Undertaking with liability equal to or exceeding the minimum PII coverage from the controlling shareholder or the parent company of the REIT manager. However, the controlling shareholder or the parent company of the REIT manager should be of satisfactory financial standing.
- Alternative PII - MAS may consider alternative forms of PII if the REIT manager assesses that the interests of investors are not undermined and the following conditions are fulfilled:

**Table A1-3 – Conditions for Acceptance of Alternative PII**

Type	Conditions
Group PII	<ul style="list-style-type: none"> <li>• Minimum coverage should be at least 5 times the required quantum under a standalone non-hybrid PII.</li> <li>• If the deductible of the Group PII is greater than 20% of the REIT manager's base capital, an undertaking from the controlling shareholder or the parent company of the REIT manager to cover the excess in the event of a claim would be required.</li> </ul>
Hybrid PII	<ul style="list-style-type: none"> <li>• Sub-limits should be set for the non-PII sections of the hybrid PII.</li> <li>• Total coverage under the hybrid PII less the sub-limits for the non-PII sections should be at least equivalent to the required quantum under a standalone non-hybrid PII.</li> </ul>
Group Hybrid PII	<ul style="list-style-type: none"> <li>• Sub-limits should be set for the non-PII sections of the Group hybrid PII.</li> <li>• Total coverage of the Group hybrid PII less the sub-limits for the non-PII sections should be at least 5 times the required quantum under a standalone non-hybrid PII.</li> <li>• If the deductible of the Group hybrid PII is greater than 20% of the REIT manager's base capital, an undertaking from the controlling shareholder or the parent company of the REIT manager to cover the excess in the event of a claim would be required.</li> </ul>

**A2 Guidance on Disclosures Related to Non-Establishment of Nominating Committee and/or Remuneration Committee**

**1 Scope**

1.1 This Annex provides general guidance on the disclosures related to the non-establishment of nominating committee or remuneration committee under paragraph 3.6 of these Guidelines.

**2 General principles**

2.1 The disclosures should be clear, reasonable, informative and meaningful.

**3 Justification for non-establishment of nominating committee and/or remuneration committee**

3.1 If the REIT manager does not set up a nominating committee and/or remuneration committee, the disclosures in the REIT's annual report should include the following:

- (a) a clear explanation why a nominating committee or remuneration committee, or both, is not set up;
- (b) if the nominating committee is not set up, the criteria and process put in place by the REIT manager for selecting and appointing new directors and for reviewing the performance of and re-electing existing directors;
- (c) if the remuneration committee is not set up, the process put in place by the REIT manager for developing policies on remuneration and determining remuneration packages for directors and executive officers.

3.2 For the purpose of paragraph 3.1 of this Annex, the following statements would not be considered as a satisfactory explanation:

- (a) a statement to the effect that the REIT manager is not a listed company and should not be subject to the same standards of corporate governance as listed companies;

- (b) a statement to the effect that the REIT manager is relying on the nominating committee or remuneration committee, as the case may be, of the controlling shareholder of the REIT manager.

**A3 Guidance on Disclosures Related to Remuneration of Directors and Executive Officers**

**1 Scope**

1.1 This Annex provides general guidance on the remuneration disclosure requirements under paragraph 3 of the Notice.

**2 General principles**

2.1 The disclosures should be clear, reasonable, informative and meaningful.

**3 Disclosures related to remuneration of directors and executive officers**

3.1 To promote and facilitate the understanding by REIT unitholders of the nature, type, extent and quantum of the remuneration paid to directors and executive officers of the REIT manager, the disclosures in the REIT's annual report should include the following:

- (a) the key features and objectives of the remuneration policies for determining the remuneration of directors and executive officers;
- (b) the procedures and processes in determining the remuneration policies in respect of its directors and executive officers, including -
  - (i) whether there is a remuneration committee and the decision-making process in respect of setting the remuneration policies;
  - (ii) the name of any remuneration consultant or industry expert who has been consulted on the determination of the remuneration policies (if any) and a statement on whether the remuneration consultant or industry expert has any relationship with the REIT manager, its controlling shareholder or related entities. Where such relationships exist, the disclosure should also set out clearly how the independence and objectivity of the remuneration consultant or industry expert is ensured; and

- (iii) the procedures for review of remuneration policies and for ensuring that the remuneration payable are in line with the objectives of the remuneration policies; and
- (c) an overview of the different forms of remuneration (i.e. base/fixed salary, variable or performance-related income/bonuses, benefits in kind, stock options granted, share-based incentives and awards, and other long-term incentives) which may be offered (including a broad description of the types of benefits that may be provided) and a discussion on the use of the different forms of remuneration (including the rationale for the use of each form of remuneration).

3.2 Where any director or executive officers are paid in the form of shares or interests in the controlling shareholder or its related entities or linked (directly or indirectly) to the performance of any entity other than the REIT, the disclosures should:

- (a) explain the rationale for such form of compensation and how such form of compensation is in the long-term interests of the REIT and its unitholders, and why this will not result in the directors or the executive officers prioritising the interests of such controlling shareholder or such related or other entities over that of the REIT and its unitholders;
- (b) set out clearly the mitigating measures put in place to address potential conflicts of interest arising from such form of compensation; and
- (c) disclose the factors taken into consideration for determining the mix of different form of remuneration for directors and for executive officers respectively and the relative importance of such factors.

#### **4 Justification for non-disclosure of remuneration of CEO, directors and executive officers**

4.1 If the REIT manager does not disclose the remuneration of the CEO, each individual director and at least its top 5 executive officers (other than the CEO and executive officers who are directors) on a named basis whether in exact quantum or in bands of S\$250,000, the REIT manager should explain why such disclosure is not made and why unitholders' interest will not be prejudiced as a result of such non-disclosure.

- 4.2 For the purpose of paragraph 4.1 of this Annex, a statement to the effect that the remuneration of the CEO, directors and executive officers of the REIT manager is payable out of the assets of the REIT manager and not out of the deposited property of the REIT would not be considered a satisfactory explanation.

## Sample of Remuneration Disclosure

A An illustration on the type of disclosure expected on the remuneration of directors and executive officers is provided below.

- *The policies and procedures for the setting of remuneration for directors and executive officers of the REIT manager are set out as follows: [clear description of policies and procedures, taking into consideration paragraphs 3.1(a)-(b)].*
- *As part of their remuneration from the REIT manager, the executive officers receive x% of their annual remuneration in the form of shares from [name of entity]. Base pay and bonuses make up y% and z% respectively.*
- *Directors receive a% of their Board fees in the form of shares from [name of entity].*
- *The Board/Remuneration Committee had reviewed the arrangements and concluded that any potential conflict of interest that may occur is mitigated because [clear reasons, taking into consideration paragraphs 3.2(a)-(c)].*

B For disclosure of the remuneration of the CEO, directors and executive officers on a named basis, whether in exact quantum or in bands of S\$250,000, the following format could be used.

	<b>Salary Remuneration (S\$)</b>	<b>Cash Bonus (S\$)</b>	<b>Share Plan<sup>6</sup> (S\$)</b>	<b>Others (S\$)</b>	<b>Total (S\$)</b>
Name					

C For non-disclosure of the remuneration of the CEO, directors and executive officers on a named basis, the explanation should include, “*The Board/Remuneration Committee had assessed and decided against the disclosure of the remuneration of the chief executive officer, directors and executive officers on a named basis, whether in exact quantum or in bands of S\$250,000, because [clear reasons].*”

<sup>6</sup> Include breakdown of remuneration paid in the form of shares in the controlling shareholder, its related entities or the REIT (if any)