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Review of the Regulatory Regime for Fund Management Companies and Exempt Financial Intermediaries

MAS

Monetary Authority of Singapore

REVIEW OF THE REGULATORY REGIME FOR FUND MANAGEMENT COMPANIES AND EXEMPT FINANCIAL INTERMEDIARIES

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| TABLE OF CONTENTS | i |
| PREFACE | ii |
| INTRODUCTION | 1 |
| Section A: Fund Management Companies | 3 |
| Section B: Exempt Leveraged Foreign Exchange Traders, Exempt Corporate Finance Advisers and Exempt Financial Advisers | 17 |
| Section C: Transitional Arrangements | 20 |

PREFACE

The Monetary Authority of Singapore [**“the Authority”**] is reviewing the regulatory regime for financial intermediaries conducting fund management activities under the Securities and Futures Act (Cap. 289) [**“SFA”**], and the exemption regime for financial intermediaries conducting the activity of leveraged foreign exchange trading¹ under the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10) [**“SF(LCB)Regs”**].

2 The Authority invites interested parties to forward their views and comments on the issues outlined in this policy consultation paper. Written comments should be submitted to:

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4 The Authority requests that all comments and feedback be submitted by **31 May 2010**.

5 Please note that all submissions received may be made public unless confidentiality is specifically requested for the whole or part of the submission.

¹ Pursuant to paragraph 4(1)(c) of the Second Schedule of the SF(LCB)Regs.

INTRODUCTION

1 Currently, persons conducting regulated activities in Singapore under the SFA are required to obtain a Capital Markets Services [**CMS**] licence. The Second Schedule to the SF(LCB)Regs provides exemptions from the need to hold a CMS licence for companies conducting fund management², leveraged foreign exchange trading and advising on corporate finance³, which serve a restricted number and type of clientele. These exempt persons are termed as exempt fund managers [**EFMs**], exempt leveraged foreign exchange traders [**ELFXs**] and exempt corporate finance advisers [**ECFs**] respectively. Correspondingly, persons providing financial advisory services, as defined in the Financial Advisers Act [**FAA**] are required to obtain a Financial Adviser's licence. Regulation 27(1)(d) of the Financial Advisers Regulations (Rg 2) [**FAR**] sets out exemptions for persons acting as financial advisers to a restricted number and type of clientele [**EFAs**].

2 The proposals under the consultation paper represent an evolution of the existing regulatory regime for the fund management industry. These proposals aim to enhance the supervisory oversight over entities currently operating under the exemption regime, and to raise the quality of players entering the fund management industry. While the Authority recognises the usefulness of the EFM regime in facilitating the growth of the fund management industry in Singapore, a review of the regime is timely given recent developments in the global regulatory landscape. The Authority also recognises that factors such as the ease of setting up operations in Singapore and compliance costs are important to industry players, and has taken these factors into consideration in developing our proposals.

3 Section A of this paper sets out the proposed revisions to the regulatory regime for fund management companies [**FMCs**], particularly in respect of competency, business conduct and capital requirements.

² Pursuant to paragraph 5(1)(d) of the Second Schedule of the SF(LCB)Regs.

³ Pursuant to paragraph 7(1)(b) of the Second Schedule of the SF(LCB)Regs.

4 Section B sets out the proposals pertaining to ELFXs, and provides clarity on the exemption regimes for ECFs and EFAs, while Section C discusses the transitional arrangements for affected financial intermediaries.

SECTION A: FUND MANAGEMENT COMPANIES

1 Background

1.1 Currently, persons conducting fund management activities in Singapore must either hold a CMS licence, or be exempted from the need to hold a CMS licence. FMCs who notify the Authority that they are serving not more than 30 qualified investors⁴ may be exempted from licensing under paragraph 5(1)(d) of the Second Schedule to the SF(LCB)Regs if they meet the exemption criteria and are fit and proper persons with relevant expertise and skills to provide fund management services to investors. FMCs that deal with more than 30 qualified investors are required to hold a CMS licence in fund management.

1.2 As the fund management industry continues to grow and evolve, it is important that the regulatory regime keeps pace with industry and regulatory developments internationally. While there are safeguards in the current regime which are pegged to the level of investor sophistication, the Authority is of the view that it is timely to enhance the existing regime to promote the sustainable development of the fund management industry and to provide greater clarity on the regulatory requirements for FMCs going forward. To this end, the Authority proposes that FMCs whose activities are limited in scale and impact may continue to operate under a notification regime and be subject to certain restrictions and conditions. FMCs who serve retail investors and/or manage or advise on a larger portfolio of assets will have to be licensed. All FMCs, regardless of their regulatory status, will be subject to business conduct requirements.

⁴ A “qualified investor” is an accredited investor, or a fund whose underlying investors are all “accredited investors”. As EFMs are restricted to serving not more than 30 qualified investors, an EFM can manage not more than 30 funds, provided these funds are being offered only to accredited investors. The full definition of a qualified investor can be found in paragraph 5(3) of the Second Schedule to the SF(LCB)Regs. Please refer to footnote 7 on an “accredited investor”.

2 Proposed Categories of FMCs

2.1 There will be three categories of FMCs under the proposed regulatory regime for FMCs, as follows:

- a. **Notified FMCs** - FMCs whose Assets under Management⁵ [**AUM**] are not more than S\$250 million, and who serve not more than 30 qualified investors, of which not more than 15 are funds⁶. The underlying investors of such funds will have to be accredited investors⁷. Notified FMCs will be able to commence business in fund management after submitting the necessary notification to the Authority;
- b. **Licensed A/I FMCs** - Licensed FMCs who serve only accredited and/or institutional investors⁸. The Authority clarifies that the underlying investors of funds managed by Licensed A/I FMCs will also have to be accredited investors and/or institutional investors. FMCs whose AUM are less than S\$250million may also apply for a CMS licence under this category, provided they meet all admission criteria. Licensed FMCs will only be able to commence business following the grant of their CMS licence in fund management; and
- c. **Licensed Retail FMCs** - Licensed FMCs who serve retail (i.e. non-accredited and non-institutional) investors. Licensed FMCs who manage retail unit trust funds and collective investment schemes will

⁵ "Assets Under Management" of the FMC comprises:
(a) funds contracted with the FMC and under its discretionary management (including funds from related corporations);
(b) funds contracted with the FMC and under its advisory services (including funds from related corporations); and
(c) funds contracted with the FMC, but managed by another corporation (including related corporations).

⁶ Including both "closed-end funds" and "collective investment schemes" as defined under section 2 of the SFA.

⁷ "Accredited Investors" as defined under section 4A of the SFA.

⁸ "Institutional Investors" as defined under section 4A of the SFA.

come under this category. Licensed FMCs will only be able to commence business following the grant of their CMS licence in fund management.

2.2 Licensed A/I FMCs and Licensed Retail FMCs may also be collectively referred to in this paper as “**licensed FMCs**”.

Notified FMCs

2.3 The Authority is of the view that their clientele, comprising only qualified investors, have the ability, as well as the resources, to conduct the necessary due diligence prior to dealing with the FMC, and to safeguard their own interests. Notified FMCs will have to meet the applicable criteria on competency and capital addressed in sub-sections 3, 4 and 5, prior to notifying the Authority of their commencement of business. Notified FMCs will also be required to comply with business conduct requirements similar to those imposed on licensed FMCs.

2.4 As FMCs expand their business and manage larger AUM, they will require closer supervision in view of their greater market impact. When the AUM of a Notified FMC grows above S\$250 million, it will have to submit an application for a CMS licence to operate as a Licensed A/I FMC, and to satisfy the applicable admission criteria and ongoing regulatory requirements for Licensed A/I FMCs.

2.5 The Authority recognises that AUM may fluctuate for reasons other than just business growth or expansion. It is not the Authority’s intention to mandate licensing where the increase in AUM to above S\$250 million is caused by temporary market movements or other transient reasons. Notified FMCs are encouraged to initiate discussions with the Authority if they have a reasonable expectation that their AUM will grow above S\$250 million. The Authority will adopt a consultative and practical approach when assessing the need to license Notified FMCs who exceed the AUM threshold.

(A1) The Authority seeks views on the proposed clientele and AUM restrictions for Notified FMCs.

Summary of Proposed Admission Criteria

2.6 The following summary table sets out the key criteria for the three categories of FMCs under the proposed regulatory regime. Requirements on competency, business conduct and capital will be addressed in the following sub-sections.

| | Notified FMCs | Licensed A/I FMCs | Licensed Retail FMCs |
|---|---------------|-------------------|------------------------------|
| Competency | | | |
| Minimum of 2 individuals, each with at least 5 years of relevant experience | √ | √ | √ |
| Minimum of 2 full-time resident representatives ⁹ | √ | √ | Minimum of 3 representatives |
| Representatives to take CMFAS examinations | - | - | √ |
| Business Conduct | | | |
| Business Conduct Requirements (Independent Custody & Fund Administration) | √ | √ | √ |
| Compliance Arrangements | √ | √ | √ |
| Professional Indemnity Insurance | - | - | √ |
| Capital | | | |
| Base Capital Requirement | √ | √ | √ |
| Risk Based Capital | - | √ | √ |

⁹ "Representative" is defined under section 2 of the SFA. In essence, a representative is a person conducting regulated activities on behalf of the FMC.

3 Competency Requirements

3.1 Currently, all holders of a CMS licence in fund management are required to appoint at least two (2) directors¹⁰ with experience in the financial services industry, including managerial experience or experience in a supervisory capacity. Holders of a CMS licence in fund management are also required to employ a minimum of two (2) representatives. The Authority intends to maintain these requirements¹¹ and apply them to all FMCs. The Authority expects that the Chief Executive Officer [“**CEO**”], directors and representatives of all FMCs should meet the Authority’s fit and proper requirements, as is the current requirement for all financial institutions in Singapore.

3.2 To ensure that FMCs have the relevant expertise and experience to carry on business in fund management, as well as to provide for necessary checks and balances, the Authority proposes that all FMCs will be required to, at all times, employ at least two (2) full-time individuals who both have at least five (5) years of relevant experience¹² and reside in Singapore. One of these individuals must be appointed as the CEO and executive director of the FMC. The same two full-time resident individuals can be representatives of the FMCs if they conduct the regulated activity of fund management, and be

¹⁰ “Director” as defined under section 4(1) of the Companies Act (Cap. 50). The duties and responsibilities of a director are set out in regulation 13 of the SF(LCB)Regs.

¹¹ Note that nominee directors, such as legal advisors or corporate secretaries will not count towards meeting the two director requirement.

¹² The relevance of the individual’s experience will be assessed in relation to the function that the individual will be performing on behalf of the FMC. For example, this could include experience in activities that form an essential part of the fund management value chain, such as business development and marketing, portfolio construction and allocation, investment research and advisory activities, trade execution, portfolio reconciliation and risk management. The consideration for relevant working experience may also include sector experience, particularly for Private Equity and Venture Capital [“**PE/VC**”] FMCs. Those who can be considered to have sector experience would be persons who were involved in business development, market research, corporate strategy and management of businesses in sectors which the PE/VC FMC focuses on. These examples serve only to provide general guidance, and are non-exhaustive in nature. Companies are expected to make their own assessments on the relevance of an individual’s experience, and to ensure that the individual meets the Authority’s ‘fit and proper’ requirements.

counted towards meeting the minimum requirement of having two representatives as highlighted in paragraph 3.1 above.

3.3 The following are three examples to illustrate instances where the Authority would consider an FMC as having met the proposed requirements set out in paragraphs 3.1 and 3.2:

Example 1

The FMC has two executive resident directors, one of whom is the CEO/Chief Investment Officer, who is responsible for the conduct of portfolio management activity (i.e. engaged in regulated activity). The other is the Chief Operating Officer, who is responsible for back office functions such as trade reconciliation and reporting (i.e. not engaged in regulated activity). Both directors have at least five years of relevant experience in their respective functions, and will fulfil the criteria in paragraphs 3.1 and 3.2. In this example, the FMC will be considered to have met the proposed requirements if it were to employ at least one additional resident full-time representative, who will conduct the regulated activity of fund management. There will not be any minimum experience requirements for this additional representative.

Example 2

The FMC has two executive directors conducting portfolio management (i.e. engaged in regulated activity). Both directors are resident in Singapore and have at least five (5) years of relevant experience in portfolio management. One of the directors is the CEO. In this example, the FMC meets all the proposed requirements.

Example 3

The FMC in Singapore ("Singapore FMC") is a subsidiary of a foreign based FMC who is regulated in its home jurisdiction. The Singapore FMC has one resident executive director appointed as the CEO, who has five (5) years of relevant experience and carries out portfolio

management activity (regulated activity). The Singapore FMC has another director based overseas. In this example, the Singapore FMC will be considered to have met the proposed requirements if it were to employ an additional resident full-time representative to conduct the regulated activity of fund management, and this representative will be required to have at least five (5) years of relevant experience.

Licensed Retail FMCs

3.4 There are minimal changes to the admission criteria for Licensed Retail FMCs from the Authority's current admission criteria for holders of a CMS licence in fund management, as set out in SFA04-G01: Guidelines on Criteria for the Grant of a Capital Markets Services Licence and Representative's Licence [**"Licensing Guidelines"**]. In addition to the requirements outlined in paragraphs 3.1 and 3.2 above, Licensed Retail FMCs will be required to (i) hire a minimum of three (3) full-time representatives who are resident in Singapore, and (ii) appoint a CEO with at least ten (10) years of experience in the financial services industry.

(A2) The Authority seeks views on the competency requirements for FMCs.

4 Business Conduct Requirements

4.1 Currently, only holders of a CMS licence are required to abide by the business conduct requirements as set out in the SF(LCB)Regs. Going forward, all FMCs will be required to meet the business conduct requirements as set out in the SFA and SF(LCB)Regs, as well as the additional requirements below.

Custody and Fund Administration

4.2 The Authority proposes to impose additional business conduct requirements on all FMCs, to enhance the safeguards against theft or misappropriation of customers' monies and assets. FMCs would be required to:

- a. place their customers' monies and assets with a custodian, which is licensed, registered or authorized (to perform the custodial function) in the jurisdiction where the monies or assets are being held. In the case where the custodian is a related entity of the FMC, there should be proper disclosure of any conflicts of interest; and
- b. ensure independence between the fund management and fund administration functions, either by outsourcing fund administration to an independent service provider, or by ensuring all conflicts of interest are adequately mitigated if fund administration is conducted by the FMC or its related entity. In the case where the fund administration is conducted by the FMC, there should be proper segregation of duties and responsibilities, particularly between front and back office functions.

4.3 The proposed requirements on custody and fund administration are already set out in various industry codes and guidelines, and are industry best practices commonly practised by reputable FMCs. By formalising these

requirements, the Authority aims to raise standards of business conduct across all FMCs in Singapore, and to create a level playing field.

Compliance Arrangements

4.4 Currently, holders of a CMS licence are required to have compliance arrangements which are commensurate with the size and scale of their operations.

Notified FMCs

4.5 As Notified FMCs would typically have a smaller set-up and scale of business, the Authority recognises that it may not be feasible for such FMCs to maintain a dedicated compliance function. The Authority will regard the CEO, or a designated senior staff of a Notified FMC, as being responsible for compliance matters. This does not preclude the CEO, or designated compliance officer from receiving support from the FMC's head office (where applicable), or third party compliance service providers. The CEO and the Board of Directors of the FMC will remain ultimately responsible for ensuring compliance with all applicable laws and regulations.

Licensed A/I FMCs

4.6 Licensed A/I FMCs are required to have a compliance function which is independent from the front office. The Authority will give favourable consideration to proposed arrangements where there is a full-time dedicated compliance officer in Singapore. Depending on the size and scale of their business, Licensed A/I FMCs may either: (i) designate a senior staff who does not have responsibility for the portfolio management function, such as the Chief Operating Officer, to take responsibility for compliance matters, or (ii) demonstrate that the FMC has adequate compliance oversight and support from its head office or other overseas affiliates.

4.7 Licensed A/I FMCs will be required to commit additional resources to the compliance function, in proportion to the size of the business. Accordingly, when the AUM of a Licensed A/I FMC grows to S\$1 billion and

above, the Authority expects the FMC to put in place a compliance function that is staffed by suitably qualified individuals who are both independent from the front office, and dedicated full-time to the compliance function. For these larger FMCs, individuals such as the Chief Operating Officer would not be allowed to 'double-hat' as the compliance officer for the FMC.

Licensed Retail FMCs

4.8 Licensed Retail FMCs must have a compliance function that is staffed by suitably qualified individuals who are both independent from the front office, and dedicated full-time to the compliance function, given the greater market conduct risks and impact posed by such players, as well as the broader scope of laws and regulations applicable to FMCs that manage funds for retail investors. The Authority also expects Licensed Retail FMCs to have an appropriate number of compliance staff who are based in Singapore.

Professional Indemnity Insurance ["PII"]

4.9 Currently, holders of a CMS licence in fund management are required to procure PII, as set out in the Licensing Guidelines, in accordance with the size of their AUM.

4.10 The Authority proposes to maintain the requirement for all Licensed Retail FMCs to procure PII in accordance to the size of their AUM, but does not propose to mandate PII requirements for Notified FMCs and Licensed A/I FMCs, in view of their target clientele. These FMCs are nonetheless strongly encouraged to procure PII and are required to provide adequate disclosures to their clients on their PII coverage.

(A3) The Authority seeks views on the proposed business conduct requirements for FMCs.

5 Capital Requirements

Base Capital Requirements

Notified FMCs

5.1 To ensure that FMCs have sufficient capital to support their operations, Notified FMCs will be required to maintain base capital¹³ of at least S\$250,000 at all times. This is the same base capital requirement [“**BCR**”] that currently applies to holders of a CMS licence in fund management that serve only accredited/ institutional investors, as set out in the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licence) Regulations [“**SF(FMR)Regs**”].

5.2 The Authority understands the industry’s concern over increases in start-up costs, especially for smaller FMCs. Nevertheless, the Authority’s view is that maintaining a minimum BCR is consistent with sound business practice, and improves the viability of new FMCs by acting as a buffer for unexpected costs, especially during adverse market conditions. There are no restrictions imposed on the use of base capital for investments in assets, which could be cash, investments (for example, this could include investments by the FMC in its own funds) or fixed assets (for example, this could include investment in hardware and other office infrastructure). However, given the need to maintain base capital at or above the mandated level at all times, it may be prudent for FMCs to consider maintaining an additional capital buffer (usually in cash), to allow for asset depreciation, drawdown of funds to meet operating or other expenses and/or losses.

Licensed A/I FMCs and Licensed Retail FMCs

5.3 Holders of a CMS licence in fund management are currently subject to BCR requirements as set out in the SF(FMR)Regs. The Authority proposes to maintain BCR requirements for licensed FMCs.

¹³ Paid-up ordinary share capital, irredeemable and non-cumulative preference share capital and retained earnings, less any unaudited interim losses during the year, may be used to meet base capital requirements.

(A4) The Authority seeks views on the proposed base capital requirements for FMCs.

Risk Based Capital

5.4 Holders of a CMS licence in fund management¹⁴ are currently subject to risk-based capital [**RBC**] requirements¹⁵. The RBC requirements for these CMS licence holders require financial resources to be maintained to meet operational risk requirements.

5.5 The Authority proposes to maintain RBC requirements for licensed FMCs. Notified FMCs will not be subject to the RBC requirements. Given the smaller scale of business of Notified FMCs, the Authority's view is that additional RBC requirements on top of the BCR (of S\$250,000) are not necessary.

(A5) The Authority seeks views on the proposed risk-based capital requirements for FMCs.

Risk- Based Capital - Operational Risk Requirement

5.6 The Authority notes feedback from the industry on the current operational risk requirements for holders of a CMS licence in fund management, namely the volatility of computing operational risk requirements using an annual revenue measure. The Authority proposes the following changes to the computation of the operational risk requirement:

¹⁴ This refers to holders of a CMS licence in fund management that are not licensed to conduct any other regulated activities under the SFA.

¹⁵ This is set out in regulations 12, 13 and 14, and the Sixth Schedule of the SF(FMR)Regs.

- a. To compute the operational risk requirement as 10% of the three-year¹⁶ average of gross income¹⁷ instead of 10% of annual revenue of the most recent financial year;
- b. To allow staff bonuses, commission expenses and interest expenses to be deducted from the gross income measure; and
- c. To subject the operational risk requirement to a minimum requirement of S\$100,000¹⁸.

(A6) The Authority seeks views on the proposed changes to the operational risk requirements for licensed FMCs.

Risk- Based Capital - Counterparty and Market Risks

5.7 The Authority may also require licensed FMCs to set aside financial resources to address counterparty and market risks if exposures to such risks are significant. Such additional requirements will not apply to licensed FMCs without significant counterparty and market exposures on their own books, for instance where the licensed FMC does not conduct proprietary trading

¹⁶ The operational risk requirement should only be computed using the average of gross income in the preceding three years when gross income is positive (after any deductions or exclusions), for example, if gross income is positive only for two of the preceding three years, then the operational risk requirement should be computed as 10% of the two-year average of gross income [less the items mentioned in paragraph 5.6(b)] or S\$100,000, whichever is higher; or if the licensed FMC has only been in operation for one year or less, then the operational risk requirement should be computed as 10% of the latest reported gross income [less the items mentioned in paragraph 5.6(b)] or S\$100,000, whichever is higher.

¹⁷ Gross income shall be gross of any provisions and operating expenses, and exclude:

- (a) any realised or unrealised profits or losses arising from the sale or revaluation of financial assets that are classified as 'held to maturity' or 'available for sale';
- (b) any income or expense item not derived from the ordinary activities of the firm and not expected to recur frequently or regularly (for example, income or expenses from the sale of fixed assets, expropriation of assets, natural disasters); and
- (c) any income derived from any insurance recoveries.

¹⁸ A holder of a CMS licence conducting fund management activity may use base capital, irredeemable and cumulative preference share capital, less any intangible assets, as financial resources to meet the operational risk requirement.

activities. The Authority will consult the industry with details on the proposed framework in due course.

Please note that the information presented in this section focuses attention on key criteria applicable under the proposed regime, and should not be regarded as a comprehensive list of the rules and regulations which apply to all FMCs. It is the responsibility of the FMCs to be familiar, and to ensure compliance, with all applicable laws, regulations, notices and guidelines. A full summary table of the various requirements addressed in this paper is available in the Appendix.

SECTION B: EXEMPT LEVERAGED FOREIGN EXCHANGE TRADERS, EXEMPT CORPORATE FINANCE ADVISERS, AND EXEMPT FINANCIAL ADVISERS

1 Exempt Financial Intermediaries

1.1 Exemptions from licensing are currently provided for ELFXs and ECFs, under paragraphs 4(1) and 7(1) of the Second Schedule to the SF(LCB)Regs respectively, as well as for EFAs, under regulation 27(1) of the FAR.

Exempt Leveraged Foreign Exchange Traders

1.2 The Authority proposes to remove the exemption regime for leveraged foreign exchange traders as specified under paragraph 4(1)(c) of the Second Schedule to the SF(LCB)Regs, and to require such leveraged foreign exchange traders to hold a CMS license pursuant to section 82 of the SFA. Given the risks associated with leveraged trading on “over-the-counter” foreign exchange markets, the Authority considers it prudent to impose licensing and business conduct requirements¹⁹ on such leveraged foreign exchange traders. The admission criteria for leveraged foreign exchange traders are set out in the Licensing Guidelines.

1.3 Consequent to the proposal outlined in paragraph 1.2 above, the Authority would also remove the current exemption from licensing under regulation 27(1)(f) of the FAR for ELFX who provide financial advisory services to accredited investors solely in connection with their carrying on of leveraged foreign exchange trading with such investors.

(B1) The Authority seeks views on the proposal to remove the exemption from licensing for leveraged foreign exchange traders under paragraph 4(1)(c) of the Second Schedule to the SF(LCB)Regs.

¹⁹ ‘Licensing and business conduct requirements’ would refer to all applicable licensing and business conduct requirements as set out in the SFA and the SF(LCB)Regs.

Exempt Corporate Finance Advisers

1.4 The Authority proposes to retain the current exemption from licensing under paragraph 7(1)(b) of the Second Schedule to the SF(LCB)Regs for corporate finance advisers serving only accredited investors. The Authority's view is that the scope of corporate finance advisory business permitted under the exemption regime poses relatively lower market conduct risks than fund managers and leveraged foreign exchange traders, who may be in a position to control or handle customers' monies and assets.

Exempt Financial Advisers

1.5 The Authority proposes to retain the current exemption from licensing under regulation 27(1)(d) of the FAR for financial advisers serving not more than 30 accredited investors. The Authority's view is that the scope of financial advisory business permitted under the exemption regime poses relatively lower market conduct risks than fund managers and leveraged foreign exchange traders, who may be in a position to control or handle customers' monies and assets.

2 Provision of Financial Advisory Services to Related Corporations

2.1 While there is currently no intention to revise the regime for EFAs, the Authority recognises the importance of providing guidance on the regulatory regime for corporations that provide financial advisory services to related corporations that conduct fund management activity [**“Related FMCs”**] whether in Singapore or in other jurisdictions, and wish to rely on the exemption from licensing under paragraph 27(1)(b) of the FAR.

2.2 Where a corporation in Singapore relies on the exemption under regulation 27(1)(b) of the FAR for the provision of investment advice or research to its related corporations, rather than to third party investors, the corporation should take care to ensure that the facts and characteristics of its business arrangements are consistent with those of a financial advisory business model. For example, if the corporation in Singapore is named as a sub-manager or investment adviser in the fund prospectus or marketing materials of its Related FMCs, investors into the fund may regard the corporation as a manager of the fund, rather than as a corporation that is only providing advice or research to its Related FMCs.

2.3 In addition, if the directors or staff of the corporation in Singapore are members of the investment committee of its Related FMCs, or are directors on the board of the investment holding company of the funds being managed, the corporation in Singapore is likely to play an active role in the investment decision-making process.

2.4 In both the examples above, the corporation in Singapore would be deemed as a FMC, rather than a financial adviser, based on the substance of its business model. Such a corporation would be required to meet the requirements of the proposed regulatory regime for FMCs.

SECTION C: TRANSITIONAL ARRANGEMENTS

1 Proposed Treatment of Existing EFMs and ELFXs

1.1 Existing EFMs with AUM of more than S\$250 million, or who manage more than 15 funds, will need to submit an application to the Authority to be licensed as Licensed A/I FMCs. EFMs with AUM not exceeding S\$250m and who manage not more than 15 funds may choose to either submit a notification to the Authority to continue their business operations under the Notified FMC regime, subject to them meeting the admission criteria for Notified FMCs, or to submit an application to be licensed as Licensed A/I FMC.

1.2 The Authority proposes to provide existing EFMs and ELFXs with a transitional period of six (6) months after the new legislation becomes effective to meet the revised admission criteria, and to submit their notification or application, as applicable. EFMs and ELFXs who do not submit their notification or application, as applicable, will be required to cease their conduct of regulated activities under the SFA before the end of the transitional period. Including this six month transitional period, as well as the time required for legislative amendments to effect the change, EFMs and ELFXs would have at least 18 months from the date of this consultation paper to meet the admission criteria under the proposed regime. The Authority will also review the licensing and notification processes with a view to further streamlining and shortening the processing time.

(C1) The Authority seeks views on the proposed transitional arrangements for existing EFMs and ELFXs.

1.3 Until such time that the new legislation becomes effective, persons who wish to lodge as EFMs or ELFXs must be able to satisfy the Authority that they will be able to meet the revised admission criteria for FMCs or leveraged

foreign exchange traders respectively, and fulfil the baseline expectations set out in the Authority's 'FAQs on Exempt Persons' [the "**FAQs**"], available on the Authority's website.

1.4 For the avoidance of doubt, the baseline expectations set out in the FAQs also apply to ECFs and EFAs.

1.5 Existing holders of CMS licence in fund management should carefully review the proposed changes and ensure that they meet all relevant criteria.



Monetary Authority of Singapore