

RESPONSE TO FEEDBACK RECEIVED – CONSULTATION ON PROPOSED AMENDMENTS TO THE FINANCIAL ADVISERS REGULATIONS

1 Introduction

1.1 On 26 October 2010, MAS issued a consultation paper that proposed new Regulations and amendments to the Financial Advisers Regulations.

1.2 The consultation closed on 26 November 2010. Comments were received from seven respondents. The list of respondents can be found at Annex 1.

1.3 MAS thanks all respondents for their feedback. MAS has carefully considered the feedback and where it agreed with the comments, incorporated them into the draft amendment Regulations. Comments of wider interest and MAS' responses are set out below.

2 Product Due Diligence

Scope of application

2.1 Many respondents sought clarification on the scope of application of the product due diligence requirements. Some respondents were unclear as to whether "targeted clients" would include non-retail clients. A few respondents asked if the product due diligence requirements would apply to product manufacturers who do not have direct dealings with clients. A few respondents suggested that exemption from the product due diligence requirements be given when the products are sold to the company's employees.

MAS' Response

2.2 The proposal for product due diligence set out in the March 2009 Consultation Paper on Review of the Regulatory Regime Governing the Sale and Marketing of Unlisted Investment Products was intended to apply only to financial institutions serving retail investors. As such, the requirement to carry out the product due diligence exercise will not apply where the targeted client is solely an accredited investor, expert investor or institutional investor.

2.3 We wish to clarify that the product due diligence requirements will apply when products are made available to employees who are retail investors. In addition, we expect product manufacturers to do their part in

delivering fair dealing outcomes and carrying out the product due diligence exercise if they are financial advisers. This is so even if the product is sold to retail investors via distributors.

New Products

2.4 Some respondents sought clarification on the type of products that would be deemed as a “new product”, in respect of which a product due diligence exercise would need to be conducted. One respondent suggested that a simpler product due diligence exercise could be performed for new products that are minor variations of existing products, for example, a new “tranche” or “series” of an existing product and rollovers.

2.5 On the proposed exclusions of foreign exchange contracts, quoted securities and traded futures contracts from the definition of “new products”, one respondent suggested that the product due diligence requirements be waived for products that are cleared by clearing houses. Another respondent proposed that standard collective investment schemes [“CIS”] be excluded from the product due diligence requirements.

MAS’ Response

2.6 On the basis of practicality, MAS has excluded certain products for which it is not feasible to conduct the product due diligence exercise. For example, MAS notes that financial advisers may not be in a position to conduct the product due diligence exercise prior to securities being quoted on an exchange. In contrast, financial advisers are typically aware beforehand of investment products that are traded over the counter, even if they are cleared by designated clearing houses, and are able to take steps to conduct the product due diligence exercise.

2.7 As regards the possibility of excluding standard CIS from the product due diligence requirements, MAS notes there is a lack of a common definition of a “standard CIS”. Financial advisers should therefore conduct product due diligence on any new investment products, including standard CIS, that they intend to sell or market to targeted clients.

2.8 We have considered the suggestion for a simpler product due diligence exercise for products that are minor variations of existing products. MAS considers the product due diligence exercise to be sufficiently simple. Notwithstanding, MAS is prepared to accept that rollovers are minor variations of existing products and will therefore not be subject to the product due diligence requirements.

Validity period

2.9 One respondent asked if there would be a validity period for the product due diligence exercise and if the financial adviser would have to re-conduct the product due diligence exercise after the validity period.

MAS' Response

2.10 There is no validity period for the product due diligence exercise. However, financial advisers will be required to re-conduct the product due diligence when there is any variation to the product or the targeted client.

Comparison of cost and fees to similar products

2.11 Two respondents asked about the extent to which they should compare the cost and fees to other products with similar features. Several respondents cited difficulties with such a comparison where there is a large group of products with similar features while one respondent felt that the products may not be comparable where there are differing regulatory requirements. One respondent suggested that financial advisers be allowed to provide clients with a range of costs and fees for products with similar features or make the comparison at the point of sale.

MAS' Response

2.12 Respondents asked about the degree to which a comparison of cost and fees to similar products should be made. Financial advisers should assess the costs and fees of a new product, relative to similar products already sold by the financial adviser. If the costs and fees associated with the new product are materially higher than those of a comparable product, the financial adviser should identify specific features of the new product contributing to the higher costs and fees for the targeted client, and explain the reason for the difference as part of the due diligence exercise.

Approval of the product due diligence

2.13 Respondents were generally supportive of allowing senior management to designate persons or a committee to approve new products to be distributed. Several respondents sought clarification on the responsibility of senior management when there is a designated person or a committee, and the need for the involvement of the chief executive officer ("CEO") of the financial adviser.

MAS' Response

2.14 We wish to clarify that "senior management" would include any person holding the office of CEO or Executive Director of the financial adviser. The designation of a person or a committee to approve the product due diligence exercise must be with the unanimous consent of every member of senior management. Notwithstanding the designation, senior management remains responsible for ensuring that the product due diligence exercise is properly carried out. MAS expects senior management to put in place controls to ensure that product due diligence requirements are adhered to.

3 Prohibition on Teller Referrals

3.1 Banks sought clarification on whether the restriction on bank tellers' activities would apply to a teller referring a client via a telephone to a representative for the purchase of investment products. The client would have to make an effort to come down to bank premises if he so decides to act on the referral.

MAS' Response

3.2 MAS notes that tellers have access to client deposit information and can use such information to target clients for referral to representatives to purchase investment products. To ensure that there is clear segregation between traditional banking and investment product activities, it is important to adopt a consistent approach to the prohibition on active teller referrals. MAS will therefore not distinguish whether the teller referral occurs face-to-face, over the telephone or through any other means. As such, MAS will prohibit teller referrals **except** where the client has approached the teller with an express request for information on investment products.

MONETARY AUTHORITY OF SINGAPORE
28 July 2011

Annex 1

LIST OF RESPONDENTS TO CONSULTATION ON PROPOSED AMENDMENTS TO THE FINANCIAL ADVISERS REGULATIONS

- DBS Vickers Securities (Singapore) Private Limited
- Khoo MK
- Martin Lee, Promiseland Independent Private Limited
- Phillip Securities Private Limited
- Prudential Asset Management (Singapore) Limited
- The Association of Banks in Singapore (ABS)

*This list includes only the names of respondents who did not request that their submissions be kept confidential. MAS thanks all respondents for their feedback.