



Monetary Authority of Singapore

**FINANCIAL ADVISERS ACT
(CHAPTER 110)**

FREQUENTLY ASKED QUESTIONS

Disclaimer: The FAQs are meant to provide guidance to the industry on MAS' policy and administration of the FAA regime. They do not constitute legal advice. MAS expects industry participants to retain their independent legal counsel to advise them on how their business operations should be conducted in order to satisfy the legal/regulatory requirements and to advise them on all applicable laws of Singapore.

FINANCIAL ADVISERS ACT (CAP 110) ["FAA"]

FINANCIAL ADVISERS REGULATIONS 2002 (G.N. NO. S 462/2002) ["FAR"]

FREQUENTLY ASKED QUESTIONS

General Questions on the Financial Advisers Act (FAA) and the Financial Advisers Regulations (FAR)

1 What is the impetus to enacting the FAA?

With the increasing convergence of investment products and common distribution channels, there is a need to harmonise the regulatory regime for similar activities across investment products. The FAA streamlines the laws governing the provision of financial advisory services in respect of investment products, including securities, futures and life insurance, into a single piece of legislation. It provides a more flexible and integrated regulatory framework for entities engaging in financial advisory activities. In addition, having a common set of requirements and regulations that is applicable for all market intermediaries engaging in financial advisory services will help maintain consistent professional standards across the industry.

2 What types of activities are regulated under the FAA?

The types of financial advisory service regulated under the FAA are as follows:

- (a) Advising others concerning any investment product¹, other than advising on corporate finance;

¹ "Investment product" means (a) any capital markets product as defined in section 2(1) of the Securities and Futures Act 2001 (eg. securities, futures contracts, contracts or arrangements for the purposes of foreign exchange trading, contracts or arrangements for the purposes of leveraged foreign exchange trading); (b) any life policy as defined in the First Schedule to the Insurance Act (Cap. 142); or (c) any other product as may be prescribed.

- (b) Issuing or promulgating analyses or reports concerning any investment product;
- (c) Marketing of any collective investment scheme including unit trusts; and
- (d) Arranging of any contract of insurance in respect of life policies

3 Why does MAS regulate certain aspects of financial planning and not the full range of financial planning activities? What is the distinction between a Financial Adviser and a Financial Planner?

The types of services provided by financial planners vary widely. Some planners assess every aspect of their clients' financial profile, including savings, investments, insurance, tax, retirement and estate planning, and help them develop detailed strategies to meet their financial objectives. Others may call themselves financial planners, but only provide advice on a limited range of products and services.

MAS regulates all financial planning activities related to securities, futures and insurance. Tax and estate planning activities do not come under our regulatory ambit. Hence, only financial planners who conduct activities regulated under the FAA are required to be licensed as a financial adviser. A financial planner may conduct other activities such as tax planning, but these are not subject to supervision by MAS.

4 Why are the following products not covered under the FAA?

- (a) *general insurance policies;*
- (b) *deposit-taking products; and*
- (c) *loans and mortgages*

The objective of the FAA is to regulate mainly products with an investment element. General insurance policies are not considered investment products as they are consumption-based. Deposit-taking products offered by banks are excluded as such products are at the low end of the risk spectrum and are generally well understood. Loans and mortgages do not have any investment element.

Notwithstanding the above, MAS has the power under the FAA to regulate additional products where necessary, so that the regulatory framework has the flexibility to cater to new product development.

5 *Are structured deposits regulated under the FAA?*

Whether a structured deposit is regulated under FAA depends on whether it falls within the definition of an investment product. Under the FAA, investment product means –

- (a) any capital markets product as defined in section 2(1) of the Securities and Futures Act 2001 (SFA);
- (b) any life policy; or
- (c) any other product as may be prescribed.

Capital markets product as defined in the SFA means securities, futures contracts, contracts or arrangements for the purposes of foreign exchange trading, contracts or arrangements for the purposes of leveraged foreign exchange trading, and such other products as the Authority may prescribe as a capital markets product.

Whether or not a structured deposit or any other types of structured product fall within the definition of "investment product" in the FAA is a question of fact/law and will depend on the specific features of the product. There is considerable variation in how such products can be structured and the terms and conditions that apply. Accordingly, it is a matter for the institution concerned to review the structure of the relevant instrument and the rights and obligations of the parties in order to ascertain whether the instrument falls within the definition of "investment product".

6 *Are activities involving life reinsurance regulated under the FAA or the Insurance Act?*

Advising on life reinsurance policies and arranging of contracts of life reinsurance are regulated under the Insurance Act.

7 *Who is permitted to conduct financial advisory services regulated under the FAA?*

Only licensed financial advisers and exempt financial advisers who are exempt under section 23(1) or (2) of the FAA are allowed to conduct financial advisory services under the FAA. Individuals providing financial advisory services on behalf of licensed financial advisers are required to be licensed as representatives. Individuals acting on behalf of exempt financial advisers are exempt from the need to hold a representative's licence under the FAA.

8 Who is exempt from holding a financial adviser's licence?

Banks, merchant banks, finance companies, insurance companies, insurance brokers registered under the Insurance Act, and holders of a capital markets services licence under the Securities and Futures Act (Cap 289) are exempt from holding a financial adviser's licence to act as a financial adviser in Singapore in respect of any financial advisory services. Individuals who provide financial advisory services on behalf of such institutions are exempt from holding a representative's licence. However, exempt financial advisers and their representatives are required to comply with the business conduct requirements stipulated in the FAA.

9 Under section 2 of the FAA, "financial adviser" means a person who carries on a business of providing any financial advisory service. If a person provides advice on securities which is incidental to his securities dealing activities, will he be deemed as carrying on a business of providing financial advisory services?

The term "carrying on a business" is not defined in the FAA. MAS would regard any activity which is conducted with system, repetition and continuity as carrying on of a business. Accordingly, a person would be considered by MAS to be carrying on a business of providing financial advisory services if advice is given or recommendations are made systematically, regularly and in a continuous manner, whether or not the person receives any remuneration for providing the financial advisory service. In respect of giving of advice or making recommendations on a one-off basis, MAS' view is that such activities are less likely to amount to carrying on of a business.

10 Why does MAS restrict the use of the term "Financial Adviser" to only holders of a financial adviser's licence and exempt financial advisers? Are representatives of a financial adviser allowed to call themselves "Financial Advisers"? How about the use of similar titles?

MAS believes that restricting the use of the term "financial adviser" will enable investors to identify whether they are receiving financial advice from an entity that is licensed by MAS or an entity that is unregulated.

As the regulatory framework of the FAA draws a distinction between "Financial Adviser" and "Representative", MAS does not permit representatives to call themselves "Financial Advisers". However, representatives are allowed

under section 21(2) of the FAA to use the words “Financial Adviser” together with the word “representative”.

There is no restriction on the use of titles and designations like "financial planner", "financial analyst" or "financial consultant", as such designations are currently adopted by a number of professional bodies, both internationally and within Singapore. However, the investing public should be aware that persons who use such titles may or may not be regulated by MAS, depending on the services they offer. If there is any doubt, the public may contact MAS to ascertain whether a person is regulated by MAS or not.

11 Would financial advisory services provided by a person outside Singapore using the Internet medium be caught under the FAA?

A person outside Singapore who engages in any activity through the Internet which is intended to or likely to induce the public (or any section of the public) in Singapore to use any financial advisory service provided by him will be deemed to be acting as a financial adviser in Singapore. Such a person would contravene section 6(1) of the FAA unless he holds a financial adviser's licence.

Licensing Requirements

1 What are the admission criteria for the grant of a licence under the FAA?

Applicants for a financial adviser's licence are required to satisfy certain criteria, including but not limited to the following:

- (a) have adequate financial resources to perform the proposed activities;
- (b) have the relevant competence and expertise; and
- (c) satisfy MAS that they would discharge their duties efficiently, honestly and fairly.

In determining the suitability of a person to be granted a representative's licence, MAS will take into account, amongst others, the applicant's:

- (a) financial status and solvency;
- (b) educational/professional qualifications and work experience;
- (c) ability to perform his functions efficiently, honestly and fairly; and

- (d) reputation, character and integrity.

Details of the licensing admission criteria may be found in the Guidelines on Criteria for the Grant of a Financial Adviser's Licence and a Representative's licence [Guideline No. FAA-G01]. The Guidelines are available on the MAS website at <http://www.mas.gov.sg>.

2 *What are the procedures for application for a licence?*

To apply for a financial adviser's licence and a representative's licence, applicants have to submit the relevant application forms prescribed in the First Schedule to the FAR. The application forms are to be lodged with the relevant application fees, details of which may be found in the Second Schedule to the FAR.

The licences are valid for a period of up to 3 years. Licensed financial advisers and licensed representatives are required to renew their licences at the end of the 3-year period if they wish to continue with the provision of financial advisory services.

Please refer to the Guidelines on Licence Applications and Payment of Fees [Guideline No. FAA-G03] for more details. The Guidelines are available on the MAS website at <http://www.mas.gov.sg>.

3 *What is the amount of licence fees under the FAA?*

The amount of licence fees payable each year by a licensee is stated in the Second Schedule to the FAR (\$2,000 for the financial adviser and \$200 for each representative). MAS will inform applicants of the payment details should the application for the grant of a financial adviser's licence or representative's licence be approved. Please refer to the Guidelines on Licence Applications and Payment of Fees [Guideline No. FAA-G03] for more details. The Guidelines are available on the MAS website at <http://www.mas.gov.sg>.

4 *What do licensees need to do if they wish to expand the scope of their financial advisory services beyond those authorised under their licence?*

To expand the scope of financial advisory services provided, a licensed financial adviser and licensed representative will need to submit an application for providing additional types of financial advisory service. The application

forms may be found in the First Schedule to the FAR (Form 2 for the financial adviser and Form 7 for the representatives). Licensees will also have to pay an application fee of \$250 in the case of a financial adviser and \$50 in the case of a representative, when they submit applications to provide additional types of financial advisory service. Details may be found in the Guidelines on Licence Applications and Payment of Fees [Guideline No. FAA-G03].

5 *What is the rationale for restricting the grant of a financial adviser's licence to corporations only?*

The financial adviser's licence is granted only to corporations as they have stronger financial resources and are better able to establish proper checks and balances as well as maintain proper records and audit trails.

6 *What is the minimum paid-up capital requirement for a financial adviser's licence?*

Applicants advising on and/or issuing analyses and reports on futures contracts, contracts or arrangements for the purposes of foreign exchange trading, or contracts or arrangements for the purposes of leveraged foreign exchange trading are required to have a minimum paid-up capital of \$300,000. In all other cases, the minimum paid-up capital requirement is \$150,000. Applicants which are foreign companies are required to have net head office funds of a similar amount. Please refer to regulation 15 of the FAR for more details.

7 *What continuing financial requirements would a licensed financial adviser be subject to?*

A licensed financial adviser which is not a foreign company must, at all times, maintain a net asset value of not less than:

- (a) $\frac{1}{4}$ of its relevant annual expenditure of the preceding financial year; or
- (b) $\frac{3}{4}$ of the minimum paid-up capital required under regulation 15, whichever is the higher.

A licensed financial adviser which is a foreign company must, at all times, maintain net head office funds of not less than:

- (a) $\frac{1}{4}$ of its relevant annual expenditure of the preceding financial year; or

(b) the minimum net head office funds required under regulation 15, whichever is the higher.

Please refer to regulation 16 of the FAR for more details.

8 Are financial advisers required to have in force a professional indemnity insurance policy?

MAS may refuse an application for the grant or renewal of a financial adviser's licence if the applicant does not have in force a professional indemnity insurance policy, under which the limit of indemnity covered is not less than \$500,000. In addition, the deductible should not exceed 20% of its paid-up capital or net head office funds, as the case may be. Please refer to regulation 17 of the FAR for more details.

9 Are licensees formerly registered or licensed under the repealed Insurance Intermediaries Act (“IIA”), Securities Industry Act (“SIA”) or Futures Trading Act (“FTA”) which have migrated to the FAA given time to comply with the new financial requirements under the FAA?

As stipulated in regulation 45 of the FAR, these licensees are given a period of 6 months from the implementation of the FAA on 1 October 2002 to comply with certain financial requirements under section 10 of the FAA as well as those under regulations 16 and 17 of the FAR.

Licensees formerly registered under the repealed IIA, or formerly licensed under both the repealed IIA and SIA and/or FTA, are given a period of 6 months from the implementation of the FAA on 1 October 2002 to comply with the continuing financial requirements stipulated in regulation 16(1) and (2) of the FAR.

Licensees formerly licensed under the repealed SIA and/or FTA are given a period of 6 months from the implementation of the FAA on 1 October 2002 to comply with the requirements on professional indemnity insurance stated in regulation 17(1) and (2) of the FAR.

10 What do licensees need to do if they wish to cease the provision of all or any type of financial advisory service?

Where a licensed financial adviser ceases to provide all types of financial advisory service which it is authorised by its licence to provide, the financial

adviser and its representatives who cease to act as representatives as a result of such cessation shall lodge a notice in Form 5 and immediately return their licences to MAS.

Where a licensed financial adviser ceases to provide any type of financial advisory service which it is authorised by its licence to provide but has not ceased to act as a financial adviser, the financial adviser and its representatives who cease to act as representatives in providing that type of financial advisory service (including a representative whose licence relates only to the type of financial advisory service that has ceased to be provided) as a result of such cessation shall lodge a notice in Form 5 and immediately return their licences to MAS.

Where a licensed representative, other than a representative referred to above, ceases to act as a representative in providing all or any type of financial advisory service authorised by his licence, he shall lodge a notice in Form 10 and immediately return his licence to MAS.

In the case where a licensed financial adviser or licensed representative has not ceased entirely as a financial adviser or representative, MAS will issue to the licensed financial adviser or licensed representative a new licence in respect of the remaining type or types of financial advisory services that is or are provided.

Please refer to regulation 12 of the FAR for more details.

11 Under what circumstances will the financial adviser's licence or representative's licence lapse?

A financial adviser's licence will lapse if the financial adviser:

- (a) is wound up or otherwise dissolved, whether in Singapore or elsewhere;
- (b) has not commenced business in any financial advisory service within 6 months of being granted a licence; or
- (c) has ceased to carry on business in any financial advisory service to which the licence relates for a continuous period of 2 months and has not notified MAS of its cessation of business.

A representative's licence will lapse if the representative:

- (a) dies or becomes mentally incapacitated;
- (b) has not commenced his duties as a representative of the financial adviser which supported his application within 6 months of being granted a licence;
- (c) has ceased to act as a representative of the financial adviser for which he acts for a continuous period of one month, and has not notified MAS of his cessation as a representative;
- (d) has notified MAS of his cessation as a representative of the financial adviser for which he acts, and has not subsequently, at any time until the date on which he is otherwise required to pay a licence fee, notified MAS of his reappointment as a representative of the financial adviser for which he acts or his transfer to another financial adviser; or
- (e) the licence of the financial adviser for which he acts has lapsed.

Please refer to section 19(1) of the FAA and regulation 8 of the FAR for details.

12 Does a licensed financial adviser need to seek MAS' prior approval for the appointment of its CEO or director?

A licensed financial adviser is required to seek MAS' prior approval for the following appointments:

- (a) a person to be appointed as CEO who is principally responsible for the licensed financial adviser's business operations in Singapore, regardless of the place of his residence; and
- (b) a person to be appointed as a director who is a resident in Singapore or who is directly responsible for any part of the business of the licensed financial adviser, regardless of the place of his residence.

In addition, a licensed financial adviser is required to inform MAS of the resignation of its CEO or director.

13 Do licensed representatives need to inform MAS of any change in their residential address or other personal particulars?

Yes, licensed representatives are required to lodge Form 18 to inform MAS of any change in the particulars which were previously furnished to MAS. Form 18 has to be lodged within 14 days of the change.

Business Conduct Requirements

1 Would individuals intending to provide financial advisory services be required to pass any proficiency examinations?

Individuals employed by licensed financial advisers and exempt financial advisers to provide financial advisory services are required to pass the relevant modules of the Capital Markets and Financial Advisory Services Examination, which comprises modules on rules and regulations for financial advisory services and product knowledge and analyses. Details of the new examination requirements are spelt out in the Notice on Minimum Entry and Examination Requirements for Representatives of Licensed Financial Advisers and Exempt Financial Advisers [Notice No. FAA-N07]. Both the Notice and FAQs on the Notice are available on the MAS website.

[updated on 5 April 2004]

2 Representatives of exempt financial advisers are not required to hold a licence under the FAA. Who is responsible for ensuring that these representatives are fit and proper, and that they possess the necessary qualifications?

Exempt financial advisers are responsible for ensuring that the representatives they appoint to conduct financial advisory services are fit and proper, and that they possess the necessary qualifications. They should ensure that their representatives meet the standards spelt out in the Guidelines on Fit and Proper Criteria [Guideline No. FAA-G02] and the requirements in the Notice on Minimum Entry and Examination Requirements for Representatives of Licensed Financial Advisers and Exempt Financial Advisers [Notice No. FAA-N07].

[updated on 5 April 2004]

3 What types of records should exempt financial advisers keep on their representatives?

Exempt financial advisers are required to establish and maintain a register of their representatives containing details of the following in relation to each representative:

- (a) his name;
- (b) the type or types of financial advisory service he is authorised to provide for the financial adviser;
- (c) the date of commencement of authorisation to provide each type of financial advisory service;
- (d) the date of cessation of authorisation to provide each type of financial advisory service, where applicable; and
- (e) any qualification obtained by him to fulfil the requirements stipulated in the Notice on Minimum Entry and Examination Requirements for Representatives of Licensed Financial Advisers and Exempt Financial Advisers [Notice No. FAA-N07] and the date of obtaining such qualification.

[updated on 5 April 2004]

4 What are some of the business conduct requirements in the FAA?

The FAA spells out certain business conduct requirements which licensed financial advisers and exempt financial advisers are required to comply with. These may be found in Part III of the FAA. Some of them are highlighted below:

- (a) Section 25 requires a financial adviser to disclose to its clients information relating to an investment product that is recommended by the financial adviser.
- (b) Section 26 makes it an offence for a financial adviser to make, with intent to deceive, certain false and misleading statements, or material omissions, regarding a contract or a proposed contract in respect of any investment product.
- (c) Section 27 prohibits a financial adviser from making a recommendation with respect to an investment product when it does not have a reasonable basis for doing so.

- (d) Section 29 requires a financial adviser to provide information about any matter related to its business carried on in Singapore or elsewhere to the MAS when requested.
- (e) Section 32 regulates the use of insurance broking premium accounts to be established by a financial adviser which provides financial advisory services in respect of life policies.
- (f) Section 33 prohibits a financial adviser from negotiating any contract of insurance with an insurer, whether directly or indirectly, except with a registered insurer.

5 What are the business conduct requirements that exempt financial advisers have to comply with?

Section 23(4) of the FAA lists out the relevant sections of the FAA that apply to exempt financial advisers. The applicable sections are sections 25 to 29, 32, 33, 34, 36 and 70.

The relevant sections that apply to representatives of exempt financial advisers are listed in section 23(5) of the FAA. They are: sections 12, 25, 26, 27, 29, 33, 34, 36 and 70.

In addition, exempt financial advisers and their representatives are required to adhere to the relevant provisions of the FAR as well as the Notices issued pursuant to the FAA which are applicable to them. They are also expected to adhere to the Guidelines issued pursuant to the FAA which are applicable to them.

6 Pursuant to Section 36 of the FAA, are financial advisers required to disclose their interests in all securities in all circulars or other similar written communications sent to customers?

That is not the case. Section 36 of the FAA only requires financial advisers to disclose their interests in specific securities in circulars or other similar written communications, such as marketing brochures, sent to customers if the circulars or written communications contain recommendations on those securities. Therefore, where the circulars or written communications merely provide factual information such as name of securities, the product provider and fees charge, financial advisers are not required to disclose their interests. In

addition, where the circular or written communication made a recommendation on a particular security, financial advisers only need to disclose their interests in that security and not their holdings in other securities.

7 Pursuant to Section 36 of the FAA, are financial advisers required to preserve a copy of all circulars or other similar written communications sent to customers for 6 years?

Financial advisers are not required to preserve a copy of all circulars or written communications sent to customers for 6 years. Only circulars or written communications sent to customers which contain recommendations on securities need to be preserved for a period of 6 years.

8 What are the Notices and Guidelines which have been issued under the FAA?

On 1 October 2002, MAS issued the following Notices and Guidelines under the FAA:

Notices	Guidelines
Notice on recommendations on investment products [FAA-N01]	Guidelines on criteria for the grant of a financial adviser’s licence and a representative’s licence [FAA-G01]
Notice on appointment and use of introducers by financial advisers [FAA-N02]	Guidelines on criteria for the grant of a financial adviser’s licence and a representative’s licence [FAA-G01]
Notice on information to clients and product information disclosure [FAA-N03]	Guidelines on licence applications and payment of fees [FAA-G03]
Notice on minimum entry and examination requirements for representatives of licensed financial advisers and exempt financial advisers [FAA-N04] – cancelled and replaced by FAA-N07	Guidelines on standards of conduct for financial advisers [FAA-G04]
Notice on reporting of misconduct of representatives by financial advisers [FAA-N05]	Guidelines on the use of the term “independent” by financial advisers [FAA-G05]
Notice on prevention of money laundering [FAA-N06]	Guidelines on applications for approval of arrangements under paragraph 11 of the First Schedule to

	the Financial Advisers Act [FAA-G06]
Notice on Minimum Entry and Examination Requirements for Representatives of Licensed Financial Advisers and Exempt Financial Advisers [FAA-N07]	Guidelines on exemption for specialised units serving high net worth individuals under section 100(2) of the Financial Advisers Act [FAA-G07]
Notice on Inspection Powers [FAA-N08]	Guidelines on Conduct of Business for Execution-Related Advice [FAA-G08]

[updated 5 April 04]

9 Some of the requirements stipulated in the Notice on Recommendations on Investment Products and Notice on Information to Clients and Product Information Disclosure are new obligations. Will licensees be given a grace period to comply with the requirements in the two Notices?

Industry participants are given a period of 6 months from the implementation of the FAA on 1 October 2002 to comply with the requirements stipulated in the Notice on Recommendations on Investment Products and Notice on Information to Clients and Product Information Disclosure. The grace period of 6 months will enable industry participants to put in place the necessary systems and procedures to ensure compliance with the new requirements. Industry participants which are able to comply with the Notices earlier are encouraged to do so.

10 Are licensed financial advisers allowed to handle clients' money or property?

Where a licensed financial adviser, in its marketing of any collective investment scheme, receives money or property from a client, such client's money or property must be handed over to:

- (a) the provider of the collective investment scheme;
- (b) a holder of a capital markets services licence under the Securities & Futures Act (Cap 289) to provide custodial services for securities which is authorised by the client to receive the client's money or property; or
- (c) a person exempt under the Securities & Futures Act (Cap 289) from holding a capital markets services licence to provide custodial

services for securities which is authorised by the client to receive the client's money or property,

not later than the business day immediately following the day on which the licensed financial adviser receives the money or property.

A licensed financial adviser is permitted to hand over its client's money or property to the persons specified above after the specified date provided that it has the client's prior written consent to do so.

In addition, a licensed financial adviser shall not, in its marketing of any collective investment scheme, receive client's money or property in the form of cash or any cheque made out in its name except where the cash or cheque is for services rendered by the financial adviser.

11 What should a licensed financial adviser which markets collective investment schemes (CIS) take note of?

In its marketing of any CIS, a licensed financial adviser should ensure that it does not conduct any activity which may be deemed as "providing custodial services for securities", which is a regulated activity under the SFA if it does not hold a capital markets services (CMS) licence to engage in such activity. In addition, it should ensure that any arrangement that it enters into with its clients will not result in it having possession or effective control of the units of its clients as this may be deemed as providing custodial services for securities.

A licensed financial adviser which does not hold a CMS licence to provide custodial services for securities should bear the following in mind when engaging in the marketing of any CIS:

- (a) It should not hold units on behalf of clients or act as a custodian for clients;
- (b) It should obtain clients' consent for the appointment of a custodian for the execution of orders and holding of units on behalf of the clients. Any subsequent change in the appointment of the custodian should have the prior written consent of the clients;
- (c) It should ensure that the custodian appointed is a licensee under the SFA which is authorised to provide custodial services for securities or an entity exempt under the SFA which is authorised to provide such services;

- (d) It should, upon the receipt of transaction orders from clients, forward such orders to the custodian or person authorised to execute such orders for processing;
- (e) It should not receive any cheque from clients made out in its name other than for the payment of services rendered to the clients. It should ensure compliance with regulation 19 of the FAR in respect of handing over of client's money or property in relation to marketing of CIS; and
- (f) It should ensure that its clients are fully aware of any arrangement it has entered into with a third party to facilitate the back-end processing of CIS transactions. It should also ensure that clients' interests will not be compromised as a result of such an arrangement.

Licensed financial advisers are allowed to provide certain administrative services to their clients in relation to the marketing of any CIS. These are:

- (a) Transmitting documents such as accounts and semi-annual reports received from the custodian and/or fund manager to their clients; and
- (b) Maintaining information on clients' investments for their own record for the purpose of provision of financial advisory service to their clients.

12 What is the purpose of the Guidelines on Standards of Conduct for Financial Advisers?

The Guidelines set out the general standards expected of financial advisers and their representatives in their conduct of financial advisory services. They do not have the force of law but MAS expects all financial advisers and their representatives to adhere to the Guidelines, so as to help foster professional standards and maintain confidence in the financial services industry.

13 Can a representative act for more than one financial adviser?

A representative can only act for one financial adviser. The only exception is if a representative acts for two or more financial advisers which are related corporations.

The objectives of the one-representative-one-financial adviser rule are two-fold:

- (a) to secure clarity for investors about the status of representatives, the financial advisers they represent, and more importantly, where responsibility rests for complaints and redress; and
- (b) to ensure that the financial advisers closely monitor and supervise their representatives at all times.

The one-representative-one-financial adviser rule does not restrict the product range that a financial adviser can market or give advice on. Financial advisers such as banks, fund managers, securities firms and insurance companies that distribute life insurance products and unit trusts are free to enter into contracts to sell one another's products and, hence, expand the range of products they can market or give advice on.

14 Life insurance companies would be able to sell one another's products when the FAA comes into effect. Is the insurance industry ready for this new development? Does this go against the one-representative-one-financial adviser provision under section 12 of the FAA? Would this development benefit consumers?

Life insurance companies, especially the smaller ones, may see value in cross selling one another's products. Since not all life insurers offer all types of life insurance products, allowing them to cross sell one another's products will broaden their product offering, thus giving consumers a wider range of products to choose from.

The one-representative-one-financial adviser requirement will not be compromised as an insurance agent can only have one financial adviser (which is the life insurer with whom he has an agency agreement), and can only distribute those products authorised by that life insurer. As an exempt financial adviser, a life insurance company must closely monitor and supervise its agents, and be responsible for the conduct of its agents in respect of their provision of advice and distribution of investment products offered by other financial institutions.

15 Financial advisers arranging life insurance contracts are not allowed to place domestic business with unregistered overseas insurers without MAS' prior approval. What is the rationale for this rule?

Financial advisers are required to seek MAS' prior approval on a case-by-case basis should they wish to place their clients' life insurance risks with unregistered overseas insurers. This is to ensure that no financial adviser is being used by unregistered overseas insurers to assist them in writing domestic Singapore risks. This is because unregistered overseas insurers are not allowed to carry on insurance business in Singapore as an insurer.

Generally, the life insurance needs of our domestic market are adequately met by registered life insurers in Singapore. However, where there are special needs that cannot be met by our local insurance industry, MAS is prepared to permit such risks to be placed directly with unregistered overseas insurers on a case-by-case basis.

16 What are the rules governing the use of the term "Independent" by financial advisers?

The use of the term “independent” is restricted under regulation 21 of the FAR. Regulation 21 states that no licensed financial adviser or exempt financial adviser is permitted to use the word "independent" or any similar term in its name, description or title, or to promote or advertise its services, or in respect of any of its advice or recommendation, unless it:

- (a) does not receive any commission or other benefit from a product provider which may create product bias and does not pay any commission to or confer other benefit upon its representatives which may create product bias;
- (b) operates free from any direct or indirect restriction relating to any investment product which is recommended; and
- (c) operates without any conflict of interest created by any connection to or association with any product provider.

A financial adviser must inform all of its representatives, in writing, as to whether it may or may not use the word “independent”. No representative is allowed to use the word “independent” in acting as a representative of the financial adviser if the financial adviser has informed him that it may not do so.

MAS has issued the Guidelines on the Use of the Term “Independent” by Financial Advisers to provide guidance to financial advisers on the circumstances they may use the term “independent”. The Guidelines set out that:

- (a) only financial advisers which can clearly demonstrate that they do not have financial or commercial links with product providers that are capable of influencing their recommendations should use the term “independent”; and
- (b) before using the term “independent”, financial advisers should be satisfied in light of their own particular circumstances that they are in compliance with regulation 21 of the FAR.

17 What is the objective of prohibition orders made under section 59 of the FAA?

The objective of a prohibition order is to keep unfit persons from engaging in any or all of the financial advisory services regulated under the FAA. The ability of MAS to issue a prohibition order would be especially useful in cases where there is a need to prevent a representative of an exempt financial adviser from conducting financial advisory activities. As these representatives are not licensed by MAS, revocation of licence is not an action MAS may take. This helps to ensure that only fit and proper persons are permitted to participate in the financial services industry. An order will only be issued in cases where very serious offences have been committed.

MAS recognises the severity of such orders. To date, MAS has exercised its powers judiciously and will continue to do so. Where MAS intends to issue an order, it will allow the affected person an opportunity to be heard prior to issuing the order. The person may, at that juncture, show cause to MAS why the order should not be issued. In addition, that person has a right of appeal to the Minister, who will be advised by an independent advisory panel, in respect of MAS' decision.

18 How does MAS intend to work with the industry associations to improve standards and professionalism in the financial advisory industry?

There are currently several industry associations or societies in Singapore whose objects relate to the financial advisory industry. MAS will engage these industry bodies where appropriate and seek their views on regulatory issues affecting the financial advisory market. In addition, MAS will facilitate the

development of the market and work with industry bodies to improve professional standards.

Reporting Requirements

1 What are some of the reporting requirements for licensed financial advisers?

Licensed financial advisers are required to prepare and lodge with MAS a true and fair profit and loss account and a balance sheet made up to the last day of its financial year in accordance with the provisions of the Companies Act (Cap. 50), where applicable. The above documents are to be lodged together with an auditor's report in Form 17. In addition, they are required to submit Forms 14, 15, and 16, where applicable. The forms may be found in the First Schedule to the FAR. These documents are to be lodged within 5 months, or within such extension of time as may be permitted by MAS, after the end of the financial adviser's financial year.

2 What are the reporting requirements for exempt financial advisers?

Under the FAR, a financial adviser which is exempt from holding a financial adviser's licence under section 23(1)(a) to (e) of the FAA or regulation 27(1)(d) of the FAR has to lodge with MAS:

- (a) a notice of commencement of business in Form 20 not later than 14 days after the commencement of its business as a financial adviser;
- (b) a notice of change of particulars in Form 21 providing any change in the particulars required to be notified under (a), not later than 14 days after the date of the change; and
- (c) a notice of cessation of business in Form 22 not later than 14 days after the cessation of its business as a financial adviser.

In addition, a person exempt under regulation 27(1)(d) of the FAR has to lodge a declaration in Form 23 within 14 days after the end of its financial year, confirming that:

- (a) he acted as a financial adviser to not more than 30 accredited investors;

- (b) he has complied with all written directions, conditions and restrictions imposed by MAS pursuant to sections 58 and 23(9) of the FAA respectively; and
- (c) he has maintained proper records of all documents providing evidence that each client is an accredited investor.

A financial adviser exempt under section 23(1)(a) to (e) of the FAA which arranges contracts of insurance in respect of life policies is also required to lodge Form 16 [Statement of placement of direct life insurance business handled under section 45(1) and regulation 37(1)] and Form 24 [Audited statement of insurance broking premium account of exempt financial adviser under regulation 37(1)] within 5 months from the end of its financial year, where applicable.

The forms may be found in the First Schedule to the FAR.

3 What requirements are spelt out in the Notice on Reporting of Misconduct of Representatives by Financial Advisers [Notice No. FAA-N05]?

Financial advisers are responsible for the conduct of their representatives. They should take disciplinary action against their representatives for any misconduct and ensure consistency in their application of disciplinary action for the same type of misconduct committed by their representatives. In addition, financial advisers should have an internal process for addressing the appeals made by their representatives with respect to the disciplinary action taken against them.

The Notice on Reporting of Misconduct of Representatives by Financial Advisers [Notice No. FAA-N05] requires financial advisers to submit to the MAS quarterly reports of any disciplinary action taken against their representatives during the preceding quarter for any of the following misconduct committed:

- (a) non-compliance with regulatory requirements and industry standards relating to the provision of any financial advisory service under the FAA;
- (b) failure to satisfy the Guidelines on Fit and Proper Criteria [Guideline No. FAA-G02]; and
- (c) serious breaches of company policy which would render the representatives liable to demotion, suspension or dismissal.

Financial advisers are required to submit their first report for the quarter ending on 31 March 2003.

Exemptions

1 What does the exemption under regulation 27(1)(d) of the FAR cover?

Under regulation 27(1)(d) of the FAR, a person resident in Singapore who acts, whether directly or indirectly, as a financial adviser in giving advice, or in issuing or promulgating analyses or reports, concerning any investment product (other than life policies), to not more than 30 accredited investors on any occasion is exempt from holding a financial adviser's licence under section 23(1)(f) of the FAA.

An "accredited investor" is defined in regulation 2 of the FAR to mean:

- (a) an individual whose net personal assets exceed \$5 million or its equivalent in value in any foreign currency; or
- (b) a corporation with net assets exceeding \$10 million in value or its equivalent in value in any foreign currency as determined in accordance with the most recent audited balance-sheet of the corporation or, in the case of a corporation which is not required to prepare audited accounts, a balance-sheet certified by the corporation to give a true and fair view of the state of affairs of the corporation as at the end of the period to which the balance-sheet relates.

2 How many clients can a person exempt under regulation 27(1)(d) of the FAR who is also exempt from the requirement to hold a capital markets services licence to carry on business in fund management under paragraph (5)(1)(d) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations 2002 (G.N. No S457/2002) have in total?

A person exempt under regulation 27(1)(d) of the FAR who is also exempt from the requirement to hold a capital markets services licence to carry on business in fund management under paragraph (5)(1)(d) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations 2002 (G.N. No S457/2002) shall not be, or shall cease to be, exempt from holding a financial adviser's licence if the number of accredited investors to whom he provides financial advisory services and the number of

qualified investors on behalf of whom he carries on business in fund management exceed 30 in total.

3 *What happens when a person exempt under regulation 27(1)(d) of the FAR act as financial advisers to any person outside the scope of the exemption granted?*

A person exempt under regulation 27(1)(d) of the FAR shall not be, or shall cease to be, exempt from holding a financial adviser's licence if he also carries on a business of providing any financial advisory service other than in accordance with regulation 27(1)(a), (b), (c) or (d) of the FAR.

4 *What is the nature of the exemption given to financial advisers or corporations who give advice or analysis on bonds to an accredited investor, or a person whose business involves the acquisition and disposal of or the holding of capital markets products?*

A corporation (not being a licensed financial adviser or exempt financial adviser under section 23(1)(a) to (e) of the FAA), which carries on the business of giving advice, or issuing or promulgating analyses or reports, concerning bonds to an accredited investor, or a person whose business involves the acquisition and disposal of or the holding of capital markets products (whether as principal or as agent), is exempt from holding a financial adviser's licence in respect of such activity.

Licensed financial advisers and exempt financial advisers under section 23(1)(a) to (e) of the FAA which carry out this activity are exempt from sections 25 to 29 and 36 of the FAA in respect of such activity.

Please refer to regulation 28 of the FAR for more details.

5 *Under what circumstances will section 25 of the FAA not apply?*

Section 25 of the FAA will not apply to licensees, exempt financial advisers and their representatives when they provide any financial advisory service in respect of any capital markets product to an accredited investor or a person whose business involves the acquisition or disposal of or the holding of capital markets products (whether as principal or as agent). Section 25 of the FAA will also not apply to the persons mentioned above when they provide any financial advisory service in respect of life policies to an accredited investor.

Please refer to regulation 33 of the FAR for more details.

6 Under what circumstances will section 27 of the FAA on recommendations made by licensees not apply?

Section 27 of the FAA will not apply to licensees, exempt financial advisers and their representatives when they make a recommendation in respect of:

- (a) any investment product by way of a research report intended for general circulation, where the report is not made with regard to (and it is so stated in the report) the specific investment objectives, financial situation and the particular needs of any person who may receive the report;
- (b) any capital markets product to an accredited investor or a person whose business involves the acquisition or disposal of or the holding of capital markets products (whether as principal or as agent);
- (c) any life policy to an accredited investor; or
- (d) any Government securities.

In addition, section 27 of the FAA will not apply to banks and merchant banks and their representatives when they make a recommendation with respect to foreign exchange trading or leveraged foreign exchange trading to an accredited investor; a corporation; or a person whose business involves the acquisition or disposal of or the holding of capital markets products (whether as principal or as agent).

Please refer to regulation 34 of the FAR for more details.

7 Under what circumstances would giving advice on leveraged foreign exchange trading be excluded from the requirements of the FAA?

The provision of advice on leveraged foreign exchange trading is excluded from the requirements of the FAA so long as these activities are performed for or in connection with a contract or an arrangement arranged by a bank licensed under the Banking Act or a merchant bank approved as a financial institution under the MAS Act. Leveraged foreign exchange trading as defined

in the Second Schedule to the SFA includes foreign exchange trading transactions conducted on a margin basis.

8 Under what circumstances would provision of financial advisory services in respect of contracts or arrangements for the purposes of foreign exchange trading be excluded from the requirements of the FAA?

A bank or merchant bank which is an exempt FA under section 23(1) is exempt from the requirements of the FAA in respect of its provision of giving advice, or issuing or promulgating analyses or reports, on contracts or arrangements for the purposes of foreign exchange trading arranged by it or by any bank licensed under the Banking Act or any merchant bank approved as a financial institution under the MAS Act.

[updated on 5 April 04]

9 Under what circumstances will section 36 of the FAA on the disclosure of certain interests in securities by licensees not apply?

Section 36 of the FAA will not apply to licensees, exempt financial advisers and their representatives when they send a circular or other similar written communication in which a recommendation is made in respect of Government securities; or any securities to an accredited investor or a person whose business involves the acquisition or disposal of or the holding of capital markets products (whether as principal or as agent).

Please refer to regulation 35 of the FAR for more details.

9 Why is MAS allowing the use of introducers by financial advisers? Who may be appointed as an introducer?

Prospecting for clients is an essential part of a financial adviser's business. The use of introducers by financial advisers to generate business leads would allow financial advisers to spend less time prospecting for clients. This will enable financial advisers to focus their resources on providing higher value-added financial advisory services to clients. The use of introducers or mere referral arrangement by financial advisory service providers is also allowed in other jurisdictions.

An introducer may be a corporation, an individual, a licensed financial adviser or an exempt financial adviser. Representatives of a corporation, a licensed financial adviser or an exempt financial adviser are also allowed to

conduct introducing activities if such activities are carried out on behalf of their principals.

10 Are introducers required to be licensed under the FAA? What requirements are they subject to under the FAA?

Introducers who confine their financial advisory services to introducing activities (as defined under the FAR) only are exempt from the need to hold a licence and to comply with certain business conduct requirements under the FAA. This is because introducers are only allowed to effect introduction of clients to financial advisers and are not permitted to provide advice on investment products or market collective investment schemes or arrange contracts of insurance with respect to life policies, other than to the extent of carrying out introducing activities.

Regulation 31 of the FAR sets out the requirements for introducers in their carrying out of introducing activities for financial advisers. These include the requirement to disclose to clients-

- (a) that they are not allowed to give advice or provide recommendations on investment products, market CIS or arrange life policies; and
- (b) whether they will be remunerated by the financial adviser for carrying out the introducing activities, and if so, the amount of remuneration if the information is requested by the client.

Introducers are prohibited from handling client's money and property with respect to their carrying out of introducing activities. They are also required to maintain a register of their employees or representatives who conduct introducing activities on their behalf.

11 Can representatives of financial advisers appoint introducers to conduct introducing activities on their behalf?

Only licensed financial advisers and exempt financial advisers are allowed to appoint introducers to carry out introducing activities on their behalf. Employees or representatives of licensed financial advisers and exempt financial advisers are not permitted to enter into any arrangement on their own with an introducer to carry out introducing activities on their behalf.

12 What measures has MAS put in place to ensure that the use of introducers by financial advisers will not give rise to conduct problems?

Financial advisers which appoint introducers to conduct introducing activities on their behalf are required to comply with the Notice on Appointment and Use of Introducers by Financial Advisers [Notice No FAA-N02]. The Notice requires financial advisers to institute adequate control systems and procedures to ensure the proper conduct of introducers, and comply with the following requirements:

- (a) enter into a written agreement with an external introducer;
- (b) monitor the conduct of the introducer so as to satisfy itself that the introducer provides the necessary disclosures to clients in accordance with regulation 31 of the FAR;
- (c) ensure that the introducer does not handle client's money or property in relation to his introducing activities;
- (d) provide a script for the use by the introducer in his introducing activities; and
- (e) maintain a register of introducers appointed.

Details of the requirements are set out in the Notice on Appointment and Use of Introducers by Financial Advisers [Notice No. FAA-N02].

13 Is there any rule governing the payment of remuneration to introducers by financial advisers?

MAS does not regulate how an introducer should be remunerated by a financial adviser as this is a commercial matter between a financial adviser and the introducer it appoints. The introducer is, however, required to disclose to clients whether he is or will be remunerated by the financial adviser for carrying out the introducing activities, and if so, the amount of remuneration if the information is requested by the clients.

14 When must introducers disclose information on remuneration to a client? How should such information be disclosed?

An introducer is required to disclose to the client information on whether he will be remunerated by the financial adviser at the point of conducting introducing activities. Such information may either be put across verbally or in writing. Where the information is disclosed in writing, it should be stated prominently and clearly, and a copy of the document that contains the information should be provided to the client.

Below are illustrative examples of written communications that may be used by introducers. Introducers may, in consultation with the financial advisers that appoint them, adopt appropriate changes to suit their circumstances.

For in-house introducing activity carried out by staff of a financial adviser

“[Name of FA] may remunerate its staff for each referral made by them to [a financial adviser representative] of [Name of FA]. [Name of FA] will disclose the amount of the referral remuneration paid to its staff in respect of your referral if requested by you”.

For introducing activity carried out by staff of an institution that has been appointed as external introducer by a financial adviser

“[Name of introducer] may be remunerated by [Name of financial adviser] for each referral and may share the referral remuneration with its staff who conduct the referral activity. [Name of Introducer] will disclose the amount of the referral remuneration it receives from [Name of FA] in respect of your referral if requested by you”.

15 What is the rationale for discouraging financial advisers from appointing introducers who carrying out introducing activities as their sole business activity or full-time occupation?

MAS expects financial advisers engaging introducers to exercise proper control over introducers they have appointed. Any improper conduct on the part of introducers could potentially give rise to market conduct problems and cause public nuisance. This may tarnish the image of the financial adviser and affect public confidence in the financial advisory industry.

MAS believes that one of the main reasons for financial advisers to appoint introducers is to tap the clientele base of the primary business activity of the introducers. Introducers who are not conducting introducing activities as

their sole business activity or full-time occupation are less likely to engage in aggressive business tactics when soliciting prospects for financial advisers, as it is in their interest to protect their reputation and build good relationships with their clients. MAS will monitor developments in the market and review our policy where necessary.

Disclaimer: The FAQs are meant to provide guidance to the industry on MAS' policy and administration of the FAA regime. They do not constitute legal advice. MAS expects industry participants to retain their independent legal counsel to advise them on how their business operations should be conducted in order to satisfy the legal/regulatory requirements and to advise them on all applicable laws of Singapore.