

REGULATORY UPDATE – JANUARY 2019

FAQs on the revisions to the Accredited Investor (“AI”) regime and Opt-in Process

MAS issued FAQs in respect of the above. Some of the notable clarifications include:

a) Extension of transition time by 3 months

The Securities and Futures (Classes of Investors) Regulations 2018 (“the Regulations”) which effects the opt-in regime was published on 8 October 2018 and comes into effect on 8 January 2019. MAS is looking to extend the transition by a further three months.

What this means is that Financial institutions (“FIs”) will have up to 7 April 2019 to provide existing clients with the option to opt out of being treated by the FI as an AI, subject to these clients meeting the revised definition of an AI.

There will be no further extension after 7 April 2019.¹

b) Treatment for Existing AI Clients who are Individuals

FIs can treat existing AI individual clients who do not opt-out, as AIs for the purposes of the consent provisions, but only until 8 July 2020. FIs have to obtain the clients’ opt in to be treated as AIs by 8 July 2020.²

c) Offerors of CIS may rely on rely on Opt-in obtained by a Private Bank

An offeror of a collective investment scheme may rely on the general opt-ins obtained by the entity that manages the client relationship, such as a private bank. MAS has clarified that it is not necessary that the offeror obtain AI opt-in for every fund or security being offered.³

d) Opt-in Confirmation of Non-AI Joint Account Holder

Where there is an existing joint account that is held by an individual who is an AI and an individual who is a non-AI, the FI must obtain the opt-in confirmation of the non-AI joint account holder before it can treat the client as an AI in respect of the joint account.⁴

e) Opt-out Option for Existing Investors of Close-end Funds

The fund manager can continue to treat the investor as an AI in respect of all capital committed prior to 8 April 2019. It is not necessary to provide existing investors the option to opt-out, provided these investors are not able to make further commitments or subscriptions into funds or mandates managed by the fund manager.⁵

¹ Q4, FAQs ON THE DEFINITION OF ACCREDITED INVESTOR AND OPT-IN PROCESS

² Q12, FAQs ON THE DEFINITION OF ACCREDITED INVESTOR AND OPT-IN PROCESS

³ Q19, FAQs ON THE DEFINITION OF ACCREDITED INVESTOR AND OPT-IN PROCESS

⁴ Q21, FAQs ON THE DEFINITION OF ACCREDITED INVESTOR AND OPT-IN PROCESS

⁵ Q22, FAQs ON THE DEFINITION OF ACCREDITED INVESTOR AND OPT-IN PROCESS

Regulatory Framework for Marketing of Collective Investment Scheme (“CIS”)

Previously, a financial institution which carried out the activity of marketing of CIS is subject to licensing and conduct rules under the regulatory frameworks of either “Dealing in Securities” under the Securities and Futures Act (Cap. 289) (“SFA”), or “Marketing of CIS” under the Financial Advisers Act (“FAA”). This led to potential confusion, and some potentially different business conduct requirements for the same activity.

Effective 8 October 2018, MAS has removed the regulated activity of marketing of CIS from the FAA. Under the new regulatory framework, the activity of marketing of CIS is considered as a regulated activity of Dealing in Capital Market Products (Units in a Collective Investment Scheme) (called “Dealing in CIS” in this update) under the SFA.

Any entity which intends to carry out the regulated activity of Dealing in CIS is required to apply for a Capital Market Services Licence (“CMSL”) under the SFA.

Under the new class exemption, licensed and registered fund management companies (“LFMCs and RFMCs) are exempt from the licensing requirement when they conduct the regulated activity of Dealing in CIS under certain conditions.

The table below summarises some of the key changes:

Dealing in CIS	LFMCs		RFMCs	
	Previous rules	New rules	Previous rules	New rules
Managed by itself	SF(LCB)R Exemption as incidental to fund management activities ⁶			
Managed by related corporations	Exemption under FAA*	Exemption under SF(LCB)R ⁷	No Exemption Available	Exemption under SF(LCB)R ³
Managed by other corporations	Exemption under FAA*	No Exemption Available	No Exemption Available	No Exemption Available

* Previously, a LFMC who intended to carry out the regulated activity of marketing of CIS had to submit a Notice of Commencement of Financial Advisory Service(s) for Marketing of CIS to MAS, to be an Exempt Financial Institution, under the FAA exemption

⁶ Per Paragraph 2(1)(b)(i) of the [Second Schedule](#) of the Securities and Futures (Licensing and Conduct of Business) Regulations (“SF(LCB)R”).

⁷ Per Paragraph 2(1)(m) of the [Second Schedule](#) of the Securities and Futures (Licensing and Conduct of Business) Regulations (“SF(LCB)R”).

Tax Framework for Singapore Variable Capital Companies (“VCCs”)

On 31 October 2018, the MAS released initial details on the tax framework for a Singapore Variable Capital Company (“VCC”). Some highlights are below:

1. A Singapore tax resident VCC can access Singapore’s wide network of tax treaties

- A VCC that is Singapore tax resident will be eligible to access Singapore’s tax treaties
- This access is currently not available to investment funds incorporated in the form of Singapore limited partnerships or unit trusts

2. A VCC will be able to apply for the exemptions under Sections 13R and 13X of the Income Tax Act

- MAS has clarified that the tax incentive conditions and corresponding economic conditions under both schemes are applied at the VCC level, and not at each sub-fund level

3. The GST remission scheme will extend to VCCs

- The current GST remission scheme will be extended to VCCs approved under Section 13R or Section 13X, where the investment fund will be able to recover GST based on a fixed recovery rate without having to register for GST

4. A VCC only needs to submit one corporate income tax return

- Both standalone VCCs (with no sub-funds) and umbrella VCCs (with sub-funds) will be treated as a company and a single entity for tax purposes

We have previously published an update on the key characteristics of a VCC – please follow the [link](#) for more detail.

Disclaimer: This document is intended as a general guide only, and the application of its contents to specific situations will depend on the particular circumstances involved. Accordingly, readers should seek appropriate professional advice regarding any particular problems that they encounter, and this presentation should not be relied on as a substitute for this advice. While all reasonable attempts have been made to ensure that the information contained in this presentation is accurate, Iyer Practice accepts no responsibility for any errors or omissions it may contain, whether caused by negligence or otherwise, or for any losses, however caused, sustained by any person that relies on it.

SERVICES:

- Regulatory & Compliance
- Fund Administration
- International & Domestic Tax
- Company Formation & Administration
- Trusts & Foundations
- Immigration & HR
- Accounting & Financial Reporting

CONTACT US

Shanker Iyer

Email shanker@iyerpractice.com
Phone +65 6532 5746
Mobile +65 9760 6488

9 Raffles Place #27-00
Republic Plaza
Singapore 048619

Sunil Iyer

Email sunil@iyerpractice.com
Phone +65 6532 5746
Mobile +65 9689 9789

9 Raffles Place #27-00
Republic Plaza
Singapore 048619

Nicole Chen

Email nicole.chen@iyerpractice.com
Phone +65 6532 5746
Mobile +65 9101 6800

9 Raffles Place #27-00
Republic Plaza
Singapore 048619