

# RESPONSE TO FEEDBACK RECEIVED

August 2016

## Response to Feedback Received – Amendments to Securities and Futures (Exemption from Requirement to Hold Capital Markets Services Licence) Regulations

MAS

Monetary Authority of Singapore

**Contents**

1	PREFACE .....	3
2	BACKGROUND: IMPETUS FOR PROPOSAL .....	3
3	EXEMPTION FROM THE REQUIREMENT TO HOLD A CAPITAL MARKETS SERVICES LICENCE .....	4
4	OTHER CLARIFICATIONS ON EXEMPTION CONDITIONS.....	5
	Annex A.....	7

## **1 PREFACE**

1.1 On 24 April 2015, MAS issued a consultation paper on the proposal to exempt remote clearing members which clear futures contracts on Singapore-based central counterparties (“CCPs”) from the requirement to hold a Capital Markets Services (“CMS”) licence in respect of trading in futures contracts under the Securities and Futures Act (“SFA”), subject to certain conditions.

1.2 The consultation closed on 15 May 2015 and MAS would like to thank all respondents for their feedback. The list of respondents is in Annex A.

1.3 MAS has considered carefully the feedback received, and will incorporate them where it has agreed with the feedback. Comments of a wider interest, together with MAS responses, are set out below.

## **2 BACKGROUND: IMPETUS FOR PROPOSAL**

2.1 Post the G20 OTC regulatory reforms, there has been an accelerated shift in the derivatives market from over-the-counter (OTC) trading to on-exchange trading and centralised clearing. Facilitating cross-border flows to a CCP would increase liquidity in the market, and create benefits for a broad base of market participants.

2.2 Based on industry feedback, a regulatory framework that would allow overseas clearing members to directly clear their trades with Singapore-based CCPs would encourage a greater diversity of clearing members, and bring about increased breadth and depth to the derivatives market in Singapore. This may be particularly beneficial for a mature onshore market as participation from overseas clearing firms can provide a new boost to liquidity and clearing activity. Such a framework would also enable overseas clearing firms to gain some familiarity with the Singapore market, before committing resources for a full set-up in Singapore.

2.3 Thus, MAS proposed introducing a remote clearing membership framework in the consultation paper. Internationally, jurisdictions such as the US and Europe have also permitted remote clearing membership for their local CCPs.

### **3 EXEMPTION FROM THE REQUIREMENT TO HOLD A CAPITAL MARKETS SERVICES LICENCE**

3.1 MAS sought views on the proposal to allow the participation of remote clearing members in Singapore-based CCPs, and exempt a remote clearing member from holding a CMS licence for trading in futures contracts provided that the member:

- (a) is incorporated outside Singapore;
- (b) does not serve any customer resident in Singapore;
- (c) does not carry on business in providing financial services in Singapore;
- (d) carries on business in a jurisdiction where the relevant regulator has an arrangement with the Authority for information exchange and co-operation in respect of futures supervision; and
- (e) is registered, licensed, approved or otherwise regulated in respect of trading in futures contracts by the relevant regulator in its home jurisdiction.

3.2 MAS received differing views on the proposal to admit remote clearing members. While some of the respondents supported the proposal, respondents who disagreed with the proposal raised three main areas of concern as elaborated below.

3.3 First, several respondents highlighted that the default management risks posed by remote clearing members, if not addressed adequately, could lead to additional systemic risk and may negatively impact the local clearing members.

3.4 Second, a number of respondents commented that the proposed licensing exemption for remote clearing members could lead to an un-level playing field in terms of business conduct and regulatory capital requirements vis-à-vis local clearing members, particularly if the remote clearing members are incorporated in a jurisdiction with less stringent regulatory requirements as compared to Singapore.

3.5 Lastly, a group of respondents indicated that the proposal could lead to a hollowing out of local clearing members in Singapore's market.

#### MAS' Response

3.6 In relation to additional default management risks posed by remote clearing members, MAS would like to clarify that Singapore-based CCPs will have to ensure that they have adequate risk management and default management procedures to handle the default of a remote clearing member. In addition, MAS intends to limit Singapore-based CCPs' total

clearing exposure to remote clearing members and impose additional capital requirements on Singapore-based CCPs with significant clearing exposure to remote clearing members.

3.7 In relation to the feedback on un-level playing field between local clearing members and remote clearing members, MAS would like to clarify that Singapore-based CCPs will only be allowed to admit remote clearing members that are appropriately licensed in a jurisdiction that is comparable to Singapore's regulatory regime for clearing members. Furthermore, MAS would generally expect Singapore-based CCPs to apply similar requirements and rules on local clearing members and remote clearing members; any difference in the application of the rules on remote clearing members would have to be justified to MAS. As such, MAS is of the view that the licensing exemption granted to remote clearing members is unlikely to result in an un-level playing field between local and remote clearing members.

3.8 Finally, to mitigate hollowing out risk, we will tighten the conditions to the licensing exemption such that a financial institution which has an affiliate<sup>1</sup> carrying on business in providing financial services<sup>2</sup> in Singapore would not qualify for the exemption and would not be eligible as a remote clearing member of a Singapore-based CCP. Similarly, an overseas financial institution and its Singapore affiliate will not be eligible to apply to MAS for approval of arrangements under Paragraph 9 of the Third Schedule to the SFA if the purpose of such arrangements is to allow the overseas financial institution to clear trades of customers resident in Singapore on Singapore-based CCPs. This is in line with MAS' objective to *grow* the liquidity on Singapore-based CCPs by admitting remote clearing members, rather than hollow out local clearing membership and have it substituted by remote clearing membership. It is also aligned to the intention to allow overseas firms new to Singapore to gain some familiarity with the Singapore market before committing resources for a full set-up in Singapore. If the business of a remote clearing member on a Singapore-based CCP reaches a substantial volume, the remote clearing member should consider setting up a presence in Singapore to support its business growth.

#### **4 OTHER CLARIFICATIONS ON EXEMPTION CONDITIONS**

4.1 Several respondents sought clarification on whether the act of responding to unsolicited enquiries from persons based in Singapore would cause a remote clearing member relying on the licensing exemption to be in breach of the condition that restricts the remote clearing member from serving any customers resident in Singapore. Respondents also

---

<sup>1</sup> Two entities are deemed to be affiliated if (i) they have at least one common shareholder that holds not less than 20% of shareholding or voting power in both entities and/or (ii) an entity holds not less than 20% shareholding or voting power in the other entity

<sup>2</sup> The term "financial services" means any services regulated, or supplied by any person regulated, under any written law administered by the Monetary Authority of Singapore.

sought clarifications on whether the proposed definition of “resident in Singapore” would include persons who are no longer residing in Singapore and Singapore-based companies that are managed and controlled by persons outside Singapore.

#### MAS’ Response

4.2 MAS would like to clarify that the condition that restricts a remote clearing member from serving any customers resident in Singapore does not preclude the remote clearing member from responding to unsolicited enquires or applications from persons in Singapore.

4.3 In addition, to better reflect our policy intent, we will refine the definition of “resident in Singapore” to exclude persons who are considered as resident for the purposes of tax assessment but have since relocated out of Singapore, and to include companies that have a physical presence in Singapore even if they are managed and controlled by persons outside Singapore.

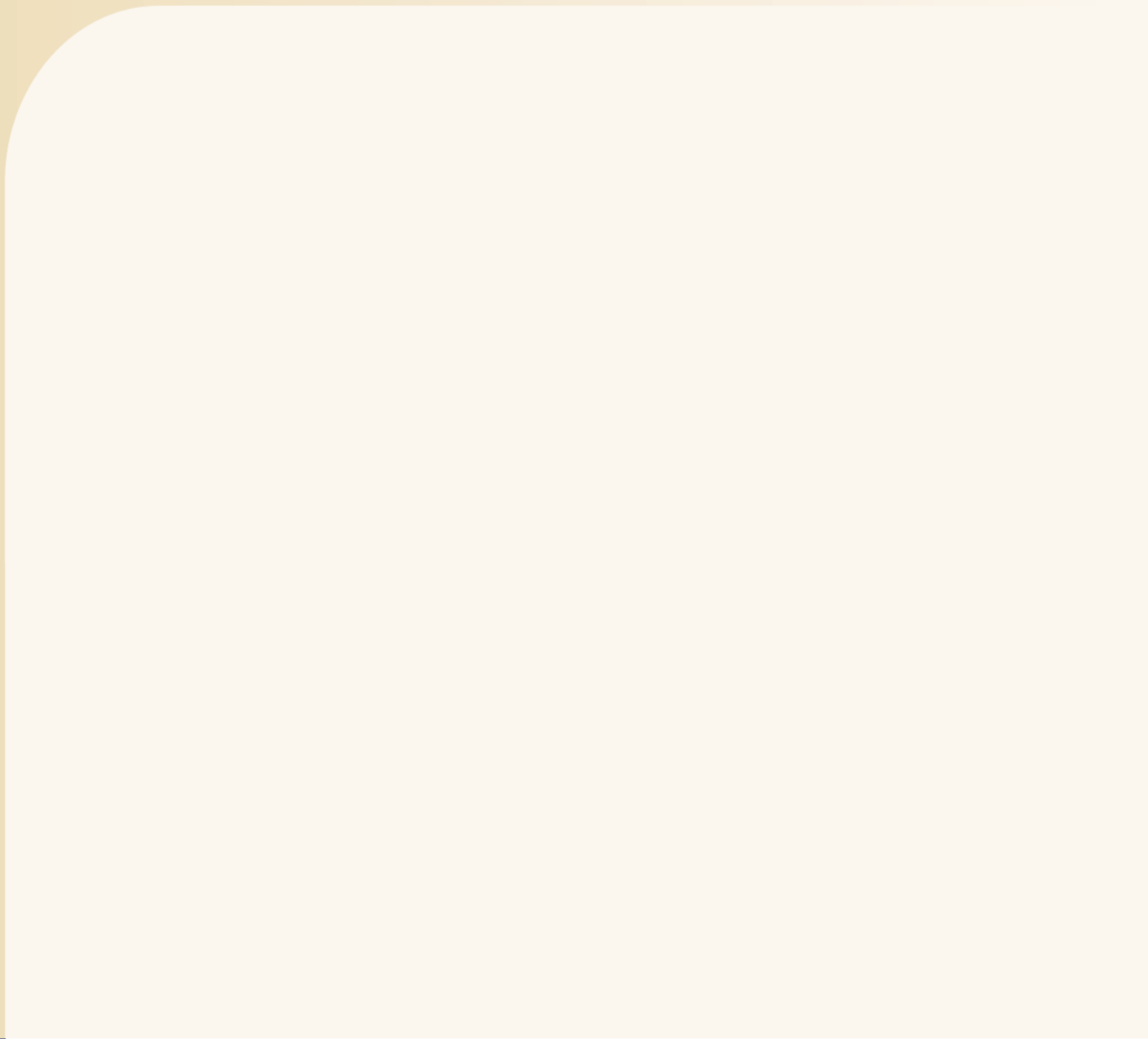
#### **MONETARY AUTHORITY OF SINGAPORE**

5 August 2016

**Annex A**

**LIST OF RESPONDENTS TO THE CONSULTATION PAPER ON AMENDMENTS TO SECURITIES  
AND FUTURES (EXEMPTION FROM REQUIREMENT TO HOLD CAPITAL MARKETS SERVICES**

1. CIMB Securities (Singapore) Pte Ltd, Maybank Kim Eng Securities Pte Ltd, OCBC Securities Pte Ltd and Phillip Futures Pte Ltd (Joint submission)
2. Citigroup Global Markets Singapore Securities Pte. Ltd.
3. DBS Bank Ltd and DBS Vickers Securities (Singapore) Pte Ltd
4. FIA Asia
5. G.H. Financials Limited
6. Four other respondents who requested for confidentiality of identities



Monetary Authority of Singapore