

CONSULTATION PAPER

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Public Consultation on Proposals to Mandate Reference Checks

MAS

Monetary Authority of Singapore

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1 Preface

1.1 The Monetary Authority of Singapore (“MAS”) proposed to require financial institutions (“FIs”) to conduct reference checks and respond to reference check requests on prospective representatives¹, in the Consultation Paper on “Revisions to Misconduct Reporting Requirements and Proposals to Mandate Reference Checks for Representatives” issued in July 2018². The Consultation Paper stated that MAS would consider introducing similar mandatory reference check requirements to a broader segment of the financial industry, beyond representatives.

1.2 Apart from representatives, the conduct of other employees has the potential to result in detrimental impact on customers’ interests, or on an FI’s prudential soundness and reputation. Poor conduct could also impact public confidence and trust in the financial industry. MAS expects FIs to conduct adequate due diligence on prospective hires to assess their character, integrity and track record³. To facilitate this, a collective effort across the financial industry is needed to mitigate the risk of “rolling bad apples”, which refers to individuals who engage in misconduct in one firm, and then move on to another firm without disclosing their earlier misconduct to the new employer. MAS is hence proposing to extend the mandatory reference check requirements beyond representatives to other employees.

1.3 The feedback from the Consultation Paper on “Revisions to Misconduct Reporting Requirements and Proposals to Mandate Reference Checks for Representatives”⁴ have been taken into consideration in these proposals where relevant. MAS will also take into consideration feedback received from this consultation when implementing the reference check requirements for representatives. This is to ensure consistency in the reference check requirements, where appropriate.

1.4 MAS invites comments from FIs and other interested parties.

¹ “Representative” has the same meaning in section 2(1) of the Securities & Futures Act or section 2(1) of the Financial Advisers Act. The proposed requirements relating to reference checks also apply to representatives for Registered Fund Management Companies and broking staff for insurance brokers.

² <https://www.mas.gov.sg/-/media/MAS/News-and-Publications/Consultation-Papers/Consultation-Paper-on-Revisions-to-Misconduct-Reporting-Requirements-and-Proposals-to-Mandate-Reference-Checks-for-Representatives.pdf>

³ Expectations are set out in MAS Guidelines on Risk Management Practices – Internal Controls: <https://www.mas.gov.sg/-/media/MAS/Regulations-and-Financial-Stability/Regulatory-and-Supervisory-Framework/Risk-Management/Internal-Control.pdf>

⁴ <https://www.mas.gov.sg/-/media/MAS/News-and-Publications/Consultation-Papers/2021/Response-to-Revisions-to-Misconduct-Reporting-and-Reference-Checks-Requirements.pdf>

Please note that all submissions received will be published and attributed to the respective respondents unless they expressly request MAS not to do so. As such, if respondents would like:

- (i) their whole submission or part of it (but not their identity), or**
- (ii) their identity along with their whole submission,**

to be kept confidential, please expressly state so in the submission to MAS. MAS will only publish non-anonymous submissions. In addition, MAS reserves the right not to publish any submission received where MAS considers it not in the public interest to do so, such as where the submission appears to be libellous or offensive.

1.5 Please submit your comments to the consultation paper by 25 Jun 2021 at the following link –

<https://form.gov.sg/605c36a16323630011e6b329>

1.6 For technical difficulties or any other queries, you may submit to –

Markets Policy & Infrastructure Department
Monetary Authority of Singapore
10 Shenton Way, MAS Building
Singapore 079117
Fax: (65) 62203973
Email: mas_mcp@mas.gov.sg

2 Introduction

2.1 There has been increased international focus on the importance of stemming “rolling bad apples”, which refers to individuals who engage in misconduct in one firm, then move on to another firm without disclosing their earlier misconduct to the new employer. The Financial Stability Board Working Group on Governance Frameworks has published a toolkit⁵ for FIs and supervisors to strengthen governance frameworks. One of the tools relates to leveraging multiple sources of available information during the hiring process to prevent the movement of “bad apples” among FIs. Reference checks provided by previous employers on the candidates’ past conduct are a source to verify information disclosed by candidates, and form part of the assessment of their character, integrity and track record during the recruitment process. Mandatory reference check requirements for the financial industry have been introduced in jurisdictions such as the United Kingdom⁶ and Malaysia⁷ in recent years.

2.2 The practice of conducting reference checks is not new in Singapore. However, similar to the experience of reference checks for representatives, differing standards in FIs’ practices when conducting and responding to reference checks requests have been observed.

2.3 Given that late, ambiguous or partial reference check responses would hinder meaningful information exchange on prospective employees, MAS proposes to require FIs to perform reference checks and respond to reference check requests, based on a set of minimum mandatory information within a specified period of time. These reference check requirements will be applied on a prospective basis.

⁵ Refer to the report on “Strengthening Governance Frameworks to Mitigate Misconduct Risk: A Toolkit for Firms and Supervisors” published by the Financial Stability Board: <https://www.fsb.org/wp-content/uploads/P200418.pdf>

⁶ <https://www.fca.org.uk/firms/senior-managers-certification-regime>

⁷ http://www.bnm.gov.my/index.php?ch=en_announcement&pg=en_announcement&ac=615

3 Scope of FIs

3.1 In view that “bad apples” can move across different segments of the financial industry, collective effort is required to mitigate this risk. MAS proposes to apply the requirements to conduct reference checks and respond to reference check requests to the following FIs:

- (i) Any bank licensed under the Banking Act (Cap. 19) (“BA”);
- (ii) Any person licensed under the BA to carry on the business of issuing credit cards or charge cards in Singapore;
- (iii) Any merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186) (“MAS Act”)⁸;
- (iv) Any finance company licensed under the Finance Companies Act (Cap. 108);
- (v) Any insurer licensed under the Insurance Act (Cap. 142) (“IA”);
- (vi) Any foreign insurer operating in Singapore under a foreign insurer scheme established under the IA;
- (vii) Any designated financial holding company approved under section 28 of the MAS Act⁹;
- (viii) Any holder of a capital markets services licence under the Securities and Futures Act (Cap. 289) (“SFA”);
- (ix) Any financial adviser licensed under the Financial Advisers Act (Cap. 110);

⁸ MAS would be regulating merchant banks under the BA. The legislative amendments have been passed in Parliament and are pending commencement. The second reading speech and explanatory brief of the Banking Amendment Bill 2019 can be found at <https://www.mas.gov.sg/news/speeches/2020/banking-amendment-bill-2019-second-reading-speech-by-mr-ong-ye-kung> and <https://www.mas.gov.sg/news/speeches/2019/explanatory-brief-on-banking-amendment-bill-2019> respectively.

⁹ MAS would be regulating designated financial holding companies under the Financial Holding Companies Act 2013 (No. 13 of 2013), which provides a regulatory framework to enhance MAS’ oversight of financial groups in Singapore. The Act has been passed in Parliament and is pending commencement. The second reading speech and explanatory brief of the Financial Holding Companies Bill can be found at <https://www.mas.gov.sg/news/speeches/2013/the-financial-holding-companies-bill-2013> and <https://www.mas.gov.sg/news/speeches/2013/explanatory-brief-financial-holding-companies-bill-2013> respectively.

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- (x) Any person exempted from holding a financial adviser's licence under regulation 27(1)(d) of the Financial Advisers Regulations;
 - (xi) Any registered insurance broker under the IA;
 - (xii) Any person exempted from the requirement to hold a capital markets services licence under paragraphs 3(1)(d), 3A(1)(d), 5(1)(i) and 7(1)(b) of the Second Schedule to the Securities and Futures (Licencing and Conduct of Business) Regulations;
 - (xiii) Any trust company licensed under the Trust Companies Act (Cap. 336);
 - (xiv) 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;
 - (xv) Any approved exchange or recognised market operator under the SFA that is incorporated in Singapore;
 - (xvi) Any licensed trade repository under the SFA;
 - (xvii) Any approved clearing house or recognised clearing house under the SFA that is incorporated in Singapore;
 - (xviii) The "Depository" under the SFA;
 - (xix) Any approved holding company under the SFA;
 - (xx) Any authorised benchmark administrator or exempt benchmark administrator under the SFA;
 - (xxi) Any authorised benchmark submitter or designated benchmark submitter under the SFA¹⁰;
 - (xxii) Any operator of a designated payment system under the Payment Services Act 2019 ("PS Act");
 - (xxiii) Any settlement institution of a designated payment system under the PS Act;

¹⁰ 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.

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- (xxiv) Any holder of a standard payment institution licence under the PS Act;
 - (xxv) Any holder of a major payment institution licence under the PS Act; and
 - (xxvi) Any licensed credit bureau under the Credit Bureau Act 2016¹¹.

Question 1. MAS seeks comments on the scope of FIs to be subject to the reference checks requirements.

4 Scope of Employees

4.1 The requirements for FIs to conduct reference checks and respond to reference check requests on representatives are covered in the Consultation Paper on “Revisions to Misconduct Reporting Requirements and Proposals to mandate Reference Checks for Representatives” issued in July 2018².

4.2 Apart from representatives, there are other employees whose misconduct has the potential to result in detrimental impact on an FI’s prudential soundness, reputation, customers’ interests or the public’s confidence and trust in the financial industry. These include individuals identified as senior managers, who are defined as those employed in an executive capacity by, and are principally responsible for the day-to-day management of, the FI, as set out in Annex A. In addition to senior managers, MAS is considering two options for the scope of employees where FIs also need to perform reference checks and respond to reference check requests:

Option 1 – Aligned with scope of functions under the proposed Harmonised and Expanded Power to issue Prohibition Orders (“POs”)

4.3 Under Option 1, the scope of employees mentioned in sub-paragraphs (i) to (iv) below includes employees who perform specified functions which MAS may prohibit a person from performing under the proposed Harmonised and Expanded Power to issue POs¹², with some exceptions in sub-paragraph (iv). This is because the power to issue POs

¹¹ The Credit Bureau Act 2016 has been passed in Parliament and is pending commencement. The Second Reading and explanatory brief of the Credit Bureau Bill can be found at <http://www.mas.gov.sg/News-and-Publications/Speeches-and-Monetary-Policy-Statements/Speeches/2016/Credit-Bureau-Bill-2016.aspx> and <http://www.mas.gov.sg/News-and-Publications/Speeches-and-Monetary-Policy-Statements/Speeches/2016/Explanatory-Brief-Credit-Bureau-Bill-2016.aspx>.

¹² This has been publicly consulted as part of the New Omnibus Act for the financial sector in July 2020. Please see paragraph 2.10 of the relevant consultation paper which can be found at

and the reference check requirements are complementary in nature, where both serve to mitigate the risk of “bad apples” operating within the financial industry, especially in functions which are critical to the integrity and functioning of FIs. MAS proposes to impose the reference check requirements on FIs for the following individuals:

(i) Individuals in risk-taking functions.

These are individuals responsible for taking actions that result in an FI undertaking any specified risk¹³ in the course of the FI’s business.

Some examples include relationship managers of banks and finance companies for corporate, small and medium enterprise (“SME”) or private banking businesses, with joint authority to approve loans, as well as traders dealing for their FI’s own account. In the insurance sector¹⁴, examples include staff of insurers who provide sales and advisory services in respect of any general insurance product and can incept policies, general insurance agents¹⁵ that insurers appoint to act on their behalf, and underwriters.

(ii) Individuals in risk management and control functions.

These are individuals who are responsible for:

- a) the identification, assessment, monitoring and reporting of specified risks arising from the FI’s operations;
- b) the development and implementation of policies and procedures intended to ensure compliance by the FI with the relevant legal and regulatory requirements in the jurisdictions that it conducts business in; or

<https://www.mas.gov.sg/publications/consultations/2020/consultation-paper-on-the-new-omnibus-act-for-the-financial-sector>.

¹³ “specified risk” means credit risk, asset risk, liquidity risk, market risk, operational risk, technology risk, market conduct risk, money laundering/terrorism financing risk, legal risk, reputational risk, regulatory risk, and any other risks as may be specified by MAS.

¹⁴ In cases where corporate general insurance agents of insurers have senior managers and employees as described in 4.2 and 4.3(i) to (iv), the insurers are required to perform reference checks on these employees of the corporate general insurance agents before allowing the corporate general insurance agents to act on their behalf.

¹⁵ These refer to individual general insurance agents and nominees who act for general insurance agents. These do not include individuals employed or appointed by corporate general insurance agents that are licensed by MAS. An example of such an insurance agent is a bank licensed under the BA.

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- c) the monitoring of, auditing of and/ or reporting on compliance with policies and procedures intended to ensure compliance by the FI with the relevant legal and regulatory requirements in the jurisdictions that it conducts business in.

Some examples include credit risk analysts, market risk analysts, compliance officers (business advisory or financial crime), internal auditors of FIs, as well as, risk engineers and staff in the actuarial or reinsurance function in the insurance sector. These also include staff from approved exchanges, recognised market operators and approved and recognised clearing houses performing supervisory and regulatory oversight functions over the members or participants of the approved exchange, recognised market operator or approved or recognised clearing house, as the case may be.

- (iii) Individuals performing critical system administration.

Critical system administration refers to the maintenance or operation of a critical system¹⁶ by persons granted any privileged access to the critical systems.

- (iv) Individuals who can authorise or approve payments (excluding small payments).

These are individuals with mandate to authorise or approve, the release of funds or the transmission of digital payment tokens, to facilitate payments by an FI or a customer of the FI, regardless of the counterparty to which the payment is made.

Some examples include branch managers and operations managers in the banking sector; claims managers and assessors, finance and investment officers in the insurance sector; and individuals in the finance function of a fund manager and real estate investment trust manager who can authorise or approve the release of funds for funds and real estate investment trusts respectively.

The scope of the individuals covered in this category under the reference check requirements differs from that under the proposed Harmonised and Expanded Power to issue POs as it is not the policy intent of the reference check requirements to include individuals who can only authorise or approve payments

¹⁶ Critical system in relation to a FI, means a system, the failure of which would cause significant disruption to the operations of the FI or materially impact the FI's service to its customers.

where the quantum is small, such as individuals who handle petty cash and bank tellers.

Option 2 – Partially aligned with scope of functions under the proposed Harmonised and Expanded Power to issue POs

4.4 Under Option 2, the scope of employees subject to reference check requirements would be narrower. This option focuses on functions that can directly cause or result in financial risks to FIs or customers. Specifically, Option 2 excludes the following individuals:

- With respect to individuals in risk-taking function in paragraph 4.3(i), individuals responsible for taking actions that result in an FI undertaking operational risk, technology risk, legal risk, regulatory risk or reputational risk in the course of the FI's business. Some examples would be Human Resource staff, Loan Administration staff and staff in Finance who are performing tax and financial reporting.
- With respect to individuals in risk management and control functions in paragraph 4.3(ii), individuals who are responsible for auditing the FI's compliance with policies and procedures introduced pursuant to the relevant legal and regulatory requirements in the jurisdictions that it conducts business in. An example would be staff in the internal audit function.

Question 2. MAS seeks comments on:

- (i) the scope of employees for which FIs are required to perform reference checks, and respond to requests for reference checks, in particular:
 - a. Whether the scope of employees should be aligned to Option 1 in paragraph 4.3 or Option 2 in paragraph 4.4. Specifically, the functions that should be scoped out under Option 2, and justifications for doing so.
 - b. Suggestions on other possible approaches with respect to the scope of employees that MAS should consider when finalising the proposal.
- (ii) the appropriate definition or threshold on what constitutes a small payment under paragraph 4.3(iv).

5 Lookback Period, Minimum Mandatory Information and Right to View

5.1 Information relevant to the FI's assessment of the fitness and propriety of a prospective employee should be provided by the current or former employer (where

applicable), as part of the reference checks to enable FIs to make informed hiring decisions. For consistency and to standardise practices across the financial sector, MAS proposes that the reference checks conducted must cover certain mandatory information relating to the individual's records (as specified under paragraph 5.3 below)¹⁷ in the past five years. The lookback period would be based on the number of calendar years and not years of employment. In instances where there are gaps in the individual's employment history, FIs are not required to extend the lookback period when conducting reference checks.

5.2 Where an individual requests his or her prospective employer to maintain the confidentiality of the job-seeking process from his or her current employer, the prospective employer may conduct the reference checks after the individual's employment has ceased with his or her current employer. Under such a scenario, the prospective employer would still be able to make an offer to the individual without a reference check if it has deemed the individual to be suitable for the position based on its other due diligence checks. Nonetheless, if the FI subsequently receives an unsatisfactory reference check response¹⁸, the FI should have the discretion to take appropriate actions - including withdrawing the employment offer or informing the individual that the offer condition has not been satisfied¹⁹.

5.3 Specifically on the mandatory information to be provided for reference checks, FIs would be required to provide the following information:

- (a) Information pertaining to the individual's employment history²⁰ with the FI, including:
 - i. the duration of employment;
 - ii. the roles and job functions of the individual (including last position held); and

¹⁷ For a general insurance agent, a prospective insurer should also request for references from the incumbent insurers whom the agent represents (given that a general insurance agent can represent up to three insurers).

¹⁸ The intent of the proposed requirements is to facilitate FIs' access to necessary information to make informed hiring decisions. Hence, FIs should use the information received as part of the reference checks to complement its due diligence on the prospective employee, to determine his or her suitability for the position.

¹⁹ This may render the employment offer ineffective when the prospective employee has accepted the offer.

²⁰ This includes appointment history of general insurance agents appointed by insurers.

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- iii. the reason for the cessation of employment, including but not limited to the following:
- resignation;
 - resignation by paying compensation in lieu of notice prior to or during investigation²¹;
 - termination;
 - dismissal; or
 - 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.

²¹ FIs are required to indicate if they have requested the individual's assistance in the investigation and whether the individual has assisted or would be assisting in the investigation.

(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).

5.4 To standardise practices in the industry and improve the effectiveness of reference checks, MAS proposes to require FIs to provide the mandatory information set out in paragraph 5.3 no later than 21 calendar days from the date of receipt of a reference check request. This is similar to the proposed requirements for representatives.

5.5 FIs should ensure that information provided in response to reference checks is accurate, objective, clear, balanced and based on verifiable facts. References should not be based on unsubstantiated allegations or mere suspicions which are not based on reasonable grounds. To support this objective and accord fairness to the process, MAS proposes to require FIs to provide the individual²² with the right to view the references prepared²³ upon the individual's request. FIs should put in place an arrangement to allow such requests to be made by individuals and for the references prepared to be shared upon request. Such an approach is aligned with the position for FIs to provide representatives with a copy of misconduct reports filed with MAS under the revised misconduct reporting requirements⁴.

5.6 The mandatory information to be provided in the reference checks and timeline to respond to reference check requests as described above have taken into consideration the responses received from the Consultation Paper on "Revisions to Misconduct Reporting Requirements and Proposals to Mandate Reference Checks for Representatives"⁴. The mandatory information to be provided in the reference checks and timeline to respond to reference check requests are also aligned with the proposals for representatives.

Question 3. MAS seeks comments on:

- (i) the period, i.e. for the past five years, for which reference check information must be sought and furnished.

²² This would also apply to representatives.

²³ For avoidance of doubt, a right to view a reference does not constitute a right to edit the content of the reference. FIs should also ensure that there is no risk of tipping-off the individual which may result in investigations being compromised, when providing individuals with the right to view.

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- (ii) the mandatory information FIs are required to provide in response to reference check requests for individuals who fall within the scope of these requirements under Section 4.
 - (iii) the timeline of 21 calendar days for responding to reference check requests.
 - (iv) the right for individuals to view the references prepared, including potential challenges in operationalising such a requirement and any suggestions on how this requirement could be implemented.

6 Cross-sector and Cross-border Application

6.1 FIs may face practical constraints when performing reference checks on prospective employees, such as when hiring individuals who are or were employees from companies located outside Singapore, non-financial sectors, or FIs in Singapore but outside the scope of FIs described in paragraph 3.1. During the consultation on “Revisions to Misconduct Reporting Requirements and Proposals to Mandate Reference Checks for Representatives”²⁴, FIs have provided feedback on difficulties in obtaining meaningful reference check information as such companies may not respond to reference check requests or do not provide sufficient information. MAS acknowledges the challenges in such circumstances. 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. An FI can proceed with the recruitment if it has requested for the reference checks and has deemed the prospective employee to be suitable for the position based on its other due diligence checks, notwithstanding the absence of a response to the reference check requests or reference checks containing insufficient information²⁴. This approach is also aligned with the proposal for representatives.

Question 4. MAS seeks comments on the 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.

²⁴ For avoidance of doubt, an FI can also proceed with the recruitment if it has deemed the prospective employee to be suitable for the position based on its other due diligence checks, after the FI has requested for the reference checks but faces difficulties obtaining information from another FI that falls within the scope of FIs described in paragraph 3.1. Where an FI does not respond to such reference check requests in accordance with the requirements set out in Section 5, this constitutes a breach of legal requirements, as set out under paragraph 9.2.

7 Record Keeping

7.1 Employees who are not performing roles specified in Section 4 could potentially be hired by another FI into a role within the scope of the reference check requirements. Records would thus have to be maintained for a larger population of employees, beyond that proposed under Section 4, in order to facilitate the implementation of the proposed reference check requirements. MAS hence proposes that FIs 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. As the record keeping requirements will similarly apply to representatives, MAS will take into consideration feedback received from this consultation when implementing the reference check requirements for representatives.

Question 5. MAS seeks comments on the requirement to maintain records specified in paragraph 5.3 for 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.

8 Investigation and Disciplinary Process

8.1 To facilitate the provision of fair and accurate responses to reference check requests, where there are deviations from policies and procedures and laws and regulations that are applicable to the FIs and their employees (in relation to their duties and responsibilities in the FI), such deviations should be independently investigated, reported and addressed by the relevant parties. In addition, a framework should be established to provide guidance on the actions that could be taken against employees who have breached policies, procedures and regulations. This is also in line with the expectations set out in MAS' Guidelines on Risk Management Practices – Internal Controls²⁵.

8.2 In this regard, FIs are expected to:

- (a) Establish policies and procedures governing its investigation and disciplinary process;

²⁵ <http://www.mas.gov.sg/Regulations-and-Financial-Stability/Regulatory-and-Supervisory-Framework/Risk-Management/Internal-Controls.aspx>

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- (b) Communicate the policies and procedures to all employees upon employment, and make the information accessible on an ongoing basis;
 - (c) Conduct a fair and objective internal investigation and disciplinary proceeding in a prompt manner, where there are reasonable grounds to believe that an employee has breached the FI's internal policies and procedures or laws and regulations applicable to the FI or individuals (in relation to their duties and responsibilities in the FI); and
 - (d) Ensure proper documentation of the investigation and disciplinary proceedings, including evidence collected, interviews conducted and grounds of decisions.

8.3 FIs should also give employees the opportunity to explain or defend himself or herself against the allegations during the investigation and disciplinary process.

8.4 These expectations have also taken into consideration the responses received from the Consultation Paper on "Revisions to Misconduct Reporting Requirements and Proposals to Mandate Reference Checks for Representatives"⁴ and are aligned with MAS' expectations for FIs to establish a strong disciplinary action framework²⁶.

Question 6. MAS seeks comments on the expectations for FIs to establish robust internal investigation and disciplinary processes to facilitate the provision of fair and accurate responses to reference check requests.

9 Mode of Implementation and Transitional Period

9.1 As mentioned in paragraph 2.2, FIs are already performing various forms of reference checks and due diligence for new hires as part of their Human Resource processes, but practices and standards vary across the financial industry. FIs have provided feedback that the quality and extent of information shared in response to reference checks requests were often inadequate and hence not useful to their performance of due diligence for prospective employees. Such industry practices, if

²⁶ Refer to the Information Paper: Good Practices Relating to Disciplinary Action Framework in the Financial Advisory Industry (https://www.mas.gov.sg/-/media/MAS/News-and-Publications/Publications/Disciplinary-Action-Framework_Info-Paper.pdf). While the paper is meant to apply for financial advisers serving retail customers, other players in the financial services industry are encouraged to take guidance from the good practices in this paper and adapt them as necessary to suit their own circumstances and business need.

allowed to continue, would not adequately prevent the “rolling bad apples” phenomenon. MAS is thus proposing to impose mandatory reference checks requirements elaborated in this paper, in the form of Notice(s) issued under relevant legislation.

9.2 Non-compliance with Notice requirements would be a breach of legal requirements. Where appropriate, MAS may take regulatory actions for breach of Notice, including but not limited to issuing warning or reprimand letters. MAS may also consider other actions, such as issuing further directions to, or imposing licence conditions (where applicable) on, the relevant FIs.

9.3 MAS proposes to effect the requirement for FIs to conduct reference checks on prospective employees and respond to reference check requests with a transitional period of six months, i.e. six months after the Notice(s) issued under the relevant legislation is published. MAS will take into consideration feedback received from this consultation when implementing the reference check requirements for representatives.

Question 7. MAS seeks comments on the mode of implementation of the requirements proposed in this paper.

Question 8. MAS seeks comments on the transitional period of six months to implement the requirements proposed in this paper.

Annex A**SENIOR MANAGERS**

Senior Managers include the following persons, by whatever name described –

(a) “*chief executive officer*”, “*deputy chief executive officer*” and/or “*resident manager*”, who is principally responsible for the overall management and conduct of the business of the financial institution, including its subsidiaries and branches if any, in accordance with the strategy and risk appetite approved by the Board or Head Office, as applicable;

(b) “*chief financial officer*” or “*head of finance*”, who is principally responsible for managing the financial resources and financial reporting processes of the financial institution;

(c) “*chief risk officer*” or “*head of risk*”, who is principally responsible for establishing and implementing the risk management framework to identify, monitor, and manage the risks of the financial institution;

(d) “*chief operating officer*” or “*head of operations*”, who is principally responsible for managing the day-to-day operations of the financial institution;

(e) “*chief information officer*”, “*chief technology officer*”, or “*head of information technology*”, who is principally responsible for establishing and implementing the overall information technology strategy, overseeing the day-to-day information technology operations, and managing the information technology risks of the financial institution;

(f) “*chief information security officer*” or “*head of information security*”, who is principally responsible for establishing and implementing the information security programme of the financial institution, including but not limited to information security policies and procedures to safeguard information assets, information security controls, and the management of information security breaches;

(g) “*chief data officer*”, who is principally responsible for establishing and implementing the policies, systems, and processes of the financial institution as regard the governance, use, and analysis of data;

(h) “*head of business function*”, who is principally responsible for the management and conduct of a function which undertakes the business activities of the financial institution, including –

- (i) in relation to a bank licensed under the Banking Act, the functions involving retail banking, private banking, corporate banking, institutional banking, investment banking, and treasury;
- (ii) in relation to a merchant bank approved under the MAS Act, the functions involving private banking, corporate banking, institutional banking, investment banking, and treasury;
- (iii) in relation to a finance company licensed under the Finance Companies Act, the functions involving retail banking, corporate banking, and treasury;
- (iv) in relation to an insurer licensed under the Insurance Act, or foreign insurer operating in Singapore under a foreign insurer scheme established under the Insurance Act, as the case may be, the functions involving agency and distribution, underwriting, marketing, and investment;
- (v) in relation to an approved exchange, recognised market operator that is incorporated in Singapore, approved clearing house, recognised clearing house that is incorporated in Singapore, approved holding company, licensed trade repository or the Central Depository System under the Securities and Futures Act, as the case may be, the functions involving the creation, sale and marketing of regulated products;
- (vi) in relation to a holder of a capital markets services licence under the Securities and Futures Act, the functions involving any regulated activity specified in the Second Schedule of the Securities and Futures Act
- (vii) in relation to a financial adviser licensed under the Financial Advisers Act, the functions involving any financial advisory service specified in the Second Schedule of the Financial Advisers Act;
- (viii) in relation to a financial adviser exempted under regulation 27(1)(d) of the Financial Advisers Regulations, the functions involving any relevant financial advisory service specified in the Second Schedule of the Financial Advisers Act

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- (ix) in relation to an insurance broker registered under the Insurance Act, the functions of acting as an insurance broker as defined under section 1A of the Insurance Act;
- (x) in relation to a trust company licensed under the Trust Companies Act, the functions involving any trust business specified in the First Schedule of the Trust Companies Act;
- (xi) in relation to a person approved under section 289 of the SFA, the functions carrying out the role of a trustee of a collective investment scheme authorised under section 286 of the Securities and Futures Act and constituted as a unit trust;
- (xii) in relation to a person exempt from the requirement to hold a capital markets services licence under paragraph 3(1)(d) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations, the functions involving the dealing in capital markets products that are block futures contracts in the manner set out in paragraph 3(1)(d);
- (xiii) in relation to a person exempt from the requirement to hold a capital markets services licence under paragraph 3A(1)(d) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations, the functions involving the dealing in capital markets products that are OTC derivatives contracts in the manner set out in paragraph 3A(1)(d);
- (xiv) in relation to a person exempt from the requirement to hold a capital markets services licence under paragraph 5(1)(i) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations, the functions involving the regulated activity of fund management; and
- (xv) in relation to a person exempt from the requirement to hold a capital markets services licence under paragraph 7(1)(b) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations, the functions involving the advising on corporate finance in the manner set out in paragraph 7(1)(b);
- (i) *“head of actuarial”, “appointed actuary”, or “certifying actuary”,* who, in relation to a licensed insurer or foreign insurer operating in Singapore under a foreign insurer scheme, as the case may be, is principally responsible for the actuarial function, including but not

limited to the approval of premium rates, valuation of liabilities, computation of protected liabilities relating to policy owners' protection scheme, financial condition investigation, risk management, investment, and product pricing and development of the insurer;

(j) "*head of human resources*", who is principally responsible for establishing and implementing the financial institution's employment policies and processes, including on recruitment, on-boarding, regular training, performance evaluation, compensation, promotion, consequence management, and termination;

(k) "*head of compliance*", who is principally responsible for monitoring and managing the financial institution's compliance with regulatory requirements under the applicable laws and regulations as well as internal policies and procedures;

(l) "*head of financial crime prevention*", who is principally responsible for establishing and managing the policies, systems, and processes to counter the risks of the financial institution's involvement in money laundering, terrorism financing, weapons proliferation and sanctions evasion, bribery, and corruption, as well as for filing Suspicious Transactions Reports ("*STRs*")²⁷;

(m) "*head of internal audit*", who is principally responsible for ensuring the adequacy and effectiveness of the financial institution's internal controls, and reporting directly to the Board Audit Committee or the financial institution's Head Office, as appropriate, on these matters; and

(n) "*chief regulatory officer*", who, in relation to an approved exchange, approved clearing house, or approved holding company, as the case may be, is principally responsible for overseeing the regulatory functions and changes to the business rules of the approved exchange, approved clearing house, or approved holding company.

²⁷ STRs are filed with the Suspicious Transactions Reporting Office, which is part of the Singapore Police Force's Commercial Affairs Department.

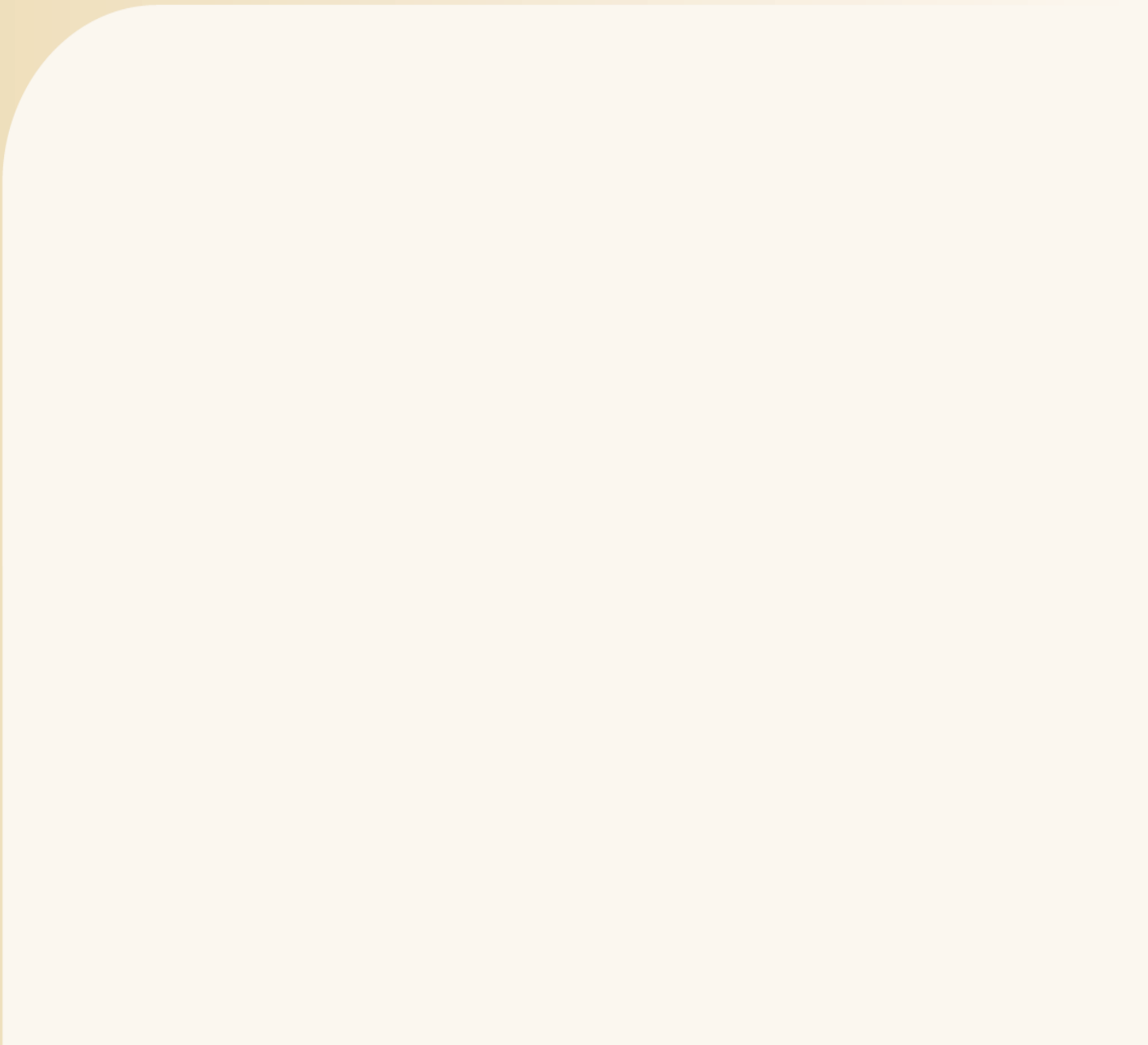
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Monetary Authority of Singapore