

Financial Institutions | Insurance and Reinsurance

MAS Proposes Enhanced Transaction Safeguards for Retail Clients by Financial Advisers

Executive Summary

To raise industry standards and promote greater consumer trust in the financial advisory ("FA") industry in Singapore, the Monetary Authority of Singapore ("MAS") seeks feedback on proposed enhanced regulatory safeguards by FA firms to protect the interests of retail clients, particularly selected clients ("SCs"), who meet any two of the following criteria: (a) is 62 years of age or older; (b) is not proficient in spoken or written English; (c) has below GCE "O" or "N" level certifications (or the equivalent).

To safeguard the interests of clients, MAS introduced the Balanced Scorecard Framework ("BSC Framework") in 2016. The requirements and guidance on the BSC Framework are set out in various MAS Notices and Guidelines, such as the Notice on Requirements for the Remuneration Framework for Representatives and Supervisors and Independent Sales Audit Unit ("FAA-N20"), and Guidelines on the Remuneration Framework for Representatives and Supervisors, Reference Checks and Pre-Transaction Checks ("BSC Guidelines"). To assess the standards of FA representatives' advisory and sales process, MAS conducted a mystery shopping exercise ("MSE") in 2018/2019 and recently released its findings.¹ Despite an improvement in the proportion of suitable product recommendations from an earlier MSE in 2011, weaknesses were identified in the implementation of safeguards for SCs, including lapses in identifying SCs and making adequate product disclosures to SCs.

To address the areas of deficiencies from its review of the effectiveness of the BSC Framework and MSE findings, MAS sets out its proposals to enhance pre- and post-transaction safeguards for retail clients in a consultation paper titled "[Consultation Paper on Enhancing Pre and Post-Transaction Safeguards for Retail Clients](#)". The consultation ends on **3 August 2021**.

This Update highlights the following MAS' key proposals in the consultation:

- Strengthening the requirement to identify SCs;
- Requiring a Trusted Individual ("TI") to be present for all investment recommendations made to SCs, as well as the criteria to qualify as a TI;
- Reinforcing requirements relating to call-backs;
- Requiring an independent panel to be set up to review all investment recommendations made to SCs; and
- Requiring the Independent Sales Audit Unit ("ISA Unit") of the FA firm to sample and review transactions involving higher risk clients.



¹ MAS media release titled "[MAS Releases Results of Third Mystery Shopping Exercise – Majority of Recommended Products Met Customers' Needs](#)" (22 June 2021)

Client Update: Singapore

2021 JULY

Financial Institutions | Insurance and Reinsurance

The proposed revisions will be set out in the Notice on Recommendation of Investment Products ("**FAA-N16**") that MAS will consult on after the proposals in this consultation paper has been finalised. MAS proposes a six-month transitional period from the time the revised Notice is published for the revisions to take effect.

Strengthening Requirement to Identify SCs and Documentation

Under the BSC Guidelines, FA firms are required to identify whether a client is an SC as part of the Know Your Client (KYC) process so that SCs are availed of the protection of the pre-transaction call-backs. However, there continues to be complaints of FA representatives not properly checking or documenting whether a client is a SC. Therefore, MAS proposes to move the foregoing requirement from the BSC Guidelines to a notice, FAA-N16, which makes the breach thereof an offence. In addition, MAS proposes to require representatives to: (a) check for and document a client's SC status; and (b) make a formal declaration that the assessment of whether a client is an SC has been duly performed under FAA-N16.

Requirements on Trusted Individual

To address complaints about SCs not always fully understanding the key features and risks of investment products, MAS proposes that a TI must be present with the SC during the sales and advisory process. In the event that an SC does not identify a TI, or is unwilling to be accompanied by a TI during the sales and advisory process, FA firms may proceed to make investment recommendations to SCs only if they obtain the SCs' written acknowledgement that the SCs do not want to have a TI present and represent that they are fully able to make decisions on their own without a TI.

The proposed criteria to qualify as a TI are: (a) at least aged 21; (b) possess at least GCE "O" or "N" level certifications or equivalent academic qualifications; (c) be proficient in spoken and written English; and (d) be a person whom the SC trusts to be privy to the SC's personal information and be able to assist the SC in understanding the SC's financial decision. To establish criterion (d), FA firms may obtain written acknowledgment from the SC that the SC agrees to the identified TI becoming aware of the SC's personal information during the course of the sales and advisory process.

Enhancing Requirements Relating to Call-backs

At present, if the client is an SC, or if the client purchases an investment product from a Selected Representative ("**SR**")², FA firms are expected to perform a pre-transaction call-back to the client. The call-backs have to be conducted by either the representative's supervisor or an independent party and completed within the free-look period. MAS expects FA firms to maintain records showing that the call-back has been carried out, and these records must be retained for a period of not less than five years. However, the exact content that is covered during the call-backs varies among FA firms, and MAS has not specified the types of information to be documented in relation to the call-backs. Also, there is no

² "Selected Representative" refers to a representative who has been assigned a BSC grade B or worse for two consecutive calendar quarters immediately preceding the measurement quarter.

Client Update: Singapore

2021 JULY

Financial Institutions | Insurance and Reinsurance

requirement for FA firms to audio record the call-backs. As such, MAS has several proposals to augment the requirements of supervisory call-backs by prescribing minimum content to be covered and documentation and quality control on call-backs. MAS also proposes a new requirement to audio record the call-backs.

Minimum Content of Call-Backs

MAS proposes that the client call-backs should minimally cover the following areas:

- Basis of recommendation;
- Main features of the product being recommended (e.g. premium payment term, period and structure of payout, whether the product is capital guaranteed/non-guaranteed, etc.)
- Key risks (e.g. market risk, capital risk, etc.) and limitations of the product (e.g. early termination of certain policies may result in policyholders receiving a return that is less than the premiums paid);
- Existence of the free-look period; and
- Whether the representative had been professional and ethical in his or her dealings with the client (e.g. offer of unauthorised gifts, premium financing, aggressive selling, etc.).

Further, FA firms may incorporate other areas in the call-backs to suit their business needs, products being recommended, and client profile, and customise the questions based on trends identified from client feedback and complaints about their representatives.

Documentation and Quality Control on Call-Backs

MAS proposes that FA firms must document the concerns raised by clients during the call-backs, conduct regular checks on the quality of call-backs performed, and take appropriate action when the call-backs are not up to standard.

New Requirement to Audio Record Call-Backs

MAS proposes that FA firms audio record all call-backs performed on SCs and clients of SRs. This will enable FA firms to have better oversight of how their supervisors conduct client call-backs and to enhance safeguards for higher risk clients. The audio recordings should be maintained in a way which is retrievable for supervisory or investigation purposes. MAS also seeks feedback on whether FA firms should provide a copy of the audio recording to their clients, whether this should be proactively provided to clients or only on clients' request, and how this should be operationalised.

Alternative Arrangements to the Call-Back Requirements for Other Retail Clients (Non-SCs or Clients of SRs)

At present, FAs are not expected to conduct client call-backs for other retail clients (i.e. clients that are not SCs or clients of SRs). For these other retail clients, MAS is considering whether to require call-backs and for such call-backs to be audio recorded. Noting that the extent of protection for other retail clients can be calibrated differently from that for SCs and clients of SRs, MAS is prepared to allow call-

Financial Institutions | Insurance and Reinsurance

backs for other retail clients to be performed by the representatives (instead of by the representatives' supervisors or an independent party for SCs and clients of SRs).

As an alternative to the call-back requirement for these other retail clients, MAS suggests that a recap of the sales and advisory process by representatives at the end of the meeting or discussion between the representative and his or her client may suffice. The recap of the sales and advisory process should minimally cover the contents that are proposed to be covered for SCs and be audio recorded. Do note that this alternative arrangement to the call-back and audio recording requirements is *not* applicable for SCs and clients of SRs.

Independent Panel to Review All Product Recommendations to SCs

Currently, FA firms are expected under the BSC Guidelines to require supervisors to review all documentation and basis of every recommendation made or transaction handled by their representatives during the pre-transaction stage. For transactions involving SCs, the pre-transaction checks include conducting a call-back with the SC in respect of the recommendation. Despite these, there are complaints of unsuitable recommendations to SCs which were sometimes not picked up through the FA firm's supervisory review process.

Therefore, as an additional safeguard and to enhance objectivity of the review process, MAS proposes that an independent panel is set up to review all product recommendations made to SCs. The independent panel should comprise persons independent of the financial advisory services unit of the FA firm. The variable remuneration of these persons should also not be directly linked to the financial performance of the representatives. In addition, MAS seeks comments on whether this review by the independent panel should be conducted on a pre- or post-transaction basis. A pre-transaction review approach would allow unsuitable transactions to be identified prior to the investor completing his investment transaction and avoids the need to cancel or unwind transactions. A post-transaction review approach could avoid possible delays in the completion of transactions.

ISA Unit to Sample and Review Transactions Involving Higher Risk Clients

In line with requirements under FAA-N20 and the BSC Guidelines, every FA firm must establish an ISA Unit to conduct post-transaction checks on sampled transactions to review and assess the quality of financial advisory services provided by representatives.

To ensure further protection for clients who may be more vulnerable and to uncover gaps in the implementation of pre-transaction safeguards for SCs, MAS proposes that in addition to the existing post-transaction checks, the ISA Unit shall perform sampling and review for a minimum of 10% of transactions involving clients who fall into **at least one** of the following criteria: (a) 62 years of age or older; (b) not proficient in spoken or written English; (c) has below GCE "O" or "N" level certifications, or equivalent academic qualifications.

Client Update: Singapore

2021 JULY

Financial Institutions | Insurance and Reinsurance

For purposes of the proposed post-transaction review by the transaction panel discussed in the previous section, reviews of SC transactions by the independent panel, if performed on a post-transaction basis, may count towards meeting the 10% threshold.

Further Information

If you have any queries on the above development or would like to submit any feedback to the consultation paper, please feel free to contact our team members below who will be happy to assist.

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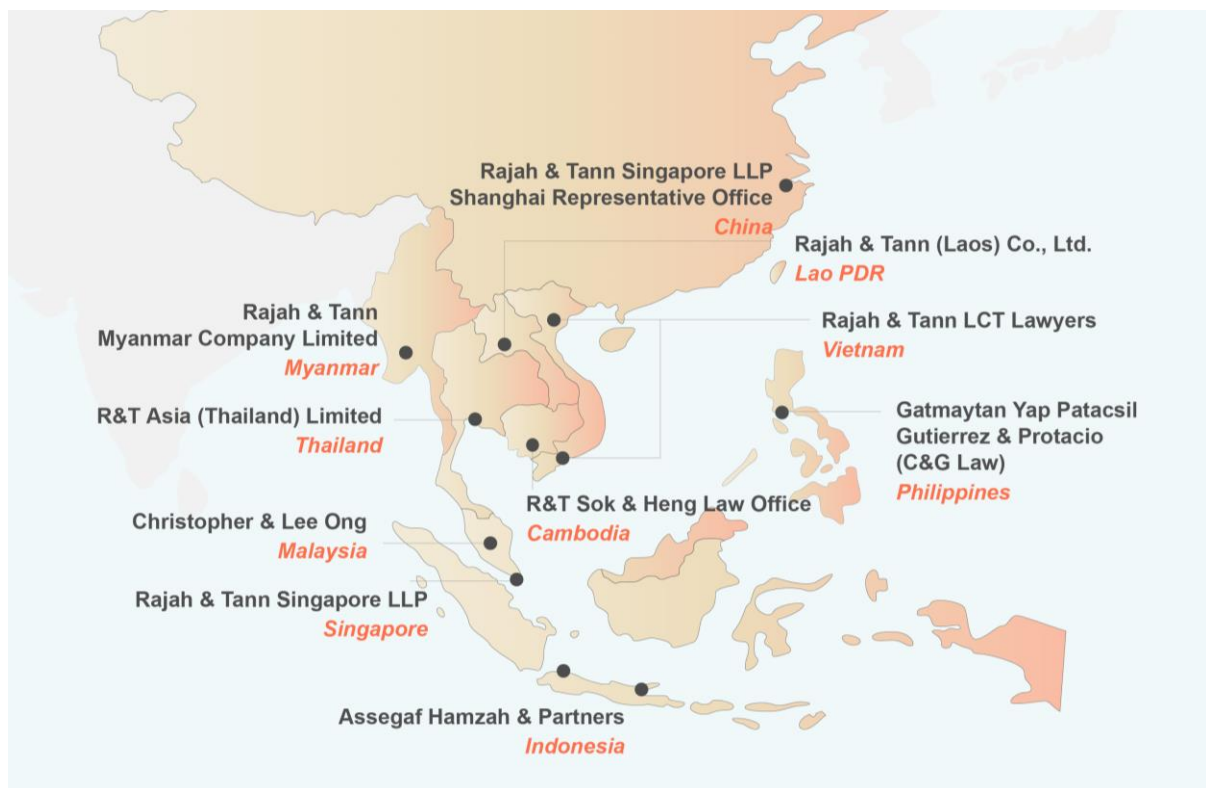
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Client Update: Singapore

2021 JULY

Financial Institutions | Insurance and Reinsurance

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