RESPONSE TO CONSULTATION PAPER

Consultation topic:	Proposed Amendments to Code on Collective Investment Schemes ("**Consultation Paper**")
Name[1]/Organisation: [1]if responding in a personal capacity	**Sidley Austin LLP**

General comments:

Thank you for the opportunity to provide feedback on the Consultation Paper. Our comments are set out below for your kind consideration.

Question 1: MAS seeks comments on the proposed requirements for Precious Metals Funds. MAS also seeks views on (i) imposing an NAV cap on Precious Metals Fund's investments in silver and/or platinum; or (ii) only allowing a Precious Metals Fund to invest in gold, for a start.

No comments.

Question 2: MAS seeks comments on the proposed disclosure requirements on a fund manager's credit assessment practices.

No comments.

Question 3: MAS seeks comments on the proposal to require additional disclosures on securities lending or repo in the fund's semi-annual and annual reports.

No comments.

Question 4: MAS seeks comments on the proposal to extend the additional disclosure requirements under the CIS Code to Recognised funds.

Sidley Austin's Comment:

We note that the proposal seeks to extend the additional disclosure requirements under the CIS Code to Recognised Funds.

Could the Authority confirm that this requirement is intended to extend all of the disclosure requirements under each of the Appendices in the CIS Code (i.e. paragraph 8 of *Appendix 1 – Investment: Core Requirements*; paragraph 9 of *Appendix 2 – Investment: Money Market Funds*; paragraph 7 of *Appendix 3 – Investment: Hedge Funds*; paragraph 6 of *Appendix 4 – Investment: Capital Guaranteed Funds*; and paragraph 7 of *Appendix 5 – Investment: Index Funds*) to Recognised Funds? If not, the Authority should expressly clarify which are the additional disclosure requirements that will be imposed and whether such "additional disclosures" are limited to those set out in footnote 7 of the Consultation Paper.

In any event, we respectfully submit that the proposal should not be extended to impose disclosure requirements in relation to the semi-annual and annual reports ("**Reports**") of Recognised Funds.

The rationale is that such Recognised Funds are already subject to laws and regulations of their respective home jurisdiction. Furthermore, the Authority is already satisfied that such laws and regulations afford to investors in Singapore protection that is at least equivalent to that of comparable authorised schemes (as part of the recognition process under section 287(2)(a) of the Securities and Futures Act, Chapter 289 of Singapore ("**SFA**")). Therefore, such Reports would already be prepared in accordance with the "equivalent" regulatory standard.

In addition, Recognised Funds prepare and despatch the same Reports to all investors globally. Thus, it would not be equitable for Singapore investors to receive any additional disclosures over and above other investors, and there would be an undue burden on the Recognised Funds to tailor such Reports for compliance with the CIS Code solely for Singapore investors. It is respectfully submitted that an expansive approach requiring Recognised Funds to comply with additional Singapore laws and regulations for Reports would not be cost-effective and may result in Singapore offerings becoming impractical and too onerous for Recognised Funds, leading to fewer offerings in Singapore. This would in turn reduce the vibrancy and breadth of offerings available to Singapore investors.

Presently, Recognised Funds will prepare a Singapore prospectus (usually consisting of a Singapore "wrapper" attached to the underlying foreign prospectus) to cater to Singapore investors by setting out the information in the Third Schedule to the Securities and Futures (Offers of Investments) (Collective Investment Schemes) Regulations 2005.

We agree that some of the "additional disclosures" (as defined in the Consultation Paper) under the CIS Code may be included in the Singapore "wrapper" portion of the Singapore prospectus of Recognised Funds but not in the underlying foreign prospectus. However, we respectfully urge the Authority to be cognisant of the additional costs that would be incurred by Recognised Funds to comply with additional requirements imposed for Singapore offerings which may tip the balance against making an offering in Singapore.

Question 5: MAS seeks comments on the proposal to require managers of Authorised and Recognised funds to ensure that advertisement on such funds are prepared in accordance with the CBPA and the RDPA.

Sidley Austin's Comments:

We note the proposal seeks to require managers of Authorised and Recognised Funds to ensure that advertisement on such funds are prepared in accordance with the CBPA and the RDPA.

Could the Authority clarify whether the RDPA, which is issued solely by the Investment Management Association of Singapore ("**IMAS**") (and not, like the CBPA issued jointly by IMAS and the Authority), is intended to impose any binding legal duty on the managers? It is noted that IMAS is an association established under the Societies Act, Chapter 311 of Singapore, and not a regulatory body. Further, the preface of the RDPA states that the RDPA is not mandatory nor definitive in nature and that IMAS excludes liability for any reliance on the RDPA.

It is further worth considering that the RDPA was issued without prior public consultation and that managers may have comments or inputs on the scope and depth of the requirements within. It is respectfully submitted that a public consultation should be conducted prior to the imposition of any legally binding obligations in this regard due to the wide definition of "advertisement" under the SFA.

In relation to the RDPA, we seek the Authority's clarification on two matters:

(1) What are the disclosures required under paragraph 2(g) of the RDPA in relation to the "annualised volatility of total return of the strategy"? It is noted that "underlying portfolio yield" and "average payout yield" are defined in the glossary of terms and it would provide clarity if the foregoing phrase is also defined.

(2) Paragraph 3.4 of the RDPA requires any statement or description of income statistics to be made on the basis of good faith and genuine intention of the FMC to make regular payments/distributions. However, many funds make distributions on a discretionary basis and the standard of good faith should be ascertained to provide certainty to managers. We also anticipate that managers may face difficulties in justifying and demonstrating the fund's ability to continue to make regular payments/distributions as required by paragraph 3.4 of the RDPA.

To avoid ambiguity, we submit that there should be clarification on how the manager will be able to justify and demonstrate the fund's ability to continue to make payments / distributions.

Finally, we seek the Authority's clarification on the penalties and repercussions in the event of non-compliance with the CBPA and the RDPA.

Question 6: MAS seeks comments on the proposal to require a REIT to calculate WALE based on the date of commencement of the leases.

No comments.

Question 7: MAS seeks comments on the proposed requirement for a REIT to hold its first AGM within 18 months of its authorisation.

No comments.

Question 8: MAS seeks comments on the proposal to allow all funds, except property funds and hedge funds, to pay out redemption proceeds within 7 business days from the receipt of the redemption request.

We agree with this proposal.

Question 9: MAS seek comments on the proposal to replace the phrase "passing rents of the underlying sub-leases" in the CIS Code with the phrase "market rents of the underlying sub-leases at the time of entry or renewal of the master lease arrangement", where "market rent" is defined using existing valuation standards.

No comments.

Question 10: MAS seeks comments on the proposal to allow an SGX-listed REIT to issue summary financial statements to unitholders in place of full financial statements and report.

No comments.

Question 11: MAS seeks comments on the proposals to allow a REIT to also send its accounts and reports to unitholders by electronic means.

No comments.