

Financial Institutions

Proposals for Tighter Controls on Prospecting and Marketing of Financial Products in Singapore

Introduction

To better protect retail investors in Singapore against inappropriate prospecting and marketing activities and tactics engaged by some financial institutions ("**FIs**") and their representatives, the Monetary Authority of Singapore ("**MAS**") is proposing various measures to address conduct risks and issues associated with these activities.

The proposed measures are set out in the following two consultation papers issued by MAS on 25 April 2023. Comments on the consultation papers must be submitted to MAS by **30 June 2023**.

- [Consultation Paper on Enhancing Safeguards for Proper Conduct of Prospecting Activities at Public Places and Telemarketing](#) ("**PPA Consultation Paper**"). This paper focuses on safeguards for prospecting and marketing activities by physical means and telemarketing.
- [Consultation Paper on Enhancing Safeguards for Proper Conduct of Digital Prospecting and Marketing Activities](#) ("**Digital Consultation Paper**"). This paper focuses on safeguards for digital prospecting and marketing activities.

FIs should review the proposed measures set out in the MAS consultation papers and consider the impact of these proposals on their current prospecting and marketing practices.

This Update highlights some of the key proposed measures set out in the MAS consultation papers.

Key Proposed Measures in PPA Consultation Paper

The main objective of the proposals in the PPA Consultation Paper is to enhance safeguards and address conduct risks and issues associated with prospecting activities at public places ("**PPAs**") by FIs and their representatives. PPAs include roadshows, street canvassing and door-to-door prospecting. PPAs may give rise to conduct issues like causing customers to feel harassed or being pressured to make impulse purchases, or failure by FIs' representatives to inform customers of their identities and their motives during the marketing or prospecting activities. Key proposals in the PPA Consultation Paper are set out below.

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New MAS Notice to set out legally binding requirements for prospecting and marketing of investment products and long-term accident and health policies ("LT A&H policies")

Currently, the Guidelines on Standards of Conduct for Marketing and Distribution Activities ("**Guidelines**") set out the best practice standards which MAS expects the FIs to observe to ensure that PPAs are conducted in a responsible and professional manner. The Guidelines are not legally binding on the FIs and their representatives.

MAS proposes to set out the existing safeguards in the Guidelines and the measures proposed in the PPA Consultation Paper in a new MAS Notice which will apply to an FI and its representatives when they are conducting PPAs in respect of the following financial products:

- (i) investment products (which include any capital market products, spot foreign exchange contracts other than for the purposes of leveraged foreign exchange trading or any life policies); and
- (ii) LT A&H policies.

This is because MAS has observed that the conduct issues with PPAs are mainly in relation to the above products. Providing these requirements in the MAS Notice that are legally binding on the FIs and their representatives will strengthen adherence to the safeguards.

The Guidelines (together with the proposed measures in the PPA Consultation Paper) will continue to be relevant to the FIs and their representatives when they are conducting PPAs for other financial products such as:

- (i) banking products (for example, secured loans like mortgages and motor vehicle loans, and unsecured credit products like credit cards and unsecured loans); and
- (ii) general insurance products.

Proposed measures when conducting PPAs

FIs and their representatives will be required to observe the following new proposed measures when conducting PPAs.

- (i) *Clear and upfront disclosure of intention to customers and obtaining their consent before commencing prospecting activity.*

Before commencing the prospecting engagement, FIs and their representatives should inform the customers upfront of their intention to market financial products and services to them, and obtain customers' verbal or written consent. Pre-event registration may be deemed as consent from customers.

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(ii) *New ex-ante measures to provide adequate time for customers to consider purchase decisions.*

MAS proposes new ex-ante measures where FIs and their representatives should not conclude any sale of financial products at the first engagement with a prospective customer which was not made by an appointment beforehand ("**initial prospecting engagement**"), unless:

- The customer has been offered the option of taking more time to consider the purchase before subsequently completing the transaction. In this regard, MAS is seeking views on the minimum duration that should be provided to a customer to consider his/her purchase;
- The customer has made an explicit request to purchase the product at the initial prospecting engagement, after having considered and rejected the offer of more time to review the purchase; and
- The customer's explicit request is duly acknowledged and documented.

The above new ex-ante measures will not apply to the sales of general insurance products that are made in connection with the customer's primary purchase of a non-insurance product or service at the same prospecting event (e.g. travel insurance sold in relation to holiday packages purchased at travel fairs, and home insurance sold in relation to properties purchased at show flats).

MAS seeks views on whether to extend the 14-day free-look period for life policies and seven-day cancellation period for collective investment schemes ("**ex-post measure**"), or to apply both the ex-post measure and the above new ex-ante measures to FIs and their representatives.

(iii) *Prohibition against use of gifts or mention of gift offers to entice a customer.*

As a safeguard against pressure selling, MAS proposes to disallow FIs and their representatives from using or mentioning gift offers to entice a customer to purchase a financial product or make a larger purchase.

(iv) *Conducting PPAs in proper and conducive venues and set-up.*

FIs would be required to conduct all prospecting activities that are held outside their own premises, at commercial premises (e.g. malls and exhibition halls) and not public streets and private residential areas. The space demarcated for the prospecting event must be at least 25 square meters.

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(v) *Conducting PPAs in a responsible and professional manner.*

- FIs must ensure that all prospecting activities are kept within a five-meter radius of the demarcated event space.
- FIs must establish a feedback channel (e.g. telephone hotline or website form) and make it available clearly and prominently to the consumers for reporting issues regarding the conduct of PPAs.
- FIs must appoint a Public Prospecting Management Officer ("PPMO") to oversee conduct at prospecting events. The PPMO's role includes: (1) supervising the representatives' conduct at prospecting events; (2) checking that safeguards are put in place and adhered to; and (3) preventing and rectifying any non-compliance. In this regard, MAS seeks views on the conditions to be set on PPMOs, and other implementation aspects.

(vi) *Approval of use of promoters by FIs.*

To deal with issues such as potential harassment from promoters who are less cognisant of proper standards of conduct, FIs would be required to: (1) subject their representatives' use of promoters to the FIs' approval; and (2) apply similar safeguards to promoters as that applied to representatives, where relevant.

(vii) *Continue prohibition against street canvassing and door-to-door prospecting.*

MAS proposes to continue the prohibition against street canvassing and door-to-door prospecting, and is seeking comments on whether there are measures that could ensure that such activities are conducted in proper and conducive settings, and in a responsible and professional manner.

Proposed measures when conducting telemarketing activities

MAS also proposes to apply proposed measures (i) and (iii) above to telemarketing of financial products and services.

Proposed measures when conducting any prospecting and marketing activities – Practice of offering gifts

Given that customer's purchase decisions should be based on consideration of their financial situation and needs, rather than gifts, MAS is seeking feedback on the proposed measures to mitigate the risks of a customer being unduly influenced by the gifts offered by an FI to purchase a financial product that he/she does not need, or make larger purchases than he/she actually needs. MAS suggests the following options:

- (i) Disallow the practice of offering gifts that are contingent on customers making a purchase (save in situations where FIs present gifts to customers as a gesture of appreciation or for building

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relationships, and offer benefits that are part of the features and use of the financial product or service).

- (ii) Restrict the form of any offers to only discounts and rebates.
- (iii) Limit the monetary value of the gifts offered.

MAS also seeks views on whether the proposed measures relating to the offering of gifts should apply to mortgage loans and motor vehicle loans.

Implementation timeline

MAS proposes to provide a transition period of six to nine months for FIs to comply with the new MAS Notice and revised Guidelines, namely, these new requirements will only take effect six to nine months from their issuance date.

MAS will publish a subsequent consultation paper on the legal amendments to effect the enhanced safeguards.

Key Proposed Measures in Digital Consultation Paper

Currently, advertisements of financial products and services are governed by the requirements prescribed under the regulations issued under the Financial Advisers Act 2001¹ and the Securities and Futures Act 2001² ("**Product Advertisement Regulations**"). These requirements apply to advertisements disseminated via traditional media (e.g. print media) as well as digital media (e.g. websites, social media platforms).

MAS has observed there are specific conduct risks and issues with advertisements by way of digital means. With the increasing use of social media and other digital media for prospecting and marketing activities for financial products in recent years, MAS proposes in the Digital Consultation Paper that enhanced safeguards should be put in place to address conduct risks and issues that are specific to digital prospecting and marketing activities by FIs and their representatives.

MAS proposes to issue a set of new Guidelines which set out best practice standards for FIs and their representatives in conducting digital prospecting and marketing activities, supplementing the requirements in the Product Advertisement Regulations. In addition, MAS proposes new requirements in the Product Advertisement Regulations and the relevant MAS Notices to address risks posed by misleading non-product advertisements, anonymous advertisements and digital lead generation activities.

Key proposals in the Digital Consultation Paper are set out below.

¹ Regulations 22 to 22D of the Financial Advisers Regulations.

² Regulations 46 and 46AA to 46AD of the Securities and Futures (Licensing and Conduct of Business) Regulations.

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New MAS Guidelines for digital prospecting and marketing of all financial products and services

MAS proposes to issue the Guidelines on Standards of Conduct for Digital Prospecting and Marketing Activities ("**Proposed Guidelines**") to formalise MAS' supervisory expectations on FIs regarding the proper conduct of digital prospecting and marketing activities for financial products and services in the following areas:

- (i) Selecting the appropriate digital media for prospecting and marketing financial products and services;
- (ii) Assessing specificities and limitations of digital media and addressing risks associated with its use (e.g. providing important and prominent disclosures);
- (iii) Providing clear guidance and proper training to FIs' representatives on appropriate digital prospecting and marketing practices;
- (iv) Monitoring digital prospecting and marketing activities conducted by FIs' representatives and third-party service providers; and
- (v) Taking appropriate disciplinary actions against FIs' representatives and their supervisors for malpractices and deterring errant conduct relating to digital prospecting and marketing.

The Guidelines are not legally binding on the FIs and their representatives but serve as best practice standards. MAS may consider how well an FI or a person observes the Guidelines when undertaking the overall risk assessment of that FI or person.

Non-product advertisement to be approved by FIs

MAS has observed that some advertisements that promote the financial services offered by a company without mentioning any specific products ("**non-product advertisement**") may be misleading as they promise unsubstantiated high returns. These advertisements do not typically contain any explanation on how such high returns may be achieved, any risk disclosure or other important caveats.

Advertisements are usually issued or posted by representatives of the FIs. Currently, the Product Advertisement Regulations provide for regulatory requirements on product advertisements, which include ensuring that product advertisements: (1) are not false or misleading; (2) provide a fair and balanced view of the investment products advertised; (3) present information in a clear manner; (4) are clearly legible, etc. All product advertisements are subject to approval by the designated members of the FIs who have to review whether the advertisements comply with the requirements in the Product Advertisement Regulations. These requirements do not apply to non-product advertisements.

MAS proposes to extend the existing regulatory requirements on product advertisements to non-product advertisements, including requiring the latter: (1) to be approved by FIs; and (2) to comply with similar requirements on the clarity and legibility of the advertisements.

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FI and their representatives to state their identities in advertisement

Advertisements which are anonymous or are posted on websites and social media using pseudonyms pose risks to customers as the customers are not able to verify whether the person posting the advertisements are regulated by MAS. Therefore, MAS proposes to require FIs and their representatives to state their identities in advertisements by disclosing:

- (i) The FIs' names as set out in the Financial Institutions Directory; and
- (ii) The representative's name and number as set out in the Register of Representatives.

With this proposed measure, consumers will be able to check the identities of persons making the advertisements against the information published in the Financial Institutions Directory and the Register of Representatives to ensure that they are dealing with persons who are regulated by MAS.

Regulatory requirements on use of digital lead generation

Some of the conduct risks and issues highlighted by MAS in the Digital Consultation Paper include the inappropriate use of digital platforms for prospecting (e.g. soliciting leads through online dating applications) by FIs' representatives, or use of third-party tools or service providers for generating leads online ("**lead generation firms**") by the representatives who are not authorised by the FIs. Such digital lead generation activities typically comprise disseminating an advertisement to market financial products or services, coupled with a form to collect prospective customers' particulars and contact information.

MAS proposes the following enhanced safeguards for proper conduct of digital lead generation:

- (i) Digital lead generation constitutes introducing activity as defined in the Financial Advisers Regulations, and lead generation firms must comply with [MAS Notice FAA-N02 on Appointment and Use of Introducers by Financial Advisers](#) ("**FAA-N02**") which: (1) sets out the requirements in relation to the appointment of an introducer; and (2) requires FIs' representatives to obtain the FIs' approval for engaging any lead generation firms or other introducers. In this regard, MAS proposes to adapt the following requirements in FAA-N02 for digital lead generation:
 - In the context of digital lead generation, it is proposed that FIs should be required to provide such key information to lead generation firms for disclosure to customers.
 - It is proposed that the prohibition against FIs appointing an introducer whose sole business activity or full-time occupation is introducing activity will not apply to a digital lead generation firm. As digital lead generation does not involve physical interactions, MAS is of the view that this prohibition may be removed in the context of digital lead generation.
- (ii) FIs will be required to monitor the activities and conduct of lead generation firms. FIs have to ensure that the manner in which lead generation firms collect, use or disclose data, is in line with the FI's own data management policies and applicable laws such as the Personal Data Protection Act 2012.

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Implementation timeline

MAS proposes to provide a transition period of six to nine months for FIs to comply with the new Proposed Guidelines and new requirements in the Product Advertisement Regulations and FAA-N02. This means that the new requirements will only apply to an FI six to nine months from date of issuance of the new requirements.

All advertisements, including pre-existing advertisements that remain posted on digital media on or after the effective date of the new Proposed Guidelines and revised Product Advertisement Regulations and FAA-N02, will be required to comply with the new requirements. The transition period is intended to provide FIs with sufficient time to remove or make the necessary adjustments to pre-existing advertisements to ensure compliance with the new requirements (e.g. modify the advertisement to state the identity of the FI and the representatives).

Concluding Words

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

Please click [here](#) to view the MAS press release titled "*MAS Proposes Enhanced Safeguards for Prospecting and Marketing of Financial Products*" that was issued on 25 April 2023 which relates to the above development.

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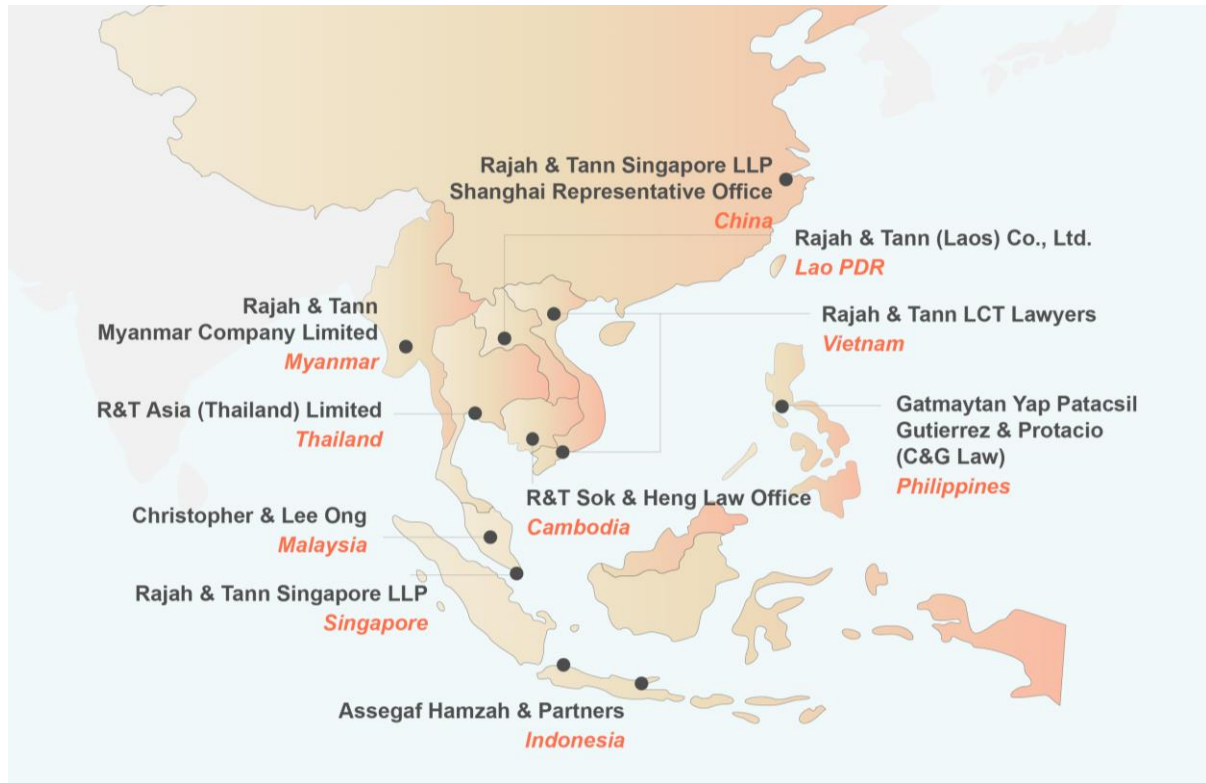
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