

RESPONSE TO CONSULTATION PAPER

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Consultation topic:	Draft Notices on the Competency Requirements for Representatives Conducting Regulated Activities under the Financial Advisers Act and Securities and Futures Act
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Confidentiality	
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Question 1: MAS seeks comments on the revised FAA Notice (Annex A).

#	FAA Notice	ASIFMA Members' Feedback
Para 4.3	Table 1: Relevant CMFAS Exam Requirement for Each Type of Financial Advisory Service and Product	MAS might have missed out indicating footnote 3 to (a)(ii) "units in CIS".
Para 4.5	An individual is not required to meet the CMFAS Exam requirements stipulated in paragraph 4.3 if his provision of any financial advisory service is limited only to the types of products and segments of the market that is specified in paragraph 2 of Annex A.	<p>Prior to the Oct 2018 revisions of Securities and Futures Act ("SFA")/ Financial Advisers Act ("FAA"), Licensed Fund Management Companies ("LFMCs") were required to be an Exempt Financial Advisers for conducting Marketing of Collective Investment Schemes ("CIS") under the FAA. In the Oct 2018 revisions, exemptions were provided to LFMCs under SFA for "Marketing of CIS" when this regulated activity was removed from FAA. However, there are no exemptions provided to LFMCs under SFA for "Advising of CIS and Investment Products".</p> <p>In view of the implications on licensing and the competency requirements on representatives, the industry would like to seek clarity from MAS that when LFMCs perform FAA activities which are generally <u>incidental to fund management activity or marketing of fund management activity/in-house funds and do not deal directly with Retail Investors</u> whether LFMCs are required to be an Exempt Financial Adviser for "Advising of CIS and Investment Products"? If response is "Yes", could MAS clarify whether representatives of LFMCs are eligible for the exemptions under paragraph 4.5 of the draft FAA Notice since they do not deal directly with Retail Investors (i.e. fund distribution are via appointed distributors which are regulated financial institutions).</p>
Para 4.7	<p>The following individuals are not required to pass RES5:</p> <p>(b) an individual – (ii) whose provision of financial advisory services is limited to advising others concerning capital markets products by providing – (B) as a marketing representative of a fund management company, customised information on investment fund products which his principal manages</p>	<p>Could MAS clarify that if a marketing representative also advises on investment fund products which his/her principal's related corporation manages, such exemption to pass RES5 will not apply (i.e. the marketing representative will have to pass RES5)?</p> <p>If this is indeed the case, such exemption will have negligible practicable use for global or regional fund houses, whose representatives will necessarily market investment fund products which are managed out of other related corporations as well. This is because for global/ regional fund houses, investment capabilities are necessarily situated across different geographical locations.</p>

Para 5.10	<p>paragraphs 5.1 and 5.3 shall not apply to an appointed representative –</p> <p>(a)who confines the provision of financial advisory services to the types of financial advisory services, or to the types of investment products and segments of the market, specified in Annex A; or</p> <p>(b)whose principal is a financial adviser referred to in paragraph 13 of the Notice on Recommendations on Investment Products(FAA-N16), and who provides execution-related advice only.</p>	<p>The industry would like to seek confirmation from MAS that under paragraph 5.10 of the draft FAA Notice, representatives of LFMCs will <u>not</u> be required to be subjected to the Continuous Professional Development (“CPD”) requirement if the representatives do not deal directly with Retail Investors. If this is the intention, MAS might consider including a footnote in the draft FAA Notice.</p>
Annex B	Table B-1: CMFAS Exam Modules and Applicable Exemption Conditions	<p>Could MAS clarify if there is exemption for CM-CMP and CM-CIS? According to MAS Response to Feedback Received-Review of Competency Requirements for Representatives Conducting Regulated Activities under the Securities and Futures Act and Financial Advisers Act dated 25 September 2017, it provided a list of the exemption criteria for CM-CMP and CM-CIS.</p>

Question 2: MAS seeks comments on the revised SFA Notice (Annex B).

#	SFA Notice	ASIFMA Members’ Feedback
Para 2.1	<p>“accredited investor” means any of the persons mentioned in section 4A(1)(a) of the SFA in relation to a holder of a CMS licence or exempt FI, if the person has opted to be treated by the holder of a CMS licence or exempt FI as an accredited investor for all the consent provisions, under regulation 3(2) of the Securities and Futures (Classes of Investors) Regulations 2018;</p>	<p>The industry would like to reflect that financial institutions (“FIs”) generally do not receive the client’s confirmation to be treated as an accredited investor during the initial marketing stage; such confirmations are usually only obtained during the onboarding stage before a trade/transaction is entered. The representative may still rely on the relevant exemptions for dealing with accredited investors as long as the client is on-boarded only if it agrees to be treated as an accredited investor.</p>
Para 4.4	<p>An individual may pass the module CM-CMP in lieu of the module M6 or M6A, or both modules.</p>	<p>Could MAS clarify if passing either module M6 or M6A would be equivalent to passing CM-CMP? If this is true, would this contradict the requirements of “Combined Product Knowledge Modules” under the “Table A: CMFAS Exam Modules” in Annex 1 of the draft SFA Notice?</p>

<p>Para 4.5</p>	<p>Subject to paragraph 6.1.2, an individual who passed module M1A, M1B, M2A, M3, M4A or M10 under the Cancelled Notice is deemed to have passed the corresponding module of the CMFAS Exam under this Notice as set out in Table A of Annex 1.</p>	<p>There was no mentioning whether an individual who passed module M6 and M6A under the Cancelled Notice is also deemed to have passed the corresponding modules (i.e. CM-EIP and CM-SIP respectively) as set out in Table A of Annex 1 of the draft SFA Notice. In comparison with paragraph 4.8 of the draft FAA Notice, it stated that an individual who passed M6, 6A under the Cancelled Notice is deemed to have passed CM-EIP, CM-SIP respectively.</p> <p>While the industry understands that it is MAS' intention to "grandfather" the M6 and M6A modules for existing representatives who have passed these modules. For consistency, the industry would like to propose that MAS explicitly mentions this point in paragraph 4.5 of the draft SFA Notice, to deem an individual who passed M6 and M6A under the Cancelled Notice as having completed the corresponding CM-EIP and CM-SIP modules respectively.</p>
<p>Para 5.1</p>	<p>An individual is not required to pass the module M6 if he is an individual mentioned in Annex 2.</p>	<p>Could MAS clarify if there are exemptions for CM-EIP, CM-SIP or CM-CMP? If so, the industry would be grateful if MAS could indicate them on the draft SFA Notice. According to MAS Response to Feedback Received-Review of Competency Requirements for Representatives Conducting Regulated Activities under the Securities and Futures Act and Financial Advisers Act dated 25 September 2017, it provided a list of the exemption criteria for CM-CMP.</p>
<p>Para 5.2</p>	<p>Dealing in capital markets products in connection with advising on corporate finance</p> <p>5.2.1 An individual is not required to meet the CMFAS Exam Requirements stipulated in paragraph 4.3 for dealing in any type(s) of capital markets products if –</p> <p>(a) he is appointed as an appointed representative in respect of advising on corporate finance;</p> <p>(b) his dealing in those type(s) of capital markets products is for the purposes of underwriting and placement of capital markets products in connection with his advising on corporate finance; and</p>	<p>As representatives may also be registered for "dealing in capital markets products" where they perform underwriting and placement in connection with corporate finance activities (as stated in paragraph 5.2.1(b)), the industry would suggest to revise the paragraph 5.2.1(a) of the draft SFA Notice to the following wordings: <i>"5.2.1(a) he is appointed as an appointed representative in respect of (i) advising on corporate finance and/or (ii) dealing in capital market products."</i></p> <p>Additionally, referring to paragraph 11 of the existing SFA Notice on Minimum Entry and Examination Requirements for Representatives of Holders of Capital Markets services Licence and Exempt Financial Institutions, the <i>"representative is not required to pass CMFAS Modules 1A, 1B or 6 to conduct dealing in capital products that are securities in connection with his corporate finance activities."</i> In paragraph 5.2 of the draft SFA Notice, it is stated that a representative need not take any of the CMFAS modules in relation to dealing in capital markets products when he/she meets the requirements 5.2.1(a), (b) and (c). The</p>

	(c) he meets the CMFAS Exam Requirements stipulated in paragraph 4.3 for advising on corporate finance.	industry interprets this such that since the CMFAS modules in relation to dealing in capital markets products need not be taken going forward, then CMFAS module 6A would not be applicable. The industry would like to confirm with MAS if the understanding above is correct.
Para 5.4.1	An individual is not required to meet the CMFAS Exam Requirements stipulated in paragraph 4.3 for dealing in capital markets products that are units in a collective investment scheme if he is an individual whose principal manages funds only for one or more of the following:	<p>In the previous regime where “Collective Investment Schemes” was captured under “securities” and the dealing of CIS fell within scope of “dealing in securities – CIS” under the SFA and “Marketing of CIS” under the FAA, representatives who conduct such dealing (including marketing) activities of CIS to Accredited and Institutional investor were exempted from CMFAS examination requirements. The industry understands that based on the consultation paper in consolidating dealing (including marketing) activities of CIS under the SFA, it is MAS’ intention to continue to apply the same exemptions available under the previous regime.</p> <p>The revised notice indicates the following person “a person whose principal manages funds...” is exempted from CMFAS examination requirements under paragraph 5.4.1. However, this exemption may be interpreted to apply only to persons whose principal only manages funds (e.g. Fund Management Companies (“FMCs”) and not representatives of other FIs (such as wholesale banks, merchant banks (exempt FIs)) who conduct such dealing (including marketing) activities of CIS. This is especially so when read together with the current SFA exam notice’s FAQ Question 7, the exemption seems to apply only to representatives of FMCs (e.g. Licensed FMCs). Could MAS confirm that this exemption extends to exempt FIs and their representatives who deal in CIS to persons captured under paragraph 5.4.1?</p>
Para 5.5	Dealing in capital markets product that are exchange-traded derivatives contracts	<p>Under the existing SFA Exam Notice, paragraph 24(b) highlighted that specific representative is not required to pass Modules 2A and 6A for dealing in Capital Markets Products that are Exchange Traded Derivatives Contracts which are Futures Contracts if it is a person who meets the conditions and restrictions specified in paragraph 3 of the second schedule of the SFR.</p> <p>However, under the draft SFA Exam Notice paragraph 5.5, there is no such reference to paragraph 3 of the second schedule of the SFR under the conditions where an individual is not required to meet the CMFAS Exam</p>

		requirements or deemed to have passed the RES module. Could MAS clarify if this is removed because the persons who are exempted from licensing under the second schedule of the SFR are not required to take any CFMAS examinations in the first place?
Para 5.5.3	<p>(b)(i) he deals only in exchange-traded derivatives contracts that are not futures contracts and that are Excluded Investment Products, and he had satisfied the CMFAS Exam requirements under the 2018 SFA Exam Notice for dealing in securities that are Excluded Investment Products; and</p> <p>(ii) he deals only in exchange-traded derivatives contracts that are not futures contracts and that are Specified Investment Products, and he had satisfied the CMFAS Exam Requirements under the 2018 SFA Exam Notice for dealing in securities that are Specified Investment Products; or</p> <p>(iii) he deals only in exchange-traded derivatives contracts mentioned in sub-paragraphs (i) and (ii), and he had satisfied the CMFAS Exam Requirements under the 2018 SFA Exam Notice mentioned in both sub-paragraphs (i) and (ii).</p>	<p>It appears that the word “and” at the end of the sentence in paragraph 5.5.3(b)(i) should be removed, could MAS confirm if this is a typo?</p> <p>I.e. <i>(b)(i) he deals only in exchange-traded derivatives contracts that are not futures contracts and that are Excluded Investment Products, and he had satisfied the CMFAS Exam requirements under the 2018 SFA Exam Notice for dealing in securities that are Excluded Investment Products; and</i> <i>(ii) he deals only in exchange-traded derivatives contracts that are not futures contracts and that are Specified Investment Products, and he had satisfied the CMFAS Exam Requirements under the 2018 SFA Exam Notice for dealing in securities that are Specified Investment Products; or</i> <i>(iii) he deals only in exchange-traded derivatives contracts mentioned in sub-paragraphs (i) and (ii), and he had satisfied the CMFAS Exam Requirements under the 2018 SFA Exam Notice mentioned in both sub-paragraphs (i) and (ii).</i></p>
Para 5.8.3	Subject to paragraph 6.1.2, an individual who passed the module M4A under the Cancelled Notice, and confines his advising on corporate finance to equity securities only, is treated as having satisfied the CMFAS Exam Requirements stipulated in paragraph 4.3 for advising on corporate finance.	<p>Given that Module 4A applies to both equity and debt securities, the industry would suggest the following edits for paragraph 5.8.3 for more clarification:</p> <p><i>“5.8.3 Subject to paragraph 6.1.2, an individual who passed the module M4A under the Cancelled Notice, and confines his advising on corporate finance to equity and debt securities only, is treated as having satisfied the CMFAS Exam Requirements stipulated in paragraph 4.3 for advising on corporate finance.”</i></p>
Para 5.11	Transitional arrangements for the removal of the exemption for specialized units serving high net worth individuals under section 100(2) of the FAA	In the temporary relief measure for FIs to appoint representatives between 9 April 2020 and 30 September 2020, MAS has granted a grace period of 6 months for these representatives to complete their CMFAS exam. As these representatives have already been preparing their CMFAS exam based on the

	<p>5.11.1 An individual who, –</p> <p>(a) prior to 8 January 2021, was appointed to carry out the regulated activity of dealing in any type of capital markets products on behalf of a specialised unit which was, prior to 8 January 2021, serving high net worth individuals pursuant to an exemption under section 100(2) of the FAA; and</p> <p>(b) on or after 8 January 2021, is appointed to carry out the same regulated activity of dealing in those type(s) of capital markets products on behalf of any specialised unit mentioned in paragraph (a) which serves only accredited investors, is not required to pass the CMFAS Exam Requirements stipulated in paragraph 4.3 for dealing in those type(s) of capital markets products if –</p>	<p>current CMFAS exam modules, it is not recommended to roll out the “T-date” during Q1 2021, which may coincide with the 6-month grace period.</p> <p>The industry would propose for the revised CMFAS modules to be rolled out only after the 6-month grace period under the temporary relief measure has lapsed (e.g. in Q2 2021 or a later date if MAS may extend the temporary relief measure).</p>
<p>Para 6.2.1</p>	<p>A deemed pass in the applicable product knowledge module by virtue of paragraph 5.6.2, 5.6.5 or 5.7.3 ceases to be valid if the individual mentioned in that paragraph –</p> <p>(a) ceased to carry out the regulated activity mentioned in that paragraph any time on or after 8 October 2018 and did not re-commence carrying out the regulated activity within one year after the date of cessation; and</p> <p>(b) does not have at least three years of continuous working experience in the regulated activity mentioned in that paragraph prior to his cessation.</p>	<p>The industry would like to propose that MAS aligns the timelines with that prescribed for the rules and regulations modules and only require a representative to retake the Product Knowledge Modules if the individual ceased to conduct the regulated activity for more than 3 years.</p>
<p>Para 7.3</p>	<p>In addition, a holder of a CMS licence or exempt FI must certify and ensure that its representatives comply with the CMFAS Exam Requirements set out in this Notice. A holder of a CMS licence or exempt FI must not allow its representatives who are subject to the CMFAS Exam Requirements to commence any regulated activity unless</p>	<p>The industry believes that the certification mentioned in paragraph 7.3 refers to the certification that FIs currently need to provide when submitting a RNF notification to appoint a new representative/add new regulated activities; there is no intention to impose additional obligation on FIs to provide additional certification to MAS on a periodic basis. Could MAS confirm if the understanding above is correct?</p>

	they have passed the applicable modules of the CMFAS Exam.	
Para 8.9	(Footnote 3): <i>“For the avoidance of doubt, a representative who is appointed under both the SFA and the FAA for the same principal, must fulfil the higher of the CPD requirements set out under paragraph 8.4 of this Notice or paragraph 5.3 of [New FAA Notice No.]”</i>	Could MAS confirm that representatives of LFMCS who do <u>not</u> deal directly with Retail Investors, will <u>not</u> be required to be subjected to the CPD requirement under the FAA Notice if the LFMCS are Exempt Financial Adviser? If so, MAS might consider editing the wordings of the footnote in the draft SFA Notice.
Para 8.10	In paragraph 8, “CPD training” includes: (a) lectures; (b) conferences; (c) workshops; (d) courses; (e) product seminars prior to the launch of new products; and (f) e-learning courses, which have clear learning objectives and outcomes that are clearly documented and independently verified, but excludes activities that are part of the job scope of an appointed representative.	Could MAS provide more specific clarity on what it intends to exclude? For instance, a representative may attend in-house sessions organised by his/her own principal firm regarding fund, product or industry updates as part and parcel of their job. These sessions however would serve to enhance his/her competency professional education.
Para 9.3	paragraph 8 does not apply to – (a) an appointed representative who serves only accredited investors or institutional investors, or only accredited investors and institutional investors; and	<p>The industry would like to highlight that there is inconsistency in the exemption of CPD requirements for representatives serving Expert Investors under the draft SFA Notice vs the draft FAA Notice. Under the draft SFA Notice, the CPD does not apply to appointed representatives serving <u>Accredited and/or Institutional investors</u>. However, under the paragraph 5.8 and Annex A of the draft FAA Notice, CPD does not apply to appointed representatives serving <u>Accredited, Institutional as well as Expert Investors</u>. For consistency in the exemption treatment, the industry would like to propose that MAS considers aligning the exemption for CPD requirements under the draft SFA Notice to that of the draft FAA Notice, i.e. CPD requirements can be exempted for representatives serving Expert Investors under both Notices.</p> <p>Additionally, would there be any exemption for private banking representatives from the requirements of CMFAS examinations and CPD hours for executing sell trades for non-Accredited Investor (“non-AI”) clients who used to be Accredited Investor (“AI”) clients but (i) no longer fulfil the AI-eligibility requirement, (ii) opted out from being treated as an AI or (iii) did not provide the opt-in confirmation required under paragraph 3(5) of the Securities and Futures (Classes of Investors) Regulations, as part of account closure. These sell trades</p>

		will be executed based on clients' instructions without provision of financial advice.
Annex 1	Table C: CMFAS Exam requirements for individuals who carry out regulated activities for a principal that is not a member of an approved exchange	<p>Under the current SFA Exam Notice, Sales and Distribution staff in Fund Management Companies would take M5 and M8 and/or M8A in order to conduct the regulated activity of Fund Management (specifically, Fund Management for appointed representatives marketing units in any collective investment schemes that the specific representative's principal or principal's related corporation manages the property of, or operates). In the proposed SFA Exam Notice, this option is not available anymore. For the regulated activity of Fund Management, the only applicable exams are RES3 + M6. Could MAS clarify if Sales and Distribution staff in Fund Management Companies no longer have the option to take RES5 + M8 and/or M8A (as the case may be) for the regulated activity of Fund Management?</p> <p>In addition, the module CM-EIP was stated as the replacement exam for M6 in Table A while the "Product Knowledge Modules" column of Table C made reference to M6 and M6A (these two modules would have been replaced by CM-EIP and CM-SIP). As paragraph 4 stated "An individual may pass the module CM-CMP in lieu of the module M6 or M6A, or both modules", would MAS revise the Table C of Annex 1 to reflect the aforesaid update (e.g. the applicable exams for the regulated activity of Fund Management should be RES3 + CM-EIP instead of RES3 + M6)?</p>