

CNPLAW PARTNER, BILL JAMIESON FEATURED IN ARTICLE ON “MAS FINE-TUNES LIQUIDITY RISK MANAGEMENT, BEST EXECUTION RULES FOR FUND MANAGERS”

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CNPLaw LLP ("CNP"), formally known as Colin Ng & Partners LLP, wishes to highlight that CNP Partner, Mr Bill Jamieson, has been featured in an article today on "MAS fine-tunes liquidity risk management, best execution rules for fund managers" published by Thomson Reuters Accelus Regulatory Intelligence.

MAS fine-tunes liquidity risk management, best execution rules for fund managers

28 February 2018 Patricia Lee, Regulatory Intelligence

The Monetary Authority of Singapore (MAS) is expected to introduce additional requirements for liquidity risk management and best execution this year as part of its efforts to ensure fund managers in Singapore stay the course.

Consultation papers on liquidity risk management and best execution were released respectively on October 26 and November 20 last year. Public consultation on both topics has since closed.

Fund managers in Singapore are required, under the existing Securities and Futures (Licensing and Conduct of Business) Regulations, to put in place a risk management framework to identify, address and monitor the risks associated with the customer assets they manage. MAS now seeks to issue a set of guidelines specific to liquidity risk management in collective investment schemes (CIS), in addition to amending the Code on Collective Investment Schemes (CIS Code) to address liquidity risk in money market funds. The proposed

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guidelines and the CIS Code amendments took into consideration recommendations by the Financial Stability Board and the International Organisation of Securities Commissions in January and July 2017 respectively.

To ensure that capital markets intermediaries have in place adequate measures to achieve the best possible outcome for their customers, MAS has proposed to introduce a requirement to have written policies and procedures for placing or executing customers' orders on the best available terms.

"The proposed best execution requirements are reflective of the current standard expected of managers of authorised funds when executing customers' orders," MAS said.

Capital markets intermediaries are required to consider factors such as price, costs, speed, likelihood of execution and settlement, size and nature of a customer's order, where appropriate, to achieve the best available terms for customers' orders.

Main proposals on liquidity risk management

A few proposals in the liquidity risk management consultation paper are particularly striking, said Jek-Aun Long, partner at Simmons & Simmons JWS in Singapore. They include holding the board and senior management of a regulated fund management company responsible for ensuring the company has a liquidity risk management function subject to effective oversight; the expectation that regulated fund management companies will evaluate liquidity risks that collective investment schemes may face at the product design stage; and the expectation on regulated fund managers to monitor and manage a collective investment scheme's liquidity risks continuously. Regulated fund managers must also satisfy themselves that their collective investment schemes can withstand liquidity stresses during market disruptions.

"Obviously these proposals stem from concerns regarding fund resilience amid market uncertainties which has become par for the course in these times. Consistent with the MAS' views in this regard, from our practical observations, liquidity risk management in funds has become an important focus for regulators worldwide, and not just for the MAS," Long said.

The need for ongoing monitoring of liquidity risk and stress testing will require more work, said Bill Jamieson, partner at CNP in Singapore.

"It's not like a one-off thing you deal with when you structure your products. There are ongoing requirements to comply with, and steps need to be taken on a regular basis. It's going to add to the work from this particular angle," he said.

Targeting open-ended funds

Lawyers said the proposals are mainly targeted at open-ended funds.

"Liquidity risk management in the context of funds is related to redemption by the investors, which by

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definition, is more of an issue for open-ended funds. Managers of closed-end funds must be mindful of liquidity risk because risks arise at the end of the fund's life for closed-end funds. Fund managers must have the liquidity to meet the redemption to the extent reasonably possible. It's not the same issue for closed-end funds because there is no regular redemption," Jamieson said.

Jamieson pointed out that similar liquidity risk management requirements had been proposed in other jurisdictions where market participants have raised the question of whether such a one-size-fits-all policy is relevant to certain types of funds, particularly those which by their design, are intended to be highly liquid.

"The comments of some participants in certain other markets have been that overly prescriptive regulation has been implemented in those markets. There is a trade-off here between the costs of compliance and the benefits the regulation achieves. MAS' policy is evolving and it remains to be seen how it wants to apply these requirements in practice," he said.

Long took the view that MAS' proposed guidelines will likely have more relevance to all regulated fund management companies which, in substance, undertake discretionary authority over the management of any investment portfolio.

Compliance costs

Some fund managers have questioned whether the additional requirements on liquidity risk management would lead to an increase in compliance costs. Long said most well-established fund management companies would already have an existing liquidity risk management framework and so a significant increase in compliance costs is unlikely.

"I believe it would be rare to see managers not already structuring the terms of their fund products having regard to the investment strategy and their ability to manage any potential liquidity risks. More likely than not, only certain adjustments or improvements should need to be made by the majority of managers. Furthermore, the guidelines do look to provide some flexibility in terms of implementation, taking into account the need for proportionality," he said.

Significant proposals for best execution

MAS will soon issue a notice setting out the requirement to establish and implement written policies and procedures to place and/or execute customers' orders on best available terms.

Other significant proposals include the expectation for capital markets intermediaries (including fund management companies) to put in place a framework to monitor the effectiveness of their best execution policies and procedures; the expectation to provide adequate disclosure to customers on best execution policy; and the expectation to accord fair treatment to all customers' orders, in particular when handling comparable customers' orders.

Policies and procedures on best execution are not entirely new to fund management companies in

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Singapore, according to Long. The Code of Ethics & Standards of Professional Conduct issued by the Investment Management Association of Singapore (IMAS) sets out certain expectations on members in relation to, among other things, best execution.

"MAS' proposals would, in a sense, formalise these requirements, because the notice would make them legally binding," he said.

The impact of these proposals on fund managers will vary, which will depend on their set-up. Some of the requirements and expectations are reflective of the existing standards already required of managers of authorised funds when executing customers' orders, Long said.

"Given that most fund managers (including those managing private funds), from our practical observations, would already have policies on best execution, we do not expect that these guidelines or notice will impose an undue burden, for example, in terms of compliance costs," he said.

The article was first published on Thomson Reuters Accelus Regulatory Intelligence.

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