

31<sup>st</sup> JULY 2020

MAS FRC Framework Consultation

**ASFIMA Letter re MAS Consultation Response on the Proposed Revisions to the Exemption Framework for Cross-Border Business Arrangements**

Dear MAS,

We refer to the MAS consultation response “Proposed Revisions to the Exemption Framework for the Cross-Border Business Arrangements of Capital Markets Intermediaries” dated 5 June 2020 (the “**Consultation Response**”), in relation to the exemption framework for business arrangements between financial institutions in Singapore and their foreign related corporations (the “**FRC Framework**”).

The Asia Securities Industry & Financial Markets Association (“**ASIFMA**<sup>1</sup>”) and its members generally welcome the guidance provided in the consultation response . However, notwithstanding our general support for this measure, ASIFMA members are mindful that there are some uncertainties and challenges faced by the industry and we would like to take this opportunity to seek clarification from MAS by listing the questions and feedback including some recommendations made by the industry as follows:

MAS Consultation Response		ASIFMA members’ Feedback
3.1	MAS proposed that Singapore Entities notify MAS of (i) the arrangement(s) with their FRC(s) within 14 days of commencement of the arrangement(s), and (ii) material changes to the arrangement(s) within 14 days of such changes occurring.	Since MAS has clarified in Section 7.11 of the Consultation Response that it does not intend to restrict the number of days foreign representatives are allowed to visit Singapore and it is noted that Singapore entities are required to notify MAS within 30 days in the existing approvals granted for FRC arrangements under paragraph 9 of the Third Schedule to the SFA, the industry would like to request that MAS provides relief to this existing condition (i.e. window to be extended from 14 days to 30 days) so as to reduce the logistic and administrative efforts of monitoring and reporting the total duration of visits by each foreign representative per year.
6.2	MAS would like to clarify that Singapore Entities and FRCs may establish the status of	The industry would like to seek clarification from MAS if this position is applicable only to activities

<sup>1</sup> ASIFMA is an independent, regional trade association with over 135 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, professional and consulting firms, and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative, competitive and efficient Asian capital markets that are necessary to support the region’s economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the GFMA alliance with SIFMA in the United States and AFME in Europe, ASIFMA also provides insights on global best practices and standards to benefit the region.

	customers at the point of onboarding, rather than at the marketing stage.	under the new FRC Framework or across the board.
7.1	<p>MAS proposed to require the Singapore Entities to have in place policies and procedures to oversee the conduct of FRCs and Foreign Representatives under these FRC arrangements, similar to the requirements for existing arrangements which have been approved by MAS. The applicable policies and procedures include:</p> <p>(a) Keeping records relating to the business arrangements with the FRC, consistent with Regulation 39 of the SF(LCB)R or Regulation 25 of the FAR, as applicable;</p>	<p>The industry is of the view that Regulation 39 of the SF(LCB)R is prescriptive and it might not be practical to apply this regulation on the FRC Framework. For example, in certain countries, books and communications are predominately in the native languages that it would be challenging to keep every book and record in English language for all transactions. It is proposed that instead of Regulation 39, the industry would have been given flexibility to implement policies and procedures to ensure proper documentation of those three categories listed in Section 7.5 of the Consultation Response.</p>
7.13	<p>The Singapore Entity should assess whether the customers of the FRC would also be considered customers of the Singapore Entity, as defined in the relevant AML Notice. If so, the Notice requirements would apply, and the Singapore Entity must comply with them. Where the FRC's customers are not customers of the Singapore Entity, the Singapore Entity will still be required to ensure that the policies and procedures in place relating to the conduct of CDD for FRC arrangements, are at least as stringent as the requirements in the relevant AML Notice.</p>	<p>The industry would like to confirm with MAS that under the new FRC Framework, the Singapore entity will no longer be required to assess new clients in accordance with the AML Notice to the extent that these new clients are not customers of the Singapore entity.</p>
8.5	<p>An appropriate transition time of six months will be provided to submit this notification. Existing approvals granted for FRC arrangements under paragraph 9 of the Third Schedule to the SFA and paragraph 11 of the First Schedule to the FAA will expire at the end of the transition period. The conditions imposed on arrangements approved under the current framework will no longer apply, and will be replaced by the boundary conditions under the proposed framework.</p>	<p>According to the MAS Circular CMI16/2020, the transition period of the licensing and conduct requirements for entities dealing in and advising on OTC derivatives has been extended by one year to 8 Oct 2021. Considering that some Singapore entities may have applied Reg 65 exemption to deal in OTC derivatives (excluding securities-based derivatives) as well as the ongoing Covid-19 pandemic has been impacting the industry globally, ASIFMA and its members implore MAS to consider a longer transition period or the effective implementation date after 8 Oct 2021 for the Singapore entities to put in place the requirements with their foreign related corporations under the new FRC framework.</p>

ASIFMA would welcome an opportunity to discuss this further with MAS, or to receive any comments MAS might have on the matters set out above. If you require further clarification on any of the matters discussed in this letter, please do not hesitate to contact Patrick Pang ([ppang@asifma.org](mailto:ppang@asifma.org)).

Yours sincerely,



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