

Update on Regulatory Framework for Organised Markets

On 22 May 2018, the Monetary Authority of Singapore ("MAS") issued 2 consultation papers:

- (i) Consultation Paper on the Draft Notice on Listing, De-Listing or Trading of Products for Approved Exchanges ("AEs") and Recognised Market Operators ("RMOs") ("**First CP**"); and
- (ii) Consultation Paper on the Review of the Recognised Market Operators Regime ("**Second CP**").

The First CP relates to the new product notification regime for AEs and Singapore-incorporated RMOs (collectively the "**Exchanges**") introduced under the Securities and Futures (Amendment) Act 2017 ("**SFAA**") and which will supersede the existing product approval regime when the SFAA provisions come into force. It sets out, *inter alia*, the proposed criteria and self-certification process for which the Exchanges may list or de-list products by way of notification to MAS. Details of such criteria and process are contained in the draft Notice on Listing, De-listing or Trading of Relevant Products on an Organised Market of an Approved Exchange or Recognised Market Operator incorporated in Singapore ("**Notice**") attached to the First CP.

The Second CP separately explains MAS' rationale for the review of the existing regime for market operators, and lays out the proposal to introduce a tiered regulatory framework for RMOs, to take into account emerging technological trends in the financial markets and services sector and new business models.

This Update provides a brief summary of the key and salient points of the proposals in the consultation papers. The consultation papers may be obtained from MAS' website [here](#). The deadline for public feedback on both consultation papers is 22 June 2018. We would be pleased to include, in our response to MAS, any feedback that your organisation would like to give MAS on the proposals in the abovementioned consultation papers.

Product Notification Regime for the Exchanges

Shift to a product notification regime

The new product notification regime removes the current requirement for the Exchanges to seek MAS' approval on a product-by-product basis to list or de-list products. The Exchanges will soon be able to list or de-list the specified categories of products in the Notice (collectively the "**Relevant Products**") after completing the prescribed self-certification process described in the Notice and giving MAS the requisite advance notification.

Notification & self-certification for intended listing of Relevant Products

An Exchange that wishes to list any Relevant Product must notify MAS of this at least one week before the formal announcement of the Relevant Product and intended date of listing is made to the public or to members of the Exchange (whichever the earlier). The notification to MAS is to be accompanied by a self-certification signed by its CEO (or any officer in senior management to whom the CEO has delegated his authority that is approved by MAS) affirming that the criteria

and risks highlighted in the Notice have been met, complied with and addressed, and that nothing has come to his attention that would change the Exchange's assessment of its compliance with the requirements of the Notice.

Notification & self-certification for intended de-listing of Relevant Products

Likewise, prior to de-listing a Relevant Product, an Exchange is required to notify MAS of such intent and certify (in a document signed by its CEO or any officer in senior management to whom the CEO has delegated his authority that is approved by MAS) its compliance with certain matters specified in the Notice, namely:

- (a) that there is/are no open interest or outstanding investor positions remaining in the Relevant Product and it has taken steps to ensure this;
- (b) de-listing of the Relevant Product will not cause disruption to any other market; and
- (c) the de-listing does not result in a breach of any legal obligations to which the Exchange is subject.

Tiered Regulatory Framework for RMOs

Rationale for tiered regulatory framework for markets operators

Currently, operators of organised markets and exchanges that are systemically-important to the Singapore financial markets and/or carry on business activities that target retail investors in Singapore are regulated as AEs; otherwise, they are regulated as RMOs.

MAS' review of the current regime for organised markets is timely in view of the changes to the business landscape and emerging business trends and new models resulting from technological innovation and disruption. MAS has proposed for public consultation a tiered RMO

regulatory framework to better calibrate the regime for market operators and match regulatory requirements to the risks posed by different types of market operators.

The proposed tiered RMO regulatory framework expands the current RMO regime from a single tier to three different tiers, as follows:

- (a) **Tier 1 RMOs** - targeted at market operators with limited access to Singapore-based retail investors and which are smaller in scope than AEs;
- (b) **Tier 2 RMOs** - applies to market operators that qualify under the current RMO regime; and
- (c) **Tier 3 RMOs** - targeted at market operators that have a significantly smaller scale of business compared to more established ones which are AEs or Tier 2 RMOs.

Proposed regulatory requirements for Tier 1 RMOs

As Tier 1 RMOs pose a similar level of systemic risk as Tier 2 RMOs, they will be subject to the requirements imposed on Tier 2 RMOs. However, given that Tier 1 RMOs are allowed to target retail investors, Tier 1 RMOs will be required to put in place additional safeguards, depending on their business models, which include:

- the requirement to implement a product governance framework;
- prohibition from collecting/holding cash or collateral from retail investors;
- the requirement to perform KYC checks on investors for the purposes of anti-money laundering/countering the financing of terrorism ("AML/CFT") compliance, conducting client suitability assessments, etc. if there is direct investor participation on the market;

- compliance with prospectus and disclosure requirements, etc. if issuers are allowed to list securities for trading on the market; and
- restrictions on the level of activity, including caps on the level of participation by Singapore resident retail investors.

Regulatory requirements for Tier 2 RMOs

Tier 2 RMOs are those that qualify under the current regime and no changes have been proposed to the existing qualifications, requirements and restrictions applicable to them.

Proposed regulatory requirements for Tier 3 RMOs

Tier 3 RMOs are those which pose lower risks than Tier 2 RMOs due to their smaller scale of business and which do not target the retail sector. These could be alternative market operators such as private equity trading platforms, electronic crossing networks, solution providers for the wholesale market with no established track record or participants of the Regulatory Sandbox reaching the end of their

sandbox tenure whose business models are commercially viable for deployment but not adequately developed to be fully regulated. As such, MAS proposes to subject such market operators to a simplified regulatory framework, with:

- a reduced and simpler set of ongoing business conduct requirements in comparison to Tier 2 RMOs, but a Tier 3 RMO will be subject to AML/CFT compliance, including customer due diligence checks on investors, where it allows direct investor participation on its market;
- restrictions on the level of activity, including caps on the maximum volume of business; and
- a more streamlined application process such that a Tier 3 RMO applicant need only self-certify its compliance against a checklist provided by MAS, and the estimated timeline for MAS to review such application is reduced to 4 weeks.

If you would like information and/or assistance on the above or any other area of law, you may wish to contact the partner at WongPartnership that you normally deal with or the following partner:



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