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## Digital finance: ESMA publishes interim update on DLT pilot regime

The European Securities and Markets Authority (ESMA) has published a letter to the EU Commission, Parliament and Council, providing an interim update on the distributed ledger technology (DLT) pilot regime.

ESMA notes that it has provided this update by letter rather than a report (as mandated under the terms of the pilot) because, to date, no DLT market infrastructures have been authorised under the regime, and therefore a full report is not necessary at this stage.

In the letter, ESMA notes that four applications to the pilot have been submitted and are currently under assessment by the respective national competent authorities, with another eight potential applications expected over the course of the year. ESMA believes that the novelty of the pilot may explain the low number of applicants, along with the following challenges:

- finding appropriate providers for innovative solutions for cash settlement, due to the timing mismatch of MiCA authorisations, which will only start over the course of 2024;
- uncertainty around the regulatory expectations for custody services in the context of the DLT market infrastructures, particularly custody through self-hosted wallets;
- interoperability difficulties, including issues around DLT multilateral trading facilities finding DLT settlement systems (since none have been authorised yet) or traditional central securities depositories (due to technological and operational complexities);
- difficulties around providing appropriate investor protection; and
- uncertainty around the duration of the pilot.

ESMA has asked the EU Commission to provide clarity on the challenges identified in order to encourage participation in the pilot.

## ESMA consults on amendments to credit rating agencies regulatory framework to better incorporate ESG factors

ESMA has launched a consultation on proposed amendments to Commission Delegated Regulation (EU) No 447/2012 and to Annex I of the Credit Rating Agencies Regulation.

The objective of the proposals is to ensure a better incorporation of ESG factors in the credit rating methodologies and subsequent disclosure, as well as to enhance transparency and credibility in the credit rating process.

In particular, the proposed amendments aim to:

- ensure that the relevance of ESG factors within credit rating methodologies is subject to systematic documentation;

- enhance disclosures on the relevance of ESG factors in credit ratings and rating outlooks; and
- deliver a more robust and transparent credit rating process through the consistent application of credit rating methodologies.

Comments are due by 21 June 2024. ESMA intends to consider the feedback received and submit its technical advice to the EU Commission by December 2024.

## FATF provides update on implementation of standards on virtual assets and virtual asset service providers

The Financial Action Task Force (FATF) has published an update on the implementation of its standards for virtual assets (VAs) and virtual asset service providers (VASPs) as set out in its Recommendation 15. The update includes a status table showing the implementation of Recommendation 15 by FATF members and other jurisdictions with the most materially important VASP activity. In particular, the table notes whether the relevant jurisdictions have:

- conducted a risk assessment covering VAs/VASPs;
- explicitly prohibited the use of VAs/VASPs;
- enacted legislation or regulation requiring VASPs to be registered or licensed, and to apply AML/CFT measures;
- registered or licensed VASPs in practice;
- taken enforcement, or other supervisory action, against VASPs; and
- passed or enacted the travel rule for VASPs.

Overall, the FATF notes that many countries have yet to fully implement the requirements, and warns that this may result in loopholes which can be exploited for money laundering and terrorist financing purposes.

## IOSCO consults on evolution of market structures and proposed good practices

The International Organization for Securities Commissions (IOSCO) has published a consultation report on the evolution in the operation, governance and business models of exchanges and the regulatory implications and good practices.

The consultation report analyses the structural and organisational changes within exchanges, focusing on business models and ownership structures, noting a trend towards competitive, cross-border, and diversified operations as exchanges become part of larger corporate groups. It also discusses regulatory considerations and potential conflicts of interest within exchange groups.

The report proposes six good practices for regulators overseeing exchanges, especially those offering multiple services or that are part of an exchange group. It includes a list of supervisory tools or 'toolkits' used by IOSCO jurisdictions. While primarily focused on equities listing trading venues, the findings apply to other trading venues as well. IOSCO is inviting market participants to provide feedback on the observed trends, risks, and proposed good practices.

Comments are due by 3 July 2024.

## BoE and FCA consult on Digital Securities Sandbox

The Bank of England (BoE) and Financial Conduct Authority (FCA) have launched a consultation on their proposed approach to operating the Digital Securities Sandbox (DSS). The DSS is an initiative run by the BoE and FCA designed to promote innovation in digital assets.

The DSS will enable market participants to use new technologies, such as DLT, in the trading and settlement of digital securities. The DSS will be open to a range of firms, and the regulators hope that it will lead to improvements in efficiency and greater resilience in the financial system. The programme is set to last five years and may lead to the establishment of a new permanent regulatory framework for securities settlement.

The consultation is intended to gather views on the operation of the DSS in order to ensure a balance between technological benefits and the preservation of financial stability and market integrity.

Comments are due by 29 May 2024. Subject to feedback, the regulators propose to publish final guidance for firms and open the DSS for applications in Summer 2024.

## BoE consults on proposed changes to its approach to enforcement

The BoE has issued a consultation paper on potential changes to its policy statements and procedures in relation to enforcement following the Financial Services and Markets Act 2023 (FSMA 2023).

FSMA 2023 included several changes that either introduce new or broaden existing enforcement capabilities of the BoE, including the Prudential Regulation Authority (PRA). The current enforcement approach of the BoE is set out in its January 2024 Policy Statement PS1/24. The BoE is suggesting specific amendments to clarify the BoE's (including the PRA's) proposed approaches for using the enforcement powers that FSMA 2023 introduced or expanded, or those contained in the Securitisation Regulations 2024.

The proposals in the CP include:

- adding a new chapter 6 to Annex 1 of PS1/24, which would set out the PRA's policy on the imposition and amount of penalties under regulation 42(2) and (3) of the Securitisation Regulations 2024:
- adding a new chapter 9 to Annex 1 of PS1/24, setting out the PRA's proposed policy concerning the imposition and period of temporary prohibitions imposed under regulation 37 of the Securitisation Regulations 2024;
- applying certain of the BoE's existing policies concerning the use of enforcement powers under Part 5 of the Banking Act 2009 (BA 2009), to operators of a recognised payment system (RPS) using digital settlement assets (DSA), DSA service providers and specified service providers of such RPS or of DSA SPs as appropriate;
- adding a new chapter detailing the BoE's policy for determining whether to impose a financial penalty, and the method for calculating the amount of any financial penalty, in the context of wholesale cash distribution. FSMA 2023 amends the BA 2009 to confer new powers on the BoE to oversee

certain participants in the wholesale cash industry recognised by HM Treasury by order as having market significance which perform relevant functions in relation to wholesale cash distribution activity (recognised persons), and individuals who are specified by HM Treasury by order (specified persons); and

- new statements in relation to critical third parties.

Comments are due by 28 June 2024.

## Accelerated Settlement Taskforce publishes recommendations for faster settlement of securities trades in UK

The Accelerated Settlement Taskforce (AST) has published a report setting out its recommendations for changes to the settlement of securities trades in the UK.

The AST was established in December 2022 as part of the Edinburgh Reforms. It is chaired by Charlie Geffen and was tasked with exploring the potential for faster settlement of securities trades in the UK. In its report, the AST recommends that:

- the UK should commit to moving to a T+1 settlement cycle by 31 December 2027;
- the UK and other European jurisdictions should collaborate closely to see if a coordinated move to T+1 is possible, and, if other European jurisdictions commit to a particular transition date, then the UK should consider whether it wishes to align with that timeline; and
- a technical group of industry experts should be set up to determine the technical and operational changes required for a transition to T+1 and how they should be implemented. This group should select a date in 2025 for these changes to be mandated, and a date before the end of 2027 for the UK transition to T+1.

The Government has accepted all of the AST's recommendations and Andrew Douglas has been appointed to chair a technical group, which will be responsible for progressing the next phase of the work.

## AMF updates its policy as part of launch of ROSA extranet for collective investments

The Autorité des Marchés Financiers (AMF) has updated its policy following the approval of the amendments to its General Regulation and as part of the launch of the ROSA extranet for collective investments.

The affected policy documents have been published in order to help professionals understand the changes, which relate to the procedures for the exchange of information between the AMF and asset management companies.

The ROSA extranet will apply to all collective investments, with the exception of real estate investment companies (SCPI), forestry investment companies (SEF), forestry investment groupings (GFI) and securitisation vehicles (SV), for which it will be possible to exchange information with the AMF via the ROSA extranet at a later date. In the meantime, an *ad hoc* process will be put in place for these collective investment undertakings (CIU).

EEA management companies managing UCITS or AIFs established in France will also have access to the ROSA extranet (for both French UCITS or AIFs, and any foreign UCITS or AIFs marketed in France).

## SFC consults on proposals to enhance real estate investment trusts regime and SFO market conduct regime for listed collective investment schemes

The Securities and Futures Commission (SFC) has launched a consultation on proposals to introduce a statutory scheme of arrangement and compulsory acquisition mechanism for real estate investment trusts (REITs) and to enhance the market conduct regime for listed collective investment schemes (CIS) under the Securities and Futures Ordinance (SFO).

With respect to REITs, the proposals will enable Hong Kong REITs to conduct privatisation and corporate restructuring in a way similar to other listed companies through a statutory scheme of arrangement and compulsory acquisition mechanism to be introduced in the SFO. REIT unitholders will also be provided with various safeguards and protection under the statutory regimes.

With respect to listed CIS, the SFC proposes to explicitly extend various SFO market conduct regimes (namely the market misconduct regime under Parts XIII and XIV, the disclosure of inside information regime under Part XIVA and the disclosure of interests regime under Part XV) to listed CIS, with certain proposed refinements. The proposals include the following:

- limiting the scope of the extension to listed CIS, which is the only type of non-corporate entities currently listed on the Hong Kong Stock Exchange, instead of seeking to cover all other potential forms of non-corporate listed entities; and
- streamlining the proposed legislative amendments, including by (i) focusing the various obligations under the market conduct regimes largely on the management company of the listed CIS (and CIS directors in the case of a corporate CIS); and (ii) not covering certain divisions in Part XV of the SFO in the exercise where similar regulatory requirements are already in place.

Subject to consultation feedback, the SFC will work with the Government to introduce legislative amendments to implement the proposals into the Legislative Council with a target of completing the legislative process before the end of the current legislative term in December 2025.

Comments on the consultation are due by 27 May 2024.

## Singapore Government gazettes Significant Investments Review Act 2024 (Commencement) Notification 2024 and related rules and regulations

The Singapore Government has gazetted the Significant Investments Review Act 2024 (Commencement) Notification 2024 to designate 28 March 2024 as the commencement date of the Significant Investments Review Act 2024, which was first passed by the Singapore Parliament on 9 January 2024 and assented to by the President of Singapore on 6 February 2024.

The Act sets out a new regime to regulate significant investments by local or foreign investors in entities regarded as critical to Singapore's national security interests. Amongst other things, the Act:

- imposes notification or approval obligations on buyers and/or sellers for specified changes in ownership or changes of control of designated entities;
- requires approval for the appointment of key officers;
- introduces provisions to ensure the security and reliability of designated entities; and
- empowers the Minister for Trade and Industry to review ownership and control transactions involving an entity that has acted against Singapore's national security interests, even if the entity has not been designated.

The Singapore Government has also gazetted the Significant Investments Review Regulations 2024 and the Significant Investments Review (Reviewing Tribunal) Rules 2024, both of which also came into effect on 28 March 2024.

## MAS Notices on competency requirements for representatives conducting regulated activities under Financial Advisers Act and Securities and Futures Act come into effect

Issued in September 2023 following a public consultation in September 2020, the new Monetary Authority of Singapore (MAS) Notices on the competency requirements for representatives conducting regulated activities under the Financial Advisers Act (FAA) and Securities and Futures Act (SFA) have come into effect from 1 April 2024.

In particular:

- the new Notice on Competency Requirements for Representatives of Financial Advisers (FAA-N26) supersedes the earlier notice on the same subject (FAA-N13) which has been cancelled from 1 April 2024;
- the new Notice on Competency Requirements for Representatives of Holders of Capital Markets Services Licence and Exempt Financial Institutions (SFA 04-N22) supersedes the earlier notice on the same subject (SFA 04-N09) which has been cancelled from 1 April 2024;
- Notice FAA-N26 sets out, among other things, the following requirements for appointed representatives, namely:
  - minimum entry requirements;
  - minimum examination requirements for the application of the Capital Markets and Financial Advisory Services (CMFAS) examination;
  - circumstances under which the CMFAS examination requirements do not apply;
  - obligations of licensed financial advisers and exempt financial advisers to maintain a register on the representatives' compliance with the CMFAS examination requirements; and
  - continuing professional development requirements; and

- Notice SFA 04-N22 sets out, among other things, the entry, examination and continuing professional development requirements for representatives, and the obligations of the financial institutions (Fis) regarding their representatives.

The MAS has also published new FAQs on Competency Requirements for Representatives of Financial Advisers, and new FAQs on Competency Requirements for Representatives of Holders of Capital Markets Services Licence and Exempt Financial Institutions, to provide guidance on the requirements, including entry, CMFAS examination and continuing professional development requirements, as applicable.

The previous FAQs (FAQs on Minimum Entry and Examination Requirements for Representatives of Licensed Financial Advisers and Exempt Financial Advisers, and FAQs on Minimum Entry and Examination Requirements for Representatives of Capital Markets Services Licence Holders and Exempt Financial Institutions) have been cancelled from 1 April 2024.

## MAS responds to consultation on proposals to repeal regulatory regime for registered fund management companies

The MAS has published its responses to the feedback it received on its October 2023 public consultation on its proposal to repeal the registered fund management company (RFMCs) regime and its proposed transitional arrangements for existing RFMCs.

On the process to transition existing RFMCs to become licensed fund management companies (A/I LFMCs), the MAS has clarified that:

- it plans to repeal the RFMC regime on 1 August 2024, and that existing RFMCs intending to continue with regulated fund management activity after this date must apply to be an A/I LFMC by completing and submitting the application form (Form 1AR) between 1 April 2024 and 30 June 2024;
- it will inform RFMCs of the outcome of their Form 1AR application within a month of submission; and
- it expects to issue capital markets services licences to all successful applicants by the end of July 2024.

In reviewing form 1AR applications, the MAS has clarified that it will approve an RFMC's application to be an A/I LFMC if the RFMC:

- has managed assets attributable to third-party investors in the six months immediately preceding the submission of the form to the MAS. However, this requirement does not apply if the RFMC is registered for six months or less as at the submission date;
- submits Form 1AR within the stipulated timeline; and
- satisfactorily furnishes supporting documents to the MAS, on request.

The MAS has also clarified that:

- RFMCs can continue operating without disruption throughout the application process;
- RFMCs that are in the midst of addressing ongoing regulatory issues can still apply to be A/I LFMCs. However, they will be required to complete the remediation of such ongoing issues post-licensing; and

- no licence will be issued to unsuccessful applicants, which will no longer be allowed to carry on fund management in Singapore after 1 August 2024.

Regarding the imposition of a limit of SGD 250 million of managed assets (AUM Cap) on RFMCs that are approved to become A/I LFMCs through Form 1AR applications, the MAS has clarified that when assessing requests to lift the AUM Cap, it will consider factors that include but are not limited to:

- the FMC's regulatory compliance record, which takes into account the frequency and severity of any past regulatory breaches, complaints made by investors or third parties against the FMC or its management, and the FMC's receptiveness and willingness to address regulatory issues that have been highlighted to its management;
- the FMC's internal controls, risk management and compliance arrangements to support its intended business expansion. The MAS may require independent audits should there be concerns;
- the stability of the FMC's board of directors, Chief Executive Officer and senior management team; and
- the extent and nature of changes to the FMC's business model and investment strategy.

The MAS has further clarified that the AUM Cap is intended to serve as a safeguard until it has assessed that the transitioned FMC is ready to handle a larger pool of assets. Also, the AUM Cap will not be imposed on applicants that apply to be A/I LFMCs via the regular application process by default, although the MAS may in specific cases impose conditions to address risks associated with unique or novel business models proposed by these applicants.

While the MAS has stopped accepting new RFMC applications since 1 January 2024, it will continue to review RFMC applications submitted prior to that date. Successful applicants will be asked to submit Form 1AR, following which they will be licensed as A/I LFMCs with the AUM Cap, notwithstanding that they had originally applied to be RFMCs.

## MAS extends suspension of remittances to China through channels not specifically permitted

The MAS has revised MAS Notice No. PSN11 to licensees providing a cross-border money transfer service (MAS Notice PSN11) to extend for a further six months, until 30 September 2024, the suspension of the use of channels that are not specifically permitted (non-specified channels) by remittance companies when transmitting money to persons in the People's Republic of China (PRC).

With the extension, the MAS intends to minimise risks to consumers remitting funds to China. The MAS notes that since the suspension's initial implementation on 1 January 2024, it has not received reports of monies remitted to China through the specified channels subsequently being frozen by the PRC law enforcement agencies.

MAS Notice PSN11 will therefore be in effect until 30 September 2024 instead of 31 March 2024.

## MAS expands scope of regulated payment services and introduces user protection requirements for digital payment token service providers

The MAS has introduced amendments to the Payment Services Act (PS Act) and its subsidiary legislation to expand the scope of payment services regulated by the MAS, and to impose requirements pertaining to anti-money laundering and countering the financing of terrorism (AML/CFT), user protection, and financial stability on digital payment token (DPT) service providers.

In particular, the amendments will bring the following activities within the scope of regulation under the PS Act:

- provision of custodial services for DPTs;
- facilitation of the transmission of DPTs between accounts and facilitation of the exchange of DPTs, even where the service provider does not come into possession of the moneys or DPTs; and
- facilitation of cross-border money transfer between different countries, even where moneys are not accepted or received in Singapore.

The MAS has also published its responses to the feedback it received on its May 2023 and July 2023 public consultations on the proposed amendments to the Payment Services Regulations 2019 (PS Regs), existing notices and other relevant amendments including those pertaining to the segregation and custody requirements for DPT services, and exemptions for a specified period that will be applied to entities conducting newly regulated activities under the PS Act.

With regard to transitional arrangements, the MAS has clarified that entities currently conducting activities under the PS Act's expanded scope will be required to notify the MAS within 30 days, and submit a licence application within six months from 4 April 2024, if they wish to continue the activities on a temporary basis while the MAS reviews their licence applications. The licence application must be accompanied by an attestation report of the entity's business activities and compliance with AML/CFT requirements, duly completed by a qualified external auditor, within nine months from 4 April 2024. Entities that do not fulfil the requirements above will be required to cease the activities once the amendments come into effect.

The expanded scope of regulated activities and increased regulatory requirements under the PS Act will take effect in stages from 4 April 2024. In particular, the requirements on submission of regulatory returns under MAS Notice PSN04, and on conduct under MAS Notice PSN07, will take effect from 1 January 2025 and 4 October 2024 respectively. The amended PS Regs on safeguarding of assets belonging to customers of DPT service providers will take effect six months from 4 April 2024.

The commencement of the Payment Services (Amendment) Act 2021 is accompanied by the amended PS Regs and Payment Services (Amendment) Act 2021 (Savings and Transitional Provisions) Regulations 2024, in addition to the following Notices (mostly effective 4 April 2024) and Guidelines:

- Notice PSN01 Prevention of Money Laundering and Countering the Financing of Terrorism – Specified Payment Services;

- Notice PSN02 Prevention of Money Laundering and Countering the Financing of Terrorism – Digital Payment Token Service;
- PSN04 Notice on Submission of Regulatory Returns;
- PSN07 Notice on Conduct;
- PSN08 Notice on Disclosures and Communications;
- Guidelines on Consumer Protection Measures by DPT Service Providers [PS-G03];
- Guidelines to Notice PSN01 on Prevention of Money Laundering and Countering the Financing of Terrorism – Specified Payment Services; and
- Guidelines to Notice PSN02 on Prevention of Money Laundering and Countering the Financing of Terrorism – Digital Payment Token Service.

## MAS launches COSMIC platform to strengthen financial system's defence against money laundering and terrorism financing

The MAS has launched the Collaborative Sharing of Money Laundering/Terrorism Financing Information & Cases (COSMIC) platform, which is a digital platform intended to facilitate sharing of customer information among FIs to combat money laundering, terrorism financing and proliferation financing globally.

Following a public consultation in October 2021, the FSMA 2022 was amended in May 2023 to set out the legislative framework for COSMIC. COSMIC was co-developed by the MAS and six major commercial banks in Singapore, which will be the participant FIs on COSMIC during its initial phase.

A COSMIC participant FI may share customer information with another participant FI only if the customer's profile or behaviour displays certain objectively-defined indicators of suspicion, or 'red flags'. Information sharing is currently voluntary and focused on three key financial crime risks in commercial banking, namely:

- misuse of legal persons;
- misuse of trade finance for illicit purposes; and
- proliferation financing.

The Singapore Government has gazetted the Financial Services and Markets (Amendment) Act 2023 (Commencement) Notification 2024, and the Financial Services and Markets (Information Sharing Scheme for Prescribed Financial Institutions) Regulations 2024, to announce 1 April 2024 as the commencement date of the amended FSMA and the Regulations.

The MAS has also published Notice FSM-N02 on Prevention of Money Laundering and Countering the Financing of Terrorism – Financial Institutions' Information Sharing Platform to set out requirements for participating FIs (who are prescribed under the Regulations):

- to establish internal policies to facilitate the sharing of risk information through COSMIC;

- to conduct risk assessments upon the receipt of risk information through COSMIC and where there are positive hits against the platform screening list;
- to implement safeguards to protect risk information shared through COSMIC from unauthorised use and disclosure;
- to have regard to other relevant information that may be available prior to terminating or declining to establish business relations with a relevant party;
- to prepare, maintain and retain records of their sharing of risk information through COSMIC, including the basis of their assessment; and
- on outsourced relevant services that involve the disclosure of COSMIC risk information.

Notice FSM-N02, except for its paragraph 10, took effect on 1 April 2024. Paragraphs 10.1, 10.2 and 10.4 to 10.6 take effect on 11 December 2024, while the effective date of paragraph 10.3 depends on when the outsourcing agreement relating to an outsourced relevant service which involves the disclosure of platform information is entered into.

The MAS has further issued Notice 626 on Prevention of Money Laundering and Countering the Financing of Terrorism – Banks (Notice 626) dated 28 March 2024 (effective from 1 April 2024), and Guidelines to Notice 626 dated 28 March 2024. The new Notice 626 and the Guidelines to Notice 626 supersede the earlier Notice 626 dated 24 April 2015 (last revised on 1 March 2022), and Guidelines to MAS Notice 626 dated 24 April 2015, both of which have been cancelled effective 1 April 2024.

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## MAS consults on proposed notice on prevention of money laundering and countering financing of terrorism for organised market operators formed or incorporated in Singapore

The MAS has launched a public consultation seeking comments on a proposed Notice setting out AML/CFT checks to be performed by organised market operators formed or incorporated in Singapore (Singapore OMOs).

Under the proposed Notice, Singapore OMOs will be required to perform AML/CFT checks on market participants that are not financial institutions (FIs), and that trade directly on their organised markets without facilitation by a capital market intermediary (non-FI direct participants).

In particular, the MAS is seeking comments on:

- the scope of the proposed Notice to require Singapore OMOs to perform AML/CFT checks for non-FI direct participants;
- the proposed definition of 'trade-related activity' in relation to approved exchanges (AEs) and recognised market operators (RMOs), and whether it appropriately captures the nature of transactions in the context of AEs and RMOs;
- the proposed definitions of 'business relations' and 'customer', in relation to AEs and RMOs;

- specific requirements imposed under the proposed Notice for Singapore OMOs, which include, among other things taking appropriate steps to identify, assess and understand their money laundering/terrorism financing (ML/TF) risks, developing and implementing policies, procedures, and controls – including those in relation to the conduct of customer due diligence (CDD), transaction monitoring, screening, suspicious transactions reporting and record keeping – to enable them to effectively manage and mitigate the risks that have been identified, monitoring the implementation of those policies, procedures, and controls, and enhancing them, if necessary, performing enhanced measures where higher ML/TF risks are identified, to effectively manage and mitigate those higher risks, and performing appropriate simplified CDD in cases where the organised market operator is satisfied, upon analysis of risks, that the ML/TF risks are low;
- whether any of the specified concepts pertaining to correspondent accounts and value transfers would be applicable to Singapore OMOs, and if they should be included in the proposed Notice; and
- on the proposed Notice set out in Annex B to the consultation, and the implementation timeframe of 6 months from the date the proposed Notice takes effect.

Comments are due by 29 April 2024.

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## Financial Institutions (Miscellaneous Amendments) Act 2024 gazetted

The Singapore Government has gazetted the Financial Institutions (Miscellaneous Amendments) Act 2024, which was passed by the Singapore Parliament on 7 March 2024, and assented to by the President on 22 March 2024.

The Act is intended to enhance and harmonise the investigative powers of the MAS by amending the following MAS-administered Acts: the FAA, the FSMA, the Insurance Act 1966 (IA), the Monetary Authority of Singapore Act 1970 (MAS Act), the Payment Services Act 2019 (PSA), the SFA and the Trust Companies Act 2005 (TCA).

Amongst other things, the Act will:

- enhance and widen the investigative powers of the MAS under the FAA, the IA, the PSA, the SFA and the TCA and provide for investigative powers of the MAS under the FSMA;
- empower the MAS to regulate, through directions under the SFA, the conduct of certain additional businesses by holders of capital markets services licence which may pose contagion risks to their businesses in regulated activities;
- clarify that a person previously regulated under the FAA, the SFA or the TCA, and who has ceased to be regulated under the relevant Act, can be reprimanded by the MAS for misconduct, if the person was a regulated person at the time of the misconduct;

- enhance, widen and clarify the powers of the MAS under the FAA, the SFA and the TCA relating to the appointment, disqualification and removal of certain officers of various FIs, the appointment of external auditors of FIs, and the control of FIs;
- provide under the FAA, the SFA and the TCA for service of documents by email, provide under the SFA for the manner of service of a written notice of meeting to participants of a collective investment scheme constituted as a unit trust under certain circumstances, and provide under the FAA, the SFA and the TCA for an electronic service provided by the MAS for the service of documents;
- make it an offence for a person who is not an individual to fail to take due care to ensure that information provided to the MAS under the FAA, the SFA and the TCA is not false or misleading (whether or not the information is false or misleading in a material particular), and clarify when the duty to not provide false information arises; and
- make amendments of a miscellaneous or technical nature to certain Acts under the MAS's purview which are consequential from the introduction of new processes, clarificatory or technical in nature, and meant to update the provisions or remove certain administrative constraints.

The Financial Institutions (Miscellaneous Amendments) Act 2024 will come into operation on a date that the Minister appoints by notification in the Gazette.

For a period of two years after the date of commencement of any provision of the Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

## RECENT CLIFFORD CHANCE BRIEFINGS

### China revamps its rules on cross-border data transfer

The Cyberspace Administration of China (CAC) released the provisions on regulating and promoting cross-border data flows on 22 March 2024, together with the second edition of the guidelines for security assessment filings and the guidelines for filing personal information export standard contract, each with immediate effect.

The new provisions introduce long-awaited changes to the current Professional Regulation Commission (PRC) data export regime established under the Cybersecurity Law (CSL), the Data Security Law, the Personal Information Protection Law (PIPL) and related secondary rules. Companies will need to reassess their PRC data arrangements against the qualitative and quantitative data transfer exemptions and the broader impact of these new developments.

This briefing paper discusses China's new rules on cross-border data transfer.

https://www.cliffordchance.com/briefings/2024/03/china-revamps-its-rules-on-cross-border-data-transfer.html

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## PRC NDRC issues consultation paper on fast track review for medium and long-term foreign debt raised by high-quality PRC enterprises

On 14 March 2024, the National Development and Reform Commission (NDRC) of the People's Republic of China issued a consultation paper for the Circular of NDRC on supporting high-quality enterprises to borrow medium and long-term foreign debts to promote the high-quality development of the real economy.

The consultation paper proposes refining the existing framework to support further economic development through easing foreign debt financing by PRC enterprises that are considered as 'high quality'. Based on the consultation paper, enterprises that qualify as 'high-quality' enterprises will benefit from streamlined requirements and an accelerated application process when applying for foreign debt registration approval with NDRC pursuant to the Administrative Measures for the Review and Registration of Medium and Long-Term Foreign Debt of Enterprises (NDRC Order No. 56 of 2023). Comments on the consultation paper are due by 13 April 2024.

This briefing paper discusses the proposals.

https://www.cliffordchance.com/briefings/2024/04/client-briefing---prc-ndrc-issues-consultation-paper-on-fast-tra.html