

Newsletter

# Regulatory Updates for Fund Management Companies

Welcome to the second quarterly newsletter of the BDO Regulatory Updates for Fund Management Companies for the Year 2021. This newsletter serves as a summary of the key regulatory developments for fund management companies or capital markets services licensees covering the period from April 2021 to July 2021.

## REGULATORY DEVELOPMENTS

From April 2021 to July 2021, the Monetary Authority of Singapore ("MAS") has issued or updated a series of Guidelines and Consultation Papers as well as published some Enforcement Actions on Breaches or Investigations on Potential Breaches of Regulatory Requirements.

### Compliance Toolkit for Licensed Fund Management Companies – Approvals, Notifications and Regulatory Submissions to MAS under the Securities and Futures Act

<b>Status</b>	First Issue Date: <b>2 October 2020</b>
	Revision Date: <b>2 July 2021</b>
	Effective Date: <b>2 July 2021</b>

► The Monetary Authority of Singapore ("MAS") has issued the revised Compliance Toolkit for Licensed Fund Management Companies in July 2021 with the following revision:

S/N	Requirement	Form to be Submitted	Regulatory Deadline	Reference
20	<p>To notify MAS on:</p> <p>a. Significant redemptions and the activation of liquidity management tools in authorized, restricted, or exempt CIS managed by the FMC</p> <p>b. Suspension of fund dealings or activation of gating measures for all CIS that the FMC manages, advises, acts as a representative of, and/or offers</p>	<p>a. Significant Redemption Report</p> <p>b. Fund Gating and Suspension Report</p>	<p>ai. Within 1 business day (T+1):</p> <ul style="list-style-type: none"> <li>- for daily dealing CIS, where single-day net redemptions &gt; 5% AUM (i.e. day T)</li> </ul> <p>aii. Within 3 business days (T+3):</p> <ul style="list-style-type: none"> <li>- for daily dealing CIS, where weekly aggregate net redemptions &gt; 10% AUM</li> <li>- for weekly dealing CIS, where weekly aggregate net redemption &gt; 5% AUM</li> <li>- for other dealing frequency CIS, where aggregate net redemptions over the CIS' dealings period &gt; 10% AUM</li> </ul> <p>b. Within 3 business days</p>	<p>Guidelines on Liquidity Risk Management Practices for Fund Management Companies (SFA04-G08) and MAS Circular CMI 13/2021 dated 31 May 2021</p>

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## Consultation Paper on Proposals to Mandate Reference Check and Response to Feedback from Public Consultation on Revisions to Misconduct Reporting Requirements and Proposals to Mandate Reference Check for Representatives

<b>Status</b>	First Issue Date: <b>14 May 2021</b> Effective Date: <b>14 May 2021</b>
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- ▶ On 14 May 2021, the Monetary Authority of Singapore ("MAS") issued a consultation paper to seek feedback on the proposal to extend reference checks to other classes of individuals working in the financial industry. Furthermore, MAS also issued the responses to feedback from the public consultation on "Revisions to Misconduct Reporting Requirements and Proposals to Mandate Reference Check for Representatives" which was issued in July 2018.
- ▶ MAS expects financial institutions ("FIs") to conduct adequate due diligence on prospective hires to assess their integrity, character and track record.
- ▶ The MAS has responded as follows:

	Section	Response
1.	Scope to include registered fund management companies ("RFMCs")	<ul style="list-style-type: none"> <li>▪ MAS will proceed with the proposal to apply the misconduct reporting requirements to RFMCs. The misconduct reporting requirements will complement the fit and proper requirements on RFMCs and their representatives.</li> </ul>
2.	Revisions to the categories of reportable misconduct	<ul style="list-style-type: none"> <li>▪ MAS will proceed with the revision to the category on "Acts involving inappropriate advice, misrepresentation, or inadequate disclosure of information" under the Financial Advisers Act ("FAA").</li> <li>▪ MAS will proceed to revise the reportable category under the FAA.</li> <li>▪ There will be no change to the category on "Acts involving failure to exercise due care and diligence, misrepresentation, or inadequate disclosure of information" under the Independent Sales Audit Unit.</li> <li>▪ MAS will remove the reportable categories on "Failure to satisfy the Guidelines on Fit and Proper Criteria" and "Other misconduct resulting in (i) a non-compliance with any regulatory requirement relating to the provision of any regulated activity".</li> <li>▪ MAS will remove the reportable category on "Other misconduct resulting in (ii) a serious breach of the FI's internal policy or code of conduct which would render the representatives liable to demotion, suspension or termination of the representative's employment or arrangement with the FIs.</li> <li>▪ MAS will include a new category "Acts involving illegal/improper monetary gains, or which may lead to erosion of trust in the financial system, such as money laundering".</li> </ul>
3.	Reporting timeline	<ul style="list-style-type: none"> <li>▪ FIs will be required to lodge a misconduct report within 21 calendar days when the FI has reasonable grounds to believe that a misconduct has been committed.</li> </ul>
4.	Misconduct reports	<ul style="list-style-type: none"> <li>▪ FIs will provide their representatives with misconduct reports filed with MAS, including subsequent updates to the misconduct report. Representatives will provide their current or recruiting FIs with any misconduct report that has been filed against them, including subsequent updates on the misconduct report.</li> </ul>
5.	Investigation processes	<ul style="list-style-type: none"> <li>▪ FIs will update MAS on the outcome of police investigations.</li> <li>▪ The standards for FI's investigation process will be enhanced.</li> <li>▪ FIs will submit their misconduct and investigation reports to MAS using prescribed formats.</li> </ul>
6.	Requirements to conduct reference checks and respond to reference check requests	<ul style="list-style-type: none"> <li>▪ MAS will proceed with the proposal for FIs, including RFMCs, to conduct reference checks on prospective representatives with their current/past employer(s) and to respond to reference check requests.</li> <li>▪ FIs are to provide mandatory information in prescribed categories over a lookback period for reference checks to a minimum of five years.</li> <li>▪ FIs are to respond to reference check requests within 21 calendar days.</li> </ul>

## Consultation Paper on Proposed AML Notices for Cross-Border Business Arrangements of Capital Markets Intermediaries under Proposed Exemption Frameworks

<b>Status</b>	First Issue Date: <b>12 May 2021</b>
	Effective Date: <b>12 May 2021</b>

- ▶ On 12 May 2021, the Monetary Authority of Singapore ("MAS") issued a consultation paper to seek comments on draft AML Notices setting out the proposed anti-money laundering and countering the financing of terrorism ("AML/CFT") requirements for cross-border business arrangements of capital markets intermediaries under both the Branch Framework and notified Foreign Related Corporation ("FRC") Framework.
- ▶ The current consultation paper follows from the consultation paper on "Proposed Exemption Framework for Cross-Border Business Arrangements of Capital Markets Intermediaries Involving Foreign Offices" which was issued on 15 March 2021 to seek feedback on:
  - i. MAS' proposal to introduce an exemption framework for cross-border business arrangements involving foreign head offices or branches (collectively referred to as the "Foreign Offices" by exempting Foreign Offices of financial institutions ("FIs") in Singapore from the applicable business conduct and representative notification requirements under the Securities and Futures Act and Financial Advisers Act when they serve Singapore customers (the "proposed Branch Framework"); and
  - ii. the proposed notification forms to be submitted to MAS at the point of commencement of the arrangement and on an ongoing basis, as well as the draft regulations and notices, for not the proposed Branch Framework and the proposed exemption framework for cross-border business arrangements between Singapore FIs and their foreign related corporations ("FRCs") (the "notified FRC framework").
- ▶ Under both the proposed frameworks, the Singapore FI is required to have in place policies and procedures to oversee the conduct of the foreign related corporations ("FRCs") or Foreign Offices, as the case Singapore and its FRCs or Foreign Offices.
- ▶ The applicable policies and procedures include:
  - i. Conducting customer due diligence ("CDD") in accordance with the relevant MAS Notice on AML/CFT and MAS Regulations made pursuant to UNSC Resolutions; and
  - ii. Maintaining or having access to all CDD records kept overseas by the FRCs or Foreign Offices that relate to the arrangements, and providing MAS with timely access to these records.

## Publication of Enforcement Actions on Breaches or Investigations on Potential Breaches of Regulatory Requirements

<b>Status</b>	First Issue Date: <b>1 February 2021</b>
	Second Issue Date: <b>3 March 2021</b>
	Third Issue Date: <b>15 March 2021</b>
	Fourth Issue Date: <b>22 July 2021</b>

- ▶ On 22 July 2021, three individuals were charged for offences under the Securities and Futures Act ("SFA") and the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act ("CDSA"). In July and August 2016, two of the individuals had purchased shares of Broadway Industrial Group Limited ("BIGL"), a company listed on the Mainboard of the Singapore Exchange, ahead of the company's announcement on 22 August 2016 that it had entered into a conditional sale and purchase agreement to sell two of its businesses.
- ▶ The three individuals are Mr Tan Chee Keong ("Mr Tan"), Mr Tay Yew Khem ("Mr Tay") and Ms Hui Choy Leng ("Ms Hui"). During the material period, Mr Tan was the Chief Financial Officer of BIGL. Mr Tan is accused of communicating non-public and material information ("insider information") concerning BIGL's sale of its businesses to Mr Tay and Ms Hui, who are accused of purchasing BIGL shares while in possession of the insider information. In addition, Mr Tan allegedly received monies amounting to \$30,000 from Mr Tay as benefits for communicating the insider information to the latter. Ms Hui is also accused of deceiving OCBC Securities Private Limited ("OSPL"), by using her father's account to purchase BIGL shares without notifying OSPL that she was the person conducting the transactions.

- ▶ On 18 April 2021, Mr Goh Jia Poh, Kenneth was charged for offences under the Securities and Futures Act ("SFA"). Mr Goh is accused of trading in multiple securities listed on the Mainboard or the Catalist of the Singapore Exchange Securities Trading Ltd, for the purposes of creating a false appearance regarding the market for the securities. These trades took place between 6 January 2016 and 20 September 2018. In the course of his conduct, Mr Goh used various trading accounts including four which did not belong to him, without duly notifying the relevant brokerages. Mr Goh faces a total of six charges, comprising two amalgamated charges under section 197(1)(b) of the SFA for creating a false appearance with respect to the market for multiple securities and four charges under section 201(b) of the SFA for deceiving the relevant brokerage through the unauthorised use of trading accounts.
- ▶ The MAS has issued prohibition orders ("POs") against the following four individuals, following their convictions for market misconduct offences:

Names	Former Positions	Duration of Prohibition Orders
Ms Suzannah Khoo Lee Sun	Former representative of Prudential Assurance Company Singapore (Pte) Limited	4 years
Mr Younis Adnan Mohammed	Former representative of Wellington Management Singapore Pte Ltd	5 years
Mr Ahmadnawar Bin Abd Karim	Carried out fund management activities without holding a capital markets services licence	10 years
Mr Lim Chew Keat	Former insurance agent of Synergy Financial Advisers Pte Ltd	2 years

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  - Develop policies and procedures
  - Perform gap analysis of existing policies and procedures
  - Perform a regulatory health check on key business areas
  - Assist in license applications
  - Perform compliance outsourcing function
  - Provide training on new/revised regulations which will impact you
  - Assist in the implementation and on-going compliance with the Foreign Account Tax Compliance Act, Personal Data Protection Act and Anti-Money Laundering requirements
- ▶ Corporate Governance and Risk Management Services
- ▶ Internal Audit and Control Framework

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