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Capital Markets Intermediaries Department II  
Monetary Authority of Singapore  
10 Shenton Way  
MAS Building  
Singapore 079117

Email: [remoteclearing@mas.gov.sg](mailto:remoteclearing@mas.gov.sg)

Dear Sirs and Madams

**Consultation on Amendments to Securities and Futures (Exemption from Requirement to Hold Capital Markets Services Licence) Regulations (“Consultation Paper”)**

On behalf of the membership of the Futures Industry Association Asia (“**FIA Asia**”) we welcome the opportunity to respond to the public consultation on the proposed amendments to the Securities and Futures (Exemption from Requirement to Hold Capital Markets Services Licence) Regulations issued by the Monetary Authority of Singapore (“**MAS**”) in April 2015.

FIA Asia represents a diverse group of participants in the exchange traded and centrally cleared derivatives industry. Our members include banking organisations, futures exchanges, clearinghouses, brokers, vendors and trading participants. FIA Asia is affiliated with FIA and FIA Europe. The alliance of our three associations, known as FIA Global, is the primary global industry association for centrally cleared futures, options and swaps.

Unless otherwise defined, capitalised terms used in this letter will bear the same meanings ascribed to them in the Consultation Paper.

**MAS Proposed Exemption**

The MAS is proposing to exempt Remote Clearing Members of Singapore-based CCPs from holding a CMS licence for trading in futures contracts under the Securities and Futures Act (“**SFA**”) if the Remote Clearing Member:

- (a) is incorporated outside of Singapore;
- (b) does not serve any customer resident in Singapore;
- (c) does not carry on business in providing financial services in Singapore;
- (d) carries on business in a jurisdiction where the relevant regulator has an arrangement with the MAS for information exchange and cooperation in respect of futures supervision;
- (e) is registered, licensed, approved or otherwise regulated in respect of trading in futures contracts by the relevant regulator in its home jurisdiction.

Should a Remote Clearing Member wish to extend its business to serve Singapore-based customers, it would need to establish a physical presence in Singapore and apply for a CMS Licence.

## **FIA Asia response**

We have set out our specific comments to the MAS proposal in Appendix 1 of this letter.

FIA Asia promotes the development of safe, transparent and efficient markets. We agree that allowing the participation of Remote Clearing Members will pose additional risks to Singapore-based CCPs and the marketplace. We also agree that it is important for Singapore-based CCPs to ensure that they are able to exercise proper supervisory oversight over its members and to put in place appropriate safeguards to mitigate additional risks.

We wish to highlight that FIA Global has recently issued a CCP Risk Position Paper<sup>1</sup> setting out recommendations to improve the assessment and management of CCP Risk which may provide useful guidance. The paper was written from the perspective of clearing members and addresses three key themes including improving transparency and consistent disclosures, ensuring continuity and enhancing CCP governance.

We welcome further industry consultation and discussion on the proposed remote clearing framework and the practical application of the proposed regulations. We would be happy to meet with the MAS to discuss the CCP Risk Paper, our comments or provide further information to the MAS if required. Please contact Phuong Trinh at [ptrinh@fiaasia.org](mailto:ptrinh@fiaasia.org) or telephone: +65 6549 7335.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Bill Herder', written in a cursive style.

Bill Herder  
President, FIA Asia

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<sup>1</sup> <https://fia.org/articles/fia-global-issues-recommendations-central-clearing-risks>

## Appendix 1 - FIA Response to Proposals

Proposal	FIA Asia comment
<p>1. <b>Regulation clause 2(4):</b> The exemption extends to persons who meet the criteria in sub-paragraphs (a)-(e) <i>‘in respect of futures contracts that are traded on the futures market operated by that approved exchange, Singapore-incorporated recognised market operator, or futures contracts cleared by that approved clearing house or recognised clearing house...’</i></p>	<p>We query whether the reference to “<i>Singapore-incorporated</i>” should be removed to ensure there is consistency between which market operators and clearing houses this exemption applies to.</p> <p>We would like to clarify the scope of “<i>traded on the futures market</i>”. For example, would it include a block trade? A block trade, is a privately negotiated futures, options or combination transaction that is permitted to be executed away from the public auction market and is subsequently cleared. Although privately negotiated, these transactions are governed by rules of the market and are reported. We believe block trades should fall within the exemption and should not be carved out of the exemption.</p>
<p>2. <b>Regulation clause 2(3)(b) and clause 2(4)(b):</b> We note that the Remote Clearing Member who will be exempt from holding CMS Licence is to be <i>‘a member of any approved exchange or Singapore-incorporated recognised market operator operating a securities market’</i> or <i>‘a member of any approved exchange, Singapore-incorporated recognised market operator operating a futures market, approved clearing house or recognised clearing house’</i>.</p>	<p>We query whether the reference to “<i>Singapore-incorporated</i>” in these sub-paragraphs should be removed to ensure there is consistency between which market operators and clearing houses this exemption applies to.</p>
<p>3. <b>Regulation clause 2(4)(c) ‘does not serve any customer resident in Singapore’:</b> We note that Remote Clearing Members who will be exempt from holding a CMS Licence will need to ensure that they do not serve <i>‘any customer resident in Singapore’</i>.</p>	<p>Could the MAS clarify whether reverse solicitation scenarios would fall under this exemption. For example, would the Remote Clearing Member be restricted from accepting any orders from a Singapore resident customer even though there was no direct marketing to that customer?</p>
<p>4. <b>Regulation clause 2(4)(d) ‘does not carry on any business in providing financial services in Singapore’:</b> The proposed amendments have defined <i>‘financial services’</i> broadly as <i>‘any services regulated or supplied by any person regulated, under any written law administered by the Monetary Authority of Singapore’</i>.</p>	<p>Could the MAS clarify if reference to “<i>any services regulated</i>” also includes services provided by persons exempt under relevant legislation?</p> <p>Further, could the MAS clarify the position under the Commodity Trading Act? The MAS currently does not administer the Commodity Trading Act but we understand that changes will be made to have commodity derivatives fall under the supervision of the MAS. During any transition period before such changes are implemented, how will these persons be treated?</p>
<p>5. <b>Regulation clause 2(4)(e) - regulatory cooperation:</b> We note that the Remote Clearing Member who will be exempt from holding a CMS Licence must carry on business <i>‘in a jurisdiction the relevant regulator of which has an arrangement with the Authority for information exchange and co-operation in respect of futures contracts’</i>.</p>	<p>Can the MAS provide a list of countries and copies of the relevant documents where such arrangements have been entered into and will this list (and updated lists) be made publicly available on the MAS website? This will assist participants to assess whether they are able to benefit from the relevant exemptions.</p> <p>There may be cases where there is more than one regulator in a jurisdiction that has supervision over futures markets participants eg markets regulators and prudential regulators. Can the MAS clarify if this requirement applies to cooperation arrangements with all regulators in that particular jurisdiction?</p>

Proposal		FIA Asia comment
6.	<b>Regulation clause 2(4)(f)- home jurisdiction authorisation:</b> We note that the Remote Clearing Member who will be exempt from holding a CMS Licence must be ' <i>registered, licensed, approved or otherwise regulated in respect of trading in futures contracts by the relevant regulatory referred to in sub-paragraph (e)</i> '.	Could the MAS clarify whether this sub-paragraph includes persons who are 'exempted' under the regulatory regime in their home jurisdictions?
7.	<b>Regulation 2(5)</b>	We query whether revocation of an exempt clearing member's authorisation in its home jurisdiction should also be included as a sub-paragraph in this clause.
8.	Recent proposed amendments to the SFA	In its February 2015 consultation, the MAS is proposing to make changes to the SFA including changes to definitions eg derivatives, exchange traded derivatives, introduce a new type of regulated activity for 'dealing in capital markets products' and the removal of references to " <i>trading in futures contracts</i> " from the Part II of the Second Schedule of the SFA. Can the MAS clarify how this current proposed exemption will tie in and reconcile with the broader changes proposed to the SFA? We welcome further industry discussion and consultation on proposed subsidiary legislation and rules.