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MAS Requires All Financial Institutions to Apply Fair Dealing Guidelines to All Products & Services

Expanded Scope of Application of Fair Dealing Guidelines

On 30 May 2024, the Monetary Authority of Singapore ("**MAS**") updated the "Guidelines on Fair Dealing – Board and Senior Management Responsibilities for Delivering Fair Dealing Outcomes to Customers" ("**Revised Fair Dealing Guidelines**").

With immediate effect, the Revised Fair Dealing Guidelines has an expanded scope to cover all financial institutions ("**FIs**") and all of the products and services (including incidental services) offered by such FIs to any customers (not limited to retail customers). They are expected to incorporate key principles and guidance on the fair treatment of customers into various stages of the product life cycle or provision of service by the FIs.

In the Response to MAS Consultation on Fair Dealing Guidelines, MAS clarifies that the principles and outcomes in the Revised Fair Dealing Guidelines apply to foreign related corporations ("**FRCs**") and foreign offices ("**FOs**") except where they are exempted from specific conduct requirements under the exemption framework for cross-border business arrangements. Further, FIs are expected to apply the Revised Fair Dealing Guidelines in their dealings with customers located outside Singapore.

Five Fair Dealing Outcomes

The Revised Fair Dealing Guidelines set out the following five fair dealing outcomes for FIs:

- **Outcome 1:** Customers have confidence that they deal with FIs where fair dealing is central to the corporate culture.
- **Outcome 2:** FIs offer products and services that are suitable for their target customer segments.
- **Outcome 3:** Customers are served by competent representatives.
- **Outcome 4:** Customers receive clear, relevant, and timely information that accurately represent the products and services offered and delivered.
- **Outcome 5:** FIs handle customer complaints in an independent, effective and prompt manner.

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Due to the varied nature of FIs and their business models, each FI may consider how best to achieve these outcomes in a manner that is proportionate to its business model, the types of products and services it provides, and the investment risks of such products and services to customers who may be more vulnerable.

This Update discusses some of the principles and guidance under these five fair dealing outcomes and highlights some key changes introduced in the Revised Fair Dealing Guidelines.

Outcome 1

The Board and Senior Management of an FI should, among other things, undertake the following actions to lead the FI to establish a culture that promotes fair dealing:

- devise a clear organisational strategy to achieve the fair dealing outcomes;
- align organisational policies and practices to the fair dealing outcomes;
- communicate to internal and external stakeholders that fair dealing is a priority; and
- monitor the effectiveness of the strategy and policies in achieving the fair dealing outcomes.

Among other things, in providing financial products and services, the Board and Senior Management of an FI are expected to ensure that the FI puts in place:

- (a) robust due diligence procedures to ensure that products and services designed, manufactured, selected, marketed, and distributed are suitable for its customers;
- (b) procedures to perform due diligence assessments and set out clear service standards for partnerships with other FIs or persons (e.g., introducers in its distribution business);
- (c) procedures to identify, mitigate, and disclose conflicts of interest; and
- (d) sound and objective processes to assess applications received for the purchase of financial products and services.

The guidance set out in (d) above on requiring FI to have a sound and objective processes to assess applications received for the purchase of financial products and services is one of the new principles under the Revised Fair Dealing Guidelines. In assessing such applications from the customers, FIs should not accord inappropriate differential treatment to any individual or groups of individuals unless there are justifications supported by relevant and reliable information or data. For example, an FI should not reject an application for insurance merely based on declared autism, disability or mental health condition without having first performed an objective assessment. FIs should provide adequate explanation through appropriate channels to help a customer better appreciate the rationale for rejecting his/her application or imposing additional conditions on the application.

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Outcome 2

Under the Revised Fair Dealing Guidelines, FIs are expected to deal with their customers fairly, across various stages of the product life cycle or provision of service. Therefore, product manufacturers, and not just distributors, should also consider Outcome 2 when designing new products and services.

We highlight below some guidance set out in the Revised Fair Dealing Guidelines for FIs when designing, distributing and marketing new products and services to ensure that the needs and interests of their target customer segments are met.

- **Design and governance of products and services**
 - An FI should assess the performance of a new product or service under different market conditions or scenarios and therefore its likely benefit or value to customers.
 - Before a product or service is launched, the product manufacturer should test if the product or service meets the needs, characteristics and financial objectives of the target customer segments. The assessment should include the impact of costs and fees.
 - After a product or service is launched, the product manufacturer should monitor customers' feedback with a view to improving the design of the product or service.
- **Distribution of products and services**
 - Before distributing a product or service, an FI should undertake formal product due diligence to: (a) fully understand and evaluate the features and characteristics of the product or service, and assess the implications on each customer segment; and (b) identify customer segments for which the product or service is suitable as well as those which are clearly not suitable.
 - Formal management approval to distribute a product or service to target customer segments should be obtained and properly documented.
 - The FI should only distribute a product or service that it has assessed to be suitable for its target customers.
- **Marketing of products and services**
 - An FI should adjust its marketing approach to suit the profiles, financial objectives, and general financial literacy of its target customer segments.
 - Steps should be taken to identify any customer profiles and circumstances within the target customer segment for which the product or service is not suitable. Thereafter, the FI should establish robust controls to ensure that the relevant product or service is not offered to such customers.

Outcome 3

FIs are expected to take note of the following principles and guidance to ensure that their customers are served by competent representatives (namely any staff, employee or agent who is engaged by the FIs).

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- **Ensuring competency of representatives**
 - An FI should develop a robust training and competency programme to ensure that its financial advisory representatives are equipped with the necessary skills and knowledge to provide appropriate advice to consumers.
- **Providing appropriate advice and recommendations to each customer**
 - FIs should train their representatives to undertake a proper fact-find for the purpose of providing each customer with appropriate advice and recommendations.
 - An FI should demonstrate that it has properly designed, tested and validated its scoring and risk profiling methodologies.
 - FIs should perform regular compliance checks and review their sales processes to ensure that their representatives have given the appropriate advice and provided suitable recommendations to their customers.
- **Aligning remuneration structures with customers' interests**
 - An FI should incorporate indicators that support fair dealing objectives into the remuneration structure of its representatives.

Outcome 4

Before, during and after the sales process, an FI should provide customers with clear and relevant information about a product or service that enables the customers maintain an accurate understanding of the product or service.

- **Providing clear information**
 - An FI should ensure that the disclosures to customers are readily accessible. In this regard, it should consider the needs of different customer segments (e.g., less technologically savvy).
 - Disclosures to customers should be: (a) written in plain language that avoids the use of technical jargon; (b) presented in a balanced format that highlights key feature and risks without obscuring important terms and conditions; (c) presented in a format that facilitates ease of reading and understanding.
- **Providing relevant information**
 - An FI should ensure that the relevant information is highlighted to consumers to allow them to make an informed decision to invest in a product or service. Such information includes the key risks of the financial product, the potential upsides and downsides of the product, all fees and charges, early withdrawal penalties, rights and obligations of customers, and information on any free-look, lock-in or cooling off period. FIs are expected to explain to customer how the various fees and market conditions impact the customers' net returns on the investment.
 - Advertisements should be approved by the Senior Management of an FI (or appropriate designated authority).

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- **Providing timely information on an ongoing basis**
 - After the sale has been concluded, an FI should continue to provide customers with information and updates on product performance, and any material developments about the products or services.
- **Revising terms and conditions**
 - If a contract for a product or service with consumers contains a clause that allows an FI to unilaterally revise the terms and conditions of the contract ("**RoR**" (right of review) clause), the FI should clearly disclose this to the customers during the sales process, and describe the circumstances under which an RoR clause may be exercised, the prior notice that will be given, and customers' rights or available options when the clause is exercised.
 - A framework for governing the exercise of the RoR clause should be established by the FIs. The framework should involve representatives from a control unit independent from the relevant business line and approved by the Senior Management of the FIs.

Outcome 5

An FI should set out clear information on the avenues and procedures for customers to submit feedback, inquiries or complaints. The feedback channels of an FI should support all customer segments, with due consideration for those who are less technologically savvy. The FI should devote enough resources to attend to and resolve customer complaints within its stipulated turnaround times, without compromising the quality of review.

There should also be processes and guidelines on escalation of complaints to the Board and Senior Management of an FI. The Senior Management should oversee the complaints handling process and ensure that representatives handling complaints are properly trained.

Practical Impact

With immediate effect, all FIs are expected to incorporate the guidance and principles set out in the Revised Fair Dealing Guidelines into their management framework, internal policies and practices. If an FI is required to enhance its current system or process to meet any specific areas of the Revised Fair Dealing Guidelines, it should take prompt action to assess how it can achieve the Outcomes in the Revised Fair Dealing Guidelines with reference to its business model, its products and services and the needs and interests of the target customer segments of each of its product and service (factoring in the circumstances of customers who are more vulnerable).

If you have any queries on the above development, please feel free to contact our team members below who will be happy to assist.

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Further Information

By way of background, this development follows from the public consultation exercised conducted by MAS from 14 December 2022 to 8 February 2023 where feedback was sought on the proposed enhancements to the Fair Dealing Guidelines as set out in the MAS [Consultation Paper on Revisions to Guidelines on Fair Dealing – Board and Senior Management Responsibilities for Delivering Fair Dealing Outcomes to Customers](#). On 30 May 2024, MAS issued its [Response to Feedback Received pursuant to Consultation Paper on Revisions to Guidelines on Fair Dealing – Board and Senior Management Responsibilities for Delivering Fair Dealing Outcomes to Customers](#).

The [MAS Guidelines on Fair Dealing – Board and Senior Management Responsibilities for Delivering Fair Dealing Outcomes to Customers \[FSG-G04\]](#) which were issued on 30 May 2024 have incorporated the feedback provided, where appropriate.

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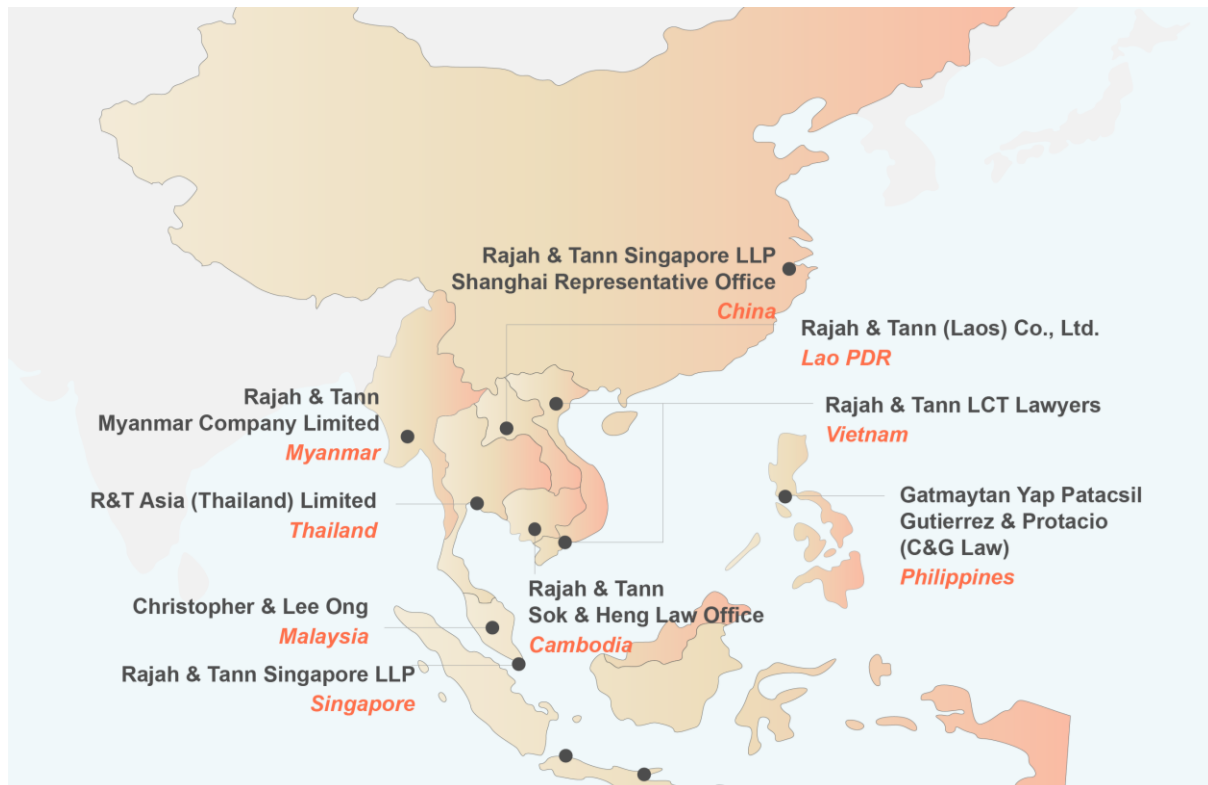
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