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MAS Proposes Refining Tier Structure Requirements and New Remuneration Restrictions for Financial Advisers

Executive Summary

The remuneration practice of the financial advisory ("FA") industry is regulated by the Monetary Authority of Singapore ("MAS"). To better align the interests of FA representatives and supervisors with those of their clients, MAS made the following key proposals on remuneration requirements:

- Clarification on policy intent and refinement to the tier structure requirements, including defining "overriding benefits" and when they may be paid;
- New restrictions on direct payment of remuneration to, and acceptance of remuneration by, representatives and/or supervisors of other FA firms.

MAS also suggested extending the application of the proposed refined tier structure requirements to all financial advisers, including exempt financial advisers that operate tier structures.

These proposals come on the back of MAS reprimanding a number of major insurers for failing to meet requirements on remuneration of FA supervisors in June 2021.

These proposals are set out in MAS' Consultation Paper titled "*Proposals to Refine the Tier Structure Requirements and to Introduce New Requirements Relating to Remuneration*" ("**Consultation Paper**"), available [here](#).

The consultation period is from 12 July 2021 to 13 August 2021.

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Refinement to Tier Structure Requirements

Clarifications to ensure remuneration practices are aligned with policy intent

Currently, direct life insurers¹ and licensed financial advisers² ("**LFAs**") that operate tier structures are required to ensure that the structure has a maximum of three tiers - Manager (Third Tier), Supervisor (Second Tier) and Representative (First Tier) ("**tier structure requirements**"). The tier structure requirements for direct life insurers are set out in MAS Notice 306 on Market Conduct Standards for Life Insurers Providing Financial Advisory Services ("**MAS Notice 306**"). MAS' policy intent is for the Second Tier and Third Tier to effectively supervise the lower tiers in their financial advisory and sales activities and limit the payment of overriding benefits to only the Second Tier and Third Tier. LFAs are subject to similar requirements as part of their licensing conditions under the Financial Advisers Act ("**FAA**").

However, certain FA firms have tier structures and remuneration practices that are not aligned with the policy intent. For instance, some FA firms have interpreted "overriding benefits" narrowly to mean only "overriding commissions" so that tier exists only when a person receives "overriding commissions". Additionally, some FA firms have paid other types of benefits (other than "overriding commissions") to persons in addition to the Second Tier and Third Tier (e.g. Fourth Tier) as well as to persons who do not exercise supervisory duties of a Second Tier or Third Tier.

To address these issues, MAS proposes certain key changes to clarify and refine the tier structure requirements as follows:

- FA firms that operate a tier structure for the provision of any financial advisory service and/or the sale of any investment product are required to ensure such a tier structure only consists of the First Tier, Second Tier and Third Tier. The Second Tier and Third Tier are responsible for supervising the lower tiers in their financial advisory and sales activities.
- FA firms may only pay overriding benefits, computed based on the provision of any financial advisory service or the sale of any investment product following the provision of any financial advisory service by representatives, to individuals in the Second Tier and Third Tier³.
- Refine the definition of "overriding benefits" to include any remuneration payable to any person other than the representative who provided the financial advisory services, whether on a periodic

¹ Licensed under the Insurance Act to carry on life business.

² Entities licensed section 13 of the FAA to carry on the business of providing any financial advisory service but does not include any person specified in the First Schedule of the FAA.

³ The Second Tier and Third Tier need not be representatives to be considered as part of the tier structure. This is because under the current rules, a person need not be a representative if he does not conduct the regulated activity of providing financial advisory services under the FAA.

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basis or otherwise, where the person's entitlement to that remuneration, or the amount of that remuneration, is determined by reference to one or more factors as listed in the Consultation Paper.

- Payment of overriding benefits will be limited to a maximum of two supervisors (i.e. Second Tier and Third Tier) of each representative, for the provision of any financial advisory service or the sale of any investment product following the provision of any financial advisory service by the representative.
- Supervisors will be prohibited from accepting overriding benefits from any person other than the FA firm of which he is a supervisor.

For a list of non-exhaustive examples on unacceptable remuneration practices, please refer to Annex B of the Consultation Paper. To harmonise the tier structure requirements for direct life insurers and LFAs, MAS proposes to impose these requirements under the FAA. The relevant provisions in MAS Notice 306 and the corresponding licensing conditions for LFAs will thus be repealed.

Extend application to exempt financial advisers

In addition, to ensure consistency across the FA industry, it is proposed that the tier structure requirements be extended to exempt FA firms such as banks, merchant banks, finance companies, insurance brokers and certain capital market services licensees. MAS noted that there should be no impact on these exempt FA firms to the extent that they do not pay overriding benefits.

Restrictions Against Direct Payment or Acceptance of Remuneration

Volume-based incentives

MAS has observed that in addition to paying volume-based incentives (that include both monetary and non-monetary incentives) ("**VBI**") to FA firms for the sale of their life business products, direct life insurers also offer VBI directly to the representatives and supervisors of these FA firms. This occurs in some cases without the knowledge of the FA firms, impeding the ability of FA firms to exercise effective oversight of their own representatives and supervisors.

To address these issues, MAS proposes to prohibit persons other than the principal FA firms from determining, communicating and paying VBI (offered by the direct life insurers) directly to the representatives of these FA firms. This aims to facilitate better oversight and control by FA firms over their representatives. As such, an FA firm will need to first determine whether to participate in any VBI campaigns offered by direct life insurers. Besides the qualifying criteria set by direct life insurers, the FA firm may establish additional criteria that consider factors such as the conduct and compliance track record of its representatives in determining the amount of VBI that should be paid to its representatives.

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MAS also clarified that direct life insurers may still pay VBI to FA firms under a business-to-business arrangement.

In similar vein, MAS intends to prohibit representatives of FA firms from receiving VBI for the sale of life business products directly from any person who is not their principal, such as direct life insurers and other product manufacturers.

Spreading and capping of commissions

The rules concerning commission are set out in the Financial Advisers (Remuneration) Regulations 2015 and the Insurance (Remuneration) Regulations 2015 (collectively, "**Remuneration Regulations**"). Under the relevant rules in the Remuneration Regulations, an FA firm may make commission payments to its own representatives and supervisors, and to representatives and supervisors of another FA firm, for the sale of regular premium life policies.

To align with the proposals on VBI payments, MAS intends to amend the Remuneration Regulations to prohibit FA firms from making such payments to representatives and supervisors of other FA firms. This aims to ensure that FA firms have direct oversight and control over the remuneration that their representatives and supervisors receive from selling regular premium life policies of other insurers.

Implementation

FA firms are reminded to focus on the policy intent of MAS' rules in designing their remuneration arrangements and comply with the letter and spirit of the rules. MAS emphasised that it will not hesitate to take action against FA firms that circumvent MAS' regulations.

To effect the foregoing proposals in this Consultation Paper, MAS will issue a subsequent consultation on the relevant legislative amendments.

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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