

REGULATORY UPDATE – OCTOBER 2018

Future New Structure for Investment Funds in Singapore

In March 2017, the Monetary Authority of Singapore (“MAS”) released a consultation paper on the proposed framework for Singapore Variable Capital Company (“VCC”). In September & October 2018, the bill was moved for reading in parliament. The VCC regime is expected to be operational in Q1 2019.

A VCC is a new corporate structure for investment funds. VCC can be used by both open-ended and closed-end investment funds and for both traditional and alternative strategies e.g. hedge funds, private equity and venture capital funds. The VCC regime is intended to be an operationally and tax efficient structure which aims to attract more funds to be set-up in Singapore.

Please see more detail in the [VCC alert](#).

Refinement of the Accredited Investor’s Assets Tests

1. Currently, individuals whose net personal assets exceed S\$2 million may qualify as an Accredited Investor (“AI”). Effective 8 October 2018, MAS has further refined the tests to limit the contribution from an individual’s primary residence value (net of any related liability) to S\$ 1million.
2. MAS has introduced a new financial assets test – where an individual whose financial assets (e.g. deposits, investment products, and certain other prescribed assets) exceed S\$1 million may qualify as an AI. The new test is also effective 8 October 2018.¹

¹ Securities and Futures Act Section 4A Specific classes of investors

Changes to the Classification of Non-individual Accredited Investors

In the Securities and Futures (Classes of Investors) Regulations 2018, MAS has prescribed certain legal person or arrangements as AIs. The changes to the classification will come into operation on 8 January 2019²:

	Previous classification	New classification
Corporation	A corporation would automatically be classified as an AI if it is either: (i) a corporation that has net assets exceeding S\$10 million; or (ii) a corporation whose sole business is to hold investments and its entire share capital is owned by AIs.	MAS widened the scope of the “look-through” approach in (ii), to allow any corporation to qualify as AI provided that all the shareholders are AIs.
Trust	Trustee of any trust which has assets exceeding S\$10 million, is classified as an AI.	Applying similar “look-through” approach for corporate AIs, MAS also prescribed the following trust arrangements as AIs: 1. Any trust where all the beneficiaries are AIs 2. Revocable reserved power investment trusts where the settlor is an AI
Joint Account	Each account holder must be individually AI for the joint account to be considered AI by the FI.	Any individual who holds joint account with an AI is AI-eligible, in respect of dealings through that joint account.

Implementation of Opt-in Regime for Accredited Investors

1. Effective 8 January 2019, most financial institutions (“FIs”) have to implement an opt-in regime for AIs who meet prescribed wealth or income thresholds. The opt-in regime includes assessment of customers’ eligibility, provision of written statements (including the assessment and explanation of “what-it-means” to opt-in as AI) to customers and receipt of consent from customers.
2. There are transitional arrangements in place for existing customers (customers prior to 8 January 2019).³

² Securities and Futures (Classes of Investors) Regulations 2018 Regulation 2 Persons Prescribed for definition of “accredited investor”

³ Securities and Futures (Classes of Investors) Regulations 2018 Regulation 3 Modification to definition of “accredited investor”

Outsourcing Guidelines – Additional Considerations and Submission of Outsourcing Registers

1. MAS has provided further guidance to Fund Management Companies (“FMCs”) to decide whether an activity is considered an outsourcing arrangement.
2. The 3 additional considerations are (i) whether the FMC is a contractual party to the arrangement, (ii) whether the FMC is obligated by regulations to perform the activity, regardless of contractual nexus and (iii) whether the arrangement involves disclosure of customer information.
3. Applying the guidance, this means that an activity that is considered an outsourcing arrangement for one FMC may not be one for another FMC. For instance, outsourcing of fund accounting and valuation for a manager of an Authorised Scheme is considered an outsourcing arrangement (as the FMC is required to do this under the CIS code), however this may not be the case for FMC managing a Recognised or Restricted Scheme.
4. MAS clarified that FMCs are not required to submit the outsourcing register on an annual basis. The register and audit reports on outsourced arrangement are to be submitted upon MAS’ request.⁴

Liquidity Risk Management Guidelines

1. On 16 August 2018, MAS issued Guidelines on Liquidity Risk Management Practices For Fund Management Companies [SFA04-G08].
2. FMCs are expected to start incorporating liquidity considerations in their product design process for new funds and put in place relevant processes for ongoing liquidity risk management and stress testing.
3. The Guidelines gives emphasis to open-ended CIS, and recognise that liquidity risk management may be less critical for closed-ended CIS and CIS with lock-up periods. Nevertheless, the regulator encourages managers of such funds to consider liquidity at the points of termination or divestment.
4. The Guidelines would not apply to:
 - i. FMCs who do not have discretionary authority for the CIS, such as FMCs that provide research or non-discretionary advice to another FMC
 - ii. Segregated mandates and funds-of-one which are set up for a single institutional investor, that are managed by the FMCs

⁴ FREQUENTLY ASKED QUESTIONS (FAQs) ON THE LICENSING AND REGISTRATION OF FUND MANAGEMENT COMPANIES, Part E - Outsourcing Arrangements

Introduction of the New Corporations and Representatives System (CoRe)

FMCs must submit representative notifications to MAS using the new CoRe system, effective 8 October 2018

Annual Declaration of Restricted Schemes

The responsible person of a restricted scheme may change the first anniversary date of a scheme through CISNet (at least one month before the first anniversary date, anniversary date or existing amended anniversary date, as the case may be).⁵

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⁵ NOTICE ON ANNUAL DECLARATION FOR NOTIFICATIONS OF RESTRICTED SCHEMES SFA 13-N02 (Amendment) 2018

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