

Annex: Jurisdictions’ authority and process for exercising deference in relation to OTC derivatives regulation

Part A: With respect to the **authorisation and supervision of:** OTC derivatives market participants; TRs; CCPs; and exchanges or electronic trading platforms:

<p>A.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when ‘partial’ or ‘conditional’ deference decisions can be made.</p>	<p>MAS is the sole relevant regulatory authority and has the capacity to exercise deference decisions to the extent possible under the Securities and Futures Act (SFA), which governs the regulation of these entities.</p> <p><u>OTC derivatives market participants</u></p> <ul style="list-style-type: none"> • Currently, the SFA does not extend to OTC derivatives market participants. MAS will be proposing amendments to SFA to provide for the regulation of OTC derivatives market participants. • Deference is contemplated under the regimes for these entities, and will likely be similar to that taken for TRs and CCPs (see below). <p><u>TRs and CCPs</u></p> <ul style="list-style-type: none"> • The SFA provides for the authorisation of foreign TRs and foreign CCPs, taking into account the regulatory regime that these market infrastructure are subject to in their home jurisdictions. Foreign TRs will be licensed as Licensed Foreign Trade Repositories while foreign CCPs as Recognised Clearing Houses. • Other than certain notification and reporting requirements, a foreign TR or CCP is subject only to a baseline set of statutory obligations under the SFA, such as general obligations to operate in a safe and efficient manner, to manage any risks prudently, and maintain sufficient resources. These obligations are in line with and encompass the CPSS-IOSCO Principles for Financial Market Infrastructure (PFMI). • MAS will, on an ongoing basis, defer to the home regulatory regime of the foreign TR or CCP on the discharge of its statutory obligations under the SFA. <p><u>Exchanges/Electronic trading platforms</u></p>
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	<ul style="list-style-type: none"> • Currently, OTC derivatives exchanges and electronic trading platforms are not regulated under the SFA. MAS will be proposing amendments to the SFA to provide for the regulation of OTC derivatives exchanges and electronic trading platforms. • Deference is contemplated under the regimes for these entities, and will likely be similar to that taken for TRs and CCPs.
<p>A.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether “similar outcomes” is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).</p>	<p><u>TRs and CCPs</u></p> <ul style="list-style-type: none"> • In order to extend deference, as part of the authorisation of a foreign TR or CCP, MAS will ensure that cooperative arrangements are in place with its home regulator, and that the foreign TR or CCP is subject to home requirements and supervision that are comparable, in the degree to which MAS’ objectives of regulation are achieved, to that which a local TR or CCP is subject to under the SFA. • In considering whether a foreign TR or CCP has satisfied the comparability criterion, MAS will consider the relevant laws and practices of the home jurisdiction of the foreign TR or CCP, and the rules and practices of the foreign TR or CCP. • The statutory obligations imposed on a local TR or CCP are in line with and encompass the PFMI. Compliance with international standards – i.e. the PFMI – is taken into account as part of the assessment to determine comparability.
<p>A.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).</p>	<p><u>TRs and CCPs</u></p> <ul style="list-style-type: none"> • The process is started when a foreign TR or CCP applies to the MAS for authorisation, and is undertaken as part of the assessment of the TR or CCP for admission under the MAS regulatory regime. • As earlier mentioned, a cooperative arrangement with the home regulator of the foreign TR or CCP is required. This is typically in the form of a supervisory cooperation MOU.
<p>A.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.</p>	<p><u>TRs and CCPs</u></p> <ul style="list-style-type: none"> • Links to the forms for application to be recognised by MAS are provided below: TR: http://www.mas.gov.sg/Regulations-and-Financial-Stability/Regulations-Guidance-

	<p>and-Licensing/Securities-Futures-and-Funds-Management/Forms/Trade-Repositories-Forms/2013/Form-1--Application-for-Trade-Repository-Licence-or-Foreign-Trade-Repository-Licence.aspx</p> <p>CCP: http://www.mas.gov.sg/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Securities-Futures-and-Funds-Management/Forms/Clearing-Facilities-Forms/2013/Form-1-Notice-of-intent-to-establish-or-operate-a-clearing-facility.aspx</p> <ul style="list-style-type: none"> • Please refer to questions 5 and 12 under section II of the Forms.
<p>A.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.</p>	<p>The assessment is done on an entity-by-entity basis. The cross-border regulatory approach for licensed foreign trade repositories and recognised clearing houses were only introduced in Aug 2013. There is currently no licensed foreign trade repositories or recognised clearing houses.</p>

Part B: With respect to **requirements on market participants** related to: reporting to TRs; clearing transactions through CCPs; capital, margin and/or other risk mitigation requirements; and executing transactions on exchanges or electronic platforms:

<p>B.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made.</p>	<p>MAS is the sole relevant regulatory authority and has the capacity to exercise deference decisions to the extent possible under the SFA, which governs the regulation of these entities.</p> <p><u>Reporting and Clearing</u></p> <ul style="list-style-type: none"> • In respect of a foreign jurisdiction specified by MAS, the SFA provides that obligations under the SFA can be deemed to be complied with, in the case of a cross-border transaction (i.e. a party to the transaction is established in that foreign jurisdiction), via compliance with the obligations under that foreign jurisdiction's reporting/clearing regime ("deemed compliance approach"). <p><u>Capital</u></p> <p>The Basel III capital charges on centrally-cleared and non-centrally-cleared transactions are applied to locally-incorporated banks. Foreign bank</p>
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	<p>branches operating in Singapore are subject to the capital rules under their home jurisdictions.</p> <p><u>Margin/risk mitigation requirements:</u></p> <ul style="list-style-type: none"> • Currently, the SFA does not extend to margining and risk mitigation requirements on non-centrally cleared OTC derivatives. MAS will consider the implementation of these requirements, including deference, in line with international standards and best practices. <p><u>Executing</u></p> <ul style="list-style-type: none"> • Currently, the SFA does not impose execution requirements on OTC derivatives market participants. MAS is continuing to review whether it is appropriate to implement a trading mandate in Singapore.
<p>B.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether “similar outcomes” is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).</p>	<p><u>Reporting</u></p> <ul style="list-style-type: none"> • In practice, domestic market participants are able to leverage on the local licensed TR, which operates within a network of overseas affiliates, to direct transaction reports to fulfil domestic as well as foreign reporting obligations. • MAS will monitor the necessity of applying the deemed compliance approach to a foreign jurisdiction depending on market needs. <p><u>Clearing</u></p> <ul style="list-style-type: none"> • In practice, the local licensed OTC derivatives CCP has applied to both the CFTC and ESMA for authorisation, to allow for US and EU persons to discharge their home jurisdiction clearing obligations through it. • MAS has not commenced the domestic clearing obligation under the SFA. • MAS will monitor the necessity of applying the deemed compliance approach to a foreign jurisdiction depending on market needs.
<p>B.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and</p>	<p>NA.</p>

<p>whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).</p>	
<p>B.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.</p>	<p>NA.</p>
<p>B.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.</p>	<p>Currently, there are no foreign jurisdictions specified by MAS to be eligible for the deemed compliance approach. Please see response to B2 above.</p>