



Monetary Authority of Singapore

SECURITIES AND FUTURES ACT (CAP. 289)

FREQUENTLY ASKED QUESTIONS ON RELIEF MEASURES RELATING TO COVID-19 SITUATION

Disclaimer: The FAQs are meant to provide guidance to the industry on MAS' policy and administration of the Securities and Futures Act and regulations. They do not constitute legal advice. MAS expects industry participants to retain their independent legal counsel to advise them on how their business operations should be conducted in order to satisfy the legal/regulatory requirements and to advise them on all applicable laws, rules or regulations of Singapore.

SECURITIES AND FUTURES ACT

SECURITIES AND FUTURES (LICENSING AND CONDUCT OF BUSINESS) REGULATIONS

FREQUENTLY ASKED QUESTIONS ON RELIEF MEASURES¹ RELATING TO COVID-19 SITUATION

[Reissued on 27 April 2020]

Q1 MAS has announced that it will defer the new licensing and business conduct requirements introduced under the Securities and Futures (Amendment) Act 2017 by extending the transitional period for one year to 8 October 2021. These requirements had been effected on 8 October 2018, with a transitional period originally ending on 8 October 2020. My corporation was already dealing in the new OTC derivatives contracts² before the expansion of product scope on 8 October 2018. How does the extension of the transitional period for the new licensing and business conduct requirements affect my corporation?

A1 With this change, corporations which were already dealing in the new OTCD derivatives contracts prior to 8 October 2018 will now have an additional year (i.e. until 8 October 2021) to submit a licensing application or notification, and meet the business conduct requirements.

If your corporation is --	Your corporation will have until 8 October 2021 to –
(i) a CMS licence holder ;	• submit an application, using Form 5 of the Securities and Futures (Licensing and Conduct

¹ Except for the temporary relief measures on CMFAS Examination and CPD requirements. Please refer to the FAQs on Minimum Entry and Examination Requirements for Representatives of Capital Markets Services Licence Holders and Exempt Financial Institutions for these measures.

² For banks and merchant banks, this refers to OTC derivatives contract that is not a securities based derivatives contract; for other entities (e.g. CMS licensees and finance companies), this refers to OTC derivatives contract that is not (a) a securities based derivatives contract; or (b) a foreign exchange OTC derivatives contract

	<p>of Business) Regulations [“SF(LCB)R”] for a variation of its CMS licence to add the regulated activity of dealing in OTC derivatives contracts; and</p> <ul style="list-style-type: none"> • submit notifications for the appointment of representatives dealing in OTC derivative contracts.
<p>(ii) banks, merchant banks, and finance companies exempt under section 99(1)(a), (b) or (c) of the SFA</p>	<ul style="list-style-type: none"> • submit a notification, using Form 26 of the SF(LCB)R, to inform MAS of the commencement of the regulated activity of dealing in OTC derivatives contracts; and • submit notifications for the appointment of representatives dealing in OTC derivatives contracts.
<p>(iii) entities exempt under paragraph 3(1)(d) and 3A(1)(d) of the Second Schedule to the LCBR</p>	<ul style="list-style-type: none"> • submit a notification, using Form 30 of the SF(LCB)R, to register as an exempt Futures and/or OTC derivatives broker.
<p>(iv) entities dealing in new OTC derivatives contracts but do not fall into any of the above groups</p>	<ul style="list-style-type: none"> • submit an application, using Form 1 of the SF(LCB)R for a CMS licence; and • submit notifications for the appointment of representatives dealing in OTC derivatives contracts.

Q2 My financial institution (FI) has employees who were already dealing in or advising on OTC derivative contracts before the expansion of the product scope in the SFA on 8 October 2018. How does the extension of the transitional period affect these individuals?

A2 Your FI will have until 8 October 2021 to appoint these individuals as your representatives (see Q1).

For avoidance of doubt, if the individual commences dealing in or advising on the new OTC derivatives contracts on behalf of your FI on or after 8 October 2018, your FI is required to appoint the individual as a representative before the individual commences the activity.

Q3 Due to the COVID-19 situation (e.g. border control), some appointed representatives of my FI are unable to return to Singapore. Are these appointed representatives allowed to conduct regulated activities for Singapore customers from their overseas location as a temporary arrangement?

A3 To minimise business disruptions, MAS will allow such representatives to conduct regulated activities for Singapore customers from their overseas location on behalf of the FI, provided that the FI:

- Implements measures to continue to properly supervise the activities and conduct of the representatives, including ensuring compliance with all regulatory requirements in Singapore as well as the overseas jurisdiction in which the representative is located; and
- Maintains a register of such representatives and makes available this register upon MAS' request. The register should include details such as the period during which these representatives are working from the overseas location, the overseas jurisdiction where the representatives are located and the regulated activities conducted by the representatives.

The FI should notify its MAS officer-in-charge in writing upon the commencement of such arrangements, and confirm that it will comply with the two conditions above. For avoidance of doubt, the FI is not required to submit a change of particulars for the

representatives to be based overseas (via Form 16/18 in CoRe system).

Q4 Due to the COVID-19 situation (e.g. border control), some representatives of my FI's foreign-related licensed entities are unable to return to their overseas location from Singapore. Are these foreign representatives allowed to conduct regulated activities in Singapore with their customers outside of Singapore as a temporary arrangement?

A4 Yes, to minimise business disruption, representatives of foreign licensed entities which are related to the FI are allowed to conduct regulated activities in Singapore, provided that the FI:

- Implements measures to properly supervise the activities and conduct of the foreign representatives, including ensuring that
 - (i) the conduct of the regulated activities by the foreign representatives is within the scope allowed by the foreign regulator;
 - (ii) the foreign representatives continue to be licensed as representatives of the foreign-related licensed entities of the FI and comply with all regulatory requirements of the foreign jurisdiction; and
 - (iii) the foreign representatives do not solicit Singapore customers;
- Implements measures to prevent access to information or data related to the FI's customers by the foreign representatives, and to address any potential conflict of interest; and
- Maintains a register of such foreign representatives, and makes available this register upon MAS' request. The register should include the period during which the foreign representatives are conducting activities from Singapore and the regulated activities conducted by the representatives.

The FI should to notify its MAS officer-in-charge in writing upon the commencement of such arrangements, and confirm that it will comply with the conditions above.

Q5 My FI is facing limitations in recording telephone conversations on order instructions received by representatives who are working remotely from home due to the COVID-19 situation. Are the use of alternative record keeping methods such as sending a subsequent email to the customer to recap and confirm on communication pertaining to the customer's order acceptable?

A5 Having proper records for orders and trades is important to protect the interests of both the FI and its customers. FIs should continue to ensure that proper records are maintained during this period.

MAS understands that some FIs may face challenges in maintaining telephone recordings for orders taken by their representatives who are working remotely from home. For such situations, FIs may consider alternative means of record keeping. For instance, the FI could require its representative to send an email with the order details to the customer after taking an order via an unrecorded phone. The FI should also ensure there is proper verification of the identity of the person placing the order over the phone.

[Updated on 27 April 2020]