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MAS Consults on Revised Notices on Misconduct Reporting Requirements under Financial Advisers Act, Insurance Act, Securities and Futures Act

Executive Summary

On 19 April 2022, the Monetary Authority of Singapore ("**MAS**") issued a Consultation Paper on "*Revised Notices on Misconduct Reporting Requirements under the Financial Advisers Act, Insurance Act and Securities and Futures Act*" ("**2022 Consultation Paper**"), available [here](#). This follows from a 2018 consultation exercise conducted by MAS where it sought views on, among other things,¹ changes to misconduct reporting requirements under the Financial Advisers Act 2001 ("**FAA**"), Insurance Act 1966 ("**IA**") and Securities and Futures Act 2001 ("**SFA**").² MAS issued its Response to feedback received on the 2018 consultation in 2021 ("**Response**").³

At present, financial institutions ("**FIs**") are required under the FAA, IA and SFA to lodge a report with MAS when they become aware of misconduct committed by their representatives or broking staff (collectively, "**Representatives**").⁴ Misconduct includes acts involving fraud, dishonesty, inappropriate advice, misrepresentation, or inadequate disclosure of information to customers.

The misconduct reporting requirements are set out in the following existing MAS Notices: FAA-N14 Notice on Reporting of Misconduct of Representatives by Financial Advisers ("**FAA Notice**"); MAS 504 Notice on Reporting of Misconduct of Broking Staff by Insurance Brokers ("**IA Notice**"); and SFA 04-N11 Notice on Reporting of Misconduct of Representatives by Holders of Capital Markets Services Licence and Exempt Financial Institutions ("**SFA Notice**").

The 2022 Consultation Paper seeks comments on the proposed legal amendments to the FAA Notice, IA Notice and SFA Notice (collectively, "**Revised MAS Notices**") to implement the proposed changes to the misconduct reporting requirements. MAS also seeks views on the new prescribed templates for FIs to submit the misconduct and investigation reports to MAS. In this Update, we briefly highlight some

¹ MAS also proposed changes to, among others, mandate reference checks for representatives.

² Please refer to MAS Consultation Paper titled "[Public Consultation on Revisions to the Misconduct Reporting Requirements and Proposals to Mandate Reference Checks for Representatives](#)" (6 July 2018), available on the MAS website. Our [July 2018 Newsbytes](#) (page 5) provides a summary of the key proposals in said consultation paper.

³ Please refer to [MAS Response to Feedback Received in Public Consultation on Revisions to the Misconduct Reporting Requirements and Proposals to Mandate Reference Checks for Representatives](#) (14 May 2021), available on the MAS website.

⁴ Refers to existing and former representatives.

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of the key proposed changes to the misconduct reporting requirements following feedback from the 2018 MAS consultation and the new prescribed templates for misconduct and investigation reports.

MAS intends to cancel the existing MAS Notices and issue the Revised MAS Notices under the respective relevant Acts after the 2022 consultation exercise. MAS will notify the industry of the effective date of the Revised MAS Notices in due course, with an adequate transition period given to FIs to comply with the Revised MAS Notices.

The 2022 consultation exercise closes on **20 May 2022**.

Key Changes to Misconduct Reporting Requirements

MAS seeks feedback on the proposed legal amendments to the FAA Notice, IA Notice and SFA Notice to implement certain key proposed changes which MAS will make to the misconduct reporting requirements such as:

- *Scope of application of the revised SFA Notice will be revised to include Registered Fund Management Companies ("RFMCs").*

MAS clarified that the misconduct reporting requirements will complement the fit and proper requirements on RFMCs and their Representatives.

- *Scope of application of the revised IA Notice will be revised to include accident and health ("A&H") insurance intermediaries.*

An A&H insurance intermediary will be defined to refer to a direct insurer, licensed financial adviser, exempt financial adviser, direct insurance broker or exempt direct insurance broker, which carries on a business in an A&H insurance intermediary activity. An A&H insurance intermediary activity will be broadly pegged to the arranging of long-term A&H insurance policies. MAS stated its intention is for FIs to report misconduct by Representatives advising on long-term A&H products regardless of the type of FI the Representative is appointed with.

- *Categories of reportable misconduct in the FAA Notice, IA Notice and SFA Notice will be revised.*

The revisions aim to clarify the types of misconduct that FIs are required to report to MAS and reduce overlap between the different categories of misconduct. Among other revisions, the category of reportable misconduct relating to fraud, dishonesty and other similar offences will be revised to include acts that involve illegal monetary gains, bribery, money laundering or tax evasion. For a summary of the current and revised categories of reportable misconduct under the FAA, SFA and IA, please refer to Table 1 at Paragraph 2.2 of the 2022 Consultation Paper.

- *Reporting timelines of the misconduct report and subsequent updates to the misconduct report ("**Update Report**") will be revised.*

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Under the revised timeline for FIs' submission of the misconduct report to MAS, an FI is required to submit the misconduct report no later than 21 calendar days (or such longer period as MAS may allow) after the date on which the FI first has reasonable grounds to believe that a misconduct has been committed.

As and when there is any "*significant development*" relating to the alleged misconduct after submission of the misconduct report, the FI must submit an Update Report to MAS no later than 21 calendar days after the development (or such longer period as MAS may allow).

- *Other submissions accompanying the misconduct report.*

Under the revised requirements, at the same time the FI submits a misconduct report to MAS, the FI must also submit to MAS other documents such as:

- (i) an investigation report (where the FI has commenced an internal investigation into the alleged misconduct).
- (ii) a copy of any report lodged with the police (where available), with accompanying information as set out in the Revised MAS Notices. In respect of any specified alleged misconduct, the FI must assess whether a police report should be lodged and, if it assessed that a police report will not be lodged, the reasons for its decision must be submitted to MAS.

- *Provision of misconduct report (and Update Report) by FIs to Representatives.*

An FI is required, subject to specified exceptions, to provide its Representatives with a copy of the misconduct report filed with MAS no later than 21 calendar days (or such longer period as MAS may allow) after the date of submission of the misconduct report to MAS.

Where the FI submits an Update Report to MAS, the FI must provide the Update Report to its Representatives no later than 21 calendar days (or such longer period as MAS may allow) after the date of submission of the Update Report to MAS. This requirement is also subject to specified exceptions.

Other proposed changes as well as the full text of the proposed Revised MAS Notices are set out in the respective Annexes to the 2022 Consultation Paper, available [here](#) (on the MAS website).

Proposed Revisions to Misconduct and Investigation Report Templates

Presently, FIs must submit the misconduct report using the prescribed template in the relevant existing MAS Notices. In view of the changes to the misconduct reporting requirements, MAS will be revising the misconduct report template.

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MAS also proposed to require FIs to submit investigation reports using a prescribed format. For investigation reports, FIs will only be required to use the investigation report template for submission of details of investigations relating to Representatives' reportable misconduct.

Please refer to Annex 2 of the Response for the proposed revised misconduct and investigation report templates.

If you have any queries on the above development or would like to submit any feedback to the 2022 Consultation Paper, please feel free to contact our team members below who will be happy to assist.

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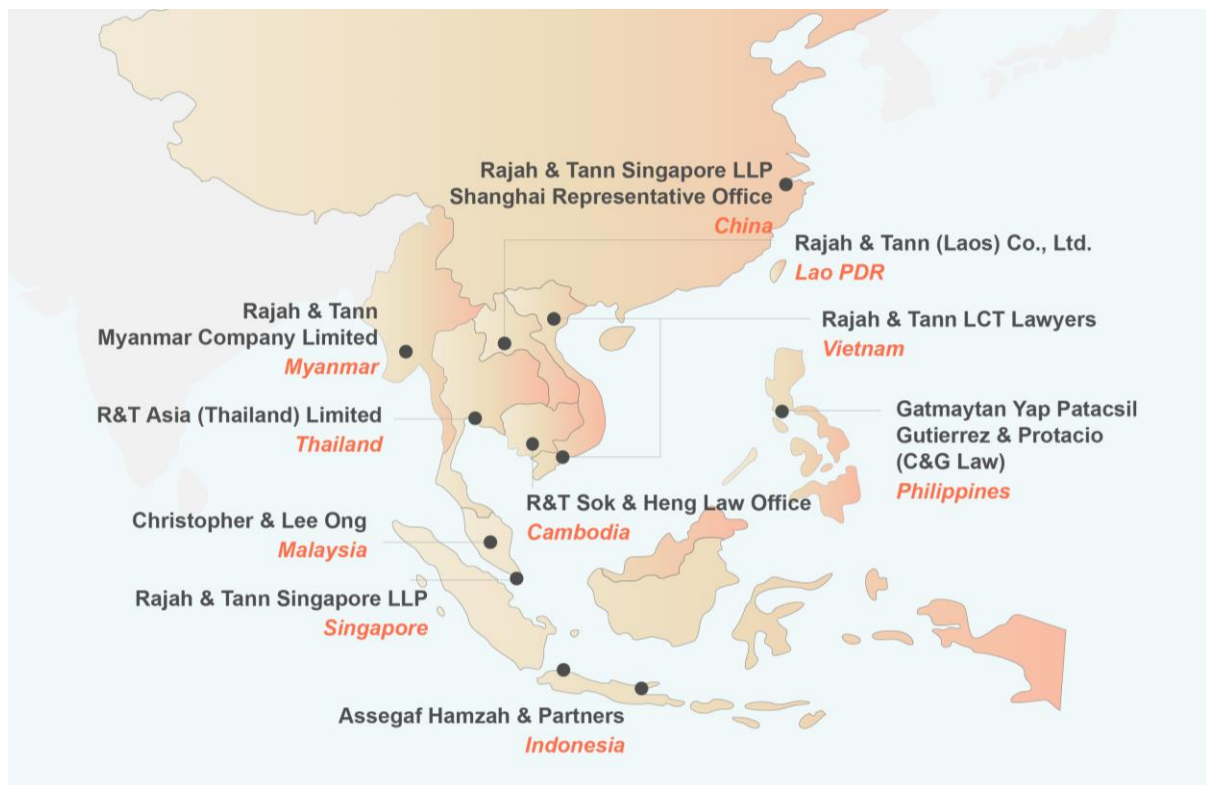
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Client Update: Singapore

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