Monetary Authority of Singapore
10 Shenton Way
Singapore 079117

29 December 2025

Consultation Paper on "Measures to Enhance Investor Recourse Avenues in Market Misconduct Cases"

Dear Sir or Madam,

The Asian Corporate Governance Association (ACGA) welcomes the opportunity to respond to the Monetary Authority of Singapore's (MAS) Consultation Paper on Measures to Enhance Investor Recourse Avenues in Market Misconduct Cases.

Investor confidence and effective private enforcement are essential complements to public enforcement in a disclosure-based regulatory regime. From the perspective of long-term institutional investors, we broadly support MAS's proposals to facilitate collective action, reduce evidential and cost barriers, and strengthen the practical usability of civil remedies under the Securities and Futures Act 2001. Well-designed investor-recourse mechanisms can enhance market integrity, reinforce deterrence, and enhance confidence in Singapore's capital markets.

In our responses below, we generally support the direction of travel set out in the consultation, while offering suggestions to:

- ensure clarity, predictability, and procedural fairness;
- avoid unduly limiting access to recourse through rigid thresholds;
- recognise the role that institutional investors may play alongside retail investors; and
- align Singapore's framework with international best practices while preserving appropriate safeguards.

As ACGA has noted in previous editions of CG Watch, minority shareholders in Singapore have very limited practical avenues for collective redress. While company-law remedies and representative actions exist in theory, they are rarely used in practice due to strict legal thresholds, the loser-pays cost regime, and the absence of litigation funding, resulting in virtually no successful collective actions against listed companies.

We note that Singapore has chosen not to adopt an opt-out class-action regime. The proposals in this consultation paper represent a step forward in facilitating collective recourse, particularly for retail investors, whilst retaining opt-in features and introducing safeguards against meritless claims and systemic litigation. In view of the current low volumes for representative actions, strengthening the regime may proportionately encourage investor engagement in Singapore to support the shift to a disclosure-based market regime.

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In addition, whilst the proposed measures on funding legal action are tilted towards retail investors, uncapped damages and extension of the "piggyback" provision will also benefit institutional investors. ACGA believes that an engaged retail investor base is critical to well-functioning and efficient markets and can enhance accountability, transparency and governance of the market as a whole. As outlined in our response, we propose extending the funding mechanism to include smaller boutique funds who may be resource constrained but have strong insight into misconduct issues. These entities could be well positioned to pursue such claims, supporting the objectives set out in the Consultation Paper.

We would be pleased to discuss any of our comments further.Thank you.

Yours faithfully,

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About ACGA

The Asian Corporate Governance Association (ACGA) is a non-profit membership association founded in 1999. We conduct research on corporate governance and ESG in 12 markets in Asia-Pacific and advocate at the regulatory and corporate level across the region to improve standards and practices. ACGA is entirely funded by a network of 100 member firms, of which are dominantly institutional investors with more than US$40 trillion in assets under management globally.

List of Questions

Question 1. MAS seeks views on its proposal to allow a designated representative to bring legal action on behalf of the investors for market misconduct cases.

ACGA supports the proposal introducing an independent designated representative to bring legal actions on behalf of investors in market misconduct cases, providing that proposed safeguards are robustly implemented and enforced. Allowing a designated representative to bring legal action can meaningfully address coordination and trust barriers faced by dispersed investors, particularly retail investors who may lack the resources or expertise to act as lead claimants.

Question 2. MAS seeks views on the three key criteria for the approval of a designated representative.

We broadly support the three proposed criteria, including the emphasis on self-organisation, subject to the following observations:

1. Sufficient number of investors:

A discretionary, case-by-case approach is preferable to rigid numerical thresholds. The approval authority should consider factors such as the nature of the misconduct, dispersion of losses, and procedural efficiency. This flexibility is important to avoid excluding meritorious cases with smaller but clearly affected investor groups.

2. Independence and conflicts of interest:

We strongly support the implementation of robust disclosure and conflict-management requirements. Ongoing disclosure obligations should apply, not only at the point of approval.

3. Fee arrangements:

We understand MAS's concern about speculative litigation and broadly support restrictions on contingency or success-based fees for designated representatives. However, MAS may wish to keep the framework under review to ensure that fee restrictions do not unintentionally deter capable and credible representatives from participating. We note that the proposed 'financial interest' criteria in the independence test prima facie requires the appointment of an approved third party. Therefore, an overly restrictive prohibition on outcome-related remuneration may limit the effectiveness of the designated representative pathway. MAS may consider the application of appropriate limits as opposed to an outright ban.

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Question 3. MAS seeks views on providing funding support to retail investors seeking collective civil action for alleged market misconduct.

ACGA supports the introduction of a grant scheme to co-fund meritorious collective actions. High litigation costs are a significant deterrent to investor recourse, and targeted funding support can improve access to justice without undermining market stability, provided robust safeguards are in place.

We view funding support as particularly important in complex market-misconduct cases where expert evidence and extensive discovery are required.

We note that the Consultation Paper does not contain any definition or objective criteria for determining qualification as a "retail investor" for the purposes of the scheme. The absence of a clear statutory or regulatory definition risks creating uncertainty and inconsistent application. We therefore suggest that in absence of a 'bright line' test, MAS consider adopting the definition used in the Securities and Futures Act 2001 (SFA) or setting out explicit criteria for the purposes of the scheme.

In addition, we strongly recommend that MAS consider extending the grant scheme to include certain accredited investors and small asset managers and boutique funds. These investors may also have limited financial resources but are likely to have greater insight into investee companies and may be well positioned to support collective actions and to initiate claims. This extension could be subject to an asset-based threshold, for example, including smaller asset managers with assets under management up to S$500 million.

Question 4. MAS seeks views on the proposed grant parameters and any other grant parameter which will support the objectives of the grant scheme.

We broadly support the proposed parameters, with the following comments:

Retail-investor threshold: While a starting point of 50 retail investors may appear reasonable to enable funding to be focused on cases with benefit to a wider number of affected parties, flexibility is critical. The Approval Panel should be empowered to lower thresholds where losses are significant or where the affected retail investor base is inherently limited.

Institutional participation: We agree with the proposal that institutional investors should be permitted to participate alongside retail investors, even if they do not count toward the minimum threshold or qualify for grant funding. Retail and institutional investors often incur losses from the same misconduct and their involvement can enhance case quality, governance, and credibility.

Qualifying cases: Providing funding support focusing on market-misconduct claims under the SFA is appropriate, but the Panel should take a holistic view of cases where such claims are brought together with other causes of action. When deciding whether a claim is worth

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funding, the Panel should be able to look at the wider facts of the case, including situations where the same conduct also gives rise to related claims under the Companies Act or common law (for example, breaches of directors' duties or minority-oppression claims). The Panel should have the flexibility to provide funding for action to pursue legal redress for aggrieved minority shareholders that may be in the scope of other statutes or common law, and not be restricted only to breaches of the SFA.

We recommend enabling such actions to either include or to be bought directly against directors and management where in the opinion of the Approval Panel it would make sense to do so. There may also be circumstances in which it is appropriate to fund claims against non-director shareholders, such as members of syndicates that ramp up small- cap stocks, disseminate misleading information, or create a false market through coordinated buying and selling. In this regard, we believe that there should be flexibility in relation to parties that legal action can be brought against.

Question 5. MAS seeks views on whether a participation fee of $200 and $500 per investor for piggyback action and independent action respectively would be appropriate.

The proposed participation fees appear broadly reasonable as a deterrent against frivolous claims. However, MAS should retain discretion to waive or reduce fees in cases involving vulnerable investors or particularly clear misconduct, to ensure that fees do not become a barrier to access.

Question 6. MAS seeks views on whether the grant scheme should seek to recover the grant amount dispensed from the total compensation successfully awarded, before allowing the balance to be distributed to the participating investors.

ACGA agrees in principle that, where a case is successful, it is reasonable to consider recovering part of the grant from the compensation awarded, so that the scheme can continue to support future investor claims.

However, it is important that this is done in a way that does not discourage investors from participating. As stated in the Consultation Paper, investors should be confident that they will not end up worse off for having joined the scheme. At a minimum, participating investors should be able to recover their participation fees and receive a meaningful portion of their losses before any amounts are returned to the grant fund.

To support confidence in the scheme, MAS may wish to make clear in advance how any recovery would work, including how much may be recovered, how this would be calculated, and whether any limits or percentages would apply. Clear and predictable rules will help investors understand what to expect and make informed decisions about participation.

With these safeguards in place, a recovery mechanism can help make the scheme more sustainable over time while continuing to serve the interests of investors.

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Subject to these safeguards, a recovery mechanism can strike an appropriate balance between investor protection, equity among participants, and the financial sustainability of the grant scheme.

Question 7. MAS seeks views on the proposed governance arrangements for the grant scheme.

The establishment of an independent and impartial Approval Panel with a diverse mix of legal, market, and academic expertise should form the cornerstone of the grant scheme's governance, together with transparent and robust protocols to prevent potential opportunities for abuse. Clear and timely disclosure of decision-making criteria as well as detailed rationale for funding decisions, conflicts-management processes, maintenance of a public database of funded cases and high-level statistics on approvals and rejections would further enhance credibility and public trust.

In addition we recommend that MAS consider establishing a smaller group of qualified individuals to oversee the work of the Approval Panel and to establish a process for considering appeals in cases where funding has been denied. The establishment of an oversight body may also serve to mitigate against the possibility of bias by Panel members.

Question 8. MAS seeks views on the proposal to expand the piggyback provision to allow investors to file compensation claims by riding on civil penalty settlements, default judgments and consent orders, which contain an admission or finding on the wrongdoer's liability.

ACGA strongly supports expanding the piggyback provision to include civil-penalty settlements, default judgments, and consent orders that contain admissions or findings of liability under Part 12 of the SFA. This would significantly improve the practical effectiveness of piggyback actions, reduce duplicative litigation, and promote regulatory and judicial efficiency and provide a realistic and cost effective route to the recovery of losses, particularly where MAS has secured an admission of liability.

Whilst we agree the trigger should be limited to settlements, default judgements and consent orders that contain an explicit admission or finding of a liability to ensure that only cases where wrong doing has been established are eligible, MAS should adopt robust safeguards to ensure that this does not lead to an increase in "no-admission" settlements or ambiguous findings which might otherwise undermine the expansion of the piggyback provision.

Question 9. MAS seeks views on the proposal to simplify the process for investors to use the piggyback provision.

We support the proposal to simplify procedures, including the use of standardised templates and guidance notes. Clear, investor-friendly guidance will be particularly important for retail

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investors unfamiliar with court processes. Consideration could also be given to digital submission tools and determination based on the papers where possible, to streamline processes and reduce administrative friction.

Question 10. MAS seeks views on the proposal to facilitate proof of reliance by investors in cases of misstatements or omissions in relation to the trading of capital markets products.

ACGA strongly supports the introduction of statutory measures that facilitate proof of reliance in misstatement and omission cases and regards these as an important enhancement to Singapore's current investor protections. The current strict reliance requirements can present disproportionate hurdles inconsistent with a disclosure-based market regime where investors rely on the integrity of public information and market prices.

This would align Singapore with other common law jurisdictions including the US where statutory or judicial presumptions of reliance are now standard for secondary-market disclosure claims affecting listed disclosures. In these jurisdictions, the establishment of a statutory civil cause of action for false or misleading public disclosures and statutory presumption of reliance has strengthened the effectiveness of civil liability provisions without generating excessive litigation.

Question 11. MAS seeks views on the proposed mechanics by which proof of reliance may be facilitated, such as by providing that proof of certain matters is sufficient to demonstrate the requisite reliance or ignorance.

We support the introduction of a rebuttable statutory presumption of reliance (or ignorance of an omitted fact) under section 234(1) of the SFA. Proof of objective matters—such as public dissemination, price impact, or material influence on trading behaviour—should be sufficient to establish reliance or ignorance. This mechanism is adopted in other common law jurisdictions and is consistent with economic reality in efficient markets, avoiding the uncertainty and satellite litigation that would arise from a non-exhaustive list of sufficient matters, while still allowing defendants to rebut presumptions where appropriate. We therefore recommend that MAS adopt a clear rebuttable presumption rather than an open-ended sufficiency test.

Question 12. MAS seeks views on the proposal to remove the statutory cap on compensation for all market misconduct offences, and for the Court to determine compensation amounts on a case-by-case basis.

ACGA supports removing statutory caps on compensation for all market-misconduct offences. Allowing courts to determine compensation on a case-by-case basis aligns with general principles of civil justice and avoids discouraging legitimate claims in cases where wrongdoer profits are difficult to quantify.

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