

CONSULTATION PAPER

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Review of the Recognised Market Operators Regime

MAS

Monetary Authority of Singapore

Contents

1	Preface	3
2	Introduction	5
3	RMO Tier 3	7
4	RMO Tier 1	10
5	Overview of the Changes to the Market Operator Regime.....	14

1 Preface

1.1 The Monetary Authority of Singapore (“MAS”) currently regulates market operators under two categories, namely the approved exchanges (“AEs”) and the recognised market operators (“RMOs”). Systemically-important market operators are regulated as AEs and are subject to a higher level of statutory obligations, while other market operators are regulated as RMOs.

1.2 MAS has observed the emergence of new business models in trading platforms, including trading facilities that make use of blockchain technology, or platforms that allow peer-to-peer trading without the involvement of intermediaries. As the current RMO regime has been in place since 2002, it is timely to review the regulatory framework for market operators to ensure that it continues to meet the demands of the changing landscape. To this end, MAS is proposing to expand the current RMO regime from a single tier to three separate tiers that would better match regulatory requirements to the risks posed by different types of market operators, namely:

- (a) RMO Tier 1, which is targeted at market operators with limited access to Singapore-based retail investors;
- (b) RMO Tier 2, which is targeted at market operators that qualify under the current RMO regime; and
- (c) RMO Tier 3, which is targeted at market operators that have a significantly smaller scale of business compared to more established operators under the current AE and RMO regime.

1.3 MAS invites comments from all financial institutions and other interested parties.

Please note that all submissions received will be published and attributed to the respective respondents unless they expressly request MAS not to do so. As such, if respondents would like (i) their whole submission or part of it, or (ii) their identity, or both, to be kept confidential, please expressly state so in the submission to MAS. In addition, MAS reserves the right not to publish any submission received where MAS considers it not in the public interest to do so, such as where the submission appears to be libellous or offensive.

1.4 Please submit written comments by 22 June 2018 to –

Markets Policy & Infrastructure Department
Monetary Authority of Singapore

10 Shenton Way, MAS Building
Singapore 079117
Fax: (65) 62251350
Email: rmo_mailbox@mas.gov.sg

1.5 Electronic submission is encouraged. We would appreciate that you use this suggested format [[link](#)] for your submission to ease our collation efforts.

2 Introduction

2.1 Under the current regulatory regime, Singapore-incorporated entities¹ operating markets that are systemically-important, or that wish to serve retail investors², are regulated as AEs. Otherwise, they are regulated as RMOs.

2.2 The current market operator regime is an application of MAS' risk-based approach, matching regulatory requirements to the risks posed by market operators. AEs, which are deemed to be systemically more important, or have system-wide impact as a result of their significant retail reach, are subject to higher regulatory obligations and scrutiny. Comparatively, MAS imposes a set of baseline obligations on RMOs, with the flexibility to impose additional obligations depending on the functions undertaken by each market operator.

2.3 MAS believes that a risk-based approach for the regulation and supervision of market operators remains appropriate. Nevertheless, we have observed an increase in the diversity of business models of trading facilities in the last few years. For example, exchanges and centralised trading platforms have traditionally been set up by well-capitalised institutions with the financial resources and track record to build the necessary infrastructure and support systems required for the operation of an organised market. However, entities seeking to become market operators now include private companies and start-ups seeking to operate private markets, alternative trading platforms using blockchain technology, or peer-to-peer trading platforms that allow end-investors to participate directly without going through intermediaries. This is, in part, due to technological advancements which have lowered the cost of entry for new market operators.

2.4 MAS welcomes such developments and vibrancy in the market operator landscape as it is line with our broader objectives of facilitating innovation to meet market needs. MAS also sees an increasing role for market operators to operate transparent trading platforms that can aggregate liquidity and reduce search costs for market

¹ The scope of this consultation relates only to Singapore-incorporated market operators. Market operators that are incorporated overseas will continue to be regulated under the existing RMO regime.

² A "retail investor" refers to an investor other than an "accredited investor", "institutional investor" and "expert investor" as defined in section 4A of the Securities and Futures Act (Cap. 289). For the avoidance of doubt, this will only refer to Singapore-based retail investors, unless otherwise specified.

participants. Such platforms also provide an auditable trail for market surveillance purposes.

2.5 From the regulatory perspective, there is scope for a calibration of the market operator regime to lower the cost of entry for players that do not pose systemic or system-wide risks. Such players can enjoy first-mover advantage and offer trading platform solutions, especially in the non-retail market segment. Consequently, increased contestability in the market operator sector can bring about consumer benefits such as greater customer choice and lower transaction costs. A calibrated regulatory regime would also enable new players to better transit from a start-up to a larger RMO, and finally, to an established AE. To this end, MAS proposes to expand the current RMO regime from a single tier to three separate tiers that would better match regulatory requirements to the risks posed by different types of market operators, namely:

- (a) RMO Tier 1, which is targeted at market operators with limited access to Singapore-based retail investors;
- (b) RMO Tier 2, which is targeted at market operators that qualify under the current RMO regime; and
- (c) RMO Tier 3, which is targeted at market operators that have a significantly smaller scale of business compared to more established operators under the current AE and RMO regime.

2.6 The following sections set out in greater detail the two additional RMO tiers – RMO Tier 1 and RMO Tier 3 – that MAS proposes to introduce. Market operators that are currently authorised as RMOs will be re-classified under RMO Tier 2. MAS has already consulted on the changes to the RMO Tier 2 requirements³, which will be implemented later this year.

³ The key changes are expansion of scope to trading platforms for OTC derivatives, and the requirements for RMOs to have fair and objective criteria for participation, maintain and enforce compliance with its business rules, and have governance arrangements that are adequate for it to be operated in a fair, orderly and transparent manner.

3 RMO Tier 3

3.1 The RMO Tier 3 is targeted at market operators that have a significantly smaller scale of business compared to more established operators, and are targeting the non-retail market segment (e.g. banks, fund managers). This category of market operators could include operators of alternative markets⁴, new entrants that develop solutions for wholesale market participants but do not have an established track record, or market operators that have reached the end of their sandbox tenure and are commercially viable, but whose businesses are not yet developed enough to meet the requirements of the existing RMO regime.

Streamlined admission requirements for RMO Tier 3

3.2 Tier 3 RMOs are required to meet the baseline regulatory requirements⁵ under the Securities and Futures Act (Cap. 289) (“SFA”) and Securities and Futures (Markets) Regulations 2005 (“SF(M)R”). However, MAS recognises that it may not be commensurate to impose the full set of existing RMO requirements on such market operators given the lower level of risks that they pose. Accordingly, MAS proposes to impose a *simplified* set of requirements:

- (a) Reduced capital requirements⁶;
- (b) Simplified set of requirements⁷ in relation to technology risk management and outsourcing⁸; and
- (c) Tier 3 RMOs will be allowed to engage overseas regulated clearing houses to provide central clearing services, even if these overseas clearing

⁴ For example, private equity trading platforms and electronic crossing networks.

⁵ These include the obligation to operate fair, orderly and transparent markets.

⁶ The base capital requirement for a Tier 3 RMO will be S\$50,000, instead of S\$500,000 that is imposed on Tier 2 RMOs. The ongoing capital requirement for a Tier 3 RMO will also be set at three months of working expenses, instead of six months of operating expenses for Tier 2 RMOs.

⁷ Instead of the full Technology Risk Management Notice and Guidelines on Outsourcing.

⁸ MAS intends to develop a checklist on the specific requirements at a later stage. At the minimum, this will entail a sub-set of requirements under the MAS Guidelines on Technology Risk Management and Guidelines on Outsourcing which will include (i) safeguarding of user confidentiality; (ii) business contingency planning; and (iii) IT security controls, e.g. security monitoring to detect malicious IT attacks, privileged user access management.

houses are not regulated as an Approved Clearing House or a Recognised Clearing House by MAS.

3.3 In line with the proposed simplified regulatory requirements, MAS also proposes to streamline the RMO Tier 3 application process. Under the streamlined process, RMO Tier 3 applicants will only need to self-certify their compliance against a checklist of requirements prepared by MAS. They will, however, continue to be subject to the full set of fit and proper requirements that are imposed on existing RMOs⁹. The review by MAS should take up to four weeks under this self-certification approach. The time-to-market for such applicants will be shortened considerably.

Additional requirements applicable for Tier 3 RMOs that intend to provide investors direct participation without financial intermediaries

3.4 Some market operators may have business models that allow investors direct participation on the market platform, without the need to go through financial intermediaries. Tier 3 RMOs that operate such business models will be expected to perform the necessary Know-your-customer (“KYC”) checks and meet MAS’ requirements on anti-money laundering and countering the financing of terrorism (“AML/CFT”)¹⁰.

3.5 As part of MAS’ supervision of market operators, we will assess whether Tier 3 RMOs have complied with their regulatory requirements. If Tier 3 RMOs do not meet the requirements, MAS has powers to take supervisory and regulatory action including revocation of their recognition as a RMO.

Restrictions on Tier 3 RMOs’ level of business activity

3.6 While Tier 3 RMOs may not contribute significant risk to the overall financial system, there is still a risk that the business of an individual Tier 3 RMO may fail. This is especially since this tier is more likely to be applied to by operators with less established track record or experimental business models. Therefore, MAS proposes two safeguards to limit the reach and impact to the market, in the event of a Tier 3 RMO’s failure.

⁹ These requirements stipulate that the directors and key personnel of the RMO e.g. Chief Executive Officer must have sufficient honesty, integrity, reputation, competence and capability for their respective roles. In addition, the RMO and its directors and key personnel have to be financially sound.

¹⁰ As set out in MAS Notice SFA04-N02 – *Notice on Prevention of Money Laundering and Countering the Financing of Terrorism – Capital Market Intermediaries*. This requirement would similarly apply to an AE or RMO should it operate a model that does not require licensed financial intermediaries.

3.7 First, to limit the reach of failure, Tier 3 RMOs will not be allowed to provide *direct* access to any individuals, even if such individuals qualify as accredited investors or expert investors. This is because Tier 3 RMOs are likely to present newer or more novel business models, and individual accredited investors and expert investors may not have the financial savvy and legal resources to adequately navigate contractual terms with the market operator compared to corporate or institutional participants.

3.8 However, individual persons who are accredited investors or expert investors and who wish to trade on a Tier 3 RMO may still do so through a capital markets service licence (“CMSL”) holder that is a member of the Tier 3 RMO. This will offer some protection to the individual investors as the CMSL holder would have conducted its own due diligence on the contractual terms of the market operator, and is expected to act in the interest of its customers.

3.9 Second, to limit the impact of failure, MAS will restrict the maximum volume of business a Tier 3 RMO can conduct, as follows:

- (a) Cap of S\$10 million in revenue per annum; or
- (b) S\$10 billion in securities traded by value annually; or
- (c) 10 million derivative contracts traded annually.

3.10 A Tier 3 RMO that is reaching any of these limits will be deemed to have grown in systemic importance. Accordingly, the Tier 3 RMO will be expected to make preparations to transit to be a Tier 2 RMO, where it will be subject to the full range of requirements currently imposed on RMOs. These requirements will include a higher base capital requirement of S\$500,000, higher ongoing capital requirements of six months of operating expenses, and full observation of the MAS Technology Risk Management Guidelines and Guidelines on Outsourcing. To minimise market disruption, a Tier 3 RMO will be given sufficient time to transit to be a Tier 2 RMO.

Question 1.	MAS seeks comments on the simplified requirements for RMO Tier 3 as set out in paragraph 3.2.
Question 2.	MAS seeks comments on the proposed self-certification application process for RMO Tier 3 applicants as set out in paragraph 3.3.
Question 3.	MAS seeks comments on the proposed restrictions on (i) investor access as set out in paragraph 3.7; and (ii) business volume limits as set out in paragraph 3.9.

4 RMO Tier 1

4.1 The RMO Tier 1 is targeted at market operators that wish to target retail investors, but which are smaller in scope and have far less retail investor participation than traditional stock and derivatives exchanges.

4.2 Currently, only AEs are allowed to target retail investors. The high regulatory bar set for the AE regime, especially the prudential requirements¹¹, presents a significant barrier to entry for such entities, especially for those seeking limited retail investor participation. As a consequence, these entities may either choose not to set up in Singapore, or to adapt their business model and restrict their target clientele to only accredited investors, institutional investors and expert investors. This may not be a desirable outcome, where the market operator has a viable business model that could benefit certain retail investor segments.

4.3 MAS proposes to create the RMO Tier 1 within the RMO regime to allow market operators some access to retail investors. This is because the presence of retail investor participation does not immediately make a market operator systemically important enough to be subject to the full set of requirements imposed on an AE. Also, as there is no significant difference in the systemic risk between a Tier 1 RMO and a Tier 2 RMO, MAS does not propose to introduce additional prudential requirements for the RMO Tier 1 beyond that of RMO Tier 2 (e.g. base and ongoing capital requirements).

4.4 However, MAS recognises that a market operator with retail investor participation could also have a negative societal outcome in the event of failure. A Tier 1 RMO will hence be required to put in place additional conduct safeguards to address retail investor protection, which will be largely drawn from the existing retail investor protection requirements that apply to AEs. The safeguards that are applicable to a Tier 1 RMO will also depend on its business model.

Retail investor protection requirements applicable to all Tier 1 RMOs

¹¹ For example, the base capital requirement for an AE is S\$10 million.

4.5 In addition to the existing requirements imposed on Tier 2 RMOs, MAS proposes to impose the following general requirements on Tier 1 RMOs to limit the potential impact of their failure:

- (a) Product governance framework¹²;
- (b) Prohibited from collecting or holding retail investors' cash or collateral;
- (c) Clearing, settlement and custody services can only be performed by a MAS-regulated entity; and
- (d) Pre and post-trade transparency through the publication of bids and offers, and the price, volume and date of the last order or transaction for contracts or instruments offered to retail investors.

Additional requirements applicable for Tier 1 RMOs that intend to provide investors direct participation without financial intermediaries

4.6 Similar to Tier 3 RMOs, Tier 1 RMOs that operate such business models will be expected to perform the necessary KYC checks and meet MAS' requirements for AML/CFT. Given that such Tier 1 RMOs interface directly with retail customers, they are also expected to perform the following additional requirements in place of the financial intermediaries¹³:

- (a) Client suitability assessment, including the completion of a Customer Account Review and Customer Knowledge Assessment¹⁴;
- (b) Membership in a dispute resolution scheme listed under the MAS (Dispute Resolution Scheme) Regulations¹⁵.

¹² This is typically imposed only on AEs, and requires the entity to conduct assessments to ensure the product is appropriate for retail investors. The entity will also be required to assess if adequate information is provided to support the offering of the product. For example, a Tier 1 RMO would be required to disclose if the equities it offers are exempted from prospectus and ongoing disclosure requirements.

¹⁴ "Customer Account Review" and "Customer Knowledge Assessment" have the same meaning as defined under MAS Notice SFA 04-N12 – *Notice on the Sale of Investment Products* - under the Securities and Futures Act (Cap. 289).

¹⁵ The Financial Industry Dispute Resolution Centre (FIDReC) is currently the only dispute resolution centre listed.

Additional requirements for Tier 1 RMOs that intend to allow listing of securities

4.7 Some Tier 1 RMOs may also allow issuers to list securities for trading on their market. If such securities are not listed on other exchanges, these Tier 1 RMOs are effectively playing the role of a listing venue. As such, they have to ensure that the issuers whose securities are admitted for trading on their platform meet regulatory requirements that are comparable to those that apply to issuers with listings on an AE. These requirements facilitate investor protection by requiring issuers to make accurate and timely disclosure of information that investors would reasonably need to make informed investment decisions, and to treat the holders of their securities fairly and equitably.

4.8 The regulatory regime for Tier 1 RMOs and their issuers would therefore comprise the following key requirements:

- (a) Prospectus Requirements: Issuers which make an offer of securities, either at the time of admission to the trading platform or as part of their secondary fund-raising exercises, must comply with the prospectus requirements under Part XIII of the Act unless they can rely on an exemption from such requirements (e.g. exemption for small offers or private placements). Tier 1 RMOs should provide investors with access to such offering documents;
- (b) Continuing Obligations: Tier 1 RMOs will be expected to promulgate, monitor compliance with, and enforce rules¹⁶ which require issuers to (i) make accurate and timely disclosure of information that investors would reasonably need to make informed investment decisions (e.g. periodic financial statements and information relating to significant transactions) on an ongoing basis, and (ii) treat the holders of the securities fairly and equitably. In addition, to provide assurance on the reliability of financial statements and information, Tier 1 RMOs should require issuers to prepare their financial statements in accordance with accounting standards, and be of high and internationally acceptable quality; and
- (c) Change of Control Transactions: MAS intends to extend the Singapore Code of Take-overs and Mergers to issuers which have been admitted to trading platforms operated by Tier 1 RMOs. Likewise, the disclosure of interest regime under Part VII of the Act will be extended to these issuers,

¹⁶ Tier 1 RMOs should therefore dedicate resources towards monitoring for such compliance and taking appropriate enforcement action for any breaches that occur.

as well as their directors and substantial shareholders. Tier 1 RMOs should therefore be prepared to facilitate their issuers' compliance with these requirements.

4.9 However, MAS recognises that Tier 1 RMOs are likely to differ from AEs in terms of their operating models, scale of activities or retail reach. Accordingly, MAS welcomes suggestions as to how the above-mentioned requirements may be tailored to suit such market operators and their issuers, in a manner which will nevertheless meet the objectives of providing adequate protection to investors and the operation of a fair, orderly and transparent market.

Restrictions on Tier 1 RMOs' level of business activity

4.10 Overall, a Tier 1 RMO will be subject to higher regulatory and supervisory scrutiny by MAS than a Tier 2 RMO. Notwithstanding this, given that the safeguards for retail investors are still lower compared to that required of AEs, MAS proposes to impose a cap on the level of participation by retail investors on a Tier 1 RMO. This will go towards containing the impact on the public in the event of the closure of, or misconduct by, a Tier 1 RMO. The proposed caps to be applied to each Tier 1 RMO are as follows:

- (a) No more than 200 retail investors per listed issuer;
- (b) No more than S\$20,000 of investment per retail investor on a single Tier 1 RMO; and
- (c) No more than 10,000 retail investor accounts.

These requirements translates to a maximum of S\$4 million of investment from retail investors that can be raised by an issuer on a Tier 1 RMO, and a maximum of S\$200 million of investment from retail investors that can be from across all issuers on a Tier 1 RMO. These limits do not apply to investments raised from non-retail investors for a Tier 1 RMO, which is similar to the current RMO regime.

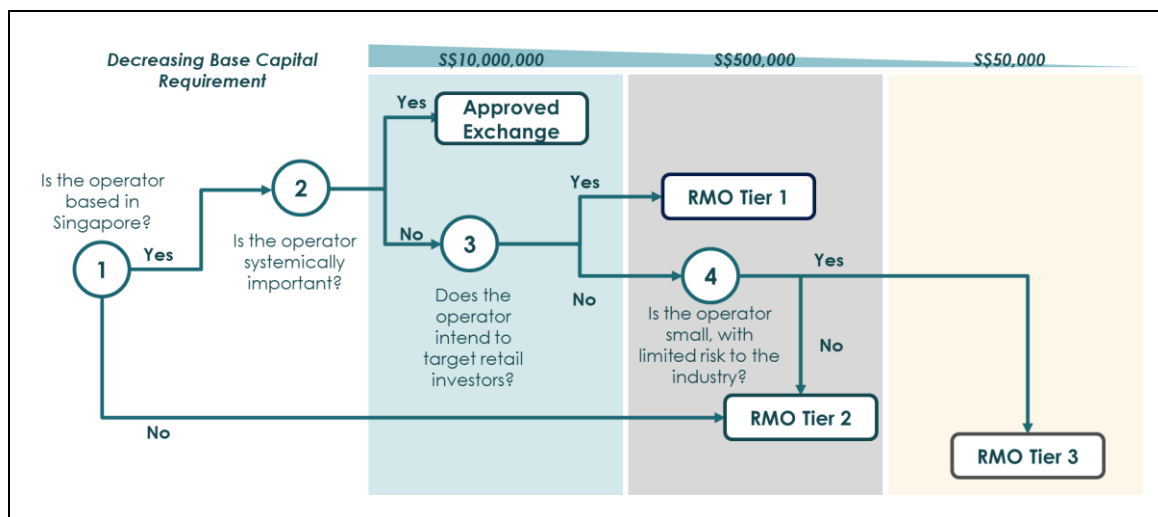
4.11 For the avoidance of doubt, these caps will only be applicable to Singapore resident retail investors (i.e. domestic retail investors). There are no explicit restrictions for a Tier 1 RMO with regard to overseas retail investors; however a Tier 1 RMO will be expected to comply with the relevant overseas regulations if it targets overseas investors.

4.12 A Tier 1 RMO that is reaching these limits will be deemed to have grown in systemic importance. Accordingly, the Tier 1 RMO will be expected to make preparations to transit to become an AE.

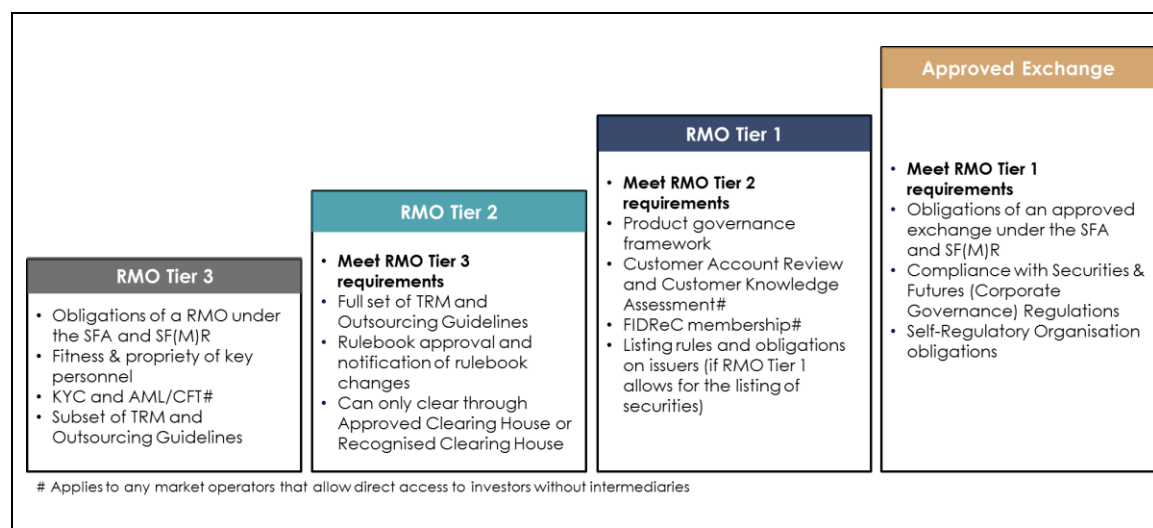
- Question 4.** MAS seeks comments on the proposal to create the RMO Tier 1 which allows some access to retail investors.
- Question 5.** MAS seeks comments on the proposed additional requirements to be imposed on Tier 1 RMOs, as set out in paragraph 4.5.
- Question 6.** MAS seeks comments on the proposal to impose additional requirements on Tier 1 RMOs that do away with financial intermediaries, and the requirements proposed in paragraph 4.6.
- Question 7.** MAS seeks views on how the proposed regulatory requirements in paragraph 4.7 – 4.8 may be tailored to suit Tier 1 RMOs and the issuers which are admitted to their trading platforms.
- Question 8.** MAS seeks comments on the proposed caps on business activity to be placed on a Tier 1 RMO, as set out in paragraph 4.10.
- Question 9.** MAS invites suggestions on whether there should be any other parameters that should be considered, aside from those set out in paragraph 4.10.

5 Overview of the Changes to the Market Operator Regime

5.1 The introduction of two additional tiers in the regulatory regime for market operators will allow MAS to better calibrate the regulatory requirements and supervisory intensity based on systemic importance and target clientele. MAS will consider the profile of a market operator when deciding on when and how it should be regulated, as shown in the diagram below.



5.2 MAS believes that the proposed tiers within the RMO regime would provide market operators with greater flexibility to choose a regulatory tier that better match their risk profile and business model. As market operators grow in size, they will have to move up the regulatory tiers and be subject to a step up in regulatory requirements and supervisory intensity. This step-up is summarised in the following diagram:



5.3 For the avoidance of doubt, the proposals within this consultation paper apply only to Singapore-incorporated entities. Entities based overseas may only apply under RMO Tier 2, as per the current regime.

Annex A

LIST OF QUESTIONS

- Question 1.** MAS seeks comments on the simplified requirements for RMO Tier 3 as set out in paragraph 3.2.9
- Question 2.** MAS seeks comments on the proposed self-certification application process for RMO Tier 3 applicants as set out in paragraph 3.3.....9
- Question 3.** MAS seeks comments on the proposed restrictions on (i) investor access as set out in paragraph 3.7; and (ii) business volume limits as set out in paragraph 3.9.....9
- Question 4.** MAS seeks comments on the proposal to create the RMO Tier 1 which allows some access to retail investors.....14
- Question 5.** MAS seeks comments on the proposed additional requirements to be imposed on Tier 1 RMOs, as set out in paragraph 4.5.14
- Question 6.** MAS seeks comments on the proposal to impose additional requirements on Tier 1 RMOs that do away with financial intermediaries, and the requirements proposed in paragraph 4.6.....14
- Question 7.** MAS seeks views on how the proposed regulatory requirements in paragraph 4.7 – 4.8 may be tailored to suit Tier 1 RMOs and the issuers which are admitted to their trading platforms.14
- Question 8.** MAS seeks comments on the proposed caps on business activity to be placed on a Tier 1 RMO, as set out in paragraph 4.10.14
- Question 9.** MAS invites suggestions on whether there should be any other parameters that should be considered, aside from those set out in paragraph 4.10.14

