

Financial Institutions

MAS Proposes to Exempt Exchanges/ Market Operators Offering Limited Post- Trade Services from Regulation as Clearing Facilities

Executive Summary

The Monetary Authority of Singapore ("**MAS**") is seeking comments on its proposal to exempt an approved exchange ("**AE**") or a recognised market operator ("**RMO**") which provides limited post-trade services after the execution of a trade on its platform from being regulated as a clearing facility under the Securities and Futures Act ("**SFA**"). It is proposed that the exemption will be granted to AEs or RMOs which only provide post-trade services relating to verifying the transactions conducted on the organised market that they operate and calculating the obligations of the parties under those transactions before the transactions are cleared or settled bilaterally between the transacting parties.

The proposal is set out in the "[Consultation Paper on Proposed Exemptions for Approved Exchanges and Recognised Market Operators that Provide Certain Clearing and Settlement Services](#)" ("**Consultation Paper**") issued by MAS. The Consultation Paper is open for consultation until **9 September 2022**.

This Update provides a summary of the requirements for qualifying for the proposed exemptions for such AEs and RMOs which provide limited post-trade services.

Regulation of Clearing Facilities

All clearing facilities in Singapore must be authorised by MAS

An entity that operates a clearing facility that carries out the clearing or settlement of transactions in securities, units in collective investment schemes or derivatives contracts in Singapore must be authorised by MAS under the SFA, unless otherwise exempted. This is to ensure that the clearing facilities in Singapore are safe and efficient. A clearing facility that fails to manage its risks properly may threaten the stability of the financial markets. MAS imposes regulatory requirements that are commensurate with the level of systemic risks posed by a clearing facility.

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Definition of clearing or settlement activities

"Clearing or settlement", in relation to a clearing facility, consists of the following four categories of activities that occur after the execution of a transaction between the transacting parties:

- **Verification of trade details:** information relating to the terms of the transaction is verified by the clearing facility with a view to confirming the transaction.
- **Substitution of credit through novation or otherwise:** the transacting parties substitute, through novation or otherwise, the credit of the clearing facility for the credit of the transacting parties. In this regard, the clearing facility performs the role of a central counterparty ("**CCP**").
- **Calculation of obligations:** the obligations of the transacting parties of the transaction are calculated by the clearing facility. Such calculations may take into account multilateral netting arrangements, resulting in net obligations. This process could also include the calculation of margin calls for open positions of the transacting parties.
- **Settlement of obligations:** the transacting parties meet their obligations under the transaction, including the obligation to deliver, the transfer of funds or the transfer of title to securities between the parties. In this regard, the clearing facility provides an arrangement, process, mechanism or service to facilitate the settlement of obligations between the transacting parties. For example, a securities settlement system ("**SSS**") is a clearing facility that enables securities to be transferred and settled between the transacting parties.

The [MAS Guidelines on the Regulation of Clearing Facilities](#) state that a corporation which is incorporated in Singapore ("**Singapore corporation**") that operates a CCP or SSS is deemed systemically important and will be regulated as an approved clearing house ("**ACH**"). Other Singapore corporations that operate clearing facilities in Singapore may be regulated as an ACH or a recognised clearing house ("**RCH**") depending on their systemic importance, as assessed by MAS. A foreign entity that operates a clearing facility in Singapore will be regulated by MAS as a RCH.

Proposed Exemption for AEs or RMOs Providing Limited Post-Trade Services

MAS highlights in the Consultation Paper that some newly developed market platforms operated by AEs or RMOs (including many that utilise new technologies (for example, blockchain)) bring together buyers and sellers of products that were traditionally traded bilaterally and over-the-counter (as opposed to being traded on a platform). These platforms may facilitate trading and settlement and may provide post-trade services which fall within the definition of "clearing or settlement" under the SFA. For example, after a trade is executed on an AE's or RMO's platform, the AE or RMO generates a report indicating the obligations of the respective counterparties to the trade and sends it to the counterparties to verify

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and affirm that the trade details are accurate. Such post-trade services fall within the purview of the definition of "clearing or settlement" activities that relate to "verification of trade details" and "calculation of obligations". However, it is noted that, typically, these AEs or RMOs do not act as a CCP or facilitate the settlement of obligations between the transacting parties, or act as a SSS.

MAS is of the view that the post-trade services offered by these AEs or RMOs do not pose systemic risks that are similar to that of the clearing or settlement services where the trades are routed to a clearing facility for clearance or settlement by the clearing facility on a centralised basis. Therefore, MAS proposes to exempt AEs and RMOs that offer post-trade services that only fall within the purview of the "clearing or settlement" activities of "verification of trade details" and "calculation of obligations" from being regulated as a ACH or RCH. MAS will regulate the marginal risks that may arise from such post-trade services through its supervision over these entities as AEs or RMOs. AEs or RMOs are subject to regulatory requirements relating to operational, technology and cyber risk management as well as operational resilience and business continuity. MAS explains that the proposal aims to facilitate the provision of such services without imposing additional regulatory costs on such AEs or RMOs, that may not be commensurate with the impact on systemic risks.

The exemption will be prescribed as a class exemption by regulations to be issued under section 49(6) of the SFA. The draft regulations are set out in [Annex B to the Consultation Paper](#).

To qualify for the exemption, an AE or RMO must notify MAS in writing within 14 days from the date it first establishes or commences operation of the clearing facility. Such clearing facility must satisfy the following requirements:

- Every transaction cleared or settled on the clearing facility is a transaction that:
 - (i) is executed on an organised market that the AE or RMO establishes or operates; and
 - (ii) after execution, is not routed to an ACH or RCH for clearance or settlement; and
- No clearing or settlement is provided on the clearing facility other than any arrangement, process, mechanism or service in respect of transactions by which any of the following are performed:
 - (i) information relating to the terms of those transactions are verified by the AE or RMO with a view to confirming the transactions;
 - (ii) the obligations of parties under those transactions are calculated, whether or not such calculations include multilateral netting arrangements

Further Information

If you have any queries on the above development or would like to submit any feedback to the Consultation Paper, please feel free to contact our team members below who will be happy to assist.

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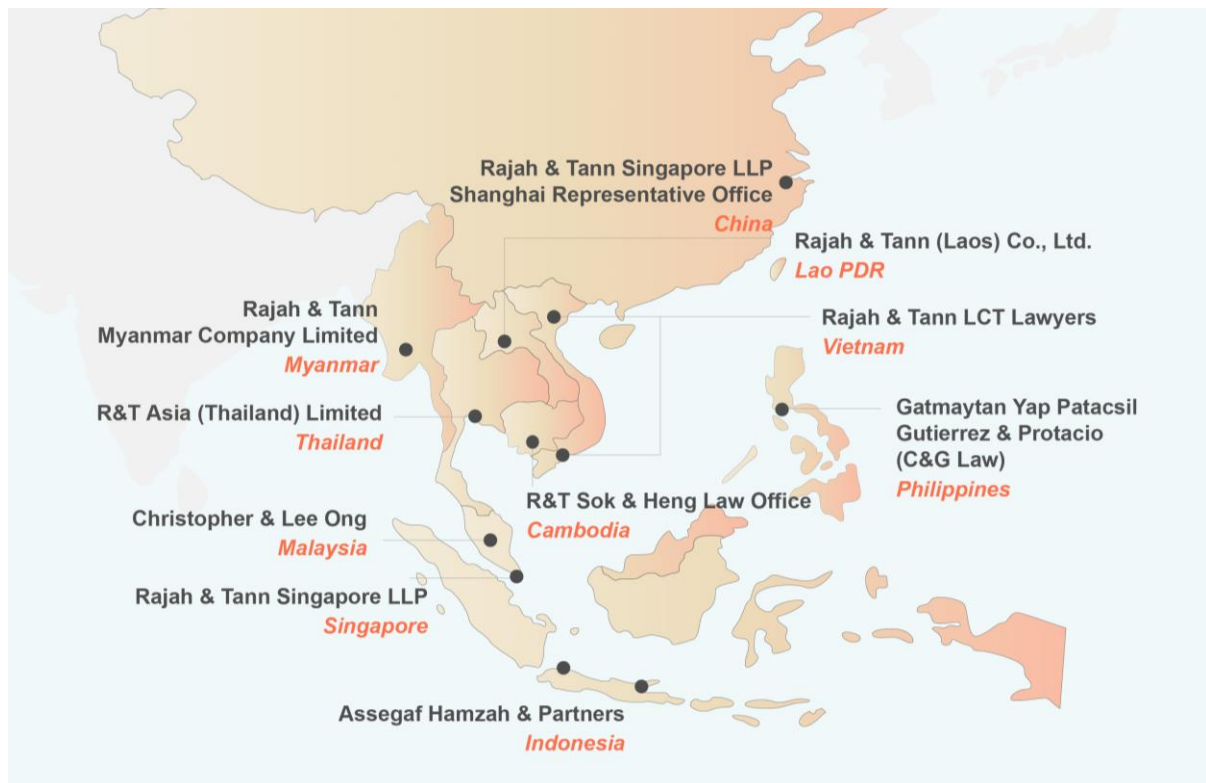
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