



Monetary Authority of Singapore

Response to Feedback Received

P006-2021 – 12 December 2023

Response to Feedback Received on Proposals to Mandate Reference Checks



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1. Preface

- 1.1. On 14 May 2021, MAS issued a consultation paper on proposals to require financial institutions (“FIs”) to conduct and respond to reference checks. The proposals aimed to mitigate the risk of “rolling bad apples”, where individuals who engage in misconduct in one firm, move on to another firm without disclosing their earlier misconduct to the prospective employer.

- 1.2. The consultation closed on 25 June 2021, and MAS would like to thank all respondents for their feedback. MAS has carefully considered the feedback received and will incorporate them where it has agreed with the feedback. Comments that are of wider interest, together with MAS’ responses, are set out under sections 2 to 9 below. The list of respondents and their full submissions are provided in the Annexes at the end of this paper.



2. Scope of FIs

- 2.1. Respondents supported MAS' proposal to apply the reference check requirements to the FIs listed in Annex A.¹ Some respondents asked if reference checks could be outsourced to third-party service providers.

MAS' Response

- 2.2. MAS will proceed with the proposal to require FIs in the categories listed in Annex A to conduct and respond to reference checks.
- 2.3. While FIs may outsource reference checks to third-party service providers, FIs remain accountable for the compliance of the requirements (e.g., ensuring that reference checks sought include all the mandatory information stipulated). Notwithstanding whether the FI or a third-party service provider is performing the reference checks, the FI should consider any adverse information from the reference check responses in its assessment of the prospective employee, and where necessary, put in place additional supervisory safeguards if the FI proceeds to recruit the individual. In exercising its supervisory oversight, MAS may request documentation pertaining to the FI's assessment of an individual's fitness and propriety. The onus is on the FI to establish to the satisfaction of MAS that the individual is fit and proper.

¹ The proposal did not include foreign recognised market operators, foreign recognised clearing houses and licensed foreign trade repositories whose activities are primarily performed overseas, as well as money changers.



3. Cross-sector and Cross-border Application

- 3.1. FIs are expected to take reasonable steps to conduct reference checks on prospective employees from employers that are outside the scope of FIs listed in Annex A (“out-of-scope employers”) or FIs located outside Singapore (“foreign FIs”).
- 3.2. In the absence of a response or insufficient information in reference checks, an FI can still proceed with the recruitment if it has sought references and has deemed the prospective employee to be suitable for the position based on its other due diligence checks.
- 3.3. MAS sought feedback on the above approach and most respondents were supportive. Some respondents sought clarity on the expectations (e.g., assessing reasonableness of efforts in reference check requests with out-of-scope employers). There were also queries on how FIs should treat foreign FIs that were within the same organisational group, and whether FIs were expected to respond to reference check requests from out-of-scope employers.
- 3.4. A respondent suggested that for employees moving between FIs within the same organisational group, reference checks need not be conducted if the hiring FI has access to the employee records of the individual.

MAS’ Response

- 3.5. In general, FIs should also seek references from out-of-scope employers as part of its due diligence checks on prospective employees. FIs should also be able to demonstrate efforts in following up on such requests when there is no response or insufficient information. Such due diligence is similarly expected of an FI where its prospective employee was previously employed by a foreign FI that is within the same organisational group, if employee records of that foreign FI are not accessible by the hiring FI.
- 3.6. MAS recognises that out-of-scope employers may seek references from FIs, albeit for a different set of information. FIs can assess and calibrate the information to be shared, depending on its relevance.
- 3.7. In cases where the hiring FI has access to the records of its prospective employee who is currently or was previously employed by its related FI (e.g., subsidiary), the hiring FI need not conduct a formal reference check with its related FI. However, the hiring FI should use the information in the records (including the set of mandatory information set out in section 6 of this paper) in its assessment of the fitness and propriety of the prospective employee.



4. Scope of Employees

- 4.1. MAS consulted on the scope of employee positions for which FIs are required to conduct and respond to reference checks.
 - (a) Option 1: Aligned with scope of relevant functions under the Harmonised and Expanded Power to issue Prohibition Orders (“POs”) under section 6 of the *Financial Services and Markets Act* (“FSMA”). These include individuals who perform functions relating to the handling of funds, risk-taking, risk management and control, or critical system administration functions.
 - (b) Option 2: Partially aligned with scope of functions under the Harmonised and Expanded Power to issue POs. This option focuses on functions that can directly cause or result in financial risks to FIs or customers.
- 4.2. MAS received mixed responses; there was no clear preference for either Option 1 or 2. Many respondents cited high administrative workload due to the wide range of employees covered in both options. These respondents suggested that MAS consider taking reference from the Guidelines on Individual Accountability and Conduct and limit the scope to key personnel, such as senior managers (“SMs”) and material risk personnel (“MRPs”). Conversely, a few respondents were of the view that it would be operationally easier to subject all employees to reference checks, regardless of their role or function.
- 4.3. A few respondents asked if reference checks would apply to individuals who were in positions that were not subject to the reference checks but subsequently took on a position that was subject to reference checks (“in-scope position”), either within the same FI or at another FI. Respondents also asked if reference checks apply to part-time staff or contract staff.
- 4.4. Some respondents asked if FIs needed to perform reference checks on individuals working for outsourced third-party service providers performing functions that were within the scope of the requirements.
- 4.5. A few respondents suggested to exempt general insurance agents, citing limited risks and potential duplication of reference checks by insurers that appoint them.

MAS’ Response

- 4.6. MAS acknowledges the industry’s concerns on the potentially high administrative workload if the scope of employees is too wide. On the other hand, it is important to ensure individuals who engage in regulated activities and those in certain roles and functions across the financial industry, are fit and proper.



- 4.7. On balance, MAS will proceed with Option 1 (referred to as “Option 1 functions”) but adopt a risk-based approach, to require reference checks only on SMs and MRPs performing relevant functions under section 6 of the FSMA. This takes into account that misconduct by SMs and MRPs (who hold greater responsibilities within an FI) could potentially cause greater detriment to their FIs and customers. To facilitate implementation by FIs, MAS will provide guidance on the specific functions that will be within scope.
- 4.8. While reference checks will not apply to employees who move or are promoted within the same FI, FIs should conduct proper due diligence before appointing SMs and MRPs. This is set out in MAS’ *Guidelines on Individual Accountability and Conduct*, where SMs and MRPs are expected to be fit and proper. Similarly, where an FI hires a new employee to an SM or MRP position, the FI will be required to perform reference checks regardless of whether the individual was from an in-scope position in the previous FI. The reference check requirements will also apply regardless of the employment terms i.e., including permanent, contract or other temporary employment relationships.
- 4.9. For employees of third-party service providers performing any Option 1 function outsourced by FIs, FIs should ensure such employees meet the FI’s hiring policies for the role they are performing, based on criteria that would be applicable to the FI’s own employees, if the function had been performed within the FI. Within the FI, SM roles that oversee such outsourced functions will be subject to reference checks.
- 4.10. Individual general insurance agents (also known as “individual agents”) and nominees acting for general insurance agents (also known as “nominee agents”) arrange and sell general insurance products to customers on behalf of insurers. As the sales of such products carry risks of mis-selling, insurers will be required to apply the reference check requirements when appointing such individual agents and nominee agents.



5. Lookback Period

- 5.1. Most respondents agreed with MAS' proposal for reference checks to minimally cover the individual's work experience in the past five years (also referred to as "lookback period"). A few respondents sought clarity on what the five-year lookback period referred to (e.g., whether it meant covering five years of employment history at each of the individual's former employer). A few respondents suggested that MAS consider other time frames (e.g., three or 10 years). There was also a suggestion that the lookback period be an option between five years, or up to a certain number of previous employers, whichever was shorter.
- 5.2. Some respondents highlighted that they might not have complete records to respond to reference check requests as they had aligned their record retention policies to existing regulations² with different record retention periods.

MAS' Response

- 5.3. MAS will proceed with the proposal for FIs to cover a lookback period of five years. This is consistent with the proposed reference check lookback requirement for representatives.³ The five-year lookback period starts from the date of the reference check being performed.⁴
- 5.4. MAS had considered the suggestion of performing reference checks on a fixed number of previous employers. While MAS acknowledges that limiting the number of previous employers may reduce the administrative burden on FIs to perform reference checks on individuals who had multiple short employment stints, it would also present a loophole for individuals to change jobs within a short span of time to avoid references being checked at the company where the misconduct occurred.
- 5.5. MAS acknowledges the concern that there may be FIs that had not maintained records for five years prior to when the reference check requirements come into effect. In such cases, the FI may state so to the requesting FI. FIs are to put in place revised processes as soon as practicable, to comply with the requirements, including keeping records for at least five years (see section 8) to respond to reference check requests effectively. If the information received in references is incomplete, the hiring FI should nonetheless take necessary steps to satisfy itself of the fitness and propriety of the prospective employee.

² The regulations cited were Employment (Employment Records, Key Employment Terms and Pay Slips) Regulations 2016 and the Personal Data Protection Act (PDPA).

³ <https://www.mas.gov.sg/publications/consultations/2018/consultation-paper-on-revisions-to-misconduct-reporting-requirements-and-proposals-to-mandate-reference-checks-for-representatives>

⁴ For example, when the hiring FI performs reference checks on 1 Jan 2025, it should at least perform reference checks with employers that the individual was employed with from 1 Jan 2020 to 31 Dec 2024.



6. Minimum Mandatory Information

- 6.1. MAS proposed to require FIs to conduct and respond to reference checks with the information on the individual's employment history, compliance records, balanced scorecard grades⁵ and persistency ratio (where applicable) as set out in Annex B. MAS had also proposed for FIs to respond to reference check requests with this information no later than 21 calendar days from the date the FI receives the request, which most respondents were supportive of.
- 6.2. Several respondents expressed concerns on the potential legal risks of providing certain types of information in references, such as *ongoing investigations* and *disciplinary actions that would have been taken*. A few asked for statutory immunity to be accorded to FIs providing information on individuals involved in investigations. There was also a concern that commercially sensitive information or information of other implicated individuals might be divulged in references. A respondent asked if there were exemptions for cases that were subject to legal or statutory prohibitions.
- 6.3. Some respondents commented that the balanced scorecard grades and persistency ratios were only applicable to certain employees (e.g., representatives), and suggested excluding them in the requirement.
- 6.4. Several respondents also asked for a template to standardise reference check requests to the prescribed list of mandatory information.

MAS' Response

- 6.5. MAS will proceed with the proposed list of mandatory information in Annex B, except that –
 - (a) Disciplinary actions that would have been taken (item (b)(iv) of Annex B) will be excluded; and
 - (b) Ongoing investigations (item (b)(ii) of Annex B) will be required only if the individual is the subject of the investigation and is aware that he/she is being investigated.
- 6.6. FIs will need to provide information on disciplinary actions that had been taken, but not those that FIs had not actually undertaken. The information on disciplinary actions that would have been taken was intended to provide hiring FIs additional information on the nature and severity of the misconduct. However, MAS recognises that individuals who left the FI prior to the conclusion of the investigation might not have had the opportunity to provide their defence during the investigation. Consequently, the FI may not have sufficient information to holistically assess the appropriate disciplinary action that

⁵ This refers to the balanced scorecard grades assigned to the representative by the FI under FAA-N20 Notice on Requirements for the Remuneration Framework for Representatives and Supervisors ("Balanced Scorecard Framework") and Independent Sales Audit Unit.



would have been taken. Hence, MAS will not require FIs to provide information on the *disciplinary actions that would have been taken* but FIs may consider providing this information at their discretion. Overall, references provided should be factual and fair. FIs are expected to establish robust internal investigation and disciplinary processes, that serve to provide fair outcomes to all individuals who are investigated.⁶

- 6.7. MAS recognises the concerns raised on providing information on ongoing investigations, and has considered the policy impact of excluding it. If excluded, there may be a risk of individuals leaving before investigations conclude, to forestall the availability of such information from being shared with prospective employers. To mitigate concerns on information asymmetry, information on ongoing investigations will be required only if the individual is the subject⁷ of the investigation, and the individual is aware that he/she is being investigated. Hiring FIs should assess whether additional oversight of the individual is warranted should they decide to proceed with the hiring.
- 6.8. When providing the information during reference checks, FIs should ensure that they are in compliance with other legal or statutory obligations applicable to them, and disclosure may be withheld to the extent necessary for such compliance. Information provided should be factual and objective, with sufficient information for hiring FIs to make an assessment on the fitness and propriety of the individual. FIs are not required to provide their full investigation or misconduct reports in reference checks. FIs should take care not to include information on other individuals, who are not the subject of the reference check.
- 6.9. The list of mandatory information provides consistency in the information FIs take into account as part of reference checks. Information should be sought or provided to the extent relevant (e.g., information on balanced scorecard grades and persistency ratios may be applicable where an individual had conducted financial advisory services or sold insurance policies). FIs may request additional information if assessed to be necessary as part of their due diligence. As MAS' focus is on the information to be included in reference checks, where useful, FIs may work with their industry associations to develop reference check templates.
- 6.10. MAS will proceed to require FIs to respond to reference check requests no later than 21 calendar days from their receipt. This is aligned to the proposed response timeline in the reference check requirements for representatives.

⁶ FIs may refer to the *Information Paper on Good Practices Relating to Disciplinary Action Framework in the Financial Advisory Industry* for details on some good practices observed in the financial advisory industry.

⁷ FIs need not provide information on ongoing investigation if the individual is only assisting in investigations (e.g., as a witness).



7. Right to View

- 7.1. To accord fairness and objectivity in the reference check process, MAS sought feedback on granting individuals the right to view the references, including potential implementation challenges.
- 7.2. MAS received mixed responses, with many highlighting risks of legal liability that could arise from this requirement. Some respondents agreed that the right to view would help ensure that references were objective, while others commented that it could lead to disputes. Many respondents were also concerned about the operational challenges and additional resources required to implement this.

MAS' Response

- 7.3. MAS acknowledges the concerns raised by respondents, and has decided not to mandate the right to view references at this point in time. FIs are reminded that references should be factual and objective.
- 7.4. In line with the intent to accord fairness and objectivity, hiring FIs may consider engaging the candidates to seek clarifications on the adverse information, if necessary.



8. Record Keeping

- 8.1. To facilitate reference checks on individuals who were not from in-scope positions previously, MAS proposed that FIs maintain records of the information listed in Annex B of all employees for a minimum period of five years, with the exception of ancillary service personnel.⁸
- 8.2. Respondents were mostly supportive of the proposal. A few respondents were concerned that maintaining the records would lead to a large increase in administrative workload. A respondent asked if FIs were required to keep and update records for individuals who had no adverse information. Several respondents asked for guidance on the types of employees that were excluded from this requirement (e.g., contract workers, interns, external vendors).

MAS' Response

- 8.3. For the purpose of reference checks, MAS will require FIs to keep records of adverse information of all employees, regardless of employment terms, in Option 1 functions,⁹ for a minimum period of five years. This is necessary as such employees may be appointed as SMs or MRPs in their subsequent employment positions, and the hiring FIs would need to perform reference checks on them. For employees with no adverse information, FIs will only need to maintain records on employment history.

⁸ Examples of ancillary service personnel include drivers, food and beverage personnel, and clerical personnel.

⁹ These functions are aligned to the functions set out in section 4, excluding those providing ancillary services.



9. Implementation and Transitional Period

- 9.1. MAS had proposed to impose the mandatory reference check requirements by Notice(s), and for the Notice(s) to come into effect 6 months after publication of the Notice(s).
- 9.2. There were mixed responses to the proposal. Some respondents suggested the implementation to be via Guidelines or Information Papers, to afford FIs some flexibility in the implementation of the proposals.
- 9.3. A few respondents noted that several proposals set out in the consultation might conflict with provisions in other legislation (e.g., PDPA and Employment Act), and asked if the implementation of the reference check requirements would result in breaching other requirements, where the provisions conflict. A respondent asked for statutory immunity against claims of privacy or data breaches.
- 9.4. On the transitional period, many respondents requested to have at least a year for FIs to update internal processes, and for the industry to draft a reference check template.

MAS' Response

- 9.5. MAS will proceed to impose the requirements via Notices to ensure FIs conduct and respond to reference checks on a minimum set of standardised information. MAS will be consulting on the draft Notices in due course.
- 9.6. FIs are to meet all the requirements applicable to them. Where the proposed requirements to be set out in the Notices are stricter than the requirements imposed under other legislative requirements,¹⁰ the stricter requirements in the Notices shall apply. The reference check requirements are consistent with the PDPA provisions.¹¹
- 9.7. In view of the feedback for a longer time to implement the proposed requirements given the need to update internal processes and systems, MAS will provide a transitional period of one year from the issuance of the Notices.

¹⁰ For example, if the Notice imposes a longer record keeping period than section 95 of the Employment Act read with regulation 5 of the Employment (Employment Records, Key Employment Terms and Pay Slips) Regulations 2016, FIs are to maintain the longer record keeping period required under the Notice. This will allow FIs to be compliant with both sets of requirements.

¹¹ For example, the First Schedule of the PDPA includes provisions that allow the collection, use and disclosure of personal data without consent for evaluative and employment purposes.



Annex A

MAS had proposed to apply the requirements to conduct and respond to reference checks to the following FIs:

1. Any bank or merchant bank licensed under the Banking Act 1970 (“BA”);
2. Any person licensed under the BA to carry on the business of issuing credit cards or charge cards in Singapore;
3. Any finance company licensed under the Finance Companies Act 1967;
4. Any insurer licensed under the Insurance Act 1966 (“IA”);
5. Any foreign insurer operating in Singapore under a foreign insurer scheme established under the IA;
6. Any designated financial holding company approved under the Financial Holding Companies Act 2013;
7. Any holder of a capital markets services licence under the Securities and Futures Act 2001 (“SFA”);
8. Any financial adviser licensed under the Financial Advisers Act 2001;
9. Any person exempted from holding a financial adviser’s licence under regulation 27(1)(d) of the Financial Advisers Regulations;
10. Any registered insurance broker under the IA;
11. Any person exempted from the requirement to hold a capital markets services licence under paragraphs 3(1)(d), 3A(1)(d), 5(1)(i)¹² and 7(1)(b) of the Second Schedule to the Securities and Futures (Licencing and Conduct of Business) Regulations;
12. Any trust company licensed under the Trust Companies Act 2005;

¹² MAS has issued a Consultation Paper on Repeal of Regulatory Regime for Registered Fund Management Companies on 24 October 2023.



13. Any person approved under the SFA to act as a trustee of a collective investment scheme which is authorised under section 286 of the SFA and constituted as a unit trust;
14. Any approved exchange or recognised market operator under the SFA that is incorporated in Singapore;
15. Any licensed trade repository under the SFA;
16. Any approved clearing house or recognised clearing house under the SFA that is incorporated in Singapore;
17. The “Depository” under the SFA;
18. Any approved holding company under the SFA;
19. Any authorised benchmark administrator or exempt benchmark administrator under the SFA;
20. Any authorised benchmark submitter or designated benchmark submitter under the SFA;¹³
21. Any operator of a designated payment system under the Payment Services Act 2019 (“PS Act”);
22. Any settlement institution of a designated payment system under the PS Act;
23. Any holder of a standard payment institution licence under the PS Act;
24. Any holder of a major payment institution licence under the PS Act; and
25. Any licensed credit bureau under the Credit Bureau Act 2016.

¹³ Exempt benchmark submitters should refer to their existing regulatory status or licence with MAS (e.g., as a bank, recognised market operator, etc.) for the application of the proposed requirements.



Annex B

MAS had proposed to require FIs to conduct and respond to reference checks with the following information:

- (a) Information pertaining to the individual's employment history with the FI, including:
 - (i) the duration of employment;
 - (ii) the roles and job functions of the individual (including last position held); and
 - (iii) the reason for the cessation of employment, including but not limited to the following:
 - (A) resignation;
 - (B) resignation by paying compensation in lieu of notice prior to or during investigation;
 - (C) termination;
 - (D) dismissal; or
 - (E) expiry of contract.
- (b) Compliance records relating to the individual's fitness and propriety, unless there is risk of tipping-off the individual which may compromise the integrity of investigations, including but not limited to records concerning the following:
 - (i) concluded investigations with reasonable grounds to believe that a wrongdoing has been committed and the extent of consumer detriment (where applicable) resulting from the wrongdoing;
 - (ii) ongoing investigations and the extent of consumer detriment (where applicable) resulting from the wrongdoing if substantiated;
 - (iii) incidents where the FI has knowledge of, or reasonable grounds to believe that the individual has or may have been in breach of legal or regulatory requirements administered by MAS or any other law, while performing his or her duties or responsibilities as an employee of the FI, and the extent of consumer detriment (where applicable) resulting from the incident;



- (iv) disciplinary actions taken against the individual or would have been taken against the individual if the individual was still with the FI (where applicable); and
 - (v) whether misconduct reports were filed with MAS against the individual and, if so, details on the nature of misconduct committed and the extent of consumer detriment (where applicable) resulting from the misconduct.
- (c) last four balanced scorecard grades assigned to the individual (where applicable); and
- (d) persistency ratio of insurance policies sold by the individual and the methodology used in computing the persistency ratio (where applicable and available).



Annex C

List of respondents to the Consultation Paper on Proposals to Mandate Reference Checks

1. Allen & Overy LLP, which requested confidentiality of submission
2. ICHX Tech Pte Ltd, which requested confidentiality of submission
3. Investment Management Association of Singapore, which requested confidentiality of submission
4. NCI Brokers (Asia) Pte Ltd, which requested confidentiality of submission
5. Prudential Assurance Company Singapore, which requested confidentiality of submission
6. REIT Association of Singapore (REITAS), which requested confidentiality of submission
7. Securities Association of Singapore, which requested confidentiality of submission
8. Stripe Payments Singapore Pte Ltd, which requested confidentiality of submission
9. AAM Advisory Pte Ltd
10. Aon Singapore Pte Ltd
11. ASIFMA
12. FWD Singapore Pte Ltd
13. Lymon Pte. Ltd
14. Mizuho Bank Ltd
15. Moody's Investor Service Singapore Pte Ltd. ("MIS Singapore")
16. MSIG Insurance (Singapore) Pte. Ltd.



17. Singcash Pte Ltd
18. The Agents' Registration Board (ARB)
19. The Bank of Nova Scotia, Singapore Branch
20. Tokio Marine Life Insurance Singapore
21. Respondent A, which requested confidentiality of identity
22. Respondent B, which requested confidentiality of identity
23. Respondent C, which requested confidentiality of identity
24. Respondent D, which requested confidentiality of identity
25. Respondent E, which requested confidentiality of identity
26. Respondent F, which requested confidentiality of identity
27. Respondent G, which requested confidentiality of identity
28. Respondent H, which requested confidentiality of identity
29. Respondent I, which requested confidentiality of identity
30. Respondent J, which requested confidentiality of identity
31. Respondent K, which requested confidentiality of identity
32. Respondent L, which requested confidentiality of identity
33. 32 respondents requested confidentiality of identity and submission.

Please refer to Annex D for the submissions.

Annex D

Submissions from respondents to the Consultation Paper on Proposals to Mandate Reference Checks

Note: The table below only includes submissions for which respondents did not request confidentiality.

S/N	Respondent	Responses from Respondent
1	AAM Advisory Pte Ltd	<p>Question 2(i): Option 2 would be appropriate for the scope of employees to be subjected for the required reference checks.</p> <p>The Notice should further define the criteria and personnel groups to be excluded under Option 2 for reference checks to ensure clarity. For example in point (b)(ii) of Option 2, should staff in risk management and compliance function be applicable other than just the internal audit function?</p> <p>Question 2(ii): Quantum to be determined by the FI that is commensurate with the business and adheres to the FI policies.</p> <p>Question 3(ii): MAS to provide methodology for computing persistency ratio to ensure standardized scoring. Is there an ideal ratio?</p> <p>Question 3(iv): The option to allow individuals to request and view the references prepared will result in significant correspondences between FIs and themselves that arise from disputing the details provided. This will exceed the proposed timeline of 21 days. If the reference check request is initiated by both the recruiting FI and the individual, which should be taken as a priority?</p> <p>Question 4: In the event where requested reference checks are not responded, what is the timeline / duration undertaken by FIs to be considered reasonable?</p> <p>Question 5: As clerical roles are considered under ancillary service personnel, the Notice should further define the criteria to determine the type of roles that fall into this categories. This helps FIs to better identify the employees that are fitting of the category.</p>
2	Aon Singapore Pte Ltd	<p>Question 2(i): Para 4.3(i) – Under Option 1, “Individuals in Risk taking function” which refers to individuals responsible for taking actions that result in an FI undertaking any specified risks in the course of FI business. The list of specified risks in footnote</p>



	<p>13 is very broad, which include operational risk, technology risks etc. This may essentially put most employees in scope, as may be directly or indirectly attributable to undertaking the list of specified risks.</p> <p>Para 4.3(iii) – “Individuals performing critical system administration” – suggest footnote 16 to be referenced to the definition under MAS Technology Risk Management Notice, which include such such systems to mean— (a) processes transactions that are time critical; or (b) provides essential services to customers;</p> <ol style="list-style-type: none"> 1) From a practical perspective, it may be easier to include all employees of the FI, with the exception of those in ancillary service personnel, such as drivers, food and beverage personnel and clerical personnel. 2) For an employee who was previously out of scope of the mandatory reference check, and has a subsequent change of job responsibilities, which put him in scope, would appreciate if MAS confirm there is no need to perform reference check align with MAS requirement. <p>Question 3(ii): Para 5.3(a)(iii) Clarification on the difference between “termination” and “dismissal”. Para 5.3(b)(ii) – On this requirement “ongoing investigations and the extent of consumer detriment (where applicable) resulting from the wrongdoing if substantiated”. We’d like to suggest to remove this requirement, as for an ongoing investigation which has yet to be concluded, the FI is unable to consider the wrong doing to be substantiated.</p> <p>Question 3(iv): 1) We would like to inform MAS from a confidentiality perspective, there is a need for FI responding to the reference check to ensure that there is appropriate consent by the ex-employee to the prospective employer before we release the reference check request information. As such, there may be delays if the prospective employer does not provide consent evidence or provide consent wordings that are not comprehensive to cover the mandatory reference checks requested information. Alternatively, it will be good if MAS can include standard consent wordings for industry’s use. 2) We also see the need for us to establish that the ex-employee is hired for in-scope functions before responding to the reference check request, in particular so if the ex-employee has adverse information. Hence, we suggest MAS to mandate that the prospective employer indicate the role that the ex-employee is hired for and confirm that the new hire is in scope of the Notice.</p> <p>Question 5: As the look-back is 5 years long, records of ex-employees, especially those non-regulated employees may not be in full. Further, there is no requirement to maintain compliance records, such as relating to internal investigation of the non-regulated employees. The response to such reference check request will be on a best effort basis.</p> <p>Question 7:</p>
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		This is preferred to be in the form of a Notice. A sample reference check form capturing the necessary information for industry adoption to be included will be useful to ensure consistency.
3	ASIFMA	<p>Question 1: We agree with the proposed scope of FIs to be subject to the reference checks requirements.</p> <p>Question 2(i): <u>Scope of employees</u> We submit that the scope of employees should be aligned to Option 2 in paragraph 4.4. of the Consultation Paper, subject to the modifications proposed below:</p> <p>(a) only functions under Option 2 that can directly cause material financial risks to FIs or customers should be included;</p> <p>(b) only persons under Option 2 with sufficient seniority should be in scope, i.e. persons identified as "senior managers" for the purposes of MAS' Guidelines on Individual Accountability and Conduct (IAC Guidelines) other than persons who are employed by a non-MAS regulated overseas affiliate/branch of the FI who have been identified as a "senior manager" of a the MAS-regulated FI for the purposes of the IAC Guidelines, as it will be challenging for the MAS-regulated FI to impose the necessary record keeping requirements etc on the non-MAS regulated overseas affiliate/branch; and</p> <p>(c) if MAS is not minded to limit the scope to senior managers per our submission above, Option 2 should exclude secretaries/administrative support staff, and other staff performing support functions which are of an administrative nature, e.g. staff who are involved in public relations work or the design and implementation of marketing campaigns (or similar) as such staff would usually work with external advertising agencies on the marketing campaigns and undertake a nature of work that is very similar to external advertising/PR agencies.</p> <p>Alternatively, we respectfully submit that MAS consider limiting the scope of employees to MAS-regulated employees instead.</p> <p>We seek clarification on the following without prejudice to our submissions above:</p> <p>(a) application to staff not employed by the MAS-regulated FI but performing functions for/on behalf of the MAS-regulated FI: for example, where staff in risk management/control functions provide services to one or more MAS-regulated FIs in the corporate group and are employed by a non-MAS regulated affiliate. We would be grateful to clarify whether these persons are in scope. In any event, we submit that outsourced service providers (including group entities) should</p>



	<p>not be in scope as the individual is not employed by/does not hold a permanent position with the FI and instead is the outsourced service provider’s employee;</p> <p>(b) application to staff outside of Singapore (should MAS seek to apply the requirements to employees of non-MAS regulated affiliates per the above point): we submit that the scope should be limited to only those persons employed by Singapore FIs. We also submit that inter-company transfers should be excluded from the scope as this would be extra-territorial; and</p> <p>(c) definition of “ancillary service personnel”: whether “clerical personnel” would include personal assistants/ secretaries, receptionists, office administrators/ managers (i.e. in charge of office logistics) etc.</p> <p>In addition, we submit that the scope of employees covered should be such that:</p> <p>(a) the reference checks are required only for permanent staff and contractors with contract period > 6 months; and</p> <p>(b) not applicable to outsourced service providers’ employees, including those who are based onsite.</p> <p>Question 2(ii): We submit that the threshold be set by the FI itself in view of the varied size of operations of each FI. In any event, we note that there will be some difficulties in operationalising this across the industry as each FI would have differing thresholds based on the size and nature of their business, and it is challenging to keep track of which individuals handle such small payment as there might be changes to their roles.</p> <p>Question 3(i): We support the proposed period of the past five years, for which reference check information should be sought and furnished. However, we expect that FIs will need to give further consideration to the relevance of the information over that time period in relation to its impact on a hiring decision. For example, a more recent disciplinary action may hold more weight.</p> <p>We further support that the lookback period be based on the number of calendar years and not years of employment.</p> <p>We seek MAS’ confirmation that FIs are only required to furnish the mandatory information relating to an individual’s records for the past five years, even if the individual has been employed with the FI for more than five years.</p> <p>For consistency and to help FIs simplify processes and reduce operational burden, we respectfully suggest that MAS could also align the requirement for individuals (e.g. representatives, directors etc.) to declare their responses to the questions relevant to the fit and proper criteria (as set out under the MAS Guidelines on Fit & Proper Criteria) relating to the past 5 years, instead of the</p>
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	<p>past 10 years as set out in circulars and Forms such as the MAS Circular CMI 01/2011 Due Diligence Checks and Documentation in Respect of the Appointment of Appointed, Provisional, and Temporary Representatives in relation to Form 3A and Form 11 - Appointment of Chief Executive Officer or Director / Change of Director's Nature of Appointment from Non-Executive to Executive etc. Please also see our response to Question 5.</p> <p>Question 3(ii): <u>General comments</u></p> <p>By way of general comments, we are concerned with the proposed requirement of FIs to respond to reference check requests. FIs will need to retain and disclose individual employee confidential information to a third party that is not a government entity (specifically, we are concerned with the provision of the information proposed in paragraph 5.3(b) of the Consultation Paper). We submit that this is far above and beyond what is necessary for the intent of the policy. Instead of having to provide the compliance records as set out at paragraph 5.3(b) of the Consultation Paper, we propose that FIs be required to respond to the question: "at time of termination, did the firm regard the individual as meeting the MAS Fit and Proper Criteria as set out in FSG-G01?"</p> <p><u>Compliance records relating to individual's fitness and propriety</u></p> <p>Without prejudice to our submission that the compliance records should not be required to be provided by FIs, our specific comments on the compliance records set out in paragraph 5.3(b) of the Consultation Paper are as follows:</p> <p>(a) in relation to paragraphs 5.3(b) (i), (ii), (iii) & (v), we seek clarification on the definition of consumer detriment. In this regard, we submit that FIs not dealing with retail customers should be exempted from having to provide records relating to consumer detriment;</p> <p>(b) given we need precision on the compliance records (misconduct, investigations etc) that are to be disclosed, we submit that there needs to be a threshold of materiality in relation to the compliance records. Accordingly, FIs should only be required to disclose "material" compliance records;</p> <p>(c) in relation to ongoing investigations, we agree that FIs should only need to provide compliance records relating to an ongoing investigation if there is reasonable evidence of wrongdoing attributed. Hence, if the ongoing investigation does not provide any reasonable evidence of wrongdoing by staff, FIs should not be obliged to provide the information to the prospective employer;</p> <p>(d) we seek clarification on the definition of 'ongoing investigation';</p> <p>(e) for ongoing investigations which are only concluded after the information request was given to the prospective employer, FIs should not be obliged to inform the prospective employer if it turns out that there was wrong-doing by the staff, or there should at least be a cut-off period to provide updates to</p>
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	<p>prospective employers as this imposes extra operational burden on FIs to track and provide further follow-up responses to prospective employers;</p> <p>(f) we seek clarification that the investigations, misconduct reports and disciplinary actions (as referred to in paragraph 5.3(b) of the Consultation Paper) must relate to an employee's fitness and propriety;</p> <p>(g) the term 'wrongdoing' is too broad. Instead, we respectfully submit that 'wrongdoing' should be restricted to reportable misconduct or breach of legal or regulatory requirements administered by MAS while performing duties or responsibilities as an employee of the FI. Alternatively, we submit that MAS should leave it to the discretion of FIs to use their internal disciplinary framework and matrix to define wrongdoing and its severity; and</p> <p>(h) we note that compliance records relating to the individual's fitness and propriety includes 'incidents where the FI has knowledge of, or reasonable grounds to believe that the individual has or may have been in breach of legal or regulatory requirements administered by MAS or any other law'. We respectfully submit that the way it is drafted assumes that everything an employee does while performing his duties has a bearing or more bearing on his fitness and propriety while the same thing he does while not performing his duties does not have a bearing or has less bearing on his fitness and propriety. This assumption can be problematic.</p> <p>For example, if the employee was driving together with a member of his team as a passenger on the way to a business meeting/dinner and was caught speeding it is arguably reportable (because it is a breach of another law while performing his duty), but if he was driving home after work and was caught speeding it is not reportable (simply because the breach did not occur while performing his duties). Another example: an employee caught not making a customs declaration while on a business trip is arguably reportable, but if he did the same while on a non-business trip it is not reportable.</p> <p>There could be many other instances where the breach of "other law", even when it was made while performing his duties, has no bearing or no more bearing on an employee's fitness or propriety than when it was done while he's not performing his duties.</p> <p>Based on the above, we submit that MAS amend the mandatory information to be provided to only when a breach is a breach of any other law while performing his duties or responsibilities as an employee of the FI and which has a bearing on his fitness and propriety.</p> <p>We also seek MAS' clarification as to whether 'any other law' is intended to be the law of any jurisdiction or the laws of Singapore.</p> <p><u>Disclaimer</u> We note that HR systems will generally capture an individual's title and</p>
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	<p>department and relevant dates associated with those, but not more detailed content on the role itself. To require validated content on every job role of every employee would require significant and costly operational changes and additional human resources given the increased workload. This would also increase the amount of time required to provide accurate references. The same record keeping issue applies for fitness and proprietary records/balanced scorecard grades. Accordingly, we urge MAS to give FIs the ability to include a disclaimer if they do not have records for the period prior to the mandatory reference requirements coming into effect.</p> <p><u>Roles and functions</u></p> <p>We seek clarification from MAS regarding the "roles and job functions of the individual (including last position held)" (paragraph 5.2(a)(ii) of the Consultation Paper). For example, does MAS expect all the roles and job functions throughout the individual's employment to be listed out? If so, this may be very challenging for the FI.</p> <p><u>Disciplinary actions</u></p> <p>We are supportive of including disciplinary actions within the scope of the mandatory information to be provided for reference checks. In this regard and as previously submitted above, we strongly urge MAS to consider that standards of materiality be adopted with respect to 'disciplinary actions' as set out in paragraph 5.3(b)(iv) of the Consultation Paper (e.g. material disciplinary actions taken against the individual or would have been taken against the individual if the individual was still with the FI (where applicable)).</p> <p>We would also appreciate clarification as to the following:</p> <p>(a) in relation to remuneration, can MAS provide clarification as to whether a reduction in remuneration as a result of the performance of the individual, economic conditions, or even a change in role or responsibilities would fall within the scope of matters to be disclosed;</p> <p>(b) whether verbal warnings are included or excluded from the scope of disciplinary actions to be provided for reference checks;</p> <p>(c) whether asking employees to take paid or unpaid leave for risk management reasons while carrying out an investigation would constitute disciplinary action and need to be disclosed. Given that this request would occur before the conclusion of an investigation, we of the view that such leave is not a form of disciplinary action; and</p> <p>(d) what is the extent/level of disciplinary actions to be included? Can FIs decide on the level of granularity of information to provide in relation to disciplinary actions? We are of the view that disciplinary actions taken should exclude verbal warnings as referred to above and be calibrated to include those involving docking of salary, suspension of duties, impact on bonus, etc. The compliance records should focus on the outcome of the FI's meting out of punishment rather than the offence itself. For instance, an offence committed by a junior staff might</p>
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	<p>not have the same outcome as a similar offence by a senior management. Thereafter, incidents on potential breach of requirements should be calibrated towards a perspective of incidents where it is likely to suffer a meaningful disciplinary action.</p> <p><u>Balance scorecard grades</u> The "last four balanced scorecard grades assigned to the individual (where applicable)" (paragraph 5.3(c) of the Consultation Paper): we seek clarity as to what this means, i.e. does this refer to the last four performance ratings which includes mid-year, final year (meaning two years' ratings) or only final year ratings (meaning four years' ratings)?</p> <p><u>Template</u> We respectfully submit that MAS should prescribe a template for the mandatory information to be provided for reference checks. A template will help to align responses within a framework to enable easier interpretation of responses.</p> <p><u>Reasons for cessation of employment</u> We refer to paragraph 5.3(a)(iii) for FIs to furnish the "reason for the cessation of employment". For consistency, we respectfully submit that MAS should align the reasons for the cessation to those currently set out under Form 8/ 10 - Notification for the Cessation of a Representative in any or all of the Regulated Activities under SFA/ of the Financial Services under FAA.</p> <p>Question 3(iii): We submit that 21 calendar days is too short a timeframe and one month/28 calendar days would be more appropriate. One month would be more aligned with international standards – for example, the UK FCA requires FIs to provide references within six weeks of a request. In Hong Kong, the HKMA has proposed a timeline of one month for its mandatory reference checking scheme.</p> <p>In this regard, we note that more time is required because, among other reasons, the mandatory information may need to be compiled manually where it is not captured by the FI's human resources system and it may not be readily at hand (i.e. it could be stored in the FI's archives). Moreover, larger firms would likely receive numerous requests and significant resources would need to be deployed by all firms to compile and review the information to be provided, particularly where such information had not come into existence with such disclosure in mind.</p> <p>We seek clarification as to whether a prospective employer will generally be considered to have discharged its obligations after waiting for one month and there is no response from the former employer.</p> <p><u>Unforeseeable delays</u> We seek clarification from MAS in cases where there is an unforeseeable delay in the reference check request being complied with (for example, where the request is sent to the employee's previous line manager who is on block leave and the appropriate department (i.e. HR) is only made aware of the request</p>
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	<p>when that manager returns two weeks later), whether MAS would take such circumstances into account when considering whether there has been any breach of the proposed prescribed timeline.</p> <p>By way of a suggestion, it would also be helpful if a list of FIs' contact details for reference check purposes could be maintained by MAS or an industry group (as appropriate).</p> <p>Question 3(iv): We submit that the right to view should only be limited to instances where there is a misconduct report filed with MAS against the individual. In particular, it should be limited to the viewing of the misconduct report to ensure that the report correctly reflects the misconduct. Should this not be the case, we submit that there will be huge challenges on FIs to operationalize such a requirement to allow individuals to view all references prepared.</p> <p>Further, given that the individual will have the right to view the references prepared, we foresee that there could be situations of disputes or challenges on the information provided in a reference check. This may potentially result in disputes and litigation. As such, we seek clarification as to MAS' expectation on whether there will be an obligation by the FI to provide further clarification/help in resolving the dispute.</p> <p>Question 4: We note that FIs are expected to take 'reasonable steps' to request relevant information in such instances, and satisfy themselves of the fitness and propriety of the prospective employees. We seek clarification and examples of what would constitute 'reasonable steps' that would be considered sufficient by MAS. In this regard, it is important for the updated MAS Notice (if MAS were to make these requirements mandatory via a Notice to FIs) to set out what would constitute reasonable steps. Alternatively, MAS Guidelines/FAQs with illustrated examples of steps which are 'reasonable steps' would be helpful to FIs.</p> <p>We also seek clarification in relation to the scenario where an FI proposes to hire an employee who worked at a MAS-regulated FI (i.e. an FI that is required to comply with the reference check requirements) and that FI fails to respond to a reference check request or the FI's response is insufficient. Can the prospective employer adopt the same approach as for hiring from non-MAS regulated entities/entities located outside Singapore (i.e. make an assessment of the individual's fitness and propriety based on other available information and due diligence conducted etc, provided reasonable steps have been taken to conduct the reference check)?</p> <p>As previously stated, and considering the complexity around the reference check scheme, we submit that MAS should limit the approach to hiring to FIs in Singapore within the scope of FIs described in paragraph 3.1 of the Consultation Paper.</p>
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	<p>Question 5:</p> <p>We are concerned that this requirement to maintain records specified in paragraph 5.3 for all employees (excluding ancillary service personnel), is too extensive and onerous. The compliance and human resources costs would be astronomical. As such, we respectfully submit that the requirement to maintain records for a minimum period of five years be limited to employees currently in functions as set out under Option 2 in paragraph 4.4. of the Consultation Paper (as modified per the comments above in response to question 2), and with discretion left to FIs to decide if they wish to expand the maintaining of records to all employees.</p> <p>Without prejudice to our submission above, we seek clarification as whether external consultants (hired by third party vendors) or temporary staff such as contractors and interns, are in scope on the requirement to maintain records.</p> <p><u>Lookback period of other declarations and Forms</u></p> <p>With reference to the MAS Circular on “Due diligence checks and documentation in respect of the appointment of appointed, provisional and temporary representatives”, we note that individuals are expected to provide the self-declaration against the fit and proper criteria for the period of the past ten years. As proposed in our response to Question 3(i), we respectfully suggest that MAS could align the fit and proper self-declaration with the mandatory reference check lookback period and consequent record keeping obligations, by reducing the relevant period from the past ten years to the past five years accordingly. This would ensure consistency and help FIs simplify processes and reduce operational burden.</p> <p>In addition, regulatory Forms such as Form 3A and Form 11 require certification from the principal/ licensed entity that the principal/ licensed entity has conducted due and diligent enquiry on the background of the appointee based on, amongst others, (i) the appointee’s response in the fit and proper criteria section of Form 11 and (ii) the above-mentioned self-declaration Form for completion by Form 3A appointees and where these Forms require appointees to respond to all the questions for a period of “within the past 10 years”. Again, we respectfully suggest that MAS could align the relevant period in these Forms with the mandatory reference check lookback period and consequent record keeping obligations, by reducing the relevant period from within the past ten years to within the past five years accordingly.</p> <p>Question 6:</p> <p>We seek assurance that MAS has taken into account any data privacy considerations before requiring the FI to release such information derived from internal investigations and/or disciplinary actions taken.</p> <p>Question 7:</p> <p>ASIFMA members hold differing views as to whether the requirements proposed should be implemented by way of a Notice or Guidelines.</p>
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		<p>Question 8: Six months is too short a timeframe for the industry to implement the requirements proposed in the Consultation Paper. A longer transitional period is required to take into account that the industry is currently still implementing and in the transitional period for various other major regulatory changes, which were recently issued by MAS (e.g. Notice on Execution of Customer’s Orders, IAC Guidelines and Guidelines on Environmental Risk Management etc). Accordingly, we seek a transitional period of at least 12 months.</p> <p>Further, we seek clarification on the application of the transitional period. For cases where a letter of offer has been issued before the end date of the transitional period but the background check has not been conducted, would the FI be expected to comply with the mandatory reference check requirements?</p>
4	FWD Singapore Pte Ltd	<p>Question 1: Please clarify if we need to do these checks for existing staff (if they fall into the in-scope categories) or just only for new hires? Perhaps it is better to do it only for new hires.</p> <p>Please clarify if we need to do these checks for those who have come from any type of organisation or just only those who came from other FIs? It should be good only for those who have come from other FIs and are in-scope.</p> <p>Question 2(i): After evaluating, we believe that option 2 is the better option for the company especially for the start.</p> <p>Please provide more example on the roles that are to be in-scope for better clarity and which roles to be checked.</p> <p>Question 3(i): Please clarify if we need to do these checks for existing staff (if they fall into categories) or just only for new hires? Perhaps it is better to do it only for new hires.</p> <p>Please clarify if we need to do these checks for those who have come from organisation or just only those who came from other FIs? It should be good only have come from other FIs and are in-scope.</p> <p>Please clarify if we can still hire the individual if the previous employer does not requests.</p> <p>Please clarify if we can incorporate any of these new checks into our existing background process where we use an external provider and they will reach out to the last 5 years for us (most organisations use external background check providers).</p> <p>Question 3(ii): We (and most other organisations) already do the checks listed in 3.1 and 3.2 (previous employment durations and reasons for leaving) as part of our standard</p>



		<p>background checks for all new hires so if these new checks are implemented as per this Mandatory Ref Check policy, do we need to do these checks again for existing staff? If we do need to do again, can it just be the checks we currently have not done related to fit and proper, balanced scorecard and persistency ratio (ie. 3.3 – 3.5).</p> <p>Question 3(iii): If a candidate accepts an offer and then we start the reference checks say two weeks later, they may already start with us and then the reference checks come through once they have already started. What happens if the checks reveal some negative information about the candidate who has just started, or about an existing employee if we have to do checks on them. Is it at our discretion how we deal with that negative information or do we need to report to MAS and how do we know what info is serious enough to report to MAS?</p> <p>Question 3(iv): Individuals will want to review the references if they are negative or we make any decisions based on these and this may create issues.</p> <p>Question 4: Suggest we do not do checks on those being hired from non-financial sectors in Singapore and it may issue of hiring from overseas which the overseas organisations may not oblige in sending the requested information eg. it is deemed confidential in that jurisdiction.</p> <p>Question 7: Suggest we do not implement for existing staff, only new hires.</p> <p>Question 8: Suggest a transition period of at least 12-month would be necessary for the industry to discuss and agree on a standard reference check template to be used.</p>
5	Lymon Pte. Ltd	<p>Question 2(i): Option 1. For smaller firms, junior to mid-level positions may be entrusted with risk taking functions/decision making.</p> <p>Question 2(ii): AML notice – S\$1k per the Payment Services Act (no need to perform AML/CFT).</p> <p>Question 3(i): 10 years in alignment with fit and proper assessment criteria and rep appointment forms</p> <p>Question 3(iii): Suggest shortening timeline to 14 calendar days to reduce waiting time.</p> <p>Question 5: We agree.</p>



		<p>Question 6: Given that the internal investigation and disciplinary processes may not be applied consistently across the industry due to varying degrees of subjectivity involved, we propose that MAS provide a framework/template of what it expects to be covered in the policies and procedures for internal investigation and disciplinary processes.</p> <p>Question 8: May we clarify if the requirements will apply to all existing employees from effective date of notice or only prospective employees.</p>
6	Mizuho Bank Ltd	<p>Question 2(i): We respectfully request the Authority’s kind consideration to allow Financial Institutions (FIs) to align parameters under Option 1 with the Individual Accountability and Conduct (“IAC”) framework, which is established by each individual FI in accordance to the MAS Guidelines on Individual Accountability and Conduct (“IAC Guidelines”). This facilitates administration as the same group of individuals (i.e. senior managers and material risk personnel) will be in scope for both reference checks and meeting IAC Guidelines.</p> <p>If the Authority does not agree with aligning with IAC framework, we propose to take Option 2.</p> <p>Question 2(ii): Similar to feedback on Q2 (i), we propose that the small payment threshold be aligned with each individual FI’s IAC framework threshold to reduce administrative burden on each FI to have separate criteria for reference checks versus meeting IAC Guidelines.</p> <p>Question 3(ii): We note that under para 5.3 of the CP, it requires compliance records such as investigations, disciplinary actions taken and misconduct reports filed with MAS. We foresee challenges in obtaining some of the records stated under 5.3 (b) due to lack of centralized database containing all the requisite information. Based on the above challenges, we would like to request the Authority to consider providing FIs a longer transition period beyond 6 months (e.g. 1-2 years) to ease such infrastructural enhancement to facilitate data collection and retrieval.</p> <p>Question 3(iv): We respectfully request the Authority to make this requirement optional to the FIs. Notwithstanding that the Authority has shared in the CP footnote 23 that “right to view the reference does not constitute a right to edit the content of the reference”, by mandating mandatory sharing of such reference to ex-employees, we foresee undue administrative and legal burden (e.g. lawsuit) on the FI to provide justifications to the ex-employee if there is dispute.</p>



		<p>Question 4: We would like to seek clarification from the Authority on the reasonableness and expectations on FIs on such reference checks made to ex-employers cross border or cross-sector (where such ex-employers are not obliged to comply with this proposed Notice).</p> <p>For instance, if the FI were to send a request and at least a follow-up request to such ex-employers cross border or cross-sector but receive no response, we would like to confirm our understanding that FI has met such expectation in this Notice as long as other due diligence information received by the FI does not cast any doubt on the fitness and propriety of the prospective employee.</p> <p>Question 8: We would like to seek clarification from the Authority on this scenario.</p> <p>If this draft Notice is issued in December 2021 with transitional period of 6 months (i.e. effective date of Notice is June 2022) and we have staff who has joined our bank on Nov 2019 and left on Aug 2023. If reference check is made by his new employer on Aug 2023, is the mandatory information contained in reference check by us from Nov 2019 to Aug 2023 or from the effective date of the Notice (i.e. June 2022) to Aug 2023?</p> <p>If it is the former (i.e. from Nov 2019 to Aug 2023), there will be operational challenges to provide such mandatory information contained in the reference check from Nov 2019 to June 2022.</p>
7	Moody’s Investor Service Singapore Pte Ltd. (“MIS Singapore”)	<p>Question 1: MIS Singapore has no concerns on the proposed scope of FIs.</p> <p>Question 2(i): Option 2 appears to be in line with the MAS’s objectives under the IAC Guidelines, which apply to senior managers and, relevantly in this context, material risk personnel (i.e. individuals who have the authority to make decisions or conduct activities that can significantly impact the FI’s safety and soundness, or cause harm to a significant segment of the FI’s customers or other stakeholders).</p> <p>MIS Singapore considers Option 2, which focuses on functions that can directly cause or result in financial risks to FIs or customers, is the more appropriate scope of employees. We agree with the approach outlined in the Option 2 that excludes employees (such as HR staff, loan admin staff and Finance staff doing tax and financial reporting – per the examples provided by MAS in paragraph 4.4 of the Consultation Paper) that are not normally considered risk-taking functions but rather shared services functions that deals with those specified risks.</p> <p>Question 3(i): MIS Singapore considers the five-year lookback period is a more manageable timeframe compared to the ten-year period proposed in the 2018 consultation</p>



	<p>for FI representatives and is supportive of this move. We note MAS has aligned the lookback period with the existing data retention requirements in Singapore.</p> <p>Question 3(ii):</p> <p>MIS Singapore supports the role that reference checking plays in helping FIs make informed hiring decisions to ensure individuals are fit and proper, and contributing to the integrity of the financial services industry. However, we wish to raise the following considerations relating to the scope of the requirements:</p> <ul style="list-style-type: none">• Scope of mandatory information – paragraph 5.3(b) refers to “compliance records relating to the individual’s fitness and propriety, unless there is risk of tipping-off the individual which may compromise the integrity of investigations...” The term “compliance records” could mean the original documentation in the individual’s HR file, which may contain confidential and commercially sensitive information relating to the FI, for example, if the employee was subject to an investigation involving a client. This would seriously disadvantage the responding FI’s interests if it is provided to a prospective employer that is a direct competitor. Furthermore, what is material in this regard is really information about the individual’s fitness and propriety as opposed to the records (i.e. the documents) containing them. Therefore, we suggest using the term “information relating to the individual’s fitness and proprietary...” so that FIs can adequately respond to a request without providing confidential details. This is also consistent with the principle for misconduct reporting (per MAS’ Response to the 2018 Consultation in paragraph 6.11) that confidential client information should not be included.• Fit and proper threshold – we note the mandatory information set out under paragraph 5.3(b) relates to “...to the individual’s fitness and propriety...”. We agree that the information contained in the reference should be subject to a baseline threshold for consistency and help standardise practices, rather than any of the information proposed under (i) to (v). We would therefore like to confirm that the assessment of the individual’s fitness and propriety will be conducted according to the MAS Guidelines on Fit and Proper Criteria.• Ongoing investigations – we note subparagraph 5.3(b)(ii) requires “ongoing investigations and the extent of consumer detriment (where applicable) resulting from the wrongdoing if substantiated”. The fact that an investigation is ongoing means that an allegation is yet to be substantiated. The outcome would be known when the investigation is concluded. In order to accord procedural fairness to the individual if the allegation is ultimately not substantiated, and to reduce the likelihood of potential litigation against the responding FI if the individual is not aware they are under an ongoing investigation, we suggest this requirement be removed. We note in paragraph 5.10 of MAS’ Response to the 2018 Consultation that MAS will not proceed to mandate FIs to notify representatives when they are under investigation, in light of the reasons set out in paragraph 5.9, namely not to compromise the investigation and avoid the risk of tip-off. This rationale is aligned with the principle here of not including ongoing investigations in the reference check response.
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	<p>Question 3(iii): Based on the current proposed list of information to be furnished under paragraph 5.3 of the Consultation Paper, FIs will need adequate time to provide accurate information in the reference check response, including seeking external advice if necessary. Thorough checks with third party providers and inquiries with other FIs would normally be involved in the reference checking process as well. We propose a target timeframe of 30 calendar days, but not exceeding 6 weeks, to take into account the above requirements. This would be aligned with the approach in other jurisdictions, e.g. in Hong Kong the HKMA’s proposed timeframe is 30 days, and in the UK FCA’s regulatory reference regime the existing timeframe is six weeks.</p> <p>Question 3(iv): MIS Singapore has concerns that the “right to review” proposal would give rise to additional litigation risk for FIs responding to the reference requests if the individual disputes the content of the reference. To address this situation and at the same time afford procedural fairness to the individual, we consider providing the employee full transparency at the earlier stage of an FI’s investigation and disciplinary process is key; the person should be fully apprised of the nature and reason of disciplinary matters in their work history that could be included in a future reference. We also emphasise that investigation and disciplinary proceedings should be conducted in a consistent and independent manner, determined by a senior review body within the FI that is separate to the parties involved in the matter, to ensure that the process is impartial. This relates to MAS’ expectations of FIs in Q6 below, that FIs should establish robust internal investigation and disciplinary processes to facilitate the provision of fair and accurate responses to reference check requests.</p> <p>Question 4: MIS Singapore appreciates that MAS has taken into account the difficulties in obtaining reference check information from FIs in these categories, which may result in the lack of a response to the request or contain insufficient information. We agree with the approach that FIs take reasonable steps to request relevant information and proceed with the hire after satisfying themselves of the fitness and propriety of the prospective employees.</p> <p>This further supports the case for requiring additional time beyond the proposed 21-day period to a 30-day timeframe so that ‘reasonable steps’ can be undertaken in the reference checking process.</p> <p>Question 5: No concerns with this requirement.</p> <p>Question 6: MIS Singapore agrees there should be a fair and transparent process when FIs investigate potential misconduct, and that rigour and high standards are applied to their internal investigations. For its part, Moody’s conducts all internal</p>
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		<p>investigations according to a global process which encompasses the four elements set out under paragraphs 8.2(a) to (d) and 8.3 of the Consultation Paper.</p> <p>As mentioned above, we reiterate ongoing investigations should not be included as mandatory information in the reference to avoid jeopardising the ongoing process, or if the subject employee is unaware of an open investigation against them.</p> <p>Question 7: No concerns with this requirement.</p> <p>Question 8: MIS Singapore considers a longer transitional period of 12 months is preferable, given the time required to implement the requirements for an expanded scope of employees. This may involve changes to policies and procedures which will require a longer lead time especially for FIs that are part of a global group.</p>
8	MSIG Insurance (Singapore) Pte. Ltd.	<p>Question 1: We would like to propose that general insurance agents be scoped out from the Mandate Reference Checks for the following reasons:</p> <ol style="list-style-type: none"> 1) Agents are not involved in underwriting and acceptance of risks. They are merely facilitating the purchase of insurance by liaising with their customers and insurers. 2) Currently all agents are already governed by GIA Agents Registration Board. At all times, they are required to comply with General Insurance Agents' Registration Regulations (GIARR) , Fit and Proper Criteria , General Insurance Agency Management Framework, Insurance Act and MAS Notice 211. 3) GIA also conducts yearly audit on all registered agents on a selected basis to identify and address agents' failure and conduct to comply with mandatory requirements in the GIARR. The findings and outcomes of the audit will also be shared with all insurers. "Problematic" agents are therefore already published within the community. <p>Question 2(i): From a relevancy-perspective, Option 1 appears to be more appropriate, as employees in the control, critical systems, finance & HR functions are equally required to have good conduct and it is pertinent that they have the right moral standing to discharge their jobs responsibly. However, from an operational-perspective, Option 2 is less challenging.</p> <p>We reiterate our views under Question 1, that insurance agents should be excluded.</p> <p>Question 2(ii):</p>



	<p>It is difficult to specify a standard threshold, as employees are given different risk acceptance and claims settlement authority based on an organization's risk appetite. Even for expense authorization, this differs amongst organizations based on their respective risk appetites.</p> <p>Question 3(i): While records may be retained for 5 years or beyond, it is administratively challenging to have to respond to reference checks going back 5 years for every single resigned employee who is re-joining the financial industry. We propose a lookback period of 3 years instead of 5 years.</p> <p>Question 3(ii): We are of the view that the proposed mandatory information may be too intrusive especially as regards on-going investigations and may possibly presume that a person is guilty unless proven innocent and this is grossly unfair to the candidate.</p> <p>Question 3(iii): We are agreeable with this.</p> <p>Question 3(iv): We would like to know whether this proposed right to view will be administered by the hiring employer or the previous employer? While the proposed right to view could be supported for transparency, disputes between the former employer and employee may surface. What would be the consequences of such disputes? Would the employee have a legal cause of action against his previous employers if he were not offered employment or had his employment offer withdrawn based on a disputed reference check? An organization has the right whether to offer employment to a candidate, regardless of the outcome of the reference check. For this reason and to avoid disputes, it may be better to keep the reference check confidential.</p> <p>We would also like to seek the following clarification:</p> <ul style="list-style-type: none">a) Referencing the “balanced scorecard grades”, is this going to be an industry standard, or are organizations free to implement or continue with their own balanced scorecard currently used in their performance appraisal exercise? Not all grades used in performance appraisal are relevant to the issue of misconduct.b) Referencing “persistency ratio”, is this an expected measurement as we believe this is not currently measured for insurance employees engaged in business development and sales? <p>Question 6: Other than reminding FIs to ensure that internal investigation and disciplinary process should comply with the law to avoid a legal challenge by employees, we have no comments for this question.</p> <p>Question 7:</p>
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		<p>Organizations may face a challenge in ensuring compliance by the HR function if this is issued in the form of a Notice, as 2nd and 3rd lines of defence may not be able to have full access to information due to the confidential nature of the issue.</p> <p>Question 8: MAS may want to consider a trial period of 12 months, before making this mandatory.</p>
9	Singcash Pte Ltd	<p>Question 1: The proposal is to require FIs to perform reference checks and respond to reference check requests. We note that the one key consideration that the MAS has is the incidence of ‘bad apples’ moving from one financial advisory firm or equivalent in the industry (bank, SFA, FAA, IA etc) to another. This was also the impetus for its 2018 consultation paper on Revisions to Misconduct Reporting Requirements and Proposals to Mandate Reference Checks for Representatives. The MAS also intends to apply the Proposed Mandated Reference Checks to large number of FIs. The list of requirements and the scope as set out in the following sections are fairly exhaustive and have implications on the business operations and set up of FIs that are new to the industry.</p> <p>First, we note that the proposed requirements, being mandatory, and covering personal data, will need to be legislated in order for FIs to comply. It would not be possible for FIs to comply if the proposed mandatory checks remain as a set of requirements without being required pursuant to legislation given that FIs will need to comply with the prevailing requirements under the Personal Data Protection Act. We request that the MAS ensure that FIs are not be liable for breach of prevailing personal data legislation in the performance of their duties in relation to mandatory reference checks.</p> <p>Notwithstanding this, we note that the Payment Services Act (“PS Act”) came into effect in January 2020. Standard and Major Payment Institution Licensees were only licensed progressively since early 2020. We also note that many entities have been granted an exemption from holding a licence under the PS Act for the specific payment services for a specified period.</p> <p>Therefore, there are industry segments that are nascent and the participants that may not be ready to comply with the mandatory reference checks.</p> <p>There are also concerns with mandating reference checks that may in fact deter applicants for jobs within the industry, particularly those who are concerned about the confidentiality of their job applications being made public or known as a result of these mandatory requirements. In this regard, we refer the MAS to our comments in relation to personal data above. Even though the MAS’ intention is well-understood and whilst FIs implement reference checks in accordance with licence requirements or legislation, job applicants may be apprehensive. Those seeking employment or opportunities in those areas where ‘bad apples’ had not been involved may simply find these reference checks too intrusive. We note, for example, that payment services institutions generally do</p>



	<p>not involve themselves in these services that ‘bad apples’ had been involved in (eg financial advisory services) and in fact are not licensed for these services.</p> <p>We recommend that the MAS consider a more carefully calibrated approach. For example, the MAS should consider (i) setting the mandatory requirements for key roles, eg roles that may cause direct harm to consumers (eg financial advisories, financial representatives). Indeed, we note that these were the key subject of the MAS 2018 consultation paper on Revisions to Misconduct Reporting Requirements and Proposals to Mandate Reference Checks for Representatives (ii) not requiring these of FIs that are new to the industry, eg PSA licensees should not be required to comply with the Proposed Mandated Reference Checks. These FIs should continue to refer and rely on the MAS Fit and Proper Conduct Guidelines as a reference. Furthermore, there are also other instruments that the MAS has or will put in place to ensure that FIs will have in place sufficient governance, including for example, the impending Omnibus Act, the Guidelines on Individual Accountability and Conduct, all of which will place high expectations on FIs in terms of governance and accountability.</p> <p>Question 2(i): First, we urge the MAS to consider a more carefully calibrated approach, as set out in our response to Q1. Different types of FIs may require a different approach. Larger FIs that operate a large business with a larger scale of customers or which operate services involving financial advisory (which are extremely reliant on integrity of the individual staff) must ensure that these staff are covered in the scope. FIs that are not operating such businesses may be subject to a different option.</p> <p>Accordingly, we note that MAS has only offered two options and Option 2 is one that covers senior managers (Annex A) and also focuses on functions that can directly cause or result in financial risks to FIs or customers. The MAS has stated what this Option 2 may exclude but not what it includes. We feel that Option 2 correctly focuses on the fact that the checks are rightfully required of those who can cause financial risks. And this appears to be a more reasonable and calibrated approach for FIs that are new to the industry and clearly more reasonable for FIs that do not perform the sensitive services like financial advisory etc. Therefore, we support Option 2.</p> <p>Question 2(ii): Keeping petty cash in individual departments is a common practice. A \$500 is deemed a reasonable threshold for small payment.</p> <p>Question 3(i): First, we reiterate that all reference check information that is supplied must be pursuant to legislation as all FIs would need to comply with the personal data protection requirements.</p> <p>Second, we have concerns with the practicality of obtaining the most recent information or the practicality of producing the most recent reference checks.</p>
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	<p>We believe that the candidates will wish to keep its job applications (and therefore the requirement for mandated reference checks) confidential. We believe that the mandatory reference checks may in fact deter applicants who may be concerned about the confidentiality of their job applications being made public or known as a result of these mandatory needs. Payment services institutions, for example, do not operate financial advisory or representation services and therefore are less likely to be involved in ‘bad apple’ situation, as such, it would not be necessary to apply the mandatory checks to them.</p> <p>Question 3(ii): We are concerned with the requirements in 5.3 (b), (c) and (d). Notwithstanding our comments about a more carefully calibrated approach, we note that given that not all FIs will have these kinds of information, there will be inconsistent application across the industry and we question whether there is a need to retain such wide a wide ranging set of information on the employees.</p> <p>Question 3(iii): More time will be required. We ask for up to 1 calendar month.</p> <p>Question 3(iv): We reiterate that all reference check information that is supplied must be pursuant to legislation as all FIs would need to comply with the personal data protection requirements. This is essential to ensure that FIs are protected from any liability arising from individuals arising from the content of the mandated reference checks.</p> <p>Question 4: We are agreeable.</p> <p>Question 5: We are agreeable to maintain records of information specified under paragraph 5.3 pertaining to all employees, with the exception of ancillary service personnel such as drivers, food and beverage personnel and clerical personnel, for a minimum period of five years, once the reference check requirements take effect.</p> <p>Question 6: We are agreeable that it is important to have a robust internal investigation and disciplinary process to determine and document the appropriate actions when there is a failure to comply to the Code of conduct.</p> <p>Question 7: We refer the MAS to our comments to Q1 in relation to the need for protection of the employee’s personal data. We have expressed that any mandatory reference checks and supply of information must be made and supplied pursuant to legislation. FIs must not be liable for breach of prevailing personal data legislation in the performance of their duties in relation to mandatory reference checks.</p>
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		<p>Question 8: Given the scale of the changes required, we believe that the MAS may need to provide licensees more time. For example, FIs licensed under the PSA may require more time as they are generally new to the industry. These FIs should be given up to 1 year transitional period.</p>
10	The Agents' Registration Board (ARB)	<p>Question 7: 1) ARB suggests MAS to include in the Notice a checklist which helps all FIs meet the requirement at 5.3 of the CP, listing all the mandatory information to be provided for reference checks. This will facilitate the exchange of mandatory information between the asking FI and the giving FI, which may be from different parts of the finance sector. There is significant benefit in all the FIs from the different sectors using the same format instead of each coming up with its own.</p> <p>2) ARB gives feedback to MAS that the mode of implementation of this proposal may cause duplication with regards to conducting reference checks on general insurance agents, and seeks MAS's guidance on the problems identified:</p> <p><u>Problem Statement:</u> a) An agent with more than one principal may be subject to reference checks by more than one principal. Having 2 or 3 insurers conduct the reference checks at around the same time may be excessive.</p> <p><u>Possible solutions:</u> b) If multiple insurers are proposing to appoint an agent at or around the same time, there is a case for the Primary Principal to conduct the check and the principals may choose not do the same. This works only within a reasonable time frame between registrations (and here we propose within the same calendar year).</p> <p>The compensating control built in here is that the next insurer must still do a reference check with the other current principals, and consider if there is no need to do the full check on past employers if the first principal has done the check for the same lookback period that does not cross a new calendar year. ARB suggests that MAS grant insurers this flexibility to consider whether to do a reference check on past employment in this situation.</p>
11	The Bank of Nova Scotia, Singapore Branch	<p>Question 2(i) The Bank proposes to adopt Option 2 for the scope of employees to be subject to reference checks as Option 1 appears to include majority of the staff working in a bank. It will be helpful if MAS can provide a standardised template to be used for all FIs so that the scope of employees are clear.</p> <p>Question 3(i): The Bank has no issue with the proposal.</p> <p>Question 3(ii):</p>



		<p>The Bank has concerns regarding the proposal to provide the specific reason for cessation of employment given the sensitivity involved. The Bank proposes to keep this optional. If the decision is to impose a requirement to provide the reason for reference checks, the Bank proposes to answer either “Voluntary” or “Involuntary” without having to go into details.</p> <p>Question 3(iii): The Bank has no issue with the proposal.</p> <p>Question 3(iv): The Bank feels that ex-employees should not be given the right to view the references prepared and received in relation to their employment given that these are corporate confidential information.</p> <p>Question 4: The Bank would like to request for MAS to provide a standard template to ensure consistency.</p> <p>Question 5: The Bank has no issue with the proposal.</p> <p>Question 6: The Bank has no issue with the proposal.</p> <p>Question 7: If the decision is to mandate the requirements of reference checks, the Bank suggests imposing these requirements on all employers, including non-financial institutions (e.g. law firms, accounting firms) where applicable, so that there is consistency in what the Bank receives and the Bank provides.</p> <p>Question 8: The Bank proposed for the transition period to be at least one year.</p>
12	Tokio Marine Life Insurance Singapore	<p>Question 1: Agree with the scope. As a suggestion, it may be easier to state the principle that all regulated FIs under MAS’ ambit is in scope unless expressly excluded, e.g. money-changing and remittance business is not included in the list.</p> <p>Question 2(i): Between the two options, the scope should be aligned to Option 1. Option 2 is more difficult to implement as firstly, Option 1 is already slightly vague and to have broad exclusions under Option 2 may compound the problem. Secondly, many incidents may indirectly cause or result in financial risks (e.g. mailing thousands of customer statements to incorrect recipients [which is an operational risk] may lead to significant PDPC penalties), so some employees that should be in scope may be excluded unintentionally under Option 2. The examples in para 4.4 (first bullet point) on HR staff and those performing tax and financial reporting are useful ones to exclude, but the list can get more</p>



	<p>challenging to manage when trying to operationalize the scope. It would be more intuitive to tie para 4.3(i) to the Material Risk Takers (MRT) in MAS' Consultation Paper on Revisions to the Corporate Governance Guidelines or 4.3(i) and (ii) to Material Risk Personnel (MRP) in MAS' Guidelines on Individual Accountability and Conduct, and not create another category of employees to subject the mandatory checks on.</p> <p>Instead of having "specified risk" (footnote 13), TMLS suggest that MAS consider risks more generally and limit 4.3(i) and (ii) to only employees that take or mitigate significant or material risks. It is also not practical to subject all employees under a certain function (e.g. risk management department) to the same requirements as there are different seniorities (e.g. senior manager vs associate level) and responsibilities (e.g. team leader vs individual contributor). Flexibility should be given to FIs to determine the distinction within the functions to subject the mandatory checks on. For that matter, it is also not practical to exclude a whole group of employees too (e.g. staff in the internal audit function, as indicated in para 4.4 (second bullet point)), as a staff with heavier responsibilities (e.g. IT security audit) should undergo more stringent reference checks.</p> <p>Instead of prescribing 4 categories (para 4.3 (i) to (iv)), it may be better to take a risk-based approach (i.e. include employees that handle material risks) and give FIs the discretion to identify the list of employees based on certain principles. Another approach is to specify the minimum expectations by certain roles, responsibilities or seniority, akin to Annex B in MAS' Guidelines on Individual Accountability and Conduct but applied to middle managers (e.g. senior relationship managers in banks, senior traders, senior credit analysts). This would also remove the need to prescribe the threshold in para 4.3(iv).</p> <p>Question 2(ii): In the event MAS proceeds with Option 1 in its current form, a suggestion is to consider narrowing the definition to only employees that can unilaterally approve or release funds. Most FIs will have adopted a doer-checker / four-eyes principle or have other controls in place (e.g. end of day balancing of amounts) so the risk should be focused on individuals that fall outside of these controls. This eliminates the need to set thresholds too. However, if a threshold is still required, \$5,000 may be a suitable starting point, as that is the amount of physical cash representatives are allowed to handle from customers (NB: this amount varies from company to company and some insurers have stopped the practice of accepting cash premium payments).</p> <p>Question 3(i): A lookback period of 3-4 years may be more reasonable, if the intent is to align with time limits under the Limitation Act for breach of duty. In any case, the lookback for employees and representatives should be aligned for consistency.</p> <p>Question 3(ii):</p>
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		<p>Agreed. TMLS would like to enquire if the individual is applying for a role that is out of scope (e.g. IT application developer) but had previously been in a role that was in scope (e.g. IT critical system administrator), would the FI still need to carry out a reference check? This is to avoid “back-door” circumvention of the requirements, i.e. applying for another role but subsequently shifting to the in-scope role via internal transfers. On a separate but related issued, we would like to seek some clarity for the following scenarios for staff with a negative record: a) He/she joins the regional office of another FI (which then supervises its Singapore office), i.e. falls outside Section 3 scope of FIs; b) He/she joins an audit firm which other FIs engage for audit services; c) He/she joins the Board of another company that falls outside Section 3 scope; d) He/she joins a FI in areas that may potentially be sensitive (e.g. FI’s training function of representatives) Is there (i) any obligation of the FI to “tip-off” the FI or audit firm if there are serious concerns (e.g. the staff had committed fraud), and (ii) any obligation to provide a response to a requesting entity that falls outside of Section 3 scope, when there may be legitimate reasons (e.g. unethical practices) to flag? Also, if a FI discovers a misconduct (that is substantiated) only after the employee has left the company, is there an obligation to alert the requesting FI, given that it had previously provided a clean record to it?</p> <p>Question 3(iii): Agreed. We would like enquire if it is possible for the FI to seek an extension from the requesting party, in the event that the FI assesses that it needs more time to compile the necessary information (subject to a maximum of another 7-14 days).</p> <p>Question 3(iv): Agreed. The operational challenges may include dealing with scenarios where (a) the individual disagrees with the references prepared and is able to substantiate his/her perspective, and (b) the individual has strong grounds to appeal and if successful, may request to expunge the incorrect references. There should be consistent standards and a neutral party to facilitate the settlement of such scenarios.</p> <p>Question 4: Agreed.</p> <p>Question 5: Unlike for representatives, there is currently no antecedent in maintaining the required level of details for all employees (with exception of ancillary service personnel) for a length of time. Although TMLS appreciates the spirit of the requirements, it will create administrative and operational challenges for most companies. A grandfathering type of arrangement may be required to address the possible gaps in information for the 5 years after the requirements come into effect. That is, FIs would compile on a best effort basis for the first 5 years and the records requirement is strictly enforced after the transition period. MAS should also provide some guidance on the ancillary service personnel to be excluded, to minimize the work for FIs.</p>
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		<p>Question 6: Agreed. However, a suitable transition should be provided for para 8.2(d), as proper documentation may face challenges, as highlighted for Question 5.</p> <p>Question 7: Although TMLS understands the rationale to prevent “rolling bad apples”, for practical purposes, it may be better to implement the requirements as a set of guidelines initially, and after practices across the financial sector have levelled up, to then issue the requirements as a Notice. This is due to the operational challenges as highlighted in Question 5.</p> <p>Question 8: A transitional period of 6 months is too short to implement, especially during the current COVID-19 situation where some FIs continue to face operational resilience challenges, and where there are also other numerous new or revised regulatory requirements to implement at the same time, such as the reference check for representatives. A 12-18 months period would help FIs to manage the transition better.</p>
13	Respondent A	<p>Question 1: What about in scope FIs which had their licence revoked or suspended or withdrawn (e.g. due to bankruptcy issues etc). Are these FIs still obliged to furnish the information?</p> <p>Question 2(i): Some smaller MAS licensed entities may have outsourced certain risk management & control functions externally, e.g. the Internal Auditor function. I understand not all audit firms are MAS licenced, as there is no such requirement. Does the MAS licensed entity need to conduct the required reference checks on persons performing such outsourced functions, especially given the outsourced vendor may have one whole team working on the project, and due to PDPA concerns etc, they might not be comfortable for the small MAS licenced entity to conduct have personal data (NRIC, Passport etc) in order for small FIs to conduct reference checks on vendor's employees. Furthermore, the smaller entities may not have the financial resources plus manpower to perform such reference checks on external vendors, who might not be caught by this CP scope.</p> <p>To also clarify on the scope of prospective candidates. If a firm has say 10 candidates for one job offer, does it mean the firm needs to conduct all 10 reference checks, or the firm can limit to 1-2 checks, on candidates with highest chance of job offers?"</p> <p>Question 2(ii): Suggest to have banded definition e.g. based on number of employees or company financial data or company listing status. A small payment for a huge MNC will definitely be different from a small FI. This small payment amount may also need to be reviewed periodically to cater for inflations etc.</p>



	<p>Question 3(i): To seek more clarification, e.g. if the candidate had taken part time or short terms jobs in the last 5 years, are these included? what about full time jobs where candidates might have stayed less than 3-6 months (for whatever reasons). Unless it is a termination case, the employer may not have sufficient information to provide sufficient feedback.</p> <p>Question 3(ii): Does the duration include probation period? What if the employee had converted from contract to permanent role etc? Any difference between part time and full time roles? Does the job functions mean a detailed job description or one-two liner would be sufficient?</p> <p>Question 3(iii): 21 calendar (15 business days) is rather short given potential public holidays, as well as the responsible staff on compliance leave etc. What penalties (on the FIs or even the job seeker) if the mandatory reference check is not responded/completed? Does those acknowledgement email (without real content) confirming receipt satisfy this 21 calendar days limit?</p> <p>Question 3(iv): Applaud this right to view from an individual job seeker perspective, as this serves as a reminder for ex-employers to write factual non-discriminatory information. However from a company perspective, there may be conflicting interest due to increased risk of law suits etc. There are many employment related court cases because the defendants and plaintiffs have different views and perspective of events. Some FIs, esp smaller ones, in avoidance or mitigating legal risks, may simply provide basic neutral feedbacks which may add no to little value to the mandatory reference check. Reason being, individuals who request to review the references prepared are likely those who didnt have a good reference, esp if their offer were withdrawn.</p> <p>Question 4: If reference checks from ex-in scope employer is mandatory while ex-outside scope employers are not mandatory, will it result in overseas candidates having a competitive advantage over local ex-FI candidates?</p> <p>Question 5: Will Chinese wall requirements be breached in such cases, esp employment details including previous year appraisals and the compliance documents are generally confidential data and likely handled by different teams.</p> <p>Question 6: Are there any external organisations who could investigate or participate in such internal investigations for free or for a small fee to encourage utilisation of the services? Some smaller FIs have a flat corporate structure, and there might be limited persons with certain level of expertise or authority who are also neutral to provide any fair and accurate investigations.</p>
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		<p>Question 7: MAS might want to consider a "review" system? For instance for each background check performed, the employer to log into a MAS database, stating the ex-employer name and type, whether they are in scope or out, and country (best a drop down), date of request, date of requested information received, and probably a simple questionnaire on the adequacy of information received (which is subjective). MAS could have a system to consolidate the data to identify FIs who breach the most instances.</p> <p>Question 8: What if the FI does not have the required ex-employee records, e.g. could be purged due to PDPA/GDPR etc. If ex-employees records had been deleted for whatever reasons, whether a 6 month transition or 12 months transition wont make a difference.</p>
14	Respondent B	<p>Question 1: We agree with the scope of FIs mentioned in paragraph 3 of the Paper.</p> <p>Question 2(i): (i) (a) Option 2 is preferred.</p> <p>Option 1 has the potential to cover a wide range of employees, and the operational burden of complying with Option 1 may be disproportionate to the associated risks since many of the employees in Option 1 are in roles that would typically not directly cause or result in financial risks to FIs or customers (e.g. HR staff, staff in Finance who are performing tax and financial reporting). Further, there should be not such a pressing requirement for mandatory reference checks to be conducted on junior staff.</p> <p>Will the reference check requirement apply to temporary / contract employees who are employed to fill in a role quickly and only for a short tenure?</p> <p>Question 2(ii): We do not have any comments.</p> <p>Question 3(i): No issue. However, aside from 'past five years employment records', does the 'reference check information' here also refer to other standard background checks? (i.e. education, bankruptcy).</p> <p>Question 3(ii): Paragraph 5.3(b) of CP FIs are required to disclose "compliance records relating to the individual's fitness and propriety", such as concluded investigations, ongoing investigations, disciplinary actions etc. However, internal compliance records may contain proprietary or commercially sensitive information and it would not be appropriate for these to be shared with competitors / other FIs without</p>



	<p>redaction. Propose that instead of disclosing actual internal compliance records with the requesting FI, MAS could develop a standard template which the disclosing FI can use to fill in and tailor the level of detail to (e.g. to remove any proprietary or commercially sensitive information). Request MAS to also clarify the level of detail required in the information to be disclosed. Note that it may be difficult to obtain reference check information from companies that have been merged, acquired, dissolved or restructured, or whose licenses have been revoked. Does the mandatory check requirement extend to these companies?</p> <p>Paragraph 5.3(b)(i) of CP Request MAS to clarify the meaning of “wrongdoing” under paragraph 5.3(b)(i) of the CP, where an FI is required to disclose compliance records relating to “concluded investigations with reasonable grounds to believe that a wrongdoing has been committed”. The meaning of “wrongdoing” is potentially quite wide and may cover inadvertent and minor lapses in procedures or protocols. Propose that this disclosure requirement be confined only to wrongdoings that cast serious doubts on the employee’s honesty, integrity or matters of a similar nature.</p> <p>Paragraph 5.3(b)(ii) of CP It may not be feasible for FIs to disclose “ongoing investigations” (as required under paragraph 5.3(b)(ii) of the CP) if such investigations are subject to confidentiality / secrecy obligations (e.g. if a suspected offence is involved). This may expose the reference-giving FI to litigation risks. Propose that disclosure be confined to concluded investigations only, or alternatively for the MAS to provide further guidance on the types of ongoing investigations that are in-scope as well as exemptions that should be applied (e.g. where there are legal or statutory prohibitions on disclosing ongoing investigations). To clarify with MAS if an employee leaves before the investigation can be completed, is this considered as ongoing investigation and are we require to disclose the investigation?</p> <p>Paragraph 5.3(b)(iv) of CP Request MAS to provide guidance on what constitutes as disciplinary actions. Is verbal warning considered as disciplinary action?</p> <p>Paragraph 5.3(d) of CP The persistency ratio and methodology could be confidential business information for an insurance company and suggest removing this requirement. Also, the persistency ratios may not be directly linked with the employee/agents’ performance or conduct behavior.</p> <p>Question 3(iii): There may be circumstances it may not be feasible for the information to be provided within 21 days. Propose that FI is only obligated to provide only reasonable information which it can disclose within 21 days. Would the requesting FI be taken to have discharged its obligation to request mandatory checks if no reply is received within 21 calendar days, or is it obliged to follow up until it receives a reply / negotiate an extension of the deadline?</p>
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		<p>Question 3(iv): FIs may be exposed to legal action (e.g. defamation) from employees as a result of giving references to recruiting FIs. Will MAS be considering safe harbour provisions to protect the legal interests of FIs who have provided references in good faith? Further, we foresee it will be challenging to operationalize and MAS will need to provide guidance on how this can be executed unless we are just seeking consent/clearance from candidate to release information.</p> <p>Question 4: To clarify with MAS whether this is also applicable to internal candidates outside of Singapore; for example if a candidate is working for the Company with other location for more than 5 years and is being relocated to Singapore.</p> <p>Question 5: We have no comments.</p> <p>Question 6: We have no comments.</p> <p>Question 7: We have no comments.</p> <p>Question 8: We have no comments.</p>
15	Respondent C	<p>Question 1: No comments.</p> <p>Question 2(i): No comments, as we are already performing reference checks wider than the scope of employees suggested in both Option 1 and 2 of the Consult Paper.</p> <p>We suggest that the requirements to be implemented for all employees.</p> <p>Question 2(ii): No comments.</p> <p>Question 3(i): We think this is fair.</p> <p>Question 3(ii): Currently, our company policy is that we only provide standard employment information and nothing more than that. If needed, we can provide misconduct reports that were filed with the MAS, as these are factual reports. Our concern lies in the need to provide any additional information on the following: (i) ongoing investigations and the extent of consumer detriment (where applicable) resulting from the wrongdoing if substantiated; and (ii) incidents where the FI</p>



		<p>has knowledge of, or reasonable grounds to believe that the individual has or may have been in breach of legal or regulatory requirements administered by MAS or any other law, while performing his or her duties or responsibilities as an employee of the FI, and the extent of consumer detriment (where applicable) resulting from the incident; Such cases involve some degree of judgement especially when the investigations have not concluded and might potentially cause some misrepresentation of ex-employees to prospective employers who then makes hiring decision based on reference information received.</p> <p>Question 3(iii): 21 days sounds fair.</p> <p>Question 3(iv): Similar to 3 (ii), we are of the view that it is fine to provide standard employment information, but with regards to disciplinary/misconduct issues, we feel that this will be difficult and tricky to implement as the individuals may make requests to have things changed and reviewed.</p> <p>Question 4: We agree with MAS’ approach to allow flexibility for all FIs to ensure all reasonable steps to request for relevant information and not mandate this due to foreseeable difficulties getting information from overseas, and non-financial sectors in Singapore.</p> <p>Question 5: No issues as we currently capture all employment information, including disciplinary/ misconduct information in our HR systems. This also includes any verbal or written warning issued.</p> <p>Question 6: This is already in place for [Respondent C]. No issues.</p> <p>Question 7: If we were to ensure that all FIs share the same level of information, there needs to be very clear guidance (perhaps through a template) on what needs to be shared, in form of a Notice issued by MAS. If not, depending on the level of comfort of each company, this will vary drastically. Best way to do this is to also mandate this requirement via legislation, i.e. it is against the law to not share.</p> <p>Question 8: Should not be an issue as we have most of the requirements in place already.</p>
16	Respondent D	<p>Question 1: We generally agree with the proposals.</p> <p>Question 2(i): No comment.</p>



		<p>Question 2(ii): No comment.</p> <p>Question 3(i): We generally agree with the proposals.</p> <p>Question 3(ii): We generally agree with the proposals.</p> <p>Question 3(iii): We propose that the timeline of 21 calendar days for responding to reference check requests be from the date of receipt of request, subject to certain conditions being fulfilled (i.e. signing of “release of liability” clause to the bank as ex-employer; and requests being received in proper form format). Furthermore, employment verification requests can only be responded to after the employee’s official last day with the Bank to ensure information verified remains accurate, and to account for any changes up till the employee’s official last day.</p> <p>Question 3(iv): We generally agree with the proposals.</p> <p>Question 4: We agree to the approach outlined in Section 6 (i.e. on a best effort basis/ taking reasonable steps as cross-country jurisdiction/regulations may differ).</p> <p>Question 5: We agree with the proposal.</p> <p>Question 6: We agree with the proposal.</p> <p>Question 7: No comments.</p> <p>Question 8: We propose for MAS to provide a transition period of minimally 1 year to allow for appropriate resource and process planning should there be an increase in volume of reference check requests.</p>
17	Respondent E	<p>Question 1: No comments.</p> <p>Question 2(i): Referring to "This option focuses on functions that can directly cause or result in financial risks to FIs or customers." We seek MAS' clarification and examples on what "financial risk" refer to as this is not included under "Specified Risks". Could</p>



		<p>MAS provide guidance on how should such "financial risk" can be quantified or measured.</p> <p>Does MAS consider a reference check performed by a third party service provider as having met the requirements herein?</p> <p>Question 2(ii): FIs should have the ability to determine the thresholds internally.</p> <p>Question 3(i): Past 5 years is a reasonable period.</p> <p>Question 3(ii): No comments.</p> <p>Question 3(iii): No comments.</p> <p>Question 3(iv): We seek MAS' consideration that such a requirement may bring about litigation risks. We seek MAS' clarification on the kinds of protection/indemnity accorded to the FI who had fairly and in good faith "whistle blew" a bad apple.</p> <p>Question 4: In organizations with intra-group outsourcing, many of the positions in scope do not sit with the Singapore office (e.g. Chief Risk Officer may be hired in a foreign jurisdiction, overseeing various risks for all global offices). In such cases, the hiring decision would sit with the foreign jurisdiction, and reference checks can only be done on a best efforts basis. We seek MAS' clarification that such an approach would be acceptable?</p> <p>Question 5: No comments.</p> <p>Question 6: No comments.</p> <p>Question 7: No comments.</p> <p>Question 8: This is a reasonable timeline provided that the FI is not required to retrospectively conduct reference checks for all existing staff who have not had such checks performed.</p>
18	Respondent F	<p>Question 1: Suggest that parameters for reference checks should be limited to aspects around disciplinary action and factual information such as educational</p>



	<p>qualification and role in past employer as too wide a coverage, coupled with onerous requirements that are subject to interpretation, might result in unfair assessments and potentially lead to claims of unfair hiring.</p> <p>Question 2(i): Option 2 - The reputational risk and the extent of the consumer detriment is higher for those who are involved in risk management and control functions. We do not want the checks to be overly onerous, stalling the hiring process unnecessarily. A point for consideration is that reference check returns are contingent on the responses from the previous employers which might not be forthcoming especially if the companies are based overseas.</p> <p>Question 2(ii): We do not think that this will be practical for implementation. In line with feedback in question 1, we suggest that parameters for reference checks should be limited to aspects around disciplinary action and factual information.</p> <p>Question 3(i): This is too lengthy and information returned by the respondent (former employers) could be patchy. In most cases, some of these employers might not even respond to our requests for information and will unnecessarily hold up the entire hiring process.</p> <p>It is suggested that a timeframe of 3 years is set.</p> <p>Question 3(ii): Agree with the set of information requested, no further comments.</p> <p>Question 3(iii): This depends on the volume of hiring. In the case of high hiring volume, the reference checks will place significant stress on the company's resources to furnish information. Suggest that an industry wide blockchain can be used to complete this instead of relying on a manual process of doing so.</p> <p>Question 3(iv): This is not practical for implementation. If the checks are factual, there is no necessity for the candidate to review this. If there are any inconsistencies, the employer can then verify with the candidates. If there are no inconsistencies in declaration or red flags found, this additional step of having to get candidates to verify the info is redundant as it will waste time. A lot of time is wasted bouncing mails for even small inconsistencies and it is best left for individual employers to make the call on whether the red flags or inconsistencies are deemed serious enough to seek clarification from the candidates, which is the typical process for employee reference checks generally.</p> <p>Question 4: Agree that responses from companies outside SG will be patchy and might not even be returned.</p>
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		<p>Question 5: Agree to the minimum period of 5 years of employment records of ex-employees after they have left the employment. However, it would be more efficient and accurate if an industry wide blockchain was effected to manage this programme.</p> <p>Question 6: No comments.</p> <p>Question 7: It is proposed that an industry wide blockchain initiative is implemented to deliver this for both practical (efficiency and accuracy) and cost reasons.</p> <p>Question 8: The timeline of 6 months proposed is reasonable. However, should the proposed industry wide blockchain initiative per response in question 7 be accepted, the implementation timeline should be based on the timeline to deliver this solution.</p>
19	Respondent G	<p>Question 1: No comments.</p> <p>Question 2(i): Option 1 – reference checks should be performed across all functions of the bank.</p> <p>Question 2(ii): Proposed threshold of \$20,000 in line with the MAS Notice 1014 where CDD measures apply.</p> <p>Question 3(i): Agree.</p> <p>Question 3(ii): No additional comments on the mandatory information required. Will the mandatory information be in free format? A standardised template would be easier for the industry.</p> <p>Question 3(iii): Can the 21 days be shortened, on an exemptional basis, should the FI need to onboard the new hire asap?</p> <p>Question 3(iv): This may be operationally costly to implement and time consuming. Disputes may arise from the prospective employee if he/she disagrees. This process will become a reference check on the prospective employees instead of a reference checks for the prospective employer with the past employers.</p> <p>Question 4:</p>



		<p>With many countries concerned with GDPR, it may be challenging for companies outside of Singapore or even non-FIs to disclose such personal information. Will the proposed Notice address this concern and ensure that there will be no breach/penalty for the parties sharing such information?</p> <p>Question 5: No comments.</p> <p>Question 6: To establish a robust internal investigation and disciplinary process just to facilitate the provision of fair and accurate responses to reference check requests will be cumbersome and costly for small FIs to comply. One suggested approach is for the regulating party to provide some best practices for FIs to follow based on each small FIs' requirement. Perhaps some form of declarations by FIs who are providing the reference checks for the party concerned within a certain period of employment should suffice.</p> <p>Question 7: We would like to suggest that a standardize template for reference checks on mandatory information required of the prospective employee be used for this purpose and the FI providing such information on this person declares that the information provided is accurate as at a certain date or during the person's employment with the FI.</p> <p>Question 8: No comments.</p>
20	Respondent H	<p>Question 1: We welcome a broad application of the reference checks requirements to all financial institutions supervised by MAS. The exemption of money changers is adequate.</p> <p>Question 2(i): We welcome MAS' alignment of senior managers for the reference check requirements with the core management functions as described in the Guidelines on Individual Accountability and Conduct. This alignment will facilitate the implementation and limit the burden of the additional requirements. This alignment should be as close as possible, e.g. excluding the "deputy chief executive officer" from the class of senior managers, alignment of heads of business functions. MAS may even consider referring from one regulation to the other to ensure their alignment.</p> <p>For individuals beyond senior management, we also advocate for the alignment to the Guidelines on Individual Accountability and Conduct, specifically for the alignment with material risk personnel. Although small financial institutions, such as external asset managers, generally submit all their staff to employment checks, we remain aware of the additional burden such mandatory checks impose on financial institutions. We therefore suggest limiting the proposed</p>



	<p>scope.</p> <p>Instead of the exclusions proposed under Option 2, we suggest the alignment with material risk personnel as discussed below. Exempting certain risk types may expose the financial institution to material risk, nonetheless. With regards to operational risk, technology risk, legal risk, legal risk and reputational risk, the extent of the risk is more important to the financial institution than the type of risk.</p> <p>While we agree with the examples provided for individuals in risk-taking functions, subjecting all staff involved in operational risk or risk management and control functions to reference checks may be overly cautious. Beyond staff with decision-making authority affecting customers and critical system administration, we advocate for the alignment with the designation of material risk personnel. The designation of material risk personnel specifically targets staff in decision-making and control of some significance.</p> <p>Question 2(ii): The amount that may have a significant impact on the financial institution depends on the size of the financial institution. Moreover, we suggest that the financial institutions can determine the threshold themselves within a range of SGD 10,000 to SGD 100,000. Payments up to SGD 10,000 will not have a material impact on any financial institution. Conversely, misplaced amounts of SGD 100,000 or more can have a reputational impact due to public interest in the incident.</p> <p>Question 3(i): We agree with the proposed lookback period of five calendar years.</p> <p>We welcome the option that the prospective / new employer can only reach out to the existing employer after that employment has ceased.</p> <p>In order to alleviate the burden on the employers, MAS may also consider that it is sufficient for any financial institution to reach out to a maximum of three employers with whom the employee is or was employed during the last five years instead of getting references from all employers during the past five years.</p> <p>With a view to individuals joining the workforce, we that employment for which a reference must be obtained must have lasted at least six months, e.g. excluding shorter internships.</p> <p>Question 3(ii): We concur with the proposed information to be shared.</p> <p>Question 3(iii): We support the proposed timeline of 21 calendar days for the sharing of the required information. This timeline balances the need of the new employer to</p>
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	<p>act expeditiously with the burden on previous employers to make the information available.</p> <p>Question 3(iv): The individual's access to the reference provides the employee with an appropriate opportunity to comment on any incidents to his/her prospective employer. The disclosure must however be limited to the reference, i.e. the mandatory information. The individual must not have any right to further access to documentation based on the reference requirement. Any additional right on this basis might lead to excessive requests and discussions with former employees.</p> <p>Question 4: It is of great importance that financial institutions can hire talent from other countries or from outside the industry. The former is crucial in wealth management that is very international.</p> <p>We concur with the approach that the financial institution need to make reasonable effort to obtain reference checks, but can proceed with the employment where it cannot obtain the reference checks or meaningful reference checks, namely in case of where reference checks are to be obtained from foreign employers or employers outside the financial sector.</p> <p>The regulations should also provide guidance regarding references for prospective employees who have entered the job market in the last five years. We suggest that the requirement for reference checks be limited to employment, similar to the application of the lookback period for individuals with a gap in their employment history. (See para. 5.1 of the consultation paper.)</p> <p>Question 5: Financial institutions keep most of their records for five years due to regulatory requirements regarding their books.</p> <p>We support the initiative that financial institutions maintain their employee records for five years. Instead of being a burden, this requirement provides welcome clarification with regards to this record keeping vis-à-vis personal data protection requirements.</p> <p>Question 6: We concur with the goal of ensuring fair investigations and disciplinary processes. Requirements on such processes must however take the limitations for small financial institutions, such as external asset managers, into account. Small financial institutions may count as little as two staff or in many cases five to ten staff. As a result, options to ensure the independence of their investigations and disciplinary processes – possibly even segregating investigations from decision making – are very limited. At the same time, their financial resources to engage an independent third party for such investigations</p>
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		<p>are also limited. Financial institutions should therefore be given enough flexibility to implement a process that is commensurate to the size of their operations.</p> <p>Question 7: We recognise the need to identify unsuitable individuals to prevent “rolling bad apples”. The respective prevention requires access of financial institutions to information from previous employers. To ensure this access to information this must be part of mandatory regulations, such as Notices.</p> <p>The scope of functions / positions for which reference checks will be required will remain vague. For senior managers / holders of core management functions, the requirement for reference checks should be undisputed and may therefore be included in mandatory regulations, such as Notices. For all other functions / positions, MAS may consider recommending reference checks in Guidelines in order to ensure the flexibility of financial institutions in determining in what instances to obtain reference checks.</p> <p>Question 8: We support a transitional period of six months to implement the reference checks requirements.</p>
21	Respondent I	<p>Question 1: No specific comments on the scope of FIs to be subject to the reference checks requirements.</p> <p>Question 2(i): Our current reference check process is applicable to all employees, irrespective of their role. As such, we would propose to align to Option 1 in paragraph 4.3. Having the same process for all would make it operationally easier for us to manage, as we will not need to have to debate or spend time trying to debate who should be included and who should not.</p> <p>We have no specific comments or suggestions in response to 2(i)b.</p> <p>Question 2(ii): We have no specific comments or suggestions in response to 2(ii).</p> <p>Question 3(i): We agree with the proposed period of 5 years, for which reference check information must be sought and furnished.</p> <p>Question 3(ii): We are in agreement with the proposed approach and have no specific comments on this section.</p> <p>Question 3(iii): We are in agreement with the proposed approach and have no specific comments on this section.</p>



		<p>Question 3(iv): We are in agreement with the proposed approach and have no specific comments on this section.</p> <p>Question 4: We agree with the proposed approach to hiring from companies located outside Singapore, non-financial sectors or FIs in Singapore but outside the scope of FIs described in paragraph 3.1. The proposed approach will allow FIs to have better flexibility to be able to manage the requirements for mandatory reference checks, but also giving them the discretion and accountability around their hiring decisions.</p> <p>Question 5: We agree with the requirement to maintain records for a minimum period of 5 years.</p> <p>Question 6: We currently already have in place a framework/ procedures for investigations and disciplinary processes. Having this as a requirement will help to ensure that there is minimum standards and hence consistency across the industry, which will greatly facilitate the recruitment decision process for us.</p> <p>Question 7: We have no specific comments on the mode of implementation of the requirements proposed in this paper, i.e. in the form of Notice(s) issued under specific legislation.</p> <p>Question 8: The proposed transitional period of six months is acceptable but ideally, if this can be extended to nine or twelve months, it would allow institutions to have more time to ensure that all processes are in place to meet this requirement.</p>
22	Respondent J	<p>Question 1: We have no comments on this proposal.</p> <p>Question 2(i): [Respondent J] is of the view that the scope of employees should be aligned to Option 1, as this is consistent with [Respondent J]’s reference checks/background screening framework.</p> <p>Question 2(ii): For [Respondent J], any payment below S\$1,000 constitutes a small payment.</p> <p>Question 3(i): We are not opposed to the proposed 5-year period. An alternate way for consideration would be to request for reference checks from last 3 employers. Reference checks on the last 3 jobs with different employers may be more</p>



		<p>appropriate so credibility of feedback gathered from different sources can be established.</p> <p>Question 3(ii): The information being provided by one FI to another must be fair and accurate i.e. factual and should not be coloured by opinion or conjecture. In this regard, it would not be appropriate to provide details of ongoing investigations to speculate on what disciplinary action would have been taken if it has in fact not been taken. Further, the list of information being provided should not be so extensive as to be onerous to the FI providing the information in terms of collation etc.</p> <p>Question 3(iii): We consider the timeline of 21 calendar days to be reasonable.</p> <p>Question 3(iv): Giving the right to individuals to view their references could be operationally difficult to implement and could lead to them challenging the references if they disagree with aspects of the content.</p> <p>Question 4: Provision of mandatory information from a company outside of Singapore would be subjected/limited to the country’s own rules and regulations concerning the provision of references. If certain types of information cannot be provided by the foreign FI, would MAS mandate that a Singapore FI cannot hire the foreign employee?</p> <p>It could be difficult to obtain the requisite references from non- FI employers and could lead to a ‘barrier-to-entry’ for suitable candidates wishing to transfer from a non-FI employer to an FI employer.</p> <p>We would like to clarify in instances where a non-FI hires an individual from an FI employer, would the reference check still be applicable?</p> <p>Question 5: We have no comments on this proposal.</p> <p>Question 6: We have no comments on this proposal.</p> <p>Question 7: We have no comments on this proposal.</p> <p>Question 8: We have no comments on proposed the transitional period to implement the requirements.</p>
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23	Respondent K	<p>Question 1: Nil</p> <p>Question 2(i): On Insurance Agents (individuals and nominee agents) - There is existing arrangement for insurers to inform GIA of any complaints received against an agent and breach of code of practice that the insurer is aware of, and the ACRM is used to collect such data. Given the reference check questions are standardized for the proposed Notice, it will be more efficient for insurers to file the information with GIA and ACRM be used by insurers for reference checks. Unlike the hiring of employees, the frequency and volume of recruiting of agents can be higher and it will take a lot of work to collect agent's past 5 years reference checks from various insurers, plus each agent can appoint 3 insurers, it will create a lot of duplicative work.</p> <p>For insurance agents, the Notice can make it mandatory for insurers to file the information with GIA.</p> <p>Question 2(ii): Nil</p> <p>Question 3(i): Nil</p> <p>Question 3(ii): Will there be further guidelines on whether FI is obliged to elaborate on responses provided and can FI reject requests to share more information. Likewise, for FI who is conducting the check and unable to obtain sufficient background on negative responses, can FI choose to go ahead with the hire, will more guidelines be given to ensure sufficient info is shared for it to be meaningful. Different disciplinary action can be taken on an employee and not all have the same seriousness, e.g. verbal warning vs. termination, will the Notice require the type of disciplinary action taken to be clearly stated instead of a Yes/No. Where there are ongoing investigation, will FIs be obliged to provide an update once there is an investigation outcome? What if an FI refuses to share or take too long to share. If an ongoing investigation is confidential and in certain situations, possible that the ex-employee is also unaware of it, can FI choose to not disclose it for confidentiality reason and not jeopardize ongoing investigation efforts. Will the Notice have indemnification for FIs for responses provided truthfully in accordance to the requirement of the Notice. There should be a standard template for every FI to use, to prevent different interpretation of areas FIs are obligated to conduct a check on or respond on. Where a vendor is used by FI as an administrator to conduct the check (collection of reference check responses only), will it be considered outsourcing, will the Notice make reference to the use of such vendors, will there be additional documents requesting FI need to provide to vendors to authorise such searches.</p> <p>Question 3(iii):</p>
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		<p>Nil</p> <p>Question 3(iv): Will the Notice have indemnification for FIs for responses provided truthfully in accordance to the requirement of the Notice.</p> <p>Question 4: Is FI obligated to respond or respond in 21 days if the requestor is from non-financial sector.</p> <p>Question 5: Nil</p> <p>Question 6: Nil</p> <p>Question 7: Nil</p> <p>Question 8: Time is needed to operationalize the checks. Propose min 12 months of transitional period.</p>
24	Respondent L	<p>Question 1: Agree with the proposed scope. Further, these should be aligned with the FIs list in the Guidelines on Fit & Proper.</p> <p>Just a side note, there is an inconsistency in scope under the Guidelines on Fit & Proper - only Payment Services licensee is required to ensure fit and proper criteria for all employees while other FIs need only do so for key appointment holders. This should be reviewed and consistent across all FIs.</p> <p>Question 2(i): Generally agree that employees that can potentially impact the FI’s prudential soundness, reputation, customers’ interests or the public’s confidence and trust in the financial industry should be in scope.</p> <p>For Option 1, there needs to be a precise definition of the risks listed under the risk-taking functions because certain risk categories can be interpreted very widely, e.g. operational risk, reputational risk, etc. This results in practically all employees falling in the scope. Also, there might be some practical challenges for entry level (fresh graduates), trainees and interns, which should be excluded.</p> <p>(a) Option 2 is preferred because the scope of employees is those who expose the FIs more directly to the stated impact. Further, the second line of defence function mentioned are actually the control functions to prevent and deter excessive risk taking as such due diligence for such personnel should more</p>



	<p>appropriately be under fit and proper criteria. It should be up to the FIs discretion to do reference checks on other functions on a need to basis.</p> <p>Decision making authority of an employee should be an important factor in deciding whether reference checks should be done. Therefore, it is proposed that mandatory checks be done for employees in these positions, e.g. managers, supervisors, etc. For those who do not fall under decision makers, it should be left optional.</p> <p>One reason to support the above is that it is most crucial to determine the background of an employee is at the point of recruitment. As the employee serve longer in the company, it should have its own means to assess the character and integrity of the individual and the value of reference checks diminishes. Hence, if and when a junior executive is promoted to have decision making authority, the company would already have its own mechanism to assess his or her capabilities and qualities without having to rely on reference checks.</p> <p>Question 2(ii): It is subjective on what constitutes a small payment amount and depends on the size the company. It might not be suitable for a threshold to be fixed.</p> <p>Question 3(i): The proposed period of 5 years is reasonable, and the calendar year basis is very good. There is a scenario where a candidate may have changed many jobs in the 5-year period, e.g. 10 jobs, and it will be very tedious to perform reference checks on all 10 past employers. Perhaps there could be a cap on the number of past employers to check, e.g. 5 years look back or 3 previous employers.</p> <p>Question 3(ii): The proposed list of mandatory information are reasonable and FIs will generally have records of them.</p> <p>Question 3(iii): The proposed timeline is adequate. If FIs require more time on reasonable grounds, it should be acceded to.</p> <p>Question 3(iv): It is only fair to allow individuals to view the references prepared. MAS may consider allowing FIs to charge a nominal administrative fee to prevent abuse of the process. Also, individuals should not be allowed to misuse this as a means to delay the reference check with intend to try to circumvent it. In view of this, the regulation to state clearly that FIs can proceed to share the references prepared regardless of objections and/or challenge from the challenge. The presumption should be that the previous employer had prepared the references objectively without prejudice, and therefore should be given assurance that there will not be adverse consequence when complying with the reference check regulation.</p> <p>Question 4:</p>
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		<p>Nil</p> <p>Question 5: Nil</p> <p>Question 6: Nil</p> <p>Question 7: Please clarify whether:</p> <ul style="list-style-type: none">- reference checks can be outsourced to third-parties- must the reference checks be obtained from a company's Human Resource department. If the individual's ex-boss can provide all the mandatory information, are such reference checks valid? <p>Question 8: The transitional period of six months is adequate as most FIs would already have similar processes already in place.</p>
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