Reed Smith Asia-Pacific
funds & financial regulatory newsletter

Second quarter 2024 edition

ReedSmith

Contents

Welcome

Second Quarter 2024 Edition

This is the inaugural edition of the quarterly Reed Smith Asia-Pacific Funds & Financial Regulatory newsletter. It focuses on the financial regulatory landscape, including changes in legislation and accompanying regulations, as well as enforcement actions impacting financial entities, investment advisors and funds in the Asia-Pacific region. This edition covers developments to date this year and delves deeper into Singapore's implementation of the Financial Services and Markets Act, an omnibus act for the sector-wide regulation of financial services and markets.

In focus

Singapore

Further Implementation of Singapore's Financial Services and Markets Act

On 10 May 2024, the Monetary Authority of Singapore (MAS) implemented Phase 2A of the Financial Services and Markets Act 2022 (FSMA), which is an omnibus act for the sector-wide regulation of financial services and markets. Phase 2A introduces (a) new provisions on technology and risk management (under part 5 of the FSMA), (b) provisions relating to the control and resolution of financial institutions (under parts 7 and 8 of the FSMA), and (c) miscellaneous provisions which have been migrated from the Monetary Authority of Singapore Act 1970.

The remaining phases are targeted for implementation in the second half of 2024.

For context, MAS introduced the Financial Services and Markets Bill 2022 (FSM Bill) to enhance its regulatory powers over the financial sector. The FSM Bill aims to address financial sector-wide risks in a rapidly changing and increasingly integrated environment, and to align regulation with international standards.

The FSM Bill proposes several key changes that may affect fund managers, such as:

- A harmonised and expanded power to issue prohibition orders (POs)

MAS issues POs against any person who is not fit and proper from engaging in any activity regulated by MAS and performing certain key roles and functions in the financial sector from time to time.

The FSM Bill will consolidate MAS' existing PO powers under a range of legislation and enable a consistent sector-wide approach to deter misconduct and preserve trust in Singapore's financial sector.

- An enhanced regulation of virtual asset service providers (VASPs) for money laundering and terrorist financing risks

The FSM Bill will regulate all VASPs created in Singapore that provide virtual asset services outside of Singapore, as a new class of financial institutions (FIs), with licensing and ongoing requirements to ensure that MAS has adequate supervisory oversight over them. The scope of virtual asset services will be aligned with the Financial Action Task Force (FATF) standards and include dealing in, facilitating the exchange of, transmitting, safeguarding and providing financial advice relating to digital tokens.

- A harmonised power to impose requirements on technology risk management (TRM) by FIs

The FSM Bill will consolidate MAS' powers to impose TRM requirements under a range of legislation and apply them to any FI or class of FIs. The maximum penalty for breaches of TRM requirements will be S$1 million, to signal the importance of TRM and to be commensurate with the most serious types of breaches.

- A statutory protection from liability for mediators, adjudicators and employees of an operator of an approved dispute resolution scheme

The FSM Bill will provide such protection from liability where they act with reasonable care and in good faith, to strengthen their confidence and autonomy when carrying out their duties. The statutory protection will align the level of protection with other public dispute resolution bodies in Singapore and internationally.

Regulatory updates

Mainland China

Guidelines for the Operation of Private Securities Investment Funds

On 30 April 2024, the Asset Management Association of China (AMAC), a self-regulatory organization of the securities investment funds industry under the guidance, supervision, and administration of the China Securities Regulatory Commission (CSRC) and the People's Republic of China's Ministry of Civil Affairs, issued the Guidelines for the Operation of Private Securities Investment Funds, effective from 1 August 2024. The guidelines set out specific requirements for the operation of private securities investment funds, including restrictions on the proportion of investments in OTC options and income swap contracts, the establishment of risk indicators for bond investments, the implementation of early warning and stop-loss mechanisms, and requirements for the compliant operation of managers.

Revised Standards for Compliance Management in Securities Investment Fund Management Companies

AMAC issued the revised Standards for Compliance Management in Securities Investment Fund Management Companies on 13 March 2024, with immediate effect. The standards require that fund management companies have in place an independent compliance management system. No shareholder, director or senior executive of a fund management company may violate prescribed duties or procedures to directly give an instruction to or interfere with the work of the superintendent or the compliance management department. All compliance management personnel must have at least three years' experience in securities, finance, law, accounting, information technology or other related areas, and account for no less than 1.5% of total employees. In addition, at least two employees must be responsible for compliance management, not including employees who hold risk management positions.

Revised Draft Administrative Provisions on Recognised Hong Kong Funds

CSRC issued the revised Draft Administrative Provisions on Recognised Hong Kong Funds on 14 June 2024, seeking public feedback by 14 July 2024. The draft provisions propose relaxing restrictions on the sales proportion for recognised funds from other places, increasing it from a maximum of 50% to 80%. The provisions also propose allowing recognised Hong Kong funds to delegate their investment management functions to overseas asset management institutions within the same group as the fund manager. According to the draft provisions, recognised Hong Kong funds intended for public distribution in the mainland shall comply with the five conditions and be registered with the CSRC, including "being established and operated in Hong Kong in accordance with Hong Kong laws, being publicly sold upon the approval of the SFC, and be subject to the SFC regulation" and "having at least one year track record, with no less than CNY200 million assets under management (or its equivalent in other currency), and not being primarily invested in the mainland market, with the sales volume in the mainland accounting for less than 80% of the total fund assets".

Policy Measures on Further Supporting Overseas Institutions to Invest in Domestic Sci-Tech Enterprises

On 22 March 2024, 10 authorities, including the Ministry of Commerce, issued a raft of measures to encourage overseas institutions to invest in domestic sci-tech enterprises. The measures focus on the business characteristics of overseas institutions and the development needs of domestic sci-tech enterprises, and include specific provisions aimed at enhancing financial support for technological innovation. In particular, as regards access applications, the relevant authorities will expedite the approval of qualified foreign institutional investors (QFIIs) and Renminbi qualified foreign institutional investors (RQFIIs) in accordance with the law, thereby better accommodating the interests of overseas institutions in entering the domestic market.

Singapore

Licensing and Business Conduct Requirements

Response to Consultation on Repeal of Regulatory Regime for Registered Fund Management Companies

In April 2024, MAS published its response to the consultation on the repeal of the regulatory regime for registered fund management companies. The registered fund management company regime will be repealed on 1 August 2024 and existing registered fund management companies had to complete and submit the application Form 1AR by 30 June 2024 to apply to be a licensed fund management company that is restricted to serving accredited or institutional investors. The existing S$250 million limit for managed assets will continue to apply. In addition, the companies should ensure that their representatives meet the requirements of the Notice on Competency Requirements for Representatives of Holders of Capital Markets Services Licence and Exempt Financial Institutions (SFA 04-N22) prior to licensing. The companies should also comply with the applicable new reporting requirements.

Guidelines on Fair Dealing – Board and Senior Management Responsibilities for Delivering Fair Dealing Outcomes to Customers

In May 2024, MAS updated the Guidelines on Fair Dealing – Board and Senior Management Responsibilities for Delivering Fair Dealing Outcomes to Customers to expressly apply to all FIs, the financial products and services offered by them, and their customers. The updated guidelines, which took effect on 30 May 2024, offer guidance on differential treatment, product design, information accuracy, the use of right of review clauses and having extra consideration for those who are more vulnerable.

Please refer to the following link for our client alert on the updated Guidelines on Fair Dealing – Board and Senior Management Responsibilities for Delivering Fair Dealing Outcomes to Customers:

https://www.reedsmith.com/en/perspectives/2024/06/mas-updates-guidelines-on-fair-dealing

Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013

In May 2024, MAS updated the Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013 which will take effect on 21 October 2024. Key changes include the implementation of a unique transaction identifier reporting requirement, changes to the reportable data fields set out in the First Schedule to the Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013 and the adoption of the ISO 20022 XML standard.

Please refer to the following link for our client alert on changes to the over-the-counter (OTC) derivatives contract reporting regime:

https://www.reedsmith.com/en/perspectives/2024/06/updated-otc-derivatives-contract-reporting-regime-from-21-october-2024

FAQs on the Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013

In February and May 2024, MAS updated the Frequently Asked Questions on the Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013 (FAQs) to clarify, among others, the obligations of reporting entities for reportable derivatives contracts pursuant to the changes to the Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013. Additional responses have also been included under the FAQs in anticipation of the updated OTC derivatives contract reporting regime from 21 October 2024.

Good Practices for Auditors of Fund Management Companies

In February 2024, MAS issued an infographic which sets out good practices for auditors to adopt as key stakeholders in promoting strong internal controls, risk management practices and business conduct by fund management companies. Third parties providing regulatory and compliance services to fund management companies should also take note of these baseline expectations of MAS.

Good practices to adopt include: (a) being familiar with regulatory requirements for fund management companies and checking for compliance during audits, (b) maintaining independence from fund management companies, (c) reporting regulatory non-compliance to MAS or advising fund management companies to self-report with remedial actions taken, (d) checking that fund management companies' financial regulatory returns are properly drawn up, and (e) supporting fund management companies in their adoption of good risk management practices and strong internal controls.

Guidelines on Licensing, Registration and Conduct of Business for Fund Management Companies

In June 2024, MAS updated the Guidelines on Licensing, Registration and Conduct of Business for Fund Management Companies to, among others, clarify that venture capital fund managers may only manage funds that do not invest more than 20% of each fund's committed capital (excluding fees and expenses) in unlisted business ventures that have been incorporated for more than 10 years at the time of the initial investment, and/or the investment is made through acquisitions from other investors in the secondary market. This exception aside, any investments from the remaining committed capital (excluding fees and expenses) must be made exclusively in specified products directly issued by unlisted business ventures that have been incorporated for no more than 10 years at the time of the initial investment.

This change corresponds to an amendment to the Securities and Futures (Licensing and Conduct of Business) Regulations pursuant to the Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2024 (which took effect on 7 June 2024).

Additionally, MAS has clarified that for compliance arrangements, fund management companies should consult their in-house compliance officer or third-party compliance-related service provider if they have queries on the applicability of rules and regulations. If there is a need to seek clarification from MAS, the fund management company should set out in detail the specific regulatory query or issue that requires clarification.

Notice SFA 04-N22 Competency Requirements for Representatives of Holders of Capital Markets Services Licence and Exempt Financial Institutions

In April 2024, MAS updated the eligibility and ongoing requirements for representatives of holders of a capital markets services licence and exempt FIs, including entry requirements, capital markets and financial advisory services standards, and continuing professional development requirements.

At the same time, MAS cancelled its previous notice (Notice SFA 04-N09 Minimum Entry and Examination Requirements for Representatives of Holders of Capital Markets Services Licence and Exempt Financial Institutions under the Securities and Futures Act).

Notice SFA 04-N23 on Fund Data Submission Requirements for Managers of Specified Collective Investment Schemes

In May 2024, MAS issued a notice requiring managers of authorised collective investments schemes (excluding real estate investment trusts) and their appointed service providers to submit the required information to MAS through MAS' appointed consultant, on a daily and monthly basis, as the case may be.

Notice SFA 04-N14 to All Holders of a Capital Markets Services Licence for Real Estate Investment Trust Management

In May 2024, MAS revised the Notice SFA 04-N14 to All Holders of a Capital Markets Services Licence for Real Estate Investment Trust Management, which applies to all real estate investment trust managers and sets out requirements relating to the remuneration of directors and executive officers, the composition and duties of the audit committee, and the conduct of board meetings.

The latest update requires that a real estate investment trust manager disclose, in the annual report of the real estate investment trust, the remuneration of its chief executive officer (CEO) and each individual director on a named basis, including the exact amounts and breakdown of remuneration paid to the CEO and each director by the issuer and its subsidiaries. The breakdown must include (in percentage terms) the base or fixed salary, variable or performance-related income or bonuses, benefits-in-kind, stock options granted, share-based incentives and awards, and other long-term incentives.

Anti-Money Laundering and Countering the Financing of Terrorism

National Asset Recovery Strategy

In June 2024, MAS, together with the Ministry of Home Affairs and Ministry of Finance, released the National Asset Recovery Strategy, which sets out Singapore's comprehensive approach towards the recovery of illicit funds and assets from criminals, and the forfeiture of these assets or their return to victims.

The National Asset Recovery Strategy focuses on four pillars: (a) detecting suspicious and criminal activities by tracing illicit funds, (b) depriving criminals of their ill-gotten proceeds through prompt seizure and confiscation, (c) delivering maximum recovery of assets for forfeiture and restitution to victims, and (d) deterring criminals from using Singapore to hide, move or enjoy their illicit assets.

Money Laundering National Risk Assessment

In June 2024, MAS released the Money Laundering National Risk Assessment, which forms part of Singapore's continuing efforts to maintain the effectiveness of its anti-money laundering regime amidst an evolving risk landscape. It synthesises the money laundering risks observed by the Singapore law enforcement agencies, the Suspicious Transaction Reporting Office (Singapore's financial intelligence unit) and supervisory authorities, as well as feedback from private sector entities and counterpart foreign authorities.

The Money Laundering National Risk Assessment provides an overview of Singapore's key money laundering risks, taking into account an extensive range of qualitative and quantitative indicators on threats,

vulnerabilities and control factors. Singapore's key money laundering threats arise from a range of predicate offences, as criminals seek to exploit Singapore's political and economic stability, strong rule of law and developed infrastructure, as well as the wide range of services that the country's financial and other sectors provide.

The Money Laundering National Risk Assessment identifies Singapore's key threats as fraud (particularly cyber-enabled fraud), organised crime, corruption, tax crimes and trade-based money laundering. The banking (including wealth management) sector is assessed to pose the highest money laundering risks, while among designated non-financial businesses and professions (DNFBPs), corporate service providers pose higher money laundering risks.

Other higher risk sectors and professions include digital payment token service providers, cross-border money transfer service providers (including remittance agents), licensed trust companies, the real estate sector, and precious stones and metals dealers. The findings from the Money Laundering National Risk Assessment, together with other risk assessments conducted by the authorities, serve as a guide for all stakeholders, including FIs and DNFBPs, to detect and keep pace with the priority and emerging risks. This enables them to take appropriate preventive measures and enhances their ability to detect, disrupt and enforce against illicit activities more effectively. FIs and DNFBPs, especially entities in sectors which are assessed to pose higher money laundering risks, should also take reference from the Money Laundering National Risk Assessment in assessing their risks and enhance their controls accordingly.

Environmental Crimes Money Laundering National Risk Assessment

In May 2024, MAS released the Environmental Crimes Money Laundering National Risk Assessment, which provides a targeted overview of Singapore's environmental crimes money laundering risk environment and identifies the key threats and vulnerabilities Singapore is exposed to. It also outlines relevant mitigation measures that government agencies and the private sector can develop and implement to address money laundering risks arising from environmental crimes.

The Environmental Crimes Money Laundering National Risk Assessment assessed that Singapore's key exposure to environmental crimes money laundering stems from its position as an international financial centre, and trading and transit hub, with a highly externally-oriented economy. Singapore is susceptible to threats that emanate from illegal wildlife trafficking, illegal logging and waste trafficking, which are prevalent in Southeast Asia.

FIs and DNFBPs (such as corporate service providers and precious stones and metals dealers) should also refer to the Environmental Crimes Money Laundering National Risk Assessment when assessing their environmental crimes money laundering risks and enhance their controls accordingly.

MAS Launches COSMIC Platform to Strengthen the Financial System's Defence Against Money Laundering and Terrorism Financing

In April 2024, MAS launched COSMIC (which stands for Collaborative Sharing of Money Laundering / Terrorism Financing Information & Cases). It is the first centralised digital platform to facilitate the sharing of customer information among FIs to combat money laundering, terrorism financing and proliferation financing globally. 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". The FSMA was previously amended to set out the legislative framework for COSMIC. Under the FSMA, participant FIs are required to have in place policies and operational safeguards to protect the confidentiality of information shared. This will allow participant FIs to share information on potential criminal behaviour while safeguarding the interests of the vast majority of customers who are legitimate.

Technology Risk Management

Advisory on Addressing the Cybersecurity Risks Associated with Quantum

In February 2024, MAS issued an advisory outlining cybersecurity risks arising from developments in quantum computing, and highlighting mitigating measures that FIs should consider, such as (a) keeping abreast of the latest developments in quantum computing, and raising

awareness of the associated cybersecurity risks, (b) maintaining an inventory of cryptographic assets, and identifying critical assets to be prioritised for migration to quantum-resistant encryption and key distribution, and (c) developing strategies and building capabilities to address the cybersecurity risks associated with quantum.

Please refer to the following link for our client alert on the Advisory on Addressing the Cybersecurity Risks Associated with Quantum:

https://www.reedsmith.com/en/perspectives/2024/02/quantum-computing—singapore-financial-institutions-advised-of-risks

Notice FSM-N22 Cyber Hygiene

In May 2024, MAS issued Notice FSM-N22 Cyber Hygiene, which sets out cybersecurity requirements, including securing administrative accounts, applying security patching, establishing baseline security standards, deploying network security devices, implementing anti-malware measures and strengthening user authentication. This notice was implemented after MAS responded to feedback received on the 2019 consultation paper on the notice on cyber hygiene.

Frequently Asked Questions – Notice on Cyber Hygiene

In May 2024, MAS issued the Frequently Asked Questions – Notice on Cyber Hygiene to clarify which FIs are subject to the Notice FSM-N22 Cyber Hygiene and the ways that FIs can comply with the notice.

Enforcement actions

Hong Kong

In the last six months, fund managers have been subject to SFC enforcement actions in various areas, including (a) internal controls, (b) insider dealing and (c) false trading.

SFC imposes a fine on an asset management company and suspends its manager for fund mismanagement

In February 2024, the SFC publicly reprimanded an asset management company and imposed a fine of HK$2.8 million for deficiencies in its internal controls. As a result of these deficiencies, the company failed to ensure that its fund's investments were in line with stated investment objectives and investment restrictions, which led to the fund holding highly concentrated positions in two Hong Kong stocks, one of which was not permitted according to the asset management company's policy. The SFC also found various deficiencies relating to liquidity risks, concentration risks and delays in executing stop-loss procedures. The SFC also suspended the relevant investment manager from advising on securities and managing assets for seven months.

SFC sues prominent hedge fund, its director and a former trader for insider dealing

In May 2024, the SFC commenced criminal proceedings against a prominent global hedge fund, its director and a former trader for the offence of insider dealing in the shares of a Hong Kong listed company. The parties were criminally charged for allegedly trading in the shares upon receiving insider information from a connected person and prior to entering into a block trade in June 2017.

The issues will take some time to play out over the course of the court proceedings. However, the reputational risks that comes with a high-profile prosecution can be substantial and should not be underestimated.

Hong Kong Market Misconduct Tribunal penalises former hedge fund manager for matching orders

In July 2024, an ex-director of a Hong Kong based hedge fund was, among other things, (a) ordered to disgorge an illicit profit of over HK$5.6 million, and (b) disqualified for four years from being a director, liquidator, receiver or manager of Hong Kong corporations by the Hong Kong Market Misconduct Tribunal (MMT) for carrying out matched trades, which resulted in gains by the ex-director's mother.

Initially, the SFC took the view that a disgorgement order under section 257(1)(d) of the Securities and Futures Ordinance did not apply to benefits received by the ex-director's mother. However, the MMT made an order under the same section for the ex-director to pay the profit gained from his market misconduct to the Hong Kong government. In doing so, the MMT ruled that the ex-director did not need to have received or enjoyed, be in a position to exercise control over, such benefit before such an order could be made.

Please refer to the following link for our client alert on the above enforcement actions: https://www.reedsmith.com/en/perspectives/2024/07/hong-kong-enforcement-updates

Mainland China

AMAC imposes the penalty of public reprimand on a fund management company

In May 2024, AMAC issued a decision to impose the penalty of public reprimand on a fund management company for failing to duly perform investor suitability assessments, failing to disclose information to investors as agreed, and failing to establish or implement effective internal controls.

AMAC revokes the registration as fund manager to a fund management company

In May 2024, AMAC issued the decision to impose the penalty revoking the registration as fund manager to a fund management company due to embezzlement and misappropriation of fund property, failure to fully comply with information disclosure obligations, and the absence of a head of compliance and risk control.

Singapore

MAS imposes composition penalty of S$2.5 million on a fund management company for Anti-Money Laundering and Countering the Financing of Terrorism breaches, and reprimands its CEO and COO

In May 2024, MAS imposed a composition penalty of S$2.5 million on a fund management company in Singapore for breaches of MAS' anti-money laundering and countering the financing of terrorism (AML/CFT) requirements. MAS also issued a reprimand to the fund management company's CEO and its chief operating officer (COO) for failing to discharge their duties and functions in ensuring that the fund management company complied with MAS' AML/CFT requirements, including failing to take into account certain relevant risk factors relating to the company's customers and business activities in its enterprise-wide risk assessment.

Former CEO and directors of a fund management company charged with offences under the Securities and Futures (Licensing and Conduct of Business) Regulations and Securities and Futures Act

In March 2024, the former CEO of a fund management company and its former directors were charged in court with offences under the Securities and Futures (Licensing and Conduct of Business) Regulations and the Securities and Futures Act 2001 (SFA) for, among others, allegedly failing to put in place an appropriate risk management framework in respect of the assets under management of a fund under its management.

Other notable updates

Hong Kong

Extension of grant scheme for open-ended fund companies and real estate investment trusts

The Hong Kong government first launched a grant scheme for open-ended fund companies (OFCs) and real estate investment trusts (REITs (Grant Scheme) to incentivise market development on 10 May 2021 for an initial period of three years (Original Grant Scheme). The Original Grant Scheme has effectively promoted the use of OFCs, which number has increased by more than 20 times in the past three years. The Grant Scheme has recently been extended for another three years, effective from 10 May 2024 until 9 May 2027 (Extended Grant Scheme).

Generally, the terms and conditions of the Extended Grant Scheme have remained consistent with the Original Grant Scheme. Eligible participants who qualify to apply for funding under the Extended Grant Scheme are the same – for OFCs, investment managers who have successfully incorporated an OFC or re-domiciled a non-Hong Kong fund corporation in Hong Kong as an OFC (on or after the commencement date of the Grant Scheme) may apply; and for REITs, managers of SFC-authorised REITs listed on the Stock Exchange of Hong Kong Limited on or after the commencement date of the Grant Scheme with a minimum market capitalisation of HK$1.5 billion (or equivalent) at the time of listing may apply.

However, there are some changes to the capped grant amounts provided under the Extended Grant Scheme. For OFCs, while the Extended Grant Scheme continues to cover 70% of eligible expenses incurred in relation to the incorporation or re-domiciliation of an OFC paid to Hong Kong based-service providers, and each investment manager may apply for grants for a maximum of three OFCs (regardless of whether the grant applications were submitted before or after 10 May 2024), only **public** OFCs are still entitled to a cap of HK$1 million per OFC, and the cap for **private** OFCs has been reduced from HK$1 million to HK$500,000 per OFC. OFC applications submitted before 10 May 2024 will not be subject to the new cap.

For REITs, the maximum grant amount has remained the same with no modifications: a grant of 70% of eligible expenses for each application, subject to a cap of HK$8 million per REIT.

Two other noteworthy key features of the Extended Grant Scheme (which have remained consistent with the Original Grant Scheme) are summarised below:

- Insofar as the eligible reimbursable expenses are concerned, fees charged by law firms, auditors and administrators are generally included, but (a) registration and application fees paid to the SFC, (b) listing expenses paid to the Stock Exchange of Hong Kong Limited, and (c) audit fees paid to accounting firms in relation to annual audit reviews (including the first year's annual audit reviews) do not generally fall within eligible expenses under the Extended Grant Scheme.
- The Hong Kong government will continue to have a right to claw back any grant given (a) if the OFC commences winding-up or applies for termination of registration within two years from the date of incorporation or re-domiciliation, or (b) if the REIT is delisted or suspended from trading within two years of the listing date. Under the Extended Grant Scheme, a claw back can also occur if the applicant engages in acts or activities that are likely to constitute or lead to the offence of endangering national security or being contrary to the interests of national security, or if the Hong Kong government reasonably believes any such acts or activities are about to occur.

Singapore

Financial Institutions (Miscellaneous Amendment) Act

In April 2024, the Financial Institutions (Miscellaneous Amendment) Act 2024 (FIMA Act) was gazetted. This enhances and rationalises MAS' investigative, reprimand, supervisory and inspection powers across various acts under MAS' purview, namely the (a) Financial Advisers Act 2001, (b) FSMA, (c) Insurance Act 1966, (d) Payment Services Act 2019, (e) SFA, and (f) Trust Companies Act 2005. The FIMA Act also includes miscellaneous amendments to certain acts under MAS' purview which are (i) consequential owing to the introduction of new processes, (ii) clarificatory or technical in nature and (iii) meant to update provisions or remove certain administrative constraints.

Significantly, the FIMA Act expands MAS' powers to issue directions to capital markets services licence holders that engage in unregulated business activities, such as offering products that are not regulated by MAS (e.g., bitcoin futures and other payment token derivatives traded on overseas exchanges), which may pose contagion risks to their regulated activities. For instance, losses from unregulated business activities could adversely affect a licence holder's ability to meet its obligations to customers arising from its regulated activities. While MAS has issued guidance to licence holders on risk-mitigating measures if they conduct unregulated business activities with retail investors, the FIMA Act will now allow MAS to issue written directions on the minimum standards and safeguards that should be in place when licence holders and their representatives engage in unregulated business activities.

Please refer to the following link for our client alert on the Financial Institutions (Miscellaneous Amendment) Bill 2024:

https://www.reedsmith.com/en/perspectives/2024/01/mas-introduces-bill-to-enhance-investigative-supervisory-and-inspection

Significant Investments Review Act 2024

In January 2024, Singapore enacted the Significant Investments Review Act 2024 (SIRA) to regulate investments in entities critical to its national security interests. The SIRA empowers the Minister for Trade and Industry (the Minister) to designate such entities and impose approval requirements and restrictions on changes in ownership, control and key personnel. The SIRA also grants the Minister the power to review within a two-year period any transaction that may have compromised Singapore's national security interests. Parties affected by the Minister's decisions can seek reconsideration and appeal to an independent tribunal for review.

The following entities were designated under the SIRA on 31 May 2024: ST Logistics Pte. Ltd., Sembcorp Specialised Construction Pte. Ltd., ST Engineering Marine Ltd., ST Engineering Land Systems Ltd., ST Engineering Defence Aviation Services Pte. Ltd., ST Engineering Digital Systems Pte. Ltd., ExxonMobil Asia Pacific Pte. Ltd., Shell Singapore Pte. Ltd., and Singapore Refining Company Private Limited.

Please refer to the following link for our client alert on the Significant Investments Review Bill (which was introduced in the Singapore parliament to enact the SIRA):

https://www.reedsmith.com/en/perspectives/2024/01/singapore-passes-significant-investments-review-bill-to-regulate

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