

# CONSULTATION PAPER

P002-2022

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## Revised Notices on Misconduct Reporting Requirements under the Financial Advisers Act, Insurance Act and Securities and Futures Act

MAS

Monetary Authority of Singapore

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## 1 Preface

1.1 Currently, financial institutions (“FIs”) are required under the Financial Advisers Act 2001 (“FAA”), Insurance Act 1966 (“IA”) and Securities and Futures Act 2001 (“SFA”) to lodge a report with MAS when they become aware of misconduct committed by their representatives or broking staff (henceforth collectively referred to as “representatives”<sup>1</sup>), such as acts involving fraud, dishonesty, inappropriate advice, misrepresentation, or inadequate disclosure of information to customers. These requirements are set out under FAA-N14 Notice on Reporting of Misconduct of Representatives by Financial Advisers (“FAA Notice”), MAS 504 Notice on Reporting of Misconduct of Broking Staff by Insurance Brokers (“IA Notice”) and SFA 04-N11 Notice on Reporting of Misconduct of Representatives by Holders of Capital Markets Services Licence and Exempt Financial Institutions (“SFA Notice”) (henceforth collectively referred to as “Current Notices”).

1.2 On 6 July 2018, MAS issued a consultation paper to seek feedback on proposed changes to the misconduct reporting requirements (the “Consultation Paper”). MAS published its response to the Consultation Paper on 14 May 2021<sup>2</sup>. MAS is now consulting on the legal amendments to the FAA Notice, IA Notice and SFA Notice (henceforth collectively referred to as the “Revised Notices”) to implement changes to the misconduct reporting requirements.

1.3 MAS invites interested parties to provide their feedback on the Revised Notices.

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

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

**to be kept confidential, please expressly state so in the submission to MAS. MAS will only publish non-anonymous submissions. In addition, MAS reserves the right not to**

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<sup>1</sup> References to “representatives” in this consultation paper refer to both existing and former representatives.

<sup>2</sup> MAS’ proposals and response to the consultation feedback can be found at the following link: <https://www.mas.gov.sg/publications/consultations/2018/consultation-paper-on-revisions-to-misconduct-reporting-requirements-and-proposals-to-mandate-reference-checks-for-representatives>.

**publish any submission received where MAS considers it not in the public interest to do so, such as where the submission appears to be libellous or offensive.**

1.4 Please submit your comments on the consultation paper by 20 May 2022 at the link <https://form.gov.sg/624d359f05fc8e0015cbac6e>. If you have any queries, please email [Misconduct\\_Consult@mas.gov.sg](mailto:Misconduct_Consult@mas.gov.sg).

## 2 Misconduct reporting requirements

2.1 MAS will be making the following key changes to the misconduct reporting requirements:

- (i) Application of the revised IA Notice to accident and health insurance intermediaries<sup>3</sup>;
- (ii) Application of the revised SFA Notice to Registered Fund Management Companies (“RFMCs”);
- (iii) Revisions to the categories of reportable misconduct;
- (iv) Revision to the reporting timeline of the misconduct report (and subsequent updates to the misconduct report) which the FI is required to submit to MAS;
- (v) Requirement for FIs to submit to MAS an investigation report (where the FI has commenced an internal investigation into the alleged misconduct) at the same time the FI submits a misconduct report to MAS;
- (vi) Requirement for FIs to submit to MAS a copy of any report lodged with the police (where available), with accompanying information as set out in the Revised Notices at the same time the FI submits a misconduct report to MAS; and

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<sup>3</sup> Accident and health insurance intermediary means a direct insurer, licensed financial adviser, exempt financial adviser, direct insurance broker or exempt direct insurance broker, which carries on a business in an accident and health insurance intermediary activity. In the case of a direct insurer or its representative, accident and health insurance intermediary activity means arranging contracts of insurance in respect of any long-term accident and health policy or life policy with accident and health benefits where the risks of such policy are underwritten by the direct insurer. In the case of a licensed financial adviser, exempt financial adviser, direct insurance broker or exempt direct insurance broker, or a representative thereof, accident and health insurance intermediary activity means (i) as an agent for one or more insurers, arranging contracts of insurance in Singapore in respect of any long-term accident and health policy or life policy with accident and health benefits; or (ii) as an agent for insureds or intending insureds, arranging contracts of insurance in Singapore in respect of any life policy with accident and health benefits, other than policies relating to reinsurance business.

- (vii) Requirement for FIs to provide their representatives with a copy of the misconduct report (including subsequent updates to the misconduct report) filed with MAS within the timeline set out in the Revised Notices.

2.2 Table 1 sets out the current and revised categories of reportable misconduct under the FAA, IA and SFA.

**Table 1: Reportable misconduct categories**

	<b>Relevant Acts</b>	<b>Misconduct categories under the Current Notices</b>	<b>Misconduct categories under the Revised Notices</b>
(a)	FAA	Any act involving inappropriate advice, misrepresentation or inadequate disclosure of Information	Any act involving gross negligence, inappropriate advice or recommendation, misrepresentation, or inadequate disclosure of information which has material adverse impact on the interests of the client or impinge on the fitness and propriety of the representative
(b)	IA	Any act involving failure to exercise due care and diligence, misrepresentation or inadequate disclosure of information	Any act involving gross negligence, inappropriate advice or recommendation, misrepresentation, or inadequate disclosure of information which has material adverse impact on the interests of the client or impinge on the fitness and propriety of the representative
(c)	SFA	Any act relating to market conduct provisions under Part XII of the SFA, such as prohibited conduct or insider trading as set out in Part XII of the SFA	Any act relating to any contravention of the market conduct provisions under Part 12 of the SFA, such as involvement in prohibited conduct or insider trading as set out in Part 12 of the SFA

	Relevant Acts	Misconduct categories under the Current Notices	Misconduct categories under the Revised Notices
(d)	FAA, IA, SFA	Any act involving fraud, dishonesty or other offences of a similar nature such as cheating, dishonesty, fraud, forgery, misappropriation of monies or criminal breach of trust	Any act involving fraud, dishonesty, illegal monetary gains, or any offence of a similar nature, such as cheating, forgery, dishonest misappropriation of monies, criminal breach of trust, bribery, money laundering and tax evasion
(e)	FAA, IA, SFA	Failure to Satisfy the Guidelines on Fit and Proper Criteria	Removed
(f)	FAA, IA, SFA	Any type of misconduct other than those set out in (a) to (e), resulting in —  (i) a non-compliance with any regulatory requirement relating to the provision of any regulated activity; or  (ii) a serious breach of the FI's internal policy or code of conduct which would render the representative liable to demotion, suspension or termination of the representative's employment or arrangement with the FI	Removed

### 3 Misconduct and investigation report templates

3.1 MAS will require FIs to submit misconduct and investigation reports using prescribed formats. For investigation reports, FIs would only be required to adopt the

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investigation report template for submission of details of investigations relating to representatives' reportable misconduct.

3.2 MAS has conducted pilot trials with selected FIs on the use of the prescribed template for submission of investigation reports to MAS. The templates for misconduct report and investigation report have been fine-tuned, factoring in comments and suggestions received from MAS' earlier consultation, as well as from MAS' pilot trial with selected FIs. The revised misconduct and investigation report templates are set out in Annex 2 of MAS' response to the Consultation Paper published on 14 May 2021<sup>4</sup>. MAS will continue to work with the industry to fine-tune the report templates and provide sufficient lead-time for the industry to adopt the finalised templates.

## 4 Implementation of the Revised Notices

4.1 To implement the revised misconduct reporting requirements, MAS intends to cancel the Current Notices and issue the Revised Notices under the respective relevant Acts. MAS will inform the industry of the effective date of the Revised Notices in due course and provide adequate transition period for FIs to comply with the Revised Notices.

**Question 1.** MAS seeks comments on the revised FAA Notice (Annex A).

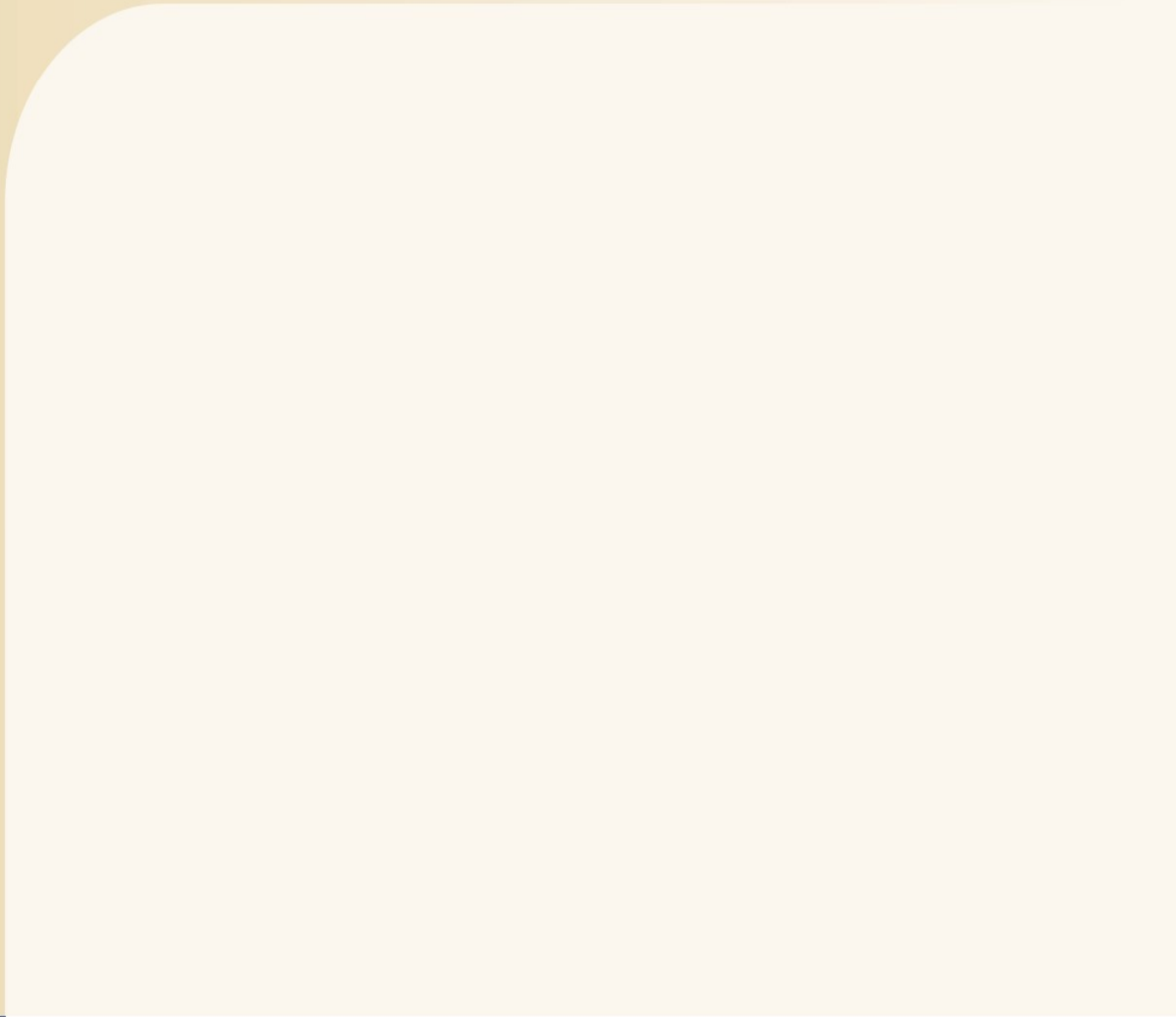
**Question 2.** MAS seeks comments on the revised IA Notice (Annex B).

**Question 3.** MAS seeks comments on the revised SFA Notice (Annex C).

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<sup>4</sup> Please refer to MAS' response to the consultation feedback at the following link: <https://www.mas.gov.sg/publications/consultations/2018/consultation-paper-on-revisions-to-misconduct-reporting-requirements-and-proposals-to-mandate-reference-checks-for-representatives>.





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