

Point No:	Guidelines on Licensing, Registration & Conduct of Business for FMCs issued on 7 August 2012	Reference Materials	Comments/Clarifications	MAS' reply* and AIAM's Notes taken during the meeting on 9 October 2012 * MAS comments are highlighted in green
1.	2.1 Capital Markets Services ["CMS"] Licence or Registration – The activity of fund management is defined in the Second Schedule to the SFA.	<p>Schedule 2 of the SFA Definition of Fund Management :</p> <p>"fund management" means undertaking on behalf of a customer (whether on a discretionary authority granted by the customer or otherwise) –</p> <p>(a) the management of a portfolio of securities or futures contracts; or</p> <p>(b) foreign exchange trading or leveraged foreign exchange trading for the purpose of managing the customer's funds, but does not include real estate investment trust management;</p>	<p>There is one view in the community that Fund Management refers only to Discretionary mandated accounts.</p> <p>Some recently licensed CMS FMCs were told by MAS OICs that their licences restricted them to provide only "discretionary investment management services" and if they are to provide "Advisory" (with or without fund management) services, they have to be regulated under the FAA. Is this correct?</p> <p>Based on our interpretation of the highlighted portion in the Second Schedule of the SFA, we interpret that the main distinction lies in whether the FMC manages the funds on behalf of the client or not. The client could have signed either a Discretionary or Advisory Mandate. However, if the Advisory mandate does not entail actual management of the funds but rather simply providing or passing on information on the investment itself without opinion and then the client will instruct the FMC to merely passing onto orders to the custodian bank for execution, will this still be constitute as "fund management activity" and regarded as "advisory service"? We seek clarification of whether both Discretionary and Advisory fund management mandates are included in the definition. If Advisory fund management mandate is excluded, does this mean the FMC would be guided by the FAA instead of the SFA for Advisory accounts? Will the FMC then have to apply for an FAA license?</p> <p>Moreover, there are members who have both CMS Boutique Fund Manager license and Exempted FAA operating both discretionary fund manager and advisory</p>	<p>There should have no confusion on the 2 activities:-</p> <ul style="list-style-type: none"> a) Exempted FMCs/CMS FM licence holders are allowed to regulated activities under the SFA. b) Exempt Financial Advisor (EFA) comes under the relevant sections of FAA (namely 23.1d). c) Non-Discretionary ("Advisory service") advice is to come under FAA and there is no change even under the new FMC guidelines. d) This meant, your Advisory activity must observe the FAA Section 23.1d and your discretionary activity must observe the FMC regime under the SFA. e) For EFM in the EAM context or in the new regime as Registered FMCs, you must observe the number of client restriction at no more than 30 clients. If you cover both Advisory and Discretionary clients (i.e. acting as an Exempted FM/FA), there is no double counting and it is restricted to a combined total of 30 Clients overall. <p><u>Item 1 – Regulatory requirements under the Financial Advisers Act ["FAA"]</u> MAS clarified that advisory services comes under FAA. To provide financial advisory services, licensed fund management companies ["FMCs"] should file as exempt financial advisers under section 23(1)(d) of the FAA, while registered FMCs ["RFMCs"] should rely on the exemption status</p>

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			fund management activities. Previously, "Advisory" activity was covered by the FMC's Exempt FAA status. Is this FAA exemption status grandfathered? Or do all FMCs (new and old) have to apply for FAA license to continue to provide "Advisory" non-fund management services?	under regulation 27(1)(d) of the Financial Advisers Regulations ["FAR"] that restricts clientele to 30 accredited investors ["AIs"].
2.	2.2.2 A/I LFMCs and RFMCs may carry on business in fund management with their employees only if these employees meet the definition of an accredited investor.	<p>Under the Securities and Futures Act¹, an accredited investor is defined as</p> <p>(i) An individual</p> <p>(A) Whose net personal assets exceed in value \$2 million (or its equivalent in a foreign currency) or such other amount as the Authority may prescribe in place of the first amount; or</p> <p>(B) Whose income in the preceding 12 months is not less than \$300,000 (or its equivalent in a foreign currency) or such other amount as the Authority may prescribe in place of the first amount;</p>	<p>Other than Directors and Shareholders, very few employees would meet the requirements set out in the SFA. Will MAS consider any exceptions for employees?</p> <p>It has been the practice of some FMCs to offer staff Preference or even Phantom shares in the funds as incentive bonuses or as part of total compensation. Often these types of "shareholders" only have interests in "sharing of profit" but no voting right in the company affairs. If there are no exceptions to this restriction, what position will MAS take for such shares that were previously given to employees/staff?</p>	<p>There are 2 parts to this question:-</p> <p>a) Staff/Seed Investors investments into the FMC managed Funds or own funds as an investor (regardless how such investment capital was originated i.e. through staff compensation scheme), once the staff is categorized as an investor of the Fund and the Fund is only restricted for Accredited Investors (i.e. not for retail and have not been registered/authorized as a retail fund), the staff must qualify as an Accredited Investor if not such person cannot invest into the Fund.</p> <p>b) 2.Bearing in mind MAS will view the independence and risk exposure of the Fund not as clean once the investors are staff of the FMCs and the FM themselves. Should there be such a case that FM/staff are investors into the Fund and exceed certain threshold of amount, prior approval must be seek from MAS before making such investment.</p> <p>c) If the FMC wants to remunerate their staff/seed investors with the share of the FMCs (not through the investment into their underlying/managed funds), there is no restriction on the status of the staff/seed investors under the Accredited Investor rules.</p>

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				Unless the FMC is a listed entity, the staff/seed investor shareholders will NOT be subject to the Stock Exchange rules and reporting.
3.	3.4.4 Commitment from the FMC's shareholders, as demonstrated through seed investments in funds managed by the FMC.		Related to the point above, does a Shareholder have to be an accredited investor? Also what happens if this seed investment is not a significant amount to have controlling interest contributing only a minority share?	<p>See comments under Point No. 2</p> <p>Items 2 & 3 – Non-AI employees investing in funds</p> <p>Regarding restrictions on investments by non-AI employees, MAS noted that other jurisdictions recognise that certain classes of investors can protect their own interests. MAS further noted that FMCs have many types of employees, some of whom may not be able to protect their own interests, and that there are various ways to remunerate portfolio managers besides allowing them to invest in the fund that they manages.</p> <p>MAS added that for FMCs purporting to be independent of any product or bank, such independence may be questioned once its employees hold stakes in any particular fund. On non-AI employees being shareholder of the FMC, MAS clarified that there are no similar restrictions on the shareholders of FMC to be AI, although MAS' approval is required for shareholdings beyond a certain threshold.</p>
4.	2.4.3 Given that managed assets should be based on the net value of the assets being managed,		In the past, when submitting information in Form 6 or Asset Management Survey, MAS had always asked for Gross AuM. Will MAS continue to use Gross or change to NET AuM for all future reporting?	MAS reporting for the Form 6 and the Asset Management Survey are based on Net AuM.

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	any leverage to which the managed assets are exposed should be excluded from the FMC's managed assets.			
5.	3.1.2 Fit and Proper – An FMC should satisfy MAS that its shareholders, directors, representatives and employees, as well as the FMC itself, are fit and proper, in accordance with the Guidelines on Fit and Proper Criteria issued by MAS [FSG-G01].		At the present time, private entities are not able to obtain criminal record information directly from CAD. Nor can they obtain such information from many other countries where there are individual privacy laws. It will be very challenging for an FMC to certify that it has done a thorough check when they cannot access criminal databases. Will it be possible for smaller FMCs to ask the MAS for help in this regard by forwarding names of the potential Representatives to MAS for their approval? Or what kind of venues (not costly and cumbersome ones) will be made available to FMCs to use? And to what extent will the search be covered to satisfy this rule?	<p>AIAM: How to obtain proof for “Fit and Property criteria” on the company's own staff if the Police don't release criminal records?</p> <p>MAS: MAS does not expect us to obtain records which we rightfully can't get – hence publicly available records only are sufficient. Google, World check could reveal the situation. However, Inability does not relieve you for your responsibilities. Guidance was given on 7 Feb 2011 on Due Diligence Conduct regarding reference checks, previous employer, public information that is available on CADs website. Members should review the Due Diligence notice handed out.</p> <p>Guidance is set out in <u>Circular on Due Diligence Checks on appointment of appointed, provisional or temporary representatives issued 7 Feb 2011</u>.</p> <p>The FMC is expected to:</p> <ul style="list-style-type: none"> ❑ conduct reference checks with the proposed representative's previous employer(s); and ❑ check the Public Register of Representatives; and conduct probity searches. <p>In addition to the above, FMCs could also check the news releases published on the websites of the enforcement agencies such as the Singapore Police Force or the Commercial Affairs</p>

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				<p><u>Department</u>.</p> <p>MAS informed that FMCs are expected to utilise publicly available sources of information. Further guidance has been provided in the <u>MAS Circular on due diligence checks</u></p>
6.	3.1.3 Base Capital – An FMC shall <i>at all times</i> meet the base capital thresholds set out in the SF(FMR)R, as summarized in Table 2 below, upon obtaining its licence or being registered with MAS. In view of this obligation, it would be prudent for the FMC to maintain an additional capital buffer, over and above the requisite base amount. An FMC should make a reasonable assessment of the amount of additional capital buffer it needs, bearing in mind the scale and scope of its operations.		<p>Can we know what MAS considers to be a sufficient buffer? Is a buffer equivalent to 6 months operating expenses regarded as sufficient?</p> <p>There are many small FMCs who run small establishments with very low overheads and few staff.</p> <p>Also since the amount of Base Capital required, some FMCs may wish to invest such amount into bonds. In order to qualify for the lower tax rate of 10% on interest income earned, one has to invest into Qualifying Debt Securities (QDS) but such securities are rare and few available in SGD. Would MAS consider loosening the rule to allow non-QDS interest income also be eligible to the 10% tax rate?</p> <p>In addition, investment into funds managed by the FMC can be counted as part of the base capital requirement of the FMC. However, this would mean that the investor would be the FMC itself at the company level. If this is so, then does the FMC have to meet the criteria of an accredited investor which for corporations would be net assets \$10 million?</p>	<p>As the FMC is familiar with its business plan and operations, it is best placed to determine what would constitute a sufficient buffer for its operations. The MAS does not intend to prescribe the buffer amount.</p> <p>QDS are given preferential tax status as these are debt securities that are substantially arranged by FIs in Singapore; in turn, we lower the tax rate on the interest (and other accompanying income) that a note-holder receives from such QDS. The scheme has achieved good success thus far - a significant majority all debt securities filed and received by MAS from the lead arrangers are QDS, thus showing that it is not rare and few.</p> <p>As set out in paragraph 5.2 of the Consultation Paper issued in April 2010 in relation to the Review of the Regulatory Regime for Fund Management Companies and Exempt Financial Intermediaries, there are no restrictions imposed on the use of base capital for investments in assets, which could be cash, investments (for example, this could include investments by the FMC in its own funds) or fixed assets (for example, this could include investment in hardware and other office infrastructure).</p>

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7.	3.1.4 Risk-Based Capital – An LFMC shall at all times meet the risk-based capital requirement in the SF(FMR)R, as summarized in Table 3 below, upon obtaining its licence.	Refer to the Proposed Revisions to the Regulatory Capital Framework for Holders of Capital Markets Services Licences	<p>The current method used to determine if an FMC has sufficient RBC requirement only requires a straight forward calculation to ensure that the FMC maintains financial resources at 120% of operational risk requirement.</p> <p>The new RBC framework requires FMCs to change its calculation methodology and to look to add more risk factors like counterparty risk which is not included in the current RBC calculation. The proposed RBC counts receivables as a counterparty risk, but in reality these risks are only on an EAM's books for less than 30 days. If the FMC does a threshold test based on an end of the quarter balance sheet, it will likely not "pass" the Threshold test which will then require the FMC to calculate counterparty and position risk as it was a <u>snapshot</u> calculation. The outcome of this method will produce a misleading statement of the status (i.e. a false positive test result) and create unnecessary workload to the regulator i.e. MAS to investigate.</p> <p>Under the new framework, the FMC will avoid having to calculate its counterparty and position risk if its average adjusted assets in each quarter exceeds the lower of 10 times minimum base capital or five times financial resources.</p> <p>However, average adjusted assets are defined and based on the assets of the FMC at the <u>end of each week</u> in the quarter. This is untenable for small EAMs many of whom do not have an in-house accountant and the methodology is very cumbersome to understand.</p>	<p>Under consultation. Written response to be forwarded to AIAM once the consultation is concluded.</p> <p>Noted.</p>

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			Would MAS consider allowing FMCs to use assets of the FMC at the end of every month to calculate the average (as often EAM FMC will produce monthly management accounts and not weekly) instead of a weekly computation of the adjusted assets to determine if the EAM FMC is maintaining sufficient RBC? This would be a more realistic reflection of the situation and manageable frequency.	
8.	3.1.5 Compliance Arrangements – MAS expects an FMC to have in place compliance arrangements that are commensurate with the nature, scale and complexity of its business. The minimum requirements in respect of compliance arrangements are set-out in Appendix 2. Ultimate responsibility for compliance with applicable laws and regulations rests with the FMC's CEO and board of directors, even though compliance support may be provided by a foreign related entity and/or third party service providers.	Appendix 2. An FMC should have an independent compliance function with staff who are <u>suitably qualified</u> and independent from the front office.... Fund managers are encouraged to use service providers who are members of relevant professional bodies in Singapore and who are <u>able to provide meaningful onsite presence at the FMC</u>	Can MAS provide more details on what they see as "suitably qualified" (years of expertise, degrees and does he/she needs to have a background in Compliance in Singapore) In the case that FMC decides to outsource its compliance function, can MAS provide some guidance on the preferred frequencies of onsite presence and specific areas to cover	With the required compliance arrangement, MAS wants EAMs to establish a compliance culture which is being carried out on a daily basis to conduct their business. Strong emphasis on aspects: Internal Control, Risk Management and Management Commitment in upholding the practice of Compliance Culture It is mandatory that the Investment Management function is completely separated from any of Compliance/Risk Management/Internal Audit functions. Smaller EAMs with 2 man operation will have to organize themselves to ensure one person handles the running of the company on a management and operational basis whilst the other handles the investment aspect. It is acceptable that smaller firms can use an outside contractor to handle some of the Compliance work but primary internal control must be exercised within the Company level and by the CEO. MAS acknowledged that experienced Compliance personnel is difficult to find in the industry and accept that someone who will be trained by the CEO/Senior

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				Executives of the firm to learn into the job is acceptable but ultimately the accountability will be on the CEO/Directors of the company. MAS emphasised that the Compliance officer must not involve in any investment function and the audit of such Compliance Officer work can be done by the CEO or an outside 3 rd party of right calibre.
9.	3.1.6 Risk Management Framework – An FMC shall put in place a risk management framework to identify, address and monitor the risks associated with customer assets that it manages, as required by Regulation 13A(1)(a) of the SF(LCB)R. The FMC should take into account the principles set out in the MAS Guidelines on Risk Management Practices that are applicable to all financial institutions and any other industry best practices that might be relevant (i) Governance, independence and competency of the risk management function. The risk management function should be	(Taken from the Guidelines on Risk Management Practices – Internal Controls issued in Feb 2006) 2.7 MANDATORY LEAVE 2.7.1 An institution should have personnel policies requiring staff in risk taking, risk management and risk control positions to take mandatory block leave of at least 5 consecutive business days each year. Departures from this policy should be allowed only under exceptional circumstances and should be formally approved. 2.7.2 Staff on mandatory leave should not be allowed to transact, execute instructions or perform their assigned	Many of the local EAMs are small establishments with less than 10 staff and the key personnel are also the Representatives of the Company. Will MAS enforce the requirement of mandatory leave for all FMCs irrespective of its size and structure? This will pose significant operational and risk management issues to the company as the power of directing and investing often lies on one or very few staff that is tasked with such responsibility. There are times when the Board or Senior Management of the RFMC is also involved in the portfolio management function. Will this be allowed since most of RFMC are small and the individuals may need to double up on the roles? Also, what is considered as having adequate knowledge	AIAM presented to MAS that “Risk Management” has to be viewed under a different perspective when EAM business is concerned (reduced or no counterparty risk etc). Investment mandate given by the client, hence EAMs portfolio risk management is more client-specific as opposed to FMCs managing a fund for many same-type investors. On Internal Audit, MAS, on a case to case basis, allows certain flexibility and scope subject to the size of the company and the last MAS inspection result. Compliance officer conducted routine check on Trade Blotters, KYC, AML. Asset Allocation etc are being seen as part of the Internal Audit. Frequency of the checks depends on the size and scope of the firms’ activities. To check the Compliance Officer’s work, it can be done by an external Auditor on an annual basis. It is compulsory requirement to have a dedicated Compliance Officer if your AUM exceeds SGD 1 Billion. The Internal Audit as well as the Risk Management function will then have to be executed by a separate person who is also not related to any Investment function.

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	subject to adequate oversight by the Board and senior management of the FMC. It should also be segregated from and independent of the portfolio management function. Staff of the risk management function should also have adequate knowledge and expertise in risk management.	duties during their leave of absence. Supervisors on such leave should refrain from giving operational instructions to their staff during this period. The duties, responsibilities and the corresponding authority of the staff should be fully delegated to a covering officer during his or her absence.	and expertise in risk management?	<p>AIAM: In some cases firms have been told to have a full-time compliance officer even below SGD 1 Billion.</p> <p>MAS: It's possible that such a requirement was made due to a specific company's set up.</p> <p>AIAM: "Mandatory Time Away (MTA)" – how can the Senior Management take leave?</p> <p>MAS: This is open to interpretation by the CEO. For other staff MTA can be applicable as well, depending on how many staff the firm has. Approach of MAS will be different for different staff functions as long as Risk Management is being followed. In the end, the final responsibility lies with the CEO. At all times, compensatory controls have to be in place. Underlying objective is towards "succession-planning" and back-up infrastructure (MAS view) through delegation of responsibility. The idea behind MTA was to prevent rogue activities of an individual and detect unauthorized activities outside of client mandates as well as flaws in internal processes etc.</p> <p>MAS input on Items 8, 9 & 10 – Risk management, compliance and internal audit</p> <p>a. Regarding additional requirements for risk management, compliance and internal audit functions, MAS said that the three control functions may be performed by the same person but this person should ordinarily be independent from the front office i.e. portfolio management. FMCs</p>
10.	3.1.7 Internal Audit – MAS expects the business activities of an FMC to be subject to adequate internal audit. The internal audit arrangements should be commensurate with the scale, nature and complexity of its operations. The internal audit may be conducted by the internal audit function within the FMC, an internal audit team from the head office of the FMC, or outsourced to a third party service		<p>Can MAS provide some guidance as to what it expects to see "internal audit" (would proper documentation of SOPs and timely check/balance in implementation and installation of compliance culture throughout the company be sufficient by the CEO/Compliance Officer and staff? And would there be a need to produce an internal audit report and if so, how often and what needs to be included that would not have been covered by the independent annual audit already?</p> <p>If an EAM can demonstrate that it has implemented controls to ensure compliance with all issues on all its daily activities that could give rise to Conflict of Interest (e.g. monitoring of staff's personal securities transaction activity, proper valuation of investments, reporting etc) does it still need to provide an official internal audit report?</p>	

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	provider.		Bearing in mind the size of the company, the cost structure and the work and effort, another separate function and unit to perform internal audit will not be physically and logistically possible and practical.	<p>may also consider outsourcing although the CEO and directors are ultimately responsible for internal controls.</p> <p>b. MAS observed that the concerns appear to be two-fold: (1) division of labour; and (2) extent of controls. While these requirements may be prescribed in detail, this can become unwieldy and inflexible to the industry. Under the current approach, firms could put in place internal control arrangements that are commensurate to the scale of activities and business model. There may be specific circumstances in the firm that warrants a compliance function to be required at the time of licence application.</p> <p>c. Specifically on mandatory leave, MAS shared that it was important for small firms to satisfy MAS that there are mitigating controls in place if business owners are not able to go on mandatory leave. The firm's management should assess if compensating controls are adequate to detect unauthorised trading activities outside of a client's mandate. In addition, small firms should consider their business continuity and succession planning plans, which may be tested when key personnel are on mandatory leave.</p> <p>d. Please refer to question 11 of the FAQs on Licensing and Registration for Fund</p>

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				Management Companies for further information on the internal audit requirements for RFMCs.
11.	3.1.8 Independent Annual Audits – An FMC shall meet the annual audit requirements as set out in the SFA and SF(LCB)R. MAS may direct the FMC to appoint another auditor if the appointed auditor is deemed to be unsuitable, having regard to the scale, nature and complexity of the FMC's business.		<p>In order for FMCs to determine whether their current auditors are suitable, would MAS consider providing guidelines on selection criteria of Auditors? Many EAMs currently do NOT use the Big Four auditors in Singapore but use many boutique/niche audit firms instead. Under current scope, annual external auditors focus primarily on financial audit with lesser emphasis on compliance and control issues like SOPs, compliance with regulatory restrictions etc.</p> <p>Will MAS provide FMCs with a list of the audit requirements so that FMCs can ensure that the Auditors they appoint can and will meet the criteria that is acceptable to MAS?</p> <p>The absence of a requirements list would make it very challenging for FMCs and Auditors alike to know whether they are covering all aspects in sufficient depth and detail.</p> <p>With the more extensive audit aspects, the current auditor cost which ranges from S\$20K to \$30K per year charged by most of the big 4 firms will likely be increased and this will further add to the cost of EAM FMCs especially the smaller firms. Is there any way that MAS may help to contain this so that FMCs will not suffer as much?</p>	<p>FMCs should engage auditors registered with ACRA under the Accountants Act. You can verify the registration status of an audit firm from the ACRA website.</p> <p>In addition, the Auditor's Report for LFMCs' Securities and Futures (Financial and Margin Requirements) Regulations (Form 7) sets out the areas to be covered by the auditor. The relevant form for RFMCs (Form 25B) will be made available shortly.</p>

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Other Issues that may not have specifically been cited in the new Guidelines but dealt with in earlier Guideline FAQs				
12	Use of Introducers		<p>There is some legal opinion that an R/LA/IFMC is only allowed to engage an introducer/referral agent that is a <u>regulated</u> entity in return for a fee since there is no provision for this in the SFA and that an R/LA/IFMC cannot rely on the exemptions under the FAA. As an R/LA/IFMC is exempt from the FAA under 32A (1), can an R/LA/IFMC rely on the exemptions of the FAA under 31 (1) with regards to the introducer/referral business?</p> <p>How does MAS view an introducer relationship where the introducer is:</p> <ol style="list-style-type: none"> Not engaged in the activity of advising the "mutual client" on investments, but merely wishes to put a client in touch with a fund manager that will provide such investment services to the clients. The introducer in this case is not recommending either a fund or specific securities. It is only recommending the EAM as a fund manager and not necessarily any fund that the FMC may be managing. If the introduction is successful, the introducer will not be compensated for securities trading activity (no revenue share on banks' commissions etc) but they will be paid a finder's/referral fee and/or a share of the management fees paid by the mutual client. Since such introducers are not engaged in investment or other regulated financial services, such introducers would not be regulated/licensed by the monetary authority, but they could be licensed professionals like lawyers, accountants, wealth planners etc. Can FMCs enter into or continue with such referral 	<p>AIAM: It is normal for firms to work with introducers. Typically a referral fee is paid only when a successful business introduction has been made. An introducer does not market the services of an EAM but will introduce the EAM to a potential client.</p> <p>MAS: Introducer cannot be involved in a regulated entity/activity. FAA has set out specific requirements on introducing activity: FAA FAQ No. 2 ("Notice on Appointment and Use of Introducers by Financial Advisors").</p> <p>No equivalent exemption on SFA. Guidelines are in FAQ of the FAA: FAQ No. 72 ("Licensing and Conduct of Business Regulations")</p> <p>For EAMs who provide financial advisory services, MAS informed that firms should have regard to the requirements set out in the Notice on Appointment and Use of Introducers by Financial Advisers [FAA-N02].</p>

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			<p>arrangements (with non-regulated introducers) which are already common place in the market today?</p> <p>b) An overseas entity without any physical presence in Singapore which does not itself engage in any investment or regulated activities, and as such would not be regulated/licensed by their own monetary authority. Can an FMC engage such entity as an introducer?</p>	
13	Threshold for applying for license		<p>AuM requirements / limitations for requesting a licence. It is clear that if an FMC has more than 250mio AuM, it is compulsory to lodge a request, but for those Fund Managers that have not reached the 250 mio and have lodged a request anyway – what will be the position of MAS to deliver the licence or not and if yes, will there be any limitations attached?</p>	<p>FMCs that meet the requirements for a CMS licence can apply for a licence even if their AUM is less than \$250 million.</p> <p>We may impose conditions on case-by-case basis, and that these conditions will be discussed with applicants during the application review process, where need be.</p>
14	Accredited Investor Status of Family Trusts/underlying offshore private investment holding companies		<p>Since most FMCs can accept only institutions and Accredited Investors as clients, there is an issue with the fact that a trust/company is deemed as AI only if it exceeds S\$10 million in assets.</p> <p>With the complexity of family structure and wealth, as a good succession planning to extend the family legacy, wealthy (accredited) individuals these days often been advised to utilise Trust Structure with an underlying private investment holding company to hold their assets. As the Settlor, he gifts his assets into a Trust (i.e. the assets will no long be in his personal name as the owner)</p>	<p>In the manner of Trust, MAS assess the Trustee as the contracting party and will check its “accredited investor” status of not less than S\$10 million under their trust management (i.e. all those assets under the Trustee control and administration). In this case, the respective trusts managed by the Trustee/Trustee Company will not need to fulfil the “accredited investor” status.</p> <p><i>For Trust-owned Private Investment Holding (“PIC”) Companies whereby a corporate Trustee acts as</i></p>

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			<p>which then uses private investment companies to hold these assets in trust for the eventual Beneficiaries (such will be nominated by the Settlor and may not have the knowledge that the named person will receive any distribution from the trust and the Trustee has absolute power to amend and remove beneficiaries and the Beneficiaries have no right to the assets until it is given to them by the Trustee thus technically Beneficiaries are not the AI BO to the FMC).</p> <p>The structure may use several private investment companies each with its own investment objectives/purposes, but all are owned by the Trustee (often through another corporate entity) as the shareholder for the Trust. Taken the private investment company on its own, each of them may not meet the \$10 million threshold to be regarded as an accredited investor, but if taken as a whole, the assets would meet the minimum threshold. What is MAS' view on this issue? Will MAS continue to allow FMCs to accept the individual private holding companies as an AI client if they are commonly owned by the same shareholders or Trust?</p> <p>In another scenario, it is possible, that an individual AI (with net-worth inclusive of financial, business and fixed assets) decides to set up a trust/company only for his financial assets. This trust in such a case may not meet the \$10 million threshold. So the status of the individual would have changed overnight from being an individual AI to a non-AI trust/company. What is MAS' view on</p>	<p><i>Directors and/or Shareholders of the PIC, the company itself being the contractual party of the Bank/IAM/EAM, the corporate Trustee will be qualified as accredited investor if all assets under Trust are of no less than S\$10million net-worth.</i></p> <p><i>If the BO of the PIC is an individual, then no less than S\$2 million net-worth is required to be qualified as accredited investor.</i></p> <p>Further reference can be made as per link below: http://www.mas.gov.sg/~media/resource/legislation/on_guidelines/securities_futures/sub_legislation/sf_a_reg/SFAPRESCRIBEDSPECIFICCLASSESOFINVESTORSREG2005.pdf Accredited investors 2. The following persons are accredited investors for the purposes of the Act: (a) the trustee of a trust of which all property and rights of any kind whatsoever held on trust for the beneficiaries of the trust exceed \$10 million in value (or its equivalent in a foreign currency); (b) an entity (other than a corporation) with net assets exceeding \$10 million in value (or its equivalent in a foreign currency); (c) a partnership (other than a limited liability partnership within the meaning of the Limited Liability Partnerships Act 2005 (Act 5 of 2005)) in which each partner is an accredited investor; (d) a corporation, the sole business of which is to hold investments and the entire share capital of which is owned by one or more</p>

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			continuing to allow an FMC to accept such trusts/companies and to regard them as AIs?	<p>persons, each of whom is an accredited investor.</p> <p>The FMC may refer to the <u>Securities and Futures (Prescribed Classes of Investors) Regulations 2005</u> ["SF(PCI)R"] for further information on the classification of investors.</p> <p>Depending on which party the FMC is contracting with (i.e. trustee or private investment holding company), regulation 2 of the SF(PCI)R states that the following persons are accredited investors for the purposes of the SFA:</p> <p>(a) the trustee of a trust of which all property and rights of any kind whatsoever held on trust for the beneficiaries of the trust exceed \$10 million in value (or its equivalent in a foreign currency);</p> <p>(d) a corporation, the sole business of which is to hold investments and the entire share capital of which is owned by one or more persons, each of whom is an accredited investor.</p>
15	<p>General Feedback on MAS handlings:-</p> <p>a) Notification of changes of Regulations</p>		Currently on the MAS website, when Regulations under the SFA and the FAA are amended or updated, only the amendment to the Regulation is posted but MAS does not issue an updated complete Regulation document (e.g. SECURITIES AND FUTURES (FINANCIAL AND MARGIN REQUIREMENTS FOR HOLDERS OF CAPITAL MARKETS SERVICES LICENCES)). To get a complete set of the Regulation, FMCs may have to use a word document and manually update the document to ensure that FMCs are interpreting the Regulation as a whole every time there is an amendment. Would it be possible for MAS to issue the	<p>Feedback taken note of.</p> <p>For all legislation matters MAS recommended AIAM Members to refer to the Singapore Attorney General's website at www.agc.gov.sg which owns the rights to all publications and have organized it in such a way easy to view and check.</p>

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	b) Consistency of implementing and advising FMCs by respective MAS OICs		<p>complete Regulation each time an amendment is made instead, highlighting which sections have been amended?</p> <p>Some member firms feedback that their OICs seem to have a gap of understanding on the IAM/EAM business models, insisting on imposing certain risk assessment which is not necessarily associated to the IAM/EAM business. There are also different interpretation in some of the rules and regulations (e.g. the need to have a total independent in-house compliance officer) for some FMCs whose size is relatively small (below the S\$250m AUM). Would MAS consider centralizing the regulating of IAM/EAMs onto a certain team that have thorough knowledge and experience in working with the IAM/EAM FMCs to simplify these regulation oversight activities. Also to provide a centre of knowledge and point of contact for within MAS and for the FMC license holders to make inquiry and reference to.</p>	<p>Our feedback was noted and MAS encouraged members to notify them if there is such issue so that they can look to improve from here.</p> <p>Our feedback is noted.</p> <p><u>Other discussions not in the agenda:</u></p> <p>MAS inquired if AIAM has a Code of Conduct and how it was adhered to by members. AIAM explained that the Code of Conduct will need to be observed by the members and annual self declaration by members that they have adhered to this. In addition, the AIAM also published the Best Practices Guidelines that are drafted up after reviewing MAS/IMAS/UK SFC/US regulations and other available best practice guides/codes and extracted those that are relevant to the IAM/EAM business model to adopt.</p> <p>MAS informed AIAM that tomorrow, a public consultation will be launched to seek input on "Tax</p>

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				<p>Evasion as a Crime" in Singapore banks (Guidelines/Laws on serious tax crimes, wilful and fraudulent tax evasion activities to be effected approx. June 2013). <u>Other Business</u></p> <p>MAS informed AIAM of the launch of a <u>public consultation</u> to designate tax crimes as money laundering predicate offence today. Serious tax crimes committed with wilful and fraudulent intent will be included in the Income Tax Act effective June 2013.</p> <p>MAS further shared that Industry self initiatives from private banks have already commenced and they are currently working on the Private Banking Code of Conduct.</p> <p>Principles of new FATF (AML) standards will apply to all existing and new clients alike. Definitions and processes (e.g. how to handle tax-illicit funds etc.) will be fleshed out over time and communicated by MAS.</p> <p>If there are any requirements that are inconsistent then please advise MAS. The teams meet and discuss regularly. It would be useful to get feedback from industry practitioners like members of AIAM.</p> <p>Noted. Please refer to AGC's website for the consolidated versions of the amended regulations</p>

Collated by AIAM September 4th, 2012 (AH/JP/TYS)

AIAM - MAS Meeting 2012

Date:	09 October 2012
Time:	15:00 – 17:00 hrs
Venue:	MAS Office, Room#15, Level 13, MAS Building, 10 Shenton Way, Singapore 079117
Attendees:	Various MAS Team-members led by LIM Mei Shern; Naomi Mary Jacob, Sijie Ong, Sing Chiong Leong, Carolyn Ching Fen Neo, Wen Min Sally Lim, Yann Lih Lim, Sin Wun Yi, Valerie Tong AIAM Members: Anthonia HUI (“AH”); Urs BRUTSCH (“UB”); Steve KNABL (“SK”); Mandeep NALWA (“MN”); Philipp Piaz (“PP”)
Notes taken : Reviewed & Finalized by:	Mandeep Nalwa and Philipp Piaz MAS Team and Anthonia Hui on Nov 27 th , 2012