



RESPONSE TO FEEDBACK RECEIVED - CONSULTATION ON DRAFT REGULATIONS PURSUANT TO THE SECURITIES AND FUTURES ACT AND FINANCIAL ADVISERS ACT

1.1 On 6 December 2012, MAS issued a consultation paper inviting comments on proposed amendments to Regulations issued pursuant to the Securities and Futures Act (Cap. 289) ["SFA"] and Financial Advisers Act (Cap. 110) ["FAA"].

1.2 The consultation closed on 4 January 2013 and comments were received from 8 respondents. The list of respondents can be found at **Annex 1**.

1.3 MAS thanks all respondents for their comments. MAS has carefully considered the feedback and where it agreed with the comments, incorporated them into the draft Regulations. MAS has on 27 March 2013 issued the Regulations, which can be accessed at the following links:

- [Securities and Futures \(Licensing and Conduct of Business\) \(Amendment\) Regulations 2013](#);
- [Securities and Futures \(Licensing and Conduct of Business\) \(Amendment\) \(No. 2\) Regulations 2013](#);
- [Securities and Futures \(Offers of Investments\) \(Shares and Debentures\) \(Amendment\) Regulations 2013](#);
- [Securities and Futures \(Composition of Offences\) \(Amendment\) Regulations 2013](#);
- [Securities and Futures \(Markets\) \(Amendment\) Regulations 2013](#); and
- [Financial Advisers \(Amendment\) Regulations 2013](#).

1.4 Comments of wider interest and MAS' responses are set out below.

2 Proposed amendments to the Securities and Futures (Licensing and Conduct of Business) Regulations ["SF(LCB) Regulations"] to expand application of certain market conduct provisions

2.1 MAS had proposed that the current prescribed duties of the Chief Executive Officer (CEO) and Director, set out in Regulation 13 of the SF(LCB) Regulations, be extended to the Capital Markets Services (CMS) licence holder. The proposed amendment takes into account the fact that

control failures in a CMS licensee may not always be fully attributable to the Board and CEO, and that the CMS licensee should take collective responsibility (together with its Board and senior management) to ensure proper implementation of risk management and compliance systems. Similar amendments were proposed in the Financial Advisers Regulations.

2.2 MAS received a query seeking clarification on the persons who constitute "Senior Management" mentioned in paragraph 3 of the Consultation Paper.

2.3 MAS would like to clarify that the term "Senior Management" refers to any person holding the office of CEO or director, as defined in the SFA and FAA.

3 Proposed amendments to the SF(LCB) Regulations to strengthen record keeping for internet-based transactions

3.1 MAS had sought feedback on the proposed amendments to Regulation 39(3) of the SF(LCB) Regulations to require banks, merchant banks, finance companies and Capital Markets Services Licensees that provide Internet-based trading platforms, to record and maintain the Internet Protocol (IP) address from which orders are received.

3.2 Several respondents were unsure of what would be covered under the scope of an 'Internet-based trading platform'. To clarify, the proposed amendments are targeted at retail Internet broking services provided by Capital Markets Services Licensee and relevant exempt persons. Hence, it would exclude, for example, direct market access type arrangements through the Internet, leased lines, managed vendor lines such as Bloomberg, virtual private networks, or other electronic trading platforms which cater exclusively to non-retail clients¹. We will amend the drafting to clarify the intended scope of the amendments.

3.3 Some respondents queried on the period for which the Internet Protocol address records needs to be kept. In this regard, the records must be maintained for a period of 5 years, in accordance with the present record-keeping requirements under section 102(3) of the SFA.

3.4 A number of respondents sought clarification as to the extent of the IP address information that they would be required to record. Under the proposed regulations, it would be sufficient for the financial institution to record the IP address from which each order is received². While MAS

¹ The proposed requirements will not apply to trading platforms offered by foreign related entities under an arrangement with the bank, merchant bank or Capital Market Services licensee approved under paragraph 9 of the Third Schedule to the SFA.

² The proposed requirements do not apply where no Internet Protocol address can be captured due to the nature of the client's originating system. Further, in certain

recognises that IP address records may not always be definitive of the source of an order, they are an integral part of the audit trail for Internet orders and therefore, should be recorded as a complement to the existing security user access controls (e.g unique user ID and password, 2 factor-authentication) which financial institutions have established.

3.5 A number of respondents also requested for a grace period to develop and implement the necessary system changes for compliance. MAS appreciates such concerns and will take them into account in implementing the changes.

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circumstances, the IP address received and recorded by the financial institution may not be the actual or original IP address assigned to the client's computer or device. In such circumstances, there is no requirement on the financial institution to trace or establish the original IP address.

ANNEX 1

LIST OF RESPONDENTS TO CONSULTATION ON DRAFT REGULATIONS PURSUANT TO THE SECURITIES AND FUTURES ACT AND FINANCIAL ADVISERS ACT*

1. United Overseas Bank Ltd
2. Standard Chartered Bank
3. IG Asia Pte Ltd
4. Oanda Asia Pacific Pte Ltd
5. RHTLaw Taylor Wessing LLP
6. Citi Institutional Clients Group
7. Macquarie Bank Ltd, Singapore Branch
8. Commerzbank AG, Singapore Branch

*This list includes only the names of respondents who did not request that their submissions be kept confidential.