

Frequently Asked Questions on the ASEAN CIS Framework

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Disclaimer

The FAQs are meant to provide guidance to market practitioners on the administration and application of the Standards of Qualifying CIS (the “**Standards**”) by the signatories to the ASEAN CIS Framework (the “**Signatories**”). Unless otherwise defined, the terms used or referred to in the FAQs shall have the same meanings as assigned to them in the Standards or the Handbook for CIS Operators of ASEAN CISs.

The information set out in the FAQs is not meant to be exhaustive, and may be updated or revised from time to time. They do not constitute legal advice. Where in doubt, the Signatories expect market practitioners to seek independent legal opinion on how they should comply with the Standards and the applicable requirements in the jurisdictions of the Signatories.

General Questions

	Question	Answer
1.	Can an existing collective investment scheme (“CIS”) apply to become a Qualifying CIS?	Yes. A CIS incorporated in the jurisdiction of any one of the Signatories may apply to become a Qualifying CIS provided that the Standards are complied with.
2.	Where the requirements in the Standards are stricter than the requirements prescribed by the Home Regulator, which requirements would a Qualifying CIS Operator need to comply with?	The CIS Operator must ensure compliance with both the Standards and the requirements imposed by the Home Regulator. Where the two sets of requirements differ, the CIS Operator must comply with the stricter one.
3.	What is the timeframe for approval of a Qualifying CIS by the Host Regulator?	<p>The timeframe for the review of a Qualifying CIS by the Host Regulator is within 21 calendar days from receipt of a complete application, except for applications of the Qualifying CIS to be listed in a host jurisdiction.</p> <p>A complete application refers to an application that require no further clarification.</p>

Part I of the Standards: Qualifications of the CIS Operator, Trustee/ Fund Supervisor, and requirements relating to Approval, Valuation, and Operational Matters

Topic	Reference to the Standards	Question	Answer
1. Licensing requirements of CIS Operator	Section 1	To be eligible as a CIS Operator under the ASEAN CIS Framework, must the CIS Operator be licensed in its Home Jurisdiction?	<p>Yes, the CIS Operator must be duly licensed in its Home Jurisdiction, and must minimally meet all the qualification requirements set out under Part I, Section 1 of the Standards.</p> <p>If the Home Jurisdiction is:</p> <ul style="list-style-type: none"> i. Malaysia, the CIS Operator must be a holder of a Capital Markets and Services Licence for fund management in relation to portfolio management; ii. Singapore, the CIS Operator must be a holder of a Capital Markets Services License for carrying on business in fund management with all types of investors (including retail, accredited and institutional investors); and iii. Thailand, the CIS Operator wishing to manage, operate, and market the CIS must obtain a license to manage mutual fund (Type A or C) granted by the Minister of Finance upon the recommendation from the Securities and Exchange Commission of Thailand (“SEC Thailand”) prior to commencement of operation.
2. Track record of CIS Operator	Section 1, Paragraph 1.2	How can a CIS Operator meet the five-year track record for managing retail CIS?	A CIS Operator would need to demonstrate that it or its related entities have at least five years of

Topic	Reference to the Standards	Question	Answer
			experience in managing CIS for retail investors.
3. Assets Under Management (“AUM”) of CIS Operator	Section 1, Paragraph 1.3	Would the amount of AUM of the CIS Operator include assets which the CIS Operator has discretionary investment management on behalf of another person?	Yes.
4. Shareholders’ equity of CIS Operator	Section 1, Paragraphs 1.5 to 1.7	What can count towards shareholders’ equity and capital?	<p>Shareholders’ equity or capital of a CIS Operator means the sum of:</p> <ul style="list-style-type: none"> i. paid-up and issued share capital, including any premium on share capital; and ii. any unappropriated profit or loss in the latest audited accounts of the CIS Operator, <p>less any interim loss in the latest accounts of the CIS Operator and any dividend that has been declared since the latest audited accounts of the CIS Operator.</p>
5. Letter of Responsibility or Letter of Undertaking	Section 1, Paragraph 1.8	Can a Letter of Responsibility or Letter of Undertaking from the parent company of a CIS Operator be obtained in lieu of a Professional Indemnity Insurance?	No. A Letter of Responsibility and/or Letter of Undertaking from the parent company of a CIS Operator may be requested by a Home Regulator as an additional condition for approving a Qualifying CIS.
6. Qualification of fund managers	Section 1, Paragraph 1.14	Does every fund manager of the CIS Operator have to meet the qualification requirements as specified in paragraph 1.14?	No. The qualification requirements apply to fund managers who are responsible for making investment decisions for the Qualifying CIS.
7. Delegation of fund management function	Section 1, Paragraphs 1.16 to 1.17	Do investment advisory arrangements constitute a delegation of fund management function?	Generally, investment advisory arrangements are not considered a delegation of fund management function if the CIS Operator retains

Topic	Reference to the Standards	Question	Answer
			the discretionary investment powers in relation to a Qualifying CIS.
8. Application of delegation rules	Section 1, Paragraph 1.17	Do the rules on delegation of fund management function apply to local sub-managers/ delegates regulated by a Signatory?	Yes. The rules on delegation of fund management function apply to both local and foreign sub-managers/ delegates that are regulated by a Signatory.
9. Compliance review requirement	Section 1, Paragraph 1.19	What are the specific requirements for the annual review of compliance with the Standards?	<p>A Qualifying CIS Operator is required to ensure that a review of the operation of the Qualifying CIS in compliance with the Standards (the “Compliance Review”) is conducted in relation to each period for which a financial statement for the Qualifying CIS is prepared (the “review period”).</p> <p><i>Entity that can conduct the Compliance Review</i></p> <p>The entity that can conduct the Compliance Review (the “Compliance Reviewer”) must not be the Qualifying CIS Operator or its related party. The Qualifying CIS Operator must ensure that a Compliance Reviewer is engaged for the purposes of Section 1, Paragraph 1.19 of the Standards at all times.</p> <p>If the Home Jurisdiction is:</p> <ul style="list-style-type: none"> i. Malaysia, the Compliance Reviewer must be a chartered accountant who is registered with the Malaysian Institute of Accountants; ii. Singapore, the Compliance Reviewer must be (1) a public accountant who is registered or deemed to be registered under the

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			<p>Accountants Act of Singapore, or (2) a trustee approved under section 289(1) of the Securities and Futures Act; and</p> <p>iii. Thailand, the Compliance Reviewer must be (1) an auditor as defined by the Securities and Exchange Commission, Thailand, or (2) the mutual fund supervisor appointed for the Qualifying CIS under the Securities and Exchange Act of Thailand B.E. 2535.</p> <p><i>Requirements on the report of the Compliance Review</i></p> <p>The report of the Compliance Review must be addressed and sent to the Qualifying CIS Operator, the fund supervisor/trustee (where applicable), the Home Regulator and each Host Regulator.</p> <p>The report must state:</p> <p>i. whether any matter has come to the attention of the reviewer that causes the reviewer to believe that the Qualifying CIS was not operated in compliance with the Standards during the review period in all respects that may be material to the persons to whom it is addressed. These should minimally include whether:</p> <ul style="list-style-type: none"> • the Qualifying CIS Operator complied with the qualifications of CIS Operator under Part I, Section 1 of the Standards; • there have been adequate arrangements in place for the

Topic	Reference to the Standards	Question	Answer
			<p>custody of assets of the Qualifying CIS in accordance with Part I, Section 3 of the Standards;</p> <ul style="list-style-type: none"> • the valuation requirements in relation to the assets of the Qualifying CIS and the pricing of units of the Qualifying CIS have complied with Part I, Section 5 of the Standards; • conflicts of interest have been minimised and amendments of the trust deed/constitutive documents are made in accordance with Part I, Section 7 of the Standards; • cross-border offers of the Qualifying CIS have been made in accordance with requirements; and • the Qualifying CIS have complied with the product restrictions under Part II of the Standards. <p>ii. details explaining the reasons why the Compliance Reviewer considers that the Qualifying CIS did not comply with, or is likely not to have complied with, the Standards during the review period; and</p> <p>iii. information on the bases for the statements made in (i) and (ii) above.</p>
10. Application of Compliance Review	Section 1, Paragraph 1.19	When will the Compliance Review requirement start to apply?	The Compliance Review requirement will start to apply when a Qualifying CIS has been offered in a Host Jurisdiction.

Topic	Reference to the Standards	Question	Answer
11. Base capital requirement	Section 2, Paragraph 2.4	What does Base Capital Requirement refer to?	The Based Capital Requirement on trustee/fund supervisor refers to the relevant requirements for minimum capital and/or shareholders' equity for a trustee/fund supervisor in the Home Jurisdiction.
12. Valuation requirement	Section 5, Paragraph 5.1 – 5.7 :	In addition to section 5 of the Standards, are calculation and valuation of units in a Qualifying CIS subject to the Home Regulator's requirements?	Yes, the calculation and valuation of units in a Qualifying CIS are subject to both the requirements of the Standards and the Home Regulator.
13. Valuation Error/ Incorrect Pricing	Section 5, Paragraph 5.10(c)	How should compensation to investors in the event of valuation errors be determined?	Compensation must be made in compliance with the strictest compensation threshold among the jurisdictions in which a Qualifying CIS is offered.
14. Bond prices valuation	Section 5, Paragraph 5.4	Does the use of bond prices obtained by an external service provider in the valuation of unlisted bonds held by a Qualifying CIS contravene paragraph 5.4?	No, provided – <ul style="list-style-type: none"> i. the CIS Operator together with the trustee/fund supervisor are satisfied that this would provide the fair value of the bonds; and ii. where the requirement in the Home Jurisdiction is stricter than the Standards and/or the Home Regulator has prescribed a specific valuation method, the CIS Operator has obtained the specific approval from the Home Regulator prior to the use of bond prices from such provider.
15. Redemption payment	Section 6, Paragraph 6.1	Investors in the Host Jurisdiction must receive their redemption payment within 7 business days. Should the business days be in accordance with that of the	Payment of redemption proceeds should be based on the business days of the Home Jurisdiction.

Topic	Reference to the Standards	Question	Answer
		Home or the Host Jurisdiction?	
16. Amendments to trust deed / constitutive document	Section 7, Paragraphs 7.2 and 7.3	Must amendments to the trust deed/constitutive document be approved by unitholders?	<p>Amendments to the trust deed/ constitutive document need not be subject to unitholders' approval if the amendments are certified by the trustee/fund supervisor to be:</p> <ul style="list-style-type: none"> i. non-material; ii. beneficial to the interests of unitholders; or iii. made for compliance with any applicable law and regulation.
17. Local intermediaries	Section 8, Paragraph 8.1	Can a CIS Operator appoint multiple local intermediaries to distribute and offer units of Qualifying CIS in a Host Jurisdiction?	Yes. The CIS Operator can appoint multiple local intermediaries to distribute and offer units of Qualifying CIS to investors in a Host Jurisdiction provided that they are licensed or regulated for such activities in the Host Jurisdiction.
18. Periodic reporting and ongoing disclosure requirement	Section 8, Paragraph 8.2	Are periodic reporting and ongoing disclosure requirements of Qualifying CIS subject to Home or Host Regulator's requirements?	Disclosure requirements, such as prospectuses and other ongoing disclosure obligations, for a Qualifying CIS are subject to both Home and Host Regulator's requirements. The respective requirements will apply as and when there is an offer made in the jurisdiction(s).
19. Bona fide offer	Section 8, Paragraph 8.3(b)	What is considered a bona fide offer?	A bona fide offer in an economy of a Signatory is an offer for which the mode (as opposed to the scale) of marketing and distribution is consistent with that customarily used by CIS operators in that economy.

Part II of the Standards: Product Restrictions of Qualifying CIS

	Reference in the Standards	Question	Answer
1. Eligible assets	Section 1, Paragraph 1	Which category of eligible assets do the following instruments fall under: i. Unlisted shares; ii. Futures; and iii. Interest rate swaps?	The said instruments may be generally categorised as follows: i. Unlisted shares: Transferable securities ii. Futures: Financial derivatives iii. Interest rate swaps: Financial derivatives The CIS Operator should consult with its Home Regulator where instruments are complex in nature.
2. Securities lending agreement	Section 1, Paragraph 1	Can a Qualifying CIS enter into securities lending arrangement?	No.
3. Unlisted shares	Section 2, Paragraph 1	Must unlisted shares invested into by a Qualifying CIS meet the requirements for transferable securities?	Yes.
4. Investment in units of infrastructure funds	Section 2, Paragraph 4	Can a Qualifying CIS invest in units of infrastructure funds that are listed for quotation and traded on an organised exchange in a Signatory country?	No.
5. Credit derivatives	Section 2, Paragraph 5(d)	What are some examples of “Credit Derivatives”, as mentioned in the Standards?	Credit derivative is a class of derivative whereby the parties to the contract will take a position related to credit exposure. It includes a credit protection

	Reference in the Standards	Question	Answer
			<p>buyer and a credit protection seller. For the purpose of the Standards, the examples of ‘credit derivatives’ include, but not limited to, the following:</p> <ul style="list-style-type: none"> i. Credit spread derivatives such as credit spread option ii. Credit default derivatives such as credit default swap
6. Investment in ASEAN countries	Section 3	Are there any limits or minimum requirements for a Qualifying CIS to be invested in ASEAN or Asian countries?	No.
7. Financial derivatives	Section 3, Paragraph 14	Should a financial derivative used for hedging be taken into account in the calculation of global exposure?	Global exposure, capped at 20% for Qualifying CIS, needs to take into account all financial derivatives. In calculating the global exposure, hedging arrangement may be taken to reduce a Qualifying CIS’ exposure to financial derivatives.
8. Investment in UCITS fund	Section 6, paragraph 1	Can a feeder Qualifying CIS invest at least 85% of its net assets in units of UCITS fund that is recognised in a Signatory country?	No. A feeder Qualifying CIS must invest at least 85% of its net assets in units of another qualifying CIS.

Jurisdiction-Specific Questions

Malaysia

	Question	Answer
1.	<p>Besides a holder of a Capital Markets and Services Licence for advising on corporate finance, can a foreign CIS Operator appoint any of the following persons as an advisor to make submissions to the Securities Commission of Malaysia (“SC Malaysia”):</p> <ul style="list-style-type: none">i. Lawyer/legal firm;ii. Unit trust management company; oriii. Fund management company?	<p>Yes, provided that such person has obtained SC Malaysia’s approval. SC Malaysia may grant an approval if such person is able to demonstrate that he/she has the requisite qualification, expertise and experience (particularly in making submissions to the SC Malaysia).</p>