



Client Alert – Further Relaxations from the MAS (April 2020)

On 27 April, the Monetary Authority of Singapore (“MAS”) issued FAQs on its relief measures arising from Covid-19.

The FAQs cover the following areas:

1. The extension of the implementation of the OTC licensing regime by another year to 8 October 2021.
2. Appointed representatives of MAS licenced firms who cannot get back to Singapore.
3. Overseas employees unable to leave Singapore.
4. Telephone taping during work from home (“WFH”) situations.

OTC Licensing and Business Conduct Regime

- Firms which were already dealing in the new OTC 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.
- Firms will have until 8 October 2021 to have 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, licensed as appointed representatives.
- If the individual commences dealing in or advising on the new OTC derivatives contracts on or after 8 October 2018, the firm is required to appoint the individual as a representative before the individual commences the activity.

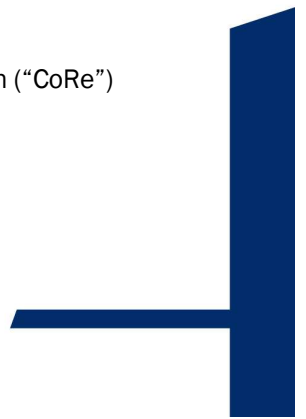
Border Control Issues

Singaporean Employees Overseas

MAS will allow appointed representatives who are currently overseas and unable to return to Singapore to conduct regulated activities for Singapore customers from their overseas location, provided that the firm:

1. 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;
2. Maintain 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; and
3. Notifies its MAS officer-in-charge in writing upon the commencement of such arrangements and confirms that it will comply with these two conditions.

Firms do NOT have to file a Form 16/18 in the Corporations and Representatives System (“CoRe”) to notify these changes.



We note that careful attention should be paid to whether those representatives from Singapore who are unable to return and are working from foreign offices, need to obtain temporary or some other form of license in that host country (for example, that would likely be the case if the Singapore based representatives were in Hong Kong).

Overseas Employees in Singapore

Representatives of foreign licensed entities which are related to the firm and who are unable to return to their home jurisdiction are allowed to conduct regulated activities in Singapore, provided that the firm:

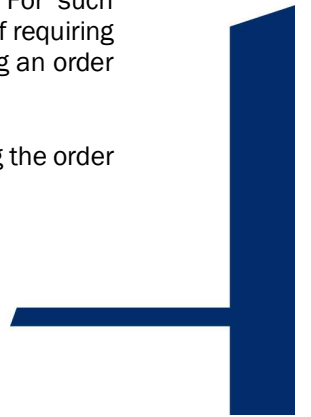
1. Implements measures to properly supervise the activities and conduct of the foreign representatives, including ensuring that:
 - the conduct of the regulated activities by the foreign representatives is within the scope allowed by the foreign regulator;
 - the foreign representatives continue to be licensed as representatives of the foreign-related licensed entities of the firm and comply with all regulatory requirements of the foreign jurisdiction; and
 - the foreign representatives do not solicit Singapore customers.
2. 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;
3. Maintain 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;
4. Notifies its MAS officer-in-charge in writing upon the commencement of such arrangements and confirms that it will comply with these conditions.

We recommend that the Singapore based compliance officers of firms in this situation should obtain a clear outline from their overseas compliance colleagues of the roles and responsibilities of each such individual and what supervision, reporting and filing these representatives are normally subject to. Likewise, they must advise their overseas compliance colleagues what supervision and reporting any Singapore appointed representatives must adhere to during the period in question. Personal share dealing, continuous professional training and individual conflicts of interest requirements can differ significantly across jurisdictions and should be an area of focus. Further attention should be paid to any restrictions on the type of client or product that individuals are permitted to engage with to ensure those rules are not breached. There could be a risk with sales and marketing staff onshoring the Singapore firm into their home jurisdictions in these situations.

Telephone Taping

The MAS is aware that some firms may face challenges in maintaining telephone recordings for orders taken by their representatives who are working remotely from home. For such situations, firms may consider alternative means of record keeping which could consist of requiring its representatives to send an email with the order details to the customer after taking an order via an unrecorded phone.

Firms must also ensure there is proper verification of the identity of the person placing the order over the phone.





CA | ComplianceAsia

Whilst the MAS did not specify this, it is important to re-iterate to staff that any such confirmation emails or other client correspondence while working from home must be from work email addresses not personal email addresses so they can be maintained as part of the books and records of the firm. For this reason, messages via text and WhatsApp may not be sufficient as they cannot always be backed up into the firm's own systems. In the event of a problem regulators are unlikely to be sympathetic to claims of lost trading records or unclear timelines.

About ComplianceAsia

ComplianceAsia is the longest established compliance consulting firm in Asia Pacific established in 2003 with key offices in Hong Kong, Shanghai and Singapore. We have an unmatched track record of completing complex compliance consulting projects for financial firms in the APAC region.

With over 70 staff, including compliance experts with experience in dealing with the SFC, HKMA, MAS, CSRC, JFSA and Asian exchanges, we provide independent, unbiased advice on Asian financial industry legislation and regulations. Our international client base consists of asset managers, hedge funds, private equity funds, family offices, broker-dealers, insurers, wealth managers and investment banks.

Contact Us Today

SINGAPORE

137 Telok Ayer Street #03-06
Singapore
068602

T: +65 6533 8834

HONG KONG

Suite 1102, ChinaChem Tower
34 – 37 Connaught Road
Central

T: +852 2868 9070

MAINLAND CHINA

Room 4205-4207
42/F, Shanghai Tower
No.479 Lujiazui Ring Road
Pudong New Area, Shanghai
T: +86 147 1431 1859

W: www.complianceasia.com

Philippa Allen

CEO

E: philippa.allen@complianceasia.com

Alex Duperouzel

Managing Director

E: alex.duperouzel@complianceasia.com

Gerallt Owen

Regional Head of Client Relations

E: gerallt.owen@complianceasia.com

Lachlan Chubb

Regional Head of Regulatory Advisory and Projects

E: lachlan.chubb@complianceasia.com



ComplianceAsia

