

RESPONSE TO FEEDBACK RECEIVED – POLICY CONSULTATION ON REGULATORY REGIME FOR LISTED AND UNLISTED INVESTMENT PRODUCTS

On 28 January 2010, MAS issued a consultation paper (“January 2010 Consultation Paper”) setting out a revised package of proposals to enhance safeguards for retail customers for a wider range of investment products¹. The revised proposals apply to both listed and unlisted² investment products.

MAS proposed that intermediaries formally assess a retail customer’s investment knowledge and experience before selling investment products to the customer. Customers who do not have the relevant knowledge or experience in specific unlisted investment products must be given financial advice before being able to purchase the product³. In the case of listed investment products, additional safeguards will be required when brokers approve trading accounts for customers who are assessed not to possess the relevant knowledge or experience in derivatives.

Other proposals included expanding the scope of the Capital Markets and Financial Advisory Services (“CMFAS”) examination module to cover certain investment products and requiring issuers of debentures which are asset-backed securities and structured notes, collective investment schemes and sub-funds of investment-linked life insurance policies to prepare Product Highlights Sheets.

Appendix A lists respondents to the January 2010 Consultation Paper. Comments of wider interest and MAS’ response are set out in the sections that follow.

¹ MAS had, on 12 March 2009, published the consultation paper “Review of the Regulatory Regime Governing the Sale and Marketing of Unlisted Investment Products” (“March 2009 Consultation Paper”) that proposed enhancements to the regulatory framework for unlisted investment products. The proposals focused on promoting effective disclosure by improving the quality of information available to investors, strengthening fair dealing in the sale and advisory process and enhancing MAS’ powers under the Financial Advisers Act (“FAA”). MAS had at that time indicated our intention to consider whether enhancements would be required for listed investment products.

² The term “listed” in this response paper means being traded on an exchange, whether in Singapore or elsewhere. Conversely, the term “unlisted” in this response paper means not being traded on an exchange, whether in Singapore or elsewhere.

³ MAS had proposed in the March 2009 Consultation Paper that financial advisers could dispense with giving advice where the customer contacts the financial adviser on his own initiative. We wish to clarify that MAS will no longer proceed with this proposal as it has been superseded by the proposals set out in the January 2010 Consultation Paper. Intermediaries will instead be required to comply with the requirements in relation to the offering and provision of financial advice as set out under sections 2 to 4 of this paper.

1 CONSULTATION PAPER SECTION 1: INTRODUCTION TO THE REVISED PACKAGE OF PROPOSALS

1.1 Current Regime to Continue to Apply to List of Excluded Investment Products

1.1.1 MAS considers the existing regime under the Financial Advisers Act (“FAA”) to have worked well for a broad range of investment products. MAS intends for the existing regime under the FAA to continue to apply to a proposed list of these investment products (“excluded investment products” or “EIPs”). Such investment products are established in the market, and have terms and features generally understandable by retail investors.

1.1.2 For investment products that do not fall within the EIPs list, i.e. non-excluded investment products (“NEIPs”), intermediaries would be required to conduct a Customer Knowledge Assessment or Customer Account Review before proceeding with a sale.

General Feedback

1.1.3 Several respondents requested greater clarification on the criteria and principles relied on to classify products as EIPs. A few respondents suggested that the risk of a product should be taken into account in determining whether a product should be classified as an EIP. A few respondents were also of the view that classifying only some investment products as EIPs could create the false impression among customers that these products were less risky.

1.1.4 One respondent noted that it might not be meaningful to classify products as EIPs based on the criteria that these products were generally “well-understood”. The respondent reasoned that there could always be new retail investors who would not understand a particular product even if it was generally well-understood. A few respondents asked if it would be possible to apply for individual products to be classified as EIPs on a case-by-case basis. One respondent suggested that MAS review the list of EIPs periodically as new products are introduced to the market.

1.1.5 A few respondents sought clarification on whether the Customer Knowledge Assessment and Customer Account Review requirements would apply to all offers made to retail investors, or if certain categories of investors such as high net worth individuals could be excluded from these requirements. Several respondents proposed that the Customer Knowledge Assessment and Customer Account Review requirements should not apply to persons outside Singapore as referred to in regulation 36 of the Financial Advisers Regulations⁴.

⁴ Regulation 36 of the Financial Advisers Regulations provides that sections 25 to 29, 32, 34 and 36 of the FAA shall not apply to a licensed financial adviser or an exempt financial adviser when providing any financial advisory service to any person outside Singapore who

1.1.6 A few respondents sought clarification on whether offers made pursuant to exemptions from prospectus requirements under the Securities and Futures Act (“SFA”) would be subject to the requirement for intermediaries to conduct a Customer Knowledge Assessment or Customer Account Review before proceeding with a sale.

1.1.7 A few respondents sought clarification on whether products listed and traded on foreign exchanges would be classified as EIPs.

MAS’ Response

Complexity versus Risk

1.1.8 The complexity of the terms and features of an investment product is the main criterion MAS will use in determining whether an investment product should be classified as an EIP. We consider it important to have in place additional safeguards for retail investors who do not have the necessary knowledge or experience to understand investment products with complex terms and features.

1.1.9 While we will take into account the complexity of a product’s risks, the risk level of a product should not be a criterion in determining whether a product should be classified as an EIP. There is a wide range of investors with different needs and risk appetites. A risky investment product may have demand from certain investors who can understand the nature of the investment product, the risks involved and who are prepared to accept the risks. The Customer Knowledge Assessment and Customer Account Review are intended to identify investors who might need advice or education to understand investment products, and not to measure the risk appetite of these investors. Distributors should remind customers that EIPs are not inherently less risky than other investment products.

1.1.10 In the January 2010 Consultation Paper, MAS noted that customers without the relevant knowledge or experience in investment products might not understand the features and consequently, the risks of investment products that are or contain derivatives, that contain innovative features, or which require customers to put up margins that vary depending on the market value of the investment. The classification of a product as an EIP is not dependent on the financing employed by a customer to invest in the product, even if the financing allows the customer to take up a leveraged position. This is because such a financing arrangement is not an integral feature of the product. It would therefore not be feasible to take such a financing feature into account. For example, an investor may purchase

is (a) an individual and (i) not a citizen or a permanent resident of Singapore; and (ii) not wholly or partly dependent on a citizen or permanent resident of Singapore; or (b) in any other case, a person with no commercial or physical presence in Singapore.

shares through a share financing scheme. However, as the leveraged element of the investor's investment arises through his use of the share financing scheme and not because the shares themselves embed leverage, such shares would remain in the EIP category.

EIPs may not be understood by all investors

1.1.11 While EIPs would be generally understandable by retail investors, we acknowledge that certain customers, such as some new retail investors, could still require assistance to understand the terms and features of these products. However, it would not be practical to subject all products to the enhanced safeguards because of this. Such customers have the option of seeking advice on the suitability of the product from their financial advisers and attending appropriate investor education programmes; and are urged to do so.

Inclusion of specific products as EIPs

1.1.12 For consistency of treatment and ease of implementation, the list of EIPs will refer to product types and not specific products. MAS will continue to monitor market developments and review the list of EIPs where appropriate.

Scope of the requirements

1.1.13 MAS would like to clarify that the Customer Knowledge Assessment and Customer Account Review requirements will apply to the sale of NEIPs made to retail investors who are natural persons, excluding accredited investors, institutional investors, expert investors, and high net worth individuals who are clients of private banks⁵. The requirements are not intended to apply to corporations, unincorporated entities, partnerships or trusts. The Customer Knowledge Assessment and Customer Account Review requirements will also not apply when the investors are persons outside Singapore who are not citizens or permanent residents of Singapore, and not wholly or partly dependent on citizens or permanent residents of Singapore. Where intermediaries do not conduct the Customer Knowledge Assessment or Customer Account Review, intermediaries would be required to inform these investors that the requirement to conduct the Customer Knowledge Assessment or Customer Account Review does not apply to them.

1.1.14 The current exemptions from prospectus requirements are based on whether a product is offered to the public, and not on the complexity of the product. Accordingly, the applicability of an exemption from prospectus requirements does not automatically obviate the need for intermediaries to conduct a Customer Knowledge Assessment or Customer Account Review

⁵ The private banks referred to are specialised units serving high net worth individuals exempted under section 100(2) of the FAA.

before a sale. The Customer Knowledge Assessment and Customer Account Review requirements will apply when retail investors are offered NEIPs.

Products listed on foreign exchanges

1.1.15 MAS notes that there could be practical difficulties faced by intermediaries in determining whether a given investment product listed on a foreign exchange should be classified as an EIP due to differences in legal and regulatory regimes. To overcome this uncertainty, and for better protection of Singapore retail investors, MAS will require intermediaries to conduct a Customer Account Review for retail investors seeking to purchase any product that is not listed on an exchange in Singapore but listed on foreign exchanges.

Feedback on Products

1.1.16 Based on the proposed list of EIPs set out in the January 2010 Consultation Paper, many respondents requested that MAS re-classify particular products as EIPs or NEIPs. A few respondents sought clarification on the scope of selected investment products in relation to the list of EIPs.

Collective Investment Schemes

1.1.17 Several respondents proposed that collective investment schemes ("CIS"), including exchange-traded funds, be classified as EIPs as they are an established class of investment products in the Singapore market. Other respondents commented that CIS are diverse and there are straightforward "plain vanilla" CIS which do not have complex structures or only use derivatives for hedging or efficient portfolio management purposes and not as a primary investment tool. Many respondents suggested that CIS with a mandate to invest in EIPs should be classified as EIPs. Several respondents also noted that CIS are already subject to other forms of regulation⁶ or screening criteria⁷ by bodies such as the MAS, Singapore Exchange Ltd ("SGX") and the Central Provident Fund ("CPF") Board.

Structured Warrants

1.1.18 Several respondents advanced arguments that structured warrants are already required to have standardised features under the SGX-ST Listing Manual. Market makers are also available to provide pricing transparency and liquidity. A few respondents noted that structured warrants are well-established in the Singapore market. A few other respondents pointed out the similarities between structured warrants and company warrants, and

⁶ CIS are subject to regulations such as those in the SFA, and the legislation of the European Parliament, Council and individual European jurisdictions governing Undertakings for Collective Investment in Transferable Securities ("UCITS"). Listed CIS must, in addition, comply with the SGX-ST Listing Manual.

⁷ The CPF Board requires funds on the CPFIS list to be among the top quartile of funds, among other criteria.

requested that structured warrants be similarly classified as EIPs. One respondent noted that structured warrants are basic options, implying that they are less complex compared to structured deposits which can contain exotic derivative structures.

Futures

1.1.19 A few respondents suggested that futures be classified as EIPs. They noted that futures have standardised contract specifications and risk disclosure statements associated with their offer. The respondents were of the view that futures are well established in the Singapore market and educational materials are available to assist investors in understanding the product.

Foreign Exchange Contracts

1.1.20 A few respondents sought clarification on whether foreign exchange contracts would be classified as EIPs. They were of the view that foreign exchange contracts generally do not include complex structured products or arrangements, and would therefore be easy to understand.

Contracts for Differences

1.1.21 A few respondents suggested that products that embed derivatives giving delta-one exposure⁸ to an underlying reference asset should be classified as EIPs. Such products include contracts for differences.

Structured Deposits / Structured Notes

1.1.22 Several respondents compared the features of structured deposits with those of structured notes, and suggested that both products could be structured in complex ways. These respondents suggested that the treatment for structured notes and structured deposits be aligned.

1.1.23 One respondent commented that dual currency investments, which are structured deposits, involve the investor writing an option. This has implications on expected returns that an investor may not fully appreciate. The respondent suggested that dual currency investments be removed from the list of EIPs.

Other Feedback

1.1.24 A few respondents sought clarification on the definition of some terms in the January 2010 Consultation Paper, such as whether "shares" in the proposed list of EIPs include preference shares, and the definition of

⁸ Delta refers to the relationship between a derivative's price and the price of the underlying asset. In a delta-one product, a change in the price of the underlying reference asset should lead to an equivalent change in the price in the derivative.

“plain vanilla bonds”. One respondent suggested that the category of “money market instruments” was too broad.

1.1.25 A respondent queried whether closed-end funds should be classified as EIPs.

MAS’ Response

Collective Investment Schemes

1.1.26 MAS recognises that CIS offered in Singapore have diverse structures and involve varying degrees of complexity. While CIS are subject to regulation, CIS fund managers may use complex structures and investment strategies that customers without the relevant knowledge or experience may not be able to readily understand. Similarly, CIS that have a mandate to invest in EIPs may use derivatives or a complex structure to fulfil this mandate. In addition, classifying only certain CIS as EIPs may lead to additional compliance costs for the industry. As the complexity of the underlying investments of a CIS may change, issuers and intermediaries would need to continually monitor whether the CIS can remain classified as an EIP. Another concern is in ascertaining a customer’s previous investment experience. Should certain CIS be classified as EIPs, intermediaries may face practical difficulties in assessing a customer’s prior investment experience for the purposes of the Customer Knowledge Assessment and Customer Account Review as they would need to identify whether the CIS the customer had invested in was an EIP or a NEIP. In view of these considerations, MAS will not classify any CIS, other than Real Estate Investment Trusts, as EIPs.

Structured Warrants

1.1.27 MAS does not agree that structured warrants should be classified as EIPs. Structured warrants, being derivative products, can be based on a diverse range of reference assets. The potential factors affecting the payoffs of some of these reference assets may not be easily understood. Structured warrants on shares are also more complex compared to company warrants as investors are exposed to the additional possibility of the issuer being unable to fulfil its obligations under the structured warrant. Investors may not readily understand the considerations or impact of this.

1.1.28 Another difference between structured warrants and company warrants is that company warrants may be granted to shareholders of a company as part of a rights issue. MAS has classified company warrants as EIPs as it is not practical to impede shareholders from taking up warrants of companies of which they are shareholders.

Futures

1.1.29 MAS notes that futures are traded on margins. Retail investors may not readily understand the consequences of how the gains or losses from futures contracts are likely to be magnified by the contracts' embedded structure compared to an equivalent investment in the reference asset. While futures have been available for some time, MAS notes that not many retail investors have engaged in futures trading. For these reasons, MAS will not classify futures as EIPs.

Foreign Exchange Contracts

1.1.30 MAS agrees with the feedback on foreign exchange trading, and will classify contracts or arrangements for foreign exchange trading as EIPs. For the avoidance of doubt, such contracts or arrangements will not include derivatives of foreign exchange contracts (such as foreign exchange forwards, swaps, or options) or contracts entered into for the purposes of leveraged foreign exchange trading.

Contracts for Differences

1.1.31 Some products such as contracts for differences may embed delta-one derivatives to seek to give investors straightforward payoffs with exposure to an underlying reference asset. However, investors may not understand the consequences of how the gains or losses from the contracts for differences are likely to be magnified by the contracts' embedded structure compared to an equivalent investment in the reference asset. Investors may also not appreciate the added complexity that the issuer, not being able to fulfil its obligations, may result in losses even if the price of the underlying reference asset moves in the desired direction. Such complexity which influence a product's payoffs may not be easily understood by retail investors. MAS will therefore not classify such products as EIPs.

Structured Deposits / Structured Notes

1.1.32 MAS agrees with the feedback that structured deposits may be structured in a complex manner similar to structured notes, and may involve complex structures or multiple derivatives. In view of the potential complexity of structured deposits, MAS has decided not to include structured deposits in the list of EIPs.

Response to other Feedback

1.1.33 MAS wishes to clarify that preference shares are defined in section 4 of the Companies Act as "shares", which are classified as EIPs. "Plain vanilla bonds" refer to all debentures other than asset-backed securities and structured notes. We note that most money market instruments would either be plain vanilla bonds, or would not be defined as "investment products" in the FAA. On this basis, we will not specify money market

instruments in the list of EIPs. For the avoidance of doubt, money market instruments which are not defined as “investment products” in the FAA will not be within the scope of the proposed Customer Knowledge Assessment and Customer Account Review requirements.

1.1.34 Closed-end funds can be structured in many different ways. Closed-end funds which are structured as corporations or business trusts will be classified as EIPs. Other types of closed-end funds (such as closed-end trusts which are not business trusts) which do not fall within the definition of “investment products” under the FAA will not be within the scope of the proposed new Customer Knowledge Assessment and Customer Account Review requirements.

1.1.35 In relation to depository receipts, MAS notes that depository receipts may represent shares or other types of investment products, and may be fully-paid or partly-paid. We wish to clarify that we will prescribe only fully-paid depository receipts representing shares as EIPs. For the avoidance of doubt, shares in the EIPs list would similarly include only fully-paid shares.

1.1.36 MAS will proceed with the proposal to prescribe a list of EIPs. The EIPs will be as follows:

- Shares
- Fully-paid depository receipts representing shares
- Subscription rights pursuant to rights issues
- Company warrants
- Units in business trusts
- Units in real estate investment trusts
- Debentures (other than asset-backed securities & structured notes)
- Life insurance policies (other than investment-linked life insurance policies)
- Contracts or arrangements for the purpose of foreign exchange trading (other than derivatives of foreign exchange contracts and leveraged foreign exchange trading)

1.1.37 Issuers have first-hand knowledge of their products. MAS will require that issuers bear the responsibility of identifying their products as EIPs or NEIPs where appropriate. Issuers of unlisted products should communicate to their distributors whether their products are EIPs or NEIPs, and distributors should ensure that they receive such information from the issuers prior to selling these products. Issuers who seek to list products on an Approved Exchange ("AE") should inform the relevant AE whether their products are EIPs or NEIPs, and the AE should indicate this information on its trading platform accordingly.

1.1.38 MAS will consult on the legislative drafting for the prescribed list of EIPs prior to implementation.

1.2 Formal Policies and Procedures on Sale of Investment Products – Considering Customers’ Interests

1.2.1 As stated in the January 2010 Consultation Paper, financial advisers and their representatives should consider their general obligation under the Guidelines on Fair Dealing – Board and Senior Management Responsibilities for Delivering Fair Dealing Outcomes to Customers (“Guidelines on Fair Dealing”) to deal fairly with customers and take into account the interests of their customers in the course of providing financial advisory services. This general obligation should not cease upon the provision of advice to their customers, but should extend to the sale of the investment products.

1.2.2 MAS proposed to require financial advisers to put in place formal policies and procedures setting out clearly the circumstances under which they would or would not allow the sale of an investment product they have assessed to be unsuitable for the retail customer.

1.2.3 The majority of respondents agreed with the proposal, although a few respondents felt that investment decisions should ultimately lie with the customer. Several other respondents also requested for flexibility when selling investment products to customers for whom the investment products have been assessed to be unsuitable. Specifically, they asked that such transactions be allowed when a warning is administered to the customer.

1.2.4 Several respondents felt that requiring financial advisers to have in place formal policies and procedures to decide when a sale would be permitted would place the responsibility for the investment decision upon the financial adviser instead of the customer. This would increase the financial adviser’s legal liability. Two respondents felt that requiring financial advisers to decide when a sale would be permitted was contrary to MAS’ policy that an investor should bear the responsibility for his investment decision.

1.2.5 Several respondents felt that it would be difficult to develop an exhaustive list of circumstances to which the policies and procedures should apply. Several respondents also expressed concerns about possible arbitrage if different financial advisers put in place different policies and procedures. These respondents asked for guidance on the circumstances under which a product may be sold to ensure consistency of policies and procedures across the industry.

MAS’ Response

1.2.6 Under the Guidelines on Fair Dealing, financial advisers are obliged to take into account the interests of their customers in the course of providing financial advisory services. Requiring financial advisers to have in place policies and procedures to decide when a sale should be permitted is in keeping with the obligations under the Guidelines on Fair Dealing. This does not diminish the responsibility of the customer for his own investment

decisions. Rather, it is meant to ensure that an appropriate balance of responsibility is maintained between the parties involved.

1.2.7 MAS intends to proceed with the proposal to require financial advisers to put in place formal policies and procedures that govern their sales process. Noting the feedback on the difficulty in developing an exhaustive list of circumstances to which the policies and procedures should apply, MAS will set out the following requirements that financial advisers should incorporate in their policies and procedures:

1.2.8 Where the representative, in giving advice, assesses that a particular product is not suitable for a customer but the customer still wishes to proceed with the purchase, the representative must:

- a) inform the customer in writing that the product is not suitable for the customer and the reasons for such an assessment;
- b) seek the customer's confirmation in writing that he still wishes to proceed with the transaction to purchase the product despite (a); and
- c) should the customer confirm that he wishes to proceed with the transaction to purchase the product despite (a), inform the customer in writing that he will therefore not be able to rely on section 27 of the FAA to file a civil claim in the event he alleges he has suffered a loss⁹.

1.2.9 Should the customer still wish to proceed with the transaction, a member of senior management of the financial adviser who is not involved in that particular sales transaction would then be required to:

- d) confirm with the customer that (i) he has been properly informed of all relevant facts as required of the representative under (a), (b) and (c), and (ii) the customer is aware of, and understands, the implications and consequences of proceeding with the sale;
- e) satisfy himself that the representative has fulfilled the requirements under (a), (b) and (c);
- f) decide whether to approve the sale based on the completion of (d) and (e); and
- g) document and sign off on his decision where he approves the sale.

1.2.10 "Senior management" refers to the Chief Executive Officer, Principal Officer or executive directors of the intermediary. MAS will allow the Chief Executive Officer or Principal Officer of an intermediary to appoint a person responsible for key aspects of the intermediary's operations to

⁹ Section 27 of the FAA provides that financial advisers should have a reasonable basis for making a recommendation. In making the recommendation, the financial adviser should also have given consideration to the investment objectives, financial situation and particular needs of the customer. Failure to do so will give the affected customer a statutory cause of action to file a civil claim against the contravening financial adviser for the investment loss suffered.

approve transactions on his behalf. For intermediaries that operate from branches, the Chief Executive Officer or Principal Officer may appoint the person who is responsible for the operations of the branch to approve transactions on his behalf. MAS will hold the Chief Executive Officer or Principal Officer responsible for approvals by his appointees. In carrying out their duty, the senior management and their appointees who are authorised to approve the transaction should make sure that they are not involved in that particular sales transaction and are not a connected person¹⁰ to the customer who wishes to purchase the product.

1.2.11 These requirements will be incorporated into legislation. MAS will consult on the legislative drafting for these requirements prior to implementation.

2 CONSULTATION PAPER SECTION 2: PROPOSALS FOR UNLISTED INVESTMENT PRODUCTS

2.1 Enhanced Safeguards for Retail Customers

Customer Knowledge Assessment

2.1.1 MAS proposed to require that intermediaries conduct a Customer Knowledge Assessment to assess whether a customer has the relevant knowledge or experience to understand the risks and features of the specific investment product before selling an unlisted NEIP to the customer. The Customer Knowledge Assessment would be required for retail customers who wish to purchase unlisted NEIPs. Where the customer is assessed under the Customer Knowledge Assessment not to possess the relevant knowledge or experience, the intermediary must provide advice on whether the product is suitable for the customer if the product is to be sold to the customer.

2.1.2 The majority of respondents agreed to the proposal to require intermediaries to conduct a Customer Knowledge Assessment. Several respondents however expressed concern that the proposal might pose administrative inconvenience to customers and financial institutions. Several other respondents were concerned that first-time investors who are deemed not to have the relevant knowledge or experience under the Customer Knowledge Assessment would not be able to invest. Several respondents suggested that the Customer Knowledge Assessment should be incorporated in the intermediary's fact-finding process¹¹ and not be required as an additional step in the sales process.

¹⁰ A "connected person" is as defined under section 2 of the SFA.

¹¹ For the purposes of this paper, "fact-finding" refers to the 'Know Your Customer' process and Needs Analysis as set out in the Notice on Recommendation on Investment Products [FAA-N01].

2.1.3 Several respondents sought clarification on what intermediaries were expected to do should a customer be unwilling to provide information for the purpose of the Customer Knowledge Assessment.

Frequency of Conducting the Customer Knowledge Assessment

2.1.4 Several respondents sought clarification on how often the Customer Knowledge Assessment should be conducted. The same respondents proposed that the Customer Knowledge Assessment outcome be valid for a certain period within which a customer may return to the intermediary to invest in the same investment product without having to go through another Customer Knowledge Assessment. One respondent suggested that subsequent Customer Knowledge Assessments be conducted only when the customer's profile changes.

2.1.5 Some respondents proposed that the intermediary need only conduct the Customer Knowledge Assessment when the customer wishes to purchase an investment product that does not fall within the same category as any of his previous purchases. Such categories could be based on the complexity, payout or risk profiles of investment products. In a similar vein, several respondents asked whether intermediaries could be exempted from conducting the Customer Knowledge Assessment for existing customers who wish to make subsequent investments in a product for which a Customer Knowledge Assessment had been performed previously.

2.1.6 Several respondents sought clarification on whether a customer would be able to use the outcome of a Customer Knowledge Assessment conducted by one intermediary to purchase a similar investment product at another intermediary.

Mode for the Conduct of Customer Knowledge Assessment

2.1.7 Several respondents sought clarification on whether the Customer Knowledge Assessment could be conducted via the phone or internet.

Customer Knowledge Assessment on Regular Savings Plan

2.1.8 A few respondents sought clarification on whether existing Regular Savings Plan arrangements should cease until the intermediary performs the Customer Knowledge Assessment to assess the customer's relevant knowledge or experience. One respondent proposed that the Customer Knowledge Assessment be conducted only at the opening of the Regular Savings account.

MAS' Response

2.1.9 MAS will proceed with the proposal to require that intermediaries conduct a Customer Knowledge Assessment for retail customers who want to purchase unlisted NEIPs. We note that it is possible to create a short

position in certain unlisted NEIPs. For the purpose of this section, we will consider the creation of new short positions in unlisted NEIPs as purchases of unlisted NEIPs. For the avoidance of doubt, the requirement to conduct a Customer Knowledge Assessment would not apply when the customer wishes to reduce his existing exposure to an unlisted NEIP.

2.1.10 MAS agrees that the Customer Knowledge Assessment can be conducted as part of the fact-finding process. The questions relating to the Customer Knowledge Assessment and the fact-finding process may be in a single document, and the Customer Knowledge Assessment and the fact-finding process can be conducted by the representative during the same meeting.

2.1.11 Regardless of whether the Customer Knowledge Assessment is conducted as part of the fact-finding process, MAS will require that the outcome of the Customer Knowledge Assessment be determined and recorded separately from the outcome of the fact-finding process. This is because a customer's knowledge or experience regarding a particular investment product and his investment needs are separate assessments. While an investment product may meet a customer's investment objectives, financial situation and needs, it may be preferable not to sell such a product to the customer without advice if the customer does not possess the relevant knowledge or experience to understand the product. The intermediary, when giving advice, should always take into account the outcomes of both the Customer Knowledge Assessment and the fact-finding process.

2.1.12 To assess if a customer has the relevant knowledge or experience in a product, the intermediary must collect from the customer the information required for conducting the Customer Knowledge Assessment. If a customer refuses to provide the intermediary with the required information, he would be assessed as a customer that does not possess the relevant knowledge or experience. The same would apply should a customer refuse to undergo the Customer Knowledge Assessment.

2.1.13 Where a customer is assessed to have the relevant knowledge or experience, the intermediary should still offer to give advice to the customer. The customer has the discretion to decide if he wishes to accept the intermediary's offer. Where the customer does not wish to receive advice, the intermediary should ensure that there is documentation to show that the client has chosen not to receive advice. The intermediary should also warn the customer in writing that the customer has chosen not to receive advice and will therefore not be able to rely on section 27 of the FAA to file a civil claim in the event he alleges he has suffered a loss. Where the customer chooses to receive advice and the intermediary's representative assesses that the particular product is not suitable for the customer but the customer still wishes to proceed with the purchase, the intermediary is to comply with its formal policies and procedures that incorporate MAS' requirements as set out in Section 1.2.

2.1.14 Where a customer has been assessed not to have the relevant knowledge or experience under the Customer Knowledge Assessment, the intermediary will be required to inform the customer of the outcome of the Customer Knowledge Assessment. The intermediary could recommend to the customer that the customer undergo financial education specific to the unlisted NEIP, if available, to better understand the features and risks of the product before purchasing it. The intermediary should then confirm with the customer whether the customer still wishes to proceed with the transaction to purchase the unlisted NEIP. If so, the intermediary will be required to give advice to the customer, taking into account the outcomes of the Customer Knowledge Assessment and the fact-finding process. Where the intermediary assesses that the particular product is not suitable for the customer but the customer still wishes to proceed with the purchase, the intermediary is to comply with its formal policies and procedures that incorporate MAS' requirements as set out in Section 1.2. In addition, a member of senior management of the intermediary who is not involved in that particular sales transaction will be required to: (i) confirm with the customer that the customer has been properly informed of the outcome of the Customer Knowledge Assessment by the representative; and (ii) satisfy himself of this before deciding whether to approve the sale.

2.1.15 Illustrations on the implementation of the Customer Knowledge Assessment are attached at **Appendix B**. The illustrations are only intended as a guide.

Frequency of Conducting the Customer Knowledge Assessment

2.1.16 MAS considers it prudent for intermediaries to conduct regular Customer Knowledge Assessments. This is to ensure that any advice given is appropriate to customers' updated investment profiles and customers are able to make better informed investment decisions. However, MAS notes the suggestions to reduce the frequency of conducting the Customer Knowledge Assessment. We will allow a positive assessment to be valid for one year from the date the Customer Knowledge Assessment is performed for the purchase of the same or a similar product from the same intermediary. All other purchases of unlisted NEIPs will require a Customer Knowledge Assessment to be performed. After a year has elapsed from when the Customer Knowledge Assessment was last performed for that product, the intermediary will be required to conduct a new Customer Knowledge Assessment even if the customer wishes to purchase the same or similar unlisted NEIP. This includes rollover of funds into unlisted NEIP purchases when customers' investments in unlisted NEIPs mature.

2.1.17 Intermediaries will not be required to ask customers who are assessed not to possess the relevant knowledge or experience for a particular investment product to reduce their existing exposure to that investment product or similar investment products. Nonetheless, should

such customers wish to reduce their existing exposure to that investment product or similar investment products, they should be allowed to do so.

2.1.18 Intermediaries will not be allowed to use the outcome of a customer's Customer Knowledge Assessment from another intermediary in lieu of conducting their own Customer Knowledge Assessment. While the suggestion to allow portability may appear attractive at first sight, MAS is of the view that intermediaries should be responsible for conducting their own Customer Knowledge Assessments rather than relying on an assessment by another intermediary. This would act as a check and balance and lead to better protection of investors. We note that intermediaries are already required under the SFA and the FAA to have proper documentation of their customers' information. We expect all intermediaries to be able to carry out subsequent Customer Knowledge Assessments without much administrative difficulty.

Mode of Conduct of the Customer Knowledge Assessment

2.1.19 The Customer Knowledge Assessment may be conducted over the phone and internet. We note that some intermediaries, such as online brokers, do not have an advisory function. Where a customer is assessed to possess the relevant knowledge or experience, these intermediaries will have to inform the customer that they are unable to provide advice on product suitability and confirm if the customer still wishes to proceed with the transaction. As no advice has been given, the customer will therefore not be able to rely on section 27 of the FAA to file a civil claim. The intermediaries shall maintain proper documentation of the customer's decision. Where a customer is assessed not to possess the relevant knowledge or experience, these intermediaries will not be able to proceed with the transaction.

Customer Knowledge Assessment on Regular Savings Plan

2.1.20 The Customer Knowledge Assessment should be conducted at the opening of a Regular Savings Plan. This is when the investment quantum, frequency of investment and investment product would be decided by the customer. Intermediaries need not conduct the Customer Knowledge Assessment on customers with Regular Savings Plans that are already in effect, unless the customer wishes to select a new NEIP for his existing Regular Savings Plan.

Requirement for an Independent Person to Perform or Approve the Customer Knowledge Assessment

2.1.21 To mitigate potential conflicts of interests, MAS proposed to require intermediaries to have the Customer Knowledge Assessment performed or approved by a person independent of the financial advisory function. Most respondents disagreed with this proposal. They felt that the fact-finding process and the Customer Knowledge Assessment should be viewed

holistically and conducted as an integrated process. Having an independent person conduct the Customer Knowledge Assessment separate from the fact-finding process would increase the risk of inaccurate assessments of whether a product is suitable for a customer. This is because an independent person might not be sufficiently familiar with the product or the customer and his circumstances. Respondents were also concerned that intermediaries would require additional resources to implement this proposal, and the increase in operational costs would be passed on to customers.

2.1.22 Several respondents also sought clarification on who would qualify as an independent person, and whether MAS has specific requirements expected of the independent person.

MAS' Response

2.1.23 MAS has carefully considered the feedback on this proposal. We do not share the concern that the proposal may lead to an increase in cost for industry. However, we acknowledge the concerns that an independent person may not be sufficiently familiar with the product or customer to conduct the Customer Knowledge Assessment. This would, on balance, not be beneficial to the customer. We will therefore not proceed with the proposal to require the Customer Knowledge Assessment to be approved or performed by a person independent of the financial advisory section.

2.2 The Customer Knowledge Assessment Framework

2.2.1 MAS set out the information that intermediaries would be required to make reasonable enquires to collect from their customers and take into account in assessing if a customer has the relevant knowledge or experience. The information to be collected includes whether the customer has:

- a) finance-related background relevant to the product or similar products, which includes relevant educational qualifications;
- b) investment experience in the product or similar products; or
- c) work experience directly related to the product or similar products.

2.2.2 Most respondents supported this proposal, although many respondents were concerned that a customer who was assessed not to have the relevant knowledge or experience in relation to a particular investment product would be unable to purchase the product. A few respondents suggested that the Customer Knowledge Assessment take into account a customer's risk appetite.

2.2.3 Many respondents expressed a preference for standardised content and format for the Customer Knowledge Assessment Framework. This would allow the Customer Knowledge Assessment to be conducted in a similar and consistent manner across the industry, and provide customers with unbiased and fair assessments of their knowledge and experience in an investment product regardless of which intermediary they transact with. Some of these

respondents expressed the expectation for MAS or the industry associations to take the lead in developing guidance on the Customer Knowledge Assessment Framework.

2.2.4 Several respondents sought clarification on whether intermediaries would be allowed to rely on customers' self-declaration of information provided for the purpose of the Customer Knowledge Assessment or if this information should be substantiated with documentary evidence. These respondents also asked whether intermediaries would be expected to perform due diligence on the nature and quality of investors' qualifications and experience.

2.2.5 Some respondents sought clarification on what MAS considers as "similar products".

MAS' Response

2.2.6 Customers who are assessed under the Customer Knowledge Assessment not to have the necessary knowledge or experience in a particular unlisted NEIP would not necessarily be unable to purchase that product. The intent of the Customer Knowledge Assessment is to have intermediaries assess a customer's knowledge and experience in relation to a particular unlisted NEIP so that safeguards can be put in place if necessary. Such safeguards include requiring the intermediary to provide a customer with advice so that the customer is made aware of the risks and features of the investment product and is therefore able to make a better informed decision on whether to proceed with the transaction.

2.2.7 MAS is of the view that the Customer Knowledge Assessment is a separate consideration from a customer's risk appetite. The latter is already addressed through the fact-finding process. Furthermore, a customer who has indicated that he has a large risk appetite, but who has been assessed not to have the relevant knowledge or experience, should still be offered advice so he can be made aware of the risks involved, and be able to make a better informed investment decision.

2.2.8 MAS notes the requests from industry for guidance on the Customer Knowledge Assessment Framework and will work with industry to develop this. The guidance will include, at minimum, the three proposed criteria as set out in the January 2010 Consultation Paper, and will also address the classification of products. MAS acknowledges that there could be other considerations that might be relevant in assessing a customer's knowledge or experience in an investment product and welcomes initiatives by industry associations to develop more detailed guidance. Industry participants who are not represented in industry associations are encouraged to work with industry associations in this regard.

2.2.9 An intermediary would be allowed to rely on a customer's declaration that the information provided to the intermediary is correct and

accurate, unless there is other information available to the intermediary that suggests otherwise. MAS would not require intermediaries to obtain documentary proof from a customer to substantiate the information that the customer provides to the intermediary for the conduct of the Customer Knowledge Assessment. Nonetheless, the current industry practice that intermediaries obtain documentation to substantiate whether a customer is an accredited investor¹² should remain.

3 CONSULTATION PAPER SECTION 3: PROPOSALS FOR LISTED INVESTMENT PRODUCTS

3.1 Enhanced Safeguards for Retail Customers

3.1.1 MAS proposed to require intermediaries to conduct a Customer Account Review to ascertain whether a retail customer who wants to purchase listed NEIPs has the relevant knowledge or experience to understand the risks and features of derivatives, before approving the customer's account for the trading of such products.

3.1.2 Where the customer is assessed under the Customer Account Review not to possess the relevant knowledge or experience in derivatives but still wishes to purchase listed NEIPs, intermediaries would need to consider the customer's personal circumstances in deciding whether to approve the account. Should the intermediary approve the account, MAS proposed that the intermediary put in place safeguards. These safeguards are: (i) imposing an appropriate ceiling on the customer's trading of listed NEIPs, which takes into account the customer's personal circumstances, and (ii) explaining to the customer the features and risks associated with investing in derivative products, and providing to the customer a statement of the explanation given.

3.1.3 In all cases, the approval of an account to purchase listed NEIPs should be granted by at least one senior management staff of the intermediary who is independent of sales or dealing, or one senior management staff of a related corporation of the intermediary designated with the account approval function.

3.1.4 Respondents were generally supportive of the proposal to assess the level of derivatives knowledge and experience of customers who wish to purchase listed NEIPs. Many respondents, however, questioned the need to conduct the Customer Account Review as listed investment products are generally standardised and subject to the relevant exchange's listing and public disclosure requirements.

3.1.5 Several respondents noted that transactions in listed investment products are usually self-directed and that customers are generally sophisticated and do not require advice on whether listed investment

¹² "Accredited investor" is defined under section 4A of the SFA.

products are suitable for them. A few respondents commented that the introduction of the Customer Account Review framework could reduce the access of investors in Singapore to listed structured products. This would discourage the involvement of product providers in the Singapore market and narrow the range of offerings and products available in Singapore market.

3.1.6 A few respondents commented that requiring intermediaries to conduct the Customer Account Review would lead to increased compliance costs. This could disadvantage financial institutions based in Singapore as compared to financial institutions based outside Singapore that need not conduct the Customer Account Review.

3.1.7 Many respondents sought clarification on MAS' expectations of intermediaries to consider the personal circumstances of a customer who is assessed not to possess the relevant knowledge or experience under the Customer Account Review but who insists on opening a trading account to purchase listed NEIPs. A few other respondents mentioned that giving consideration to customer's personal circumstances would be a subjective assessment by the intermediaries.

3.1.8 Some of these respondents were of the view that an intermediary's responsibility in such a situation would be to provide advice to the customer on whether the investment product is suitable for the customer after considering the customer's investment knowledge and experience, while the final decision to open a trading account should lie with the customer.

3.1.9 A number of respondents were of the view that there would be practical difficulties in determining an appropriate ceiling to impose on a customer's trading of listed NEIPs. These respondents sought guidance on what MAS would consider as an appropriate ceiling. Several respondents noted that imposing a ceiling based on a customer's net-worth had always been part of the credit assessment and risk management process of broking houses.

Requirement for Independent Senior Management to Approve the Opening of a Trading Account

3.1.10 Respondents sought clarification on which of the intermediary's members of senior management would be considered independent of sales or dealing. A few respondents argued that the proposal to require an independent person to approve the opening of a trading account would create inefficiencies as this person may possess neither product nor customer knowledge. A few other respondents noted that raising the number of individuals involved in the account opening process would increase operational costs. One respondent commented that these higher costs would be passed on to customers.

Frequency of Conducting the Customer Account Review

3.1.11 Respondents sought clarification on whether the Customer Account Review need only be conducted once at the point of opening an account or whether the Customer Account Review would have to be conducted periodically. One respondent suggested that the approval to open a trading account to purchase listed NEIPs expire if the investor does not trade in listed NEIPs on that account for three consecutive years.

Conducting the Customer Account Review on Existing Customer Accounts

3.1.12 One respondent sought clarification on whether an intermediary was expected to advise existing customers who are assessed not to possess the relevant knowledge or experience under the Customer Account Review to liquidate their existing holdings of listed NEIPs. A few respondents suggested that MAS consider a phased approach for intermediaries to conduct the Customer Account Review on all existing accounts.

Application of Customer Account Review Framework to Online Trading Platforms

3.1.13 A number of respondents sought clarification on the application of the Customer Account Review framework to online trading accounts. Some of these respondents suggested that the Customer Account Review need not be conducted where a customer trades on an execution-only basis and does not seek advice from the intermediary.

Offer of Listed Non-Excluded Investment Products via ATM or other Self-Service Channels

3.1.14 One respondent asked whether the Customer Account Review framework would apply to listed NEIPs offered via Automated Teller Machines (ATMs).

MAS' Response

3.1.15 MAS will proceed with the proposal to require intermediaries to conduct a Customer Account Review for a retail customer who wants to purchase listed NEIPs. For the purpose of this section, we will consider the creation of new short positions in listed NEIPs as purchases of listed NEIPs. Instead of requiring intermediaries to consider the personal circumstances of a customer who is assessed under the Customer Account Review as not possessing the relevant knowledge or experience in derivatives but who still wishes to purchase NEIPs, MAS will require that a member of senior management of the intermediary who is not involved in that particular account opening process and not a connected person to the customer review the account opening process and approve the opening of the account with safeguards.

3.1.16 The proposal for intermediaries to conduct a Customer Account Review aims to enhance investor protection. While listing requirements seek to ensure minimum standards in terms of product structures and disclosures of products listed on an exchange, these requirements apply to issuers and do not govern the practice of intermediaries.

3.1.17 The proposal to require intermediaries to ascertain their customers' investment knowledge and experience is in line with practices in other major financial markets¹³. While trading in listed products may mostly be self-directed, there is a wide range of customers with differing levels of knowledge and experience in derivatives who wish to purchase listed products. The Customer Account Review framework allows intermediaries to ascertain their customers' knowledge or experience in derivatives and, where appropriate, impose safeguards for customers who are assessed not to have the relevant knowledge or experience.

3.1.18 For the avoidance of doubt, the requirement that intermediaries are to incorporate in their policies and procedures as set out in section 1.2 will also apply if a customer wishes to proceed with the purchase of any listed investment products against a financial adviser's advice.

3.1.19 To assess if a customer has knowledge or experience in derivatives, the intermediary must collect from the customer information required to conduct the Customer Account Review. If a customer refuses to provide the intermediary with the required information, he would be assessed as a customer who does not have knowledge or experience in derivatives.

3.1.20 The SGX will develop and set up an internet-based tutorial to help customers gain knowledge on the features and risks of derivatives. Should a customer, who was initially assessed under the Customer Account Review not to have the relevant knowledge or experience in derivatives, demonstrate an understanding of the features and risks of derivatives after taking the tutorial, the intermediary may then consider the customer as having obtained relevant knowledge in derivatives and approve the opening of the customer's account.

3.1.21 Where a customer has been assessed under the Customer Account Review not to have knowledge or experience in derivatives and refuses to take the SGX tutorial, or has failed to demonstrate sufficient understanding of the features and risks of derivatives after taking the tutorial, but still wishes to open a trading account to purchase listed NEIPs, MAS will require the intermediary's representative to:

¹³ In the US, an intermediary is required to assess a customer's investment knowledge and experience for options trading before approving the customer's trading account. In Hong Kong, an intermediary is required to assess a customer's understanding of features and risks of derivatives before allowing the customer to trade in derivative products.

- a) inform the customer in writing that he has been assessed not to have knowledge or experience in derivatives under the Customer Account Review;
- b) seek the customer's confirmation in writing that he still wishes to proceed with the opening of the trading account despite being informed of (a);
- c) inform the customer in writing that it is the customer's responsibility to ensure that he understands the investment products that he has chosen to purchase; and
- d) put in place the following safeguards:
 - i) impose a lower limit on the customer's trading of listed NEIPs; and
 - ii) explain to the customer the features and risks associated with investing in derivative products and provide the customer a written statement of the explanation given

3.1.22 Should the customer still wish to proceed with opening the trading account to purchase listed NEIPs following (a), (b), (c) and (d), a member of senior management of the intermediary who is not involved in the particular account opening process and is not a connected person to the customer would be required to:

- e) confirm with the customer that (i) he has been properly informed of all relevant facts as required of the representative under (a), (b), (c) and (d) and (ii) the customer is aware of, and understands the implications and consequences of proceeding with opening the trading account;
- f) satisfy himself that the representative has fulfilled the requirements under (a), (b), (c) and (d);
- g) decide whether to approve the opening of the trading account based on whether the customer understands the implications and consequences of proceeding with opening the trading account; and
- h) document and sign off on his decision where he approves the opening of the trading account.

3.1.23 Subsequently, when the customer referred to in paragraphs 3.1.21 and 3.1.22 wishes to purchase a listed NEIP, the intermediary would be required at the point of purchase to obtain the customer's confirmation that he was assessed to not have the relevant knowledge or experience in derivatives and that he is responsible to ensure that he understands the features and risks of the NEIP that he wishes to purchase. While such confirmation may be verbal, the intermediary would be required to maintain documentation of this confirmation. These requirements are to apply to the customer's initial trades until he has transacted the requisite number of trades such that he is assessed as having the relevant knowledge or experience in derivatives under the Customer Account Review.

3.1.24 These requirements are to be incorporated in the intermediary's policies and procedures.

3.1.25 Illustrations on the implementation of a Customer Account Review are attached at **Appendix B**. The illustrations are only intended as a guide.

3.1.26 An entity that holds a capital markets services licence to deal in securities or trade in futures contracts or leveraged foreign exchange under the SFA is exempt from holding a financial advisory licence under the FAA for its provision of financial advisory services. MAS will require broking firms that are exempt financial advisers¹⁴ to include a statement in their account opening forms that a customer can, at any time, request for advice. This is because broking firms should not dispense with giving advice even where the customers requesting for advice have been assessed to have the relevant investment knowledge or experience. These firms will not be allowed to include any disclaimers that they are in the business of providing "execution-only" services and therefore, do not provide advice to customers.

3.1.27 MAS is of the view that the ceiling to be imposed on the trading of NEIPs by a customer who is assessed not to have the relevant knowledge or experience in derivatives would generally be a lower credit limit than the limit an intermediary would impose on the same customer based on his creditworthiness for the intermediary's own credit and risk management purposes.

Requirement for Independent Senior Management to Approve the Opening of Trading Account

3.1.28 As set out in paragraph 1.2.10, "senior management" refers to the Chief Executive Officer, Principal Officer or executive directors of the intermediary. MAS will allow the Chief Executive Officer or Principal Officer of an intermediary to appoint a person responsible for key aspects of the intermediary's operations to approve the opening of accounts on his behalf. For intermediaries that operate from branches, the Chief Executive Officer or Principal Officer may appoint the person who is responsible for the operations of the branch to approve the opening of accounts on his behalf. MAS will hold the Chief Executive Officer or Principal Officer responsible for approvals by his appointees. The senior management and appointees who are authorised to approve the opening of accounts should not be involved in the particular account opening process and not be a connected person to the customer who wishes to open the trading account.

3.1.29 MAS considers it unnecessary for the senior management and appointees with account approving authority to have in-depth knowledge of the product or the customer to enable them to approve the opening of the trading account and ensure that appropriate safeguards have been imposed.

¹⁴ Section 23(1) of the FAA exempts a holder of a capital markets services licence under the SFA from holding a financial adviser's licence to carry out a financial advisory service.

As the requirement to have senior management approve account opening is an existing requirement imposed by the SGX on its members, we do not expect this requirement to lead to a substantial increase in compliance costs.

3.1.30 A senior management staff of a related corporation of the intermediary may not be familiar with the intermediary's operations. For this practical consideration, MAS will not proceed with the proposal that the opening of accounts may be approved by a senior management staff of a related corporation of the intermediary.

Frequency of Customer Account Review

3.1.31 The Customer Account Review must be performed when the customer first opens a trading account to purchase listed NEIPs with a particular intermediary.

3.1.32 The approval for the opening of a trading account will lapse if the customer does not trade listed NEIPs for a period of three consecutive years from the last transaction in listed NEIPs in that account. In such a situation, the intermediary would have to conduct a new Customer Account Review before allowing the customer to purchase listed NEIPs. In the interim, the customer may continue to hold his existing positions of listed NEIPs, or may execute transactions to reduce his existing positions of listed NEIPs.

3.1.33 The existing requirements for intermediaries providing execution-related advice to update their customer profiles and conduct needs analysis on their customers at least once a year¹⁵ will continue to apply.

Customer Account Review on Existing Customer Accounts

3.1.34 Intermediaries will be required to conduct the Customer Account Review on all their existing customer accounts before allowing existing customers to purchase listed NEIPs. MAS will provide intermediaries with a transition period to comply with this requirement. Following the transition period, customers whose accounts are not approved to purchase listed NEIPs may continue to hold on to their existing positions of listed NEIPs, or may execute transactions to reduce their existing positions of listed NEIPs.

¹⁵ Section 27 of the FAA requires licensed and exempt financial advisers and their representatives to give due consideration to the customer's investment objective, financial situation and particular needs when making recommendation with respect to any investment product. The FAA Guidelines on Conduct of Business for Execution Related Advice [FAA-G08] provides that where execution-related advice is provided on an on-going basis, a dealer should update the client profile and conduct needs analysis at least once a year.

Application of Customer Account Review for Online Trading Accounts

3.1.35 A broking firm that provides an online trading platform is required to conduct the Customer Account Review on its customers. If the broking firm is an exempt financial adviser under the FAA, it will be required to include a statement in its account opening form that a customer can, at any time, request for advice. It should not include any disclaimers to the effect that it is in the business of providing "execution-only" services and therefore does not provide advice to customers.

Offers of Listed NEIPs via ATMs or other self-service channels

3.1.36 The Customer Account Review requirement will apply to all intermediaries opening trading accounts for customers to purchase listed NEIPs. Some offers of listed NEIPs may not be made through such intermediaries. For instance, issuers may make offers to investors via ATMs or internet banking services. Such issuers would need to ensure that the products are only sold to customers who have accounts approved for the trading of listed NEIPs.

Other Clarifications

3.1.37 MAS would like to clarify the roles and responsibilities of a broking firm and the intermediary who interacts with the customer as the customer's financial adviser. Where a customer has been recommended to purchase a particular listed NEIP by an intermediary that is a financial adviser, it is the financial adviser's responsibility to provide advice as to whether the product is suitable for the customer. Thereafter, when the purchase is to be transacted via an online trading platform, it is the online trading platform provider's responsibility to conduct a Customer Account Review on the customer, and to put in place the safeguards upon the opening of the account if required.

3.2 The Customer Account Review Framework

3.2.1 MAS set out the information that intermediaries would be required to make reasonable enquires to collect from their customers, and take into account in assessing if a customer has knowledge or experience in derivatives. The information to be collected covers whether the customer has:

- a) finance-related background relevant to derivative products, which includes relevant educational qualifications;
- b) investment experience in derivative products; or
- c) work experience directly related to derivative products.

3.2.2 A few respondents commented that the three proposed criteria appeared too restrictive. They commented that a customer could acquire

knowledge through means other than formal educational qualifications or work experience. A few respondents were also concerned about subjectivity if the assessment criteria were too generic. One respondent pointed out that when a new product is launched in Singapore market, there would probably be limited information available to customers and very few relevant courses available. Many respondents asked that MAS provide guidance on the courses and type of work experience that would qualify as relevant educational and working experience.

3.2.3 Many respondents expressed a preference for standardised content and format for the Customer Account Review Framework. This would allow the Customer Account Review to be conducted in a similar and consistent manner across the industry, and provide customers with unbiased and fair assessments of their knowledge and experience in derivatives regardless of the intermediary they transact through. Some of these respondents expressed the expectation for industry associations to take the lead in developing guidance on the Customer Account Review Framework. A few respondents sought clarification on which industry associations would be responsible for developing guidance.

3.2.4 A few respondents suggested that intermediaries be allowed to rely on information provided by customers by way of self-declaration in conducting the Customer Account Review.

MAS' Response

3.2.5 MAS notes the requests from industry for guidance on the Customer Account Review and will work with industry to develop this. The guidance will include at minimum, the three proposed criteria set out in the January 2010 Consultation Paper. MAS acknowledges that there could be other considerations that could be relevant in assessing a customer's knowledge or experience in derivative products and encourages Approved Exchanges to work together with industry associations to develop detailed criteria for the Customer Account Review Framework which intermediaries can adopt and implement. Industry participants who are not represented in industry associations are encouraged to work with the Approved Exchanges and industry associations in this regard.

3.2.6 For consistency, MAS will require intermediaries to comply with the criteria developed by the Approved Exchanges together with industry associations.

3.2.7 An intermediary will be allowed to rely on a customer's declaration that the information provided to the intermediary is correct and accurate, unless there is information available to the intermediary that suggests otherwise. MAS will not require intermediaries to obtain documentation from a customer to substantiate the information that the customer provides for the conduct of the Customer Account Review. Nevertheless, the current

industry practice that intermediaries obtain documentation to substantiate whether a customer is an accredited investor should remain.

4 CONSULTATION PAPER SECTION 4: ENHANCED COMPETENCY FOR REPRESENTATIVES

4.1 Training of Representatives

4.1.1 In the January 2010 Consultation Paper, MAS set out a revised proposal¹⁶ to require intermediaries to ensure that representatives are sufficiently trained in the features and risk-reward characteristics of new NEIPs before being allowed to sell such products.

4.1.2 Most respondents agreed with this proposal.

4.1.3 Several respondents noted that the SFA allows a person to present, before a prospectus or profile statement of a CIS is registered by the Authority, material on matters contained in the prospectus or profile statement which has been lodged with MAS for the purpose of training financial advisers who intend to market the CIS under the FAA¹⁷. The SFA does not have a similar provision for debentures that would allow training to be provided to an intermediary or its representatives before the prospectus is registered by MAS, even though the prospectus would have been lodged with MAS. The same respondents requested that a similar provision be legislated for debentures to facilitate the training before the debenture prospectus is registered. They also asked if training providers can use information, such as macro-economic trends, that is not found in the prospectus for the purpose of training. One respondent pointed out that when a new product is launched in the Singapore market, it is highly likely that there is limited information available or courses organised.

4.1.4 One respondent sought clarification on whether the training should be given on an individual product or product class basis.

MAS' Response

4.1.5 MAS will proceed with the proposal to require that intermediaries ensure that only representatives who have undergone relevant training can sell new NEIPs.

4.1.6 MAS notes the feedback on the lack of courses available for products that are new to Singapore. For new listed NEIPs, MAS will require

¹⁶ MAS had, in the March 2009 Consultation Paper, proposed to require intermediaries to ensure that representatives undergo training on the features and risk-reward characteristics of complex investment products before being allowed to sell complex investment products.

¹⁷ Section 300(2B)(b) of the SFA provides that a person is allowed to present oral or written material on matters contained in the prospectus or profile statement which has been lodged with the Authority for the sole purpose of equipping a licensed or exempt FA and its representatives with knowledge of CIS to market the scheme under the FAA.

the relevant Approved Exchange to ensure that the necessary training for new products is made available to the representatives of intermediaries before the listing of such products. In providing the training, the relevant Approved Exchange may wish to work with the issuers of the new products. This would enable representatives to sell such products once they are listed.

4.1.7 MAS will require intermediaries to ensure that their representatives have undergone the relevant training for new unlisted NEIPs prior to selling such products. Intermediaries may wish to work with the issuers of such products.

4.1.8 Intermediaries will be responsible for providing ongoing training for all their representatives to ensure that their representatives have the relevant knowledge and skills to provide sound advice to customers. Intermediaries may engage product providers or third-party trainers to conduct training for their representatives. Where training is conducted by the product provider or a third-party trainer, it is the responsibility of the intermediary to satisfy itself that the training is adequate.

4.1.9 MAS notes the feedback on including a provision in the SFA for debentures to facilitate the training before the prospectus is registered. MAS will introduce such a provision for debentures that are NEIPs to facilitate training before the prospectus is registered with MAS. As a product prospectus is required to contain all information that investors and their professional advisers would reasonably require to make an informed decision of the product¹⁸, any training on the product should be based on the information contained in the prospectus.

4.1.10 With regard to whether training would be required on an individual product or on a product type basis, MAS intends to require training for new NEIPs. A new product is one that has not been offered to retail investors in Singapore before or one which involves material modifications in terms of risks, characteristics or conflicts of interest to an existing product offered to retail investors in Singapore.

4.2 New CMFAS Module

4.2.1 In the January 2010 Consultation Paper, MAS indicated that we would be proceeding with the proposal to introduce a new CMFAS module¹⁹, but would be expanding the scope of the curriculum of the new CMFAS module to include product knowledge in respect of NEIPs. The aim of this is to further raise the overall competency of representatives selling such

¹⁸ As required under section 243 of the SFA.

¹⁹ MAS had, in the March 2009 Consultation Paper, proposed a new CMFAS module for product knowledge on complex investment products that new and existing representatives would be required to pass before being allowed to sell these products.

products. Representatives who wish to sell NEIPs would be required to pass the new CMFAS module.

4.2.2 Most respondents supported the proposal and recognised the importance of raising the overall competency of representatives selling NEIPs. However, a few respondents questioned the effectiveness of introducing a new CMFAS module for NEIPs. These respondents were of the view that the curriculum of the new CMFAS module would not be able to keep up with the dynamic nature of the capital markets and the quick pace of product innovation.

4.2.3 Several respondents expressed a preference for broadening existing CMFAS modules to cover NEIPs instead of introducing a new CMFAS module. A few respondents suggested that MAS consider new and more modular CMFAS modules to cater to representatives who wish to sell only specific NEIPs.

4.2.4 Several respondents sought clarification on whether the new CMFAS module would be applicable to representatives of product issuers who generally market the products to financial advisers and have no direct dealings with retail investors.

4.2.5 A number of respondents suggested attending relevant training, continuing education courses or non-examinable courses as alternative methods of enhancing representatives' competencies. A few respondents asked MAS to consider exempting all existing representatives or individuals with certain academic qualifications from the requirement to pass the new CMFAS module.

MAS' Response

4.2.6 The introduction of a new CMFAS module for NEIPs is an important step toward setting minimum competency standards for representatives who intend to sell NEIPs.

4.2.7 While we acknowledge that there may be merit in the suggestions to broaden the content of existing CMFAS modules, we consider that new CMFAS modules would be more effective in raising the minimum competency standards for representatives who intend to sell NEIPs. It would also be more efficient to administer and would facilitate the maintenance of records of representatives who have passed the new modules and are therefore able to sell NEIPs.

4.2.8 After carefully considering the feedback received, and recognising that the existing CMFAS modules 6, 7, 8 and 9²⁰ deal with different product classes, MAS will not introduce a new generic CMFAS module for NEIPs.

²⁰ Module 6 covers securities, Module 7 covers futures contracts, Module 8 covers CIS and Module 9 covers life insurance policies.

Instead, there will be three new CMFAS modules based on product classes that are covered under the SFA and the FAA. Representatives who want to deal in NEIPs that fall within the definition of “securities” and “futures contracts” will generally have to pass the new CMFAS module for securities and futures contracts. Licensed or exempt FA representatives who market CIS or arrange any investment-linked life insurance policies would be required to pass the new CMFAS modules for CIS or investment-linked life insurance policies, respectively. To keep pace with product innovation, the CMFAS modules will be periodically reviewed and updated when necessary.

4.2.9 The requirement to pass the relevant new CMFAS modules will apply to new and existing representatives of intermediaries that deal in or provide advice on NEIPs directly with retail customers. These intermediaries will include licensed or exempt Financial Advisers and licensed or exempt Capital Markets Intermediaries in the regulated activity of dealing in securities, trading in futures contracts and leveraged foreign exchange trading. This requirement will not apply to representatives of product manufacturers who do not deal directly with retail customers. The existing CMFAS examination requirements²¹ for individuals intending to conduct the regulated activities under the SFA and FAA will still apply.

4.2.10 MAS intends to implement the new CMFAS modules in 3Q 2011. Prior to this, we will set out the transitional arrangements for existing representatives to meet these enhanced competency requirements.

5 CONSULTATION PAPER SECTION 5: PROPOSED REQUIREMENTS FOR PRODUCT HIGHLIGHTS SHEET

5.1 Update on Consumer Testing of Product Highlights Sheet

5.1.1 MAS has worked with members of the financial services industry to develop the proposed format and content of the Product Highlights Sheet. Together with industry, we have developed sample Product Highlights Sheets and engaged a market research firm to conduct consumer testing to test their effectiveness in assisting investors to understand the risks and features of the products.

5.1.2 In summary, the research firm’s consumer testing showed that potential investors and financial advisers found the Product Highlights Sheet helpful in understanding investment products as it provides a clear and objective overview of the features and risks of investment products. Investors found the structure and format of the Product Highlights Sheet user-friendly and easy to read. However, some investors found the financial terms used in the Product Highlights Sheet difficult to understand and

²¹ As prescribed in the Notice on Minimum Entry and Examination Requirements for Representatives of Holders of CMS Licence and Exempt Financial Institutions [SFA04-N09] and the Notice on Minimum Entry and Examination Requirements for Representatives of Financial Advisers and Exempt Financial Advisers [FAA-N07].

suggested incorporating a glossary in the Product Highlights Sheet to explain these terms. The use of diagrams with clear explanations on the payoff and structure of products was also found to aid investors' understanding of the investment products.

5.1.3 Taking into consideration the feedback received and findings from the consumer testing, MAS has finalised the format and content of the Product Highlights Sheet.

Debentures and CIS

5.1.4 As implementing the requirement for Product Highlights Sheets for debentures and CIS will require legislative amendments to the SFA, MAS will issue guidelines prior to the necessary legislative amendments being effected. In the interim, any Product Highlights Sheet issued in respect of a debenture or CIS will constitute an advertisement under section 251 and section 300 respectively of the SFA. Accordingly, the Product Highlights Sheet will be subject to the advertising requirements, in particular, not to contain any information that is false or misleading. Once legislative amendments providing specifically for the Product Highlights Sheet are in place, the Product Highlights Sheet will be carved out from these advertising requirements.

5.1.5 The Guidelines on the Product Highlights Sheet issued on 21 October 2010 ("Product Highlights Sheet Guidelines") set out the form and content of the Product Highlights Sheet to provide guidance to issuers and their professional advisers in preparing the Product Highlights Sheet. The Product Highlights Sheet Guidelines will apply to new offers of debentures in the form of asset-backed securities and structured notes (including exchange-traded notes), unlisted CIS and exchange-traded funds, for which prospectuses are lodged with MAS on or after 1 March 2011. The Product Highlights Sheet Guidelines will also apply to existing CIS with prospectuses that expire on or after 1 March 2011. For such CIS, the Product Highlights Sheet should be submitted to MAS when the updated prospectuses are lodged with MAS, regardless of the date of lodgement.

Investment-Linked Life Insurance Policies

5.1.6 Amendments will be made to the Notice on Investment-Linked Life Insurance Policies [MAS 307] to implement the requirement for the Product Highlights Sheet for investment-linked life policy sub-funds. New investment-linked life policy sub-funds submitted on or after 1 March 2011 will need to comply with the Product Highlights Sheet requirements. For existing investment-linked life policy sub-funds, there will be a one-year transition period for compliance with the Product Highlights Sheet requirements. Insurers are required to prepare and submit the Product Highlights Sheet for their existing investment-linked life policy sub-funds by 30 November 2011, to ensure that all existing investment-linked life policy sub-funds are in compliance by 1 March 2012. For an existing investment-

linked life policy sub-fund that feeds 100% into an authorised or recognised CIS, and for which the Product Highlights Sheet contains information largely similar to the Product Highlights Sheet of the underlying CIS other than information on 'Fees and Charges' and 'Contact Information', insurers need not submit the Product Highlights Sheet on the investment-linked life policy sub-fund to MAS, given that the information in the Product Highlights Sheet of the underlying CIS would have been submitted to MAS.

5.1.7 MAS will review the list of products which require a Product Highlights Sheet regularly and may expand the scope to cover new products if appropriate.

5.2 Page Limit of Product Highlights Sheet

5.2.1 In the March 2009 Consultation Paper, MAS had proposed to limit the length of the Product Highlights Sheet to four pages. Many respondents raised concerns that the proposed four-page limit may discourage the use of charts and illustrations. Several respondents suggested allowing a variable page limit based on the attributes and complexities of different investment products.

MAS' Response

5.2.2 Taking into consideration findings from the consumer testing and the feedback received, MAS encourages issuers to incorporate diagrams, such as graphs, charts, flowcharts, tables or numerical explanations, as well as a glossary to explain any technical terms used in their Product Highlights Sheet. However, the use of technical terms in the Product Highlights Sheet should be kept to a minimum. Diagrams may be inserted in the main body of text in the Product Highlights Sheet where appropriate. The use of diagrams and a glossary will not count toward the four-page limit. Nevertheless, the total number of pages including the diagrams and glossary should not exceed eight pages to preserve the readability of the Product Highlights Sheet for investors. The market research firm found during its consumer testing that investors would generally be discouraged from reading a document that exceeds eight pages.

5.3 Legal Requirements

5.3.1 In the January 2010 Consultation Paper, MAS proposed the following revised requirements for the Product Highlights Sheet:

- a) the information must be clearly disclosed in the prescribed format (e.g. the specific questions, number of pages, layout and font size);
- b) it must not contain any information that is not included in the prospectus; and
- c) it must not contain any information that is false or misleading.

5.3.2 MAS also stated that these requirements would apply to the Product Highlights Sheet as a standalone document. Issuers and issue managers would be liable for non-compliance with any requirement relating to the Product Highlights Sheet.

5.3.3 The majority of respondents agreed with the proposed requirements.

5.3.4 Several respondents disagreed with the proposed requirement that the Product Highlights Sheet must not contain any information that is not included in the prospectus. They suggested that there may be information pertinent to the sale of investment products that is not contained in the prospectus, or distributors may wish to include in the Product Highlights Sheet customised information applicable to the individual investor or to a class of targeted investors. One respondent queried whether changes in the prospectus for CIS would require changes in the accompanying Product Highlights Sheet.

5.3.5 Several respondents raised concerns that the standard of liability for a breach of Product Highlights Sheet requirements should not be the same as that for a breach of prospectus requirements, as this may lead to the Product Highlights Sheet being drafted in a legalistic fashion to avoid possible breaches and the consequent penalties.

5.3.6 Several respondents suggested that issuers should be allowed to state clearly on the Product Highlights Sheet that the investor must not rely solely on the Product Highlights Sheet and that the Product Highlights Sheet presents only some of the key risks and does not make comprehensive disclosures of the investment product.

MAS' Response

5.3.7 The prospectus is required to contain all information that investors and their advisors would reasonably require to make an informed investment decision. All information pertinent to the investment product should therefore be in the prospectus. As the Product Highlights Sheet is intended to contain only key information of the investment product, it should not include any information not contained in the prospectus. We wish to add that there are no restrictions preventing distributors or issuers from preparing marketing materials to accompany the prospectus and Product Highlights Sheet. These marketing materials must comply with the appropriate regulations.

5.3.8 Material changes to the prospectus should be accompanied by changes to the relevant portions of the Product Highlights Sheet. This will ensure that the Product Highlights Sheet remains relevant. It is the issuers' responsibility to determine whether any changes to the prospectus are material and therefore require amendments to the Product Highlights Sheet.

5.3.9 For breaches of the Product Highlights Sheet requirements to clearly disclose information in the prescribed format and not contain any information that is not included in the prospectus or any information that is false or misleading, MAS intends to impose a standard of liability similar to that applicable for breaches of the requirement that advertisements not contain information that is false and misleading under regulation 16 of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005. Namely, a breach of Product Highlights Sheet requirements will make the issuer liable to a fine not exceeding \$50,000 or imprisonment for a term not exceeding 12 months or both, and in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction. For the avoidance of doubt, other requirements in the SFA and their corresponding penalties for breach will continue to apply to the Product Highlights Sheet where relevant.

5.3.10 In the first part of MAS' response to the feedback received on the March 2009 Consultation Paper issued on 8 September 2009, we clarified that the Product Highlights Sheet is intended to complement the prospectus by providing key features and risks of the investment product. There is no change in our position. In the Product Highlights Sheet Guidelines, MAS has stated that issuers should include a statement in the Product Highlights Sheet that the Product Highlights Sheet "highlights the key terms and risks of [the] investment product and complements the prospectus".

6 CONCLUSION

6.1 These proposed amendments to the regulatory regime for listed and unlisted investment products, together with the proposed amendments in the March 2009 Consultation Paper, are aimed at strengthening safeguards for retail customers and enhancing MAS' regulatory powers.

6.2 MAS intends to implement these proposals as expeditiously as possible. Proposals that do not require substantive legislative amendments will be implemented first. The remaining proposals that require more substantive legislative amendments, such as those to the SFA and the FAA, will be implemented subsequently. MAS will consult on the legislative drafts prior to implementation.

6.3 For some proposals, MAS will issue guidelines prior to legislative amendments being effected. This is to facilitate the industry's understanding of MAS' expectations. Financial institutions will be expected to adopt all these proposals even before legislative implementation as good practice in conducting business with their customers.

APPENDIX A

LIST OF RESPONDENTS TO CONSULTATION ON REGULATORY REGIME FOR LISTED AND UNLISTED INVESTMENT PRODUCTS

- Andrew Kwek
- Bank of Tokyo-Mitsubishi UFJ, Limited, The
- BNP Paribas
- CIMB Bank Berhad (Singapore Branch)
- CIMB-GK Securities Private Limited
- City Index Asia Private Limited
- Clifford Chance Private Limited
- Consumers Association of Singapore (CASE)
- DBS Asset Management Limited
- Deutsche Asset Management (Asia) Ltd
- dollarDEX Investments Private Limited
- Drew & Napier LLC
- Edward Foo
- Euronext Paris S.A
- Fidelity International
- Forum of Financial Institutions, including:
 - Aberdeen Asset Management Asia Limited
 - Allianz Global Investors Singapore Limited
 - CIMB-GK Securities Private Limited
 - Cornerstone Planners Private Limited
 - Financial Alliance Private Limited
 - Financial Dynamics Private Limited
 - First State Investments
 - First State Investments (Singapore)
 - Frontier Wealth Management Private Limited
 - Fullerton Fund Management Company Limited
 - HSBC Global Asset Management (Singapore) Limited
 - iFAST Financial Private Limited
 - ING Investment Management Asia Pacific (Singapore) Limited
 - IPP Financial Advisers Private Limited
 - Javelin Wealth Management Private Limited
 - Jordan Huebner (Asia) Private Limited
 - Legg Mason Investments
 - New Independent Private Limited
 - Pana Harrison (Asia) Private Limited
 - Phillip Securities Private Limited
 - Professional Investment Advisory Services Private Limited
 - Promiseland Independent Private Limited
 - Prudential Asset Management (Singapore) Limited
 - Schroder Investment Management (Singapore) Limited
 - SingCapital Private Limited
 - Societe Generale Asset Management
 - WYNNES Financial Advisers Private Limited
- Helen Tan

- ICICI Bank Limited
- ING Investment Management Asia Pacific (Singapore) Limited
- International Swaps and Derivatives Association, Inc. (ISDA)
- Investment Management Association of Singapore (IMAS)
- ipac financial planning Singapore private limited
- IPP Financial Advisers Private Limited
- KhattarWong
- Life Insurance Association (Singapore)
- LIFFE Administration and Management
- Macquarie Capital Securities (Singapore) Private Limited
- MF Global Singapore Private Limited
- National Australia Bank Limited
- Phillips Futures Private Limited
- Phillips Securities Private Limited
- Professional Investment Advisory Services Private Limited
- Prudential Asset Management (Singapore) Limited
- S L Tan & Co Advocators & Solicitors
- Securities Association of Singapore (SAS)
- Securities Industry and Financial Markets Association (SIFMA)
- Singapore Exchange Limited
- Singapore Investment Banking Association (SIBA)
- Société Générale (Singapore Branch)
- The Association of Banks in Singapore (ABS)
- The Society of Remisiers (Singapore)
- Thinkorswim Singapore Private Limited
- WongPartnership LLP

*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.

APPENDIX B

Unlisted NEIPs - Illustration 1



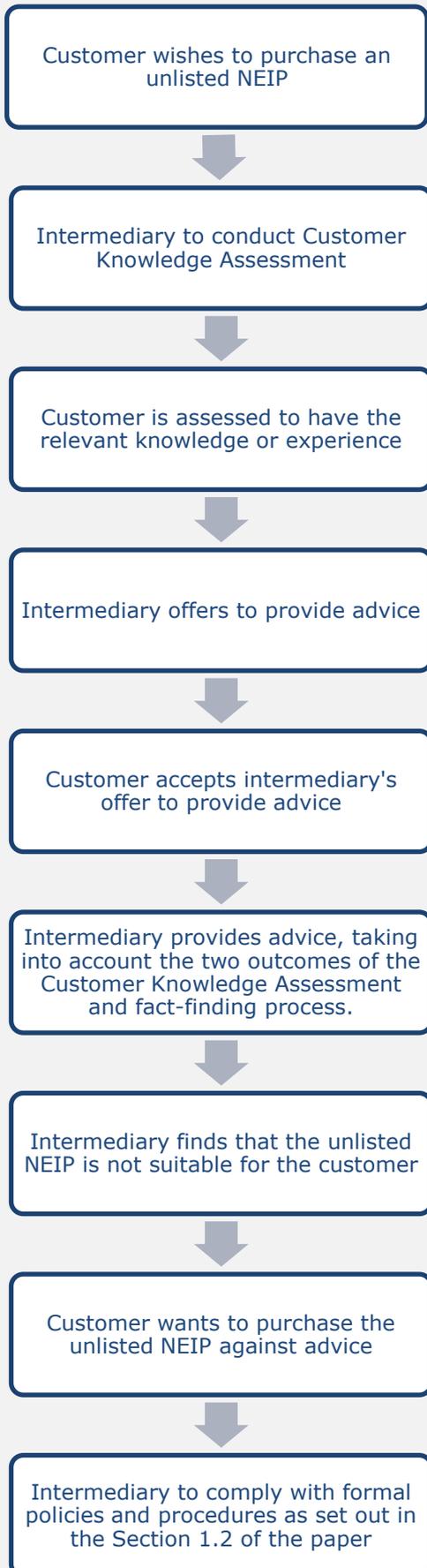
Where a customer wishes to purchase an unlisted NEIP, the intermediary will conduct a Customer Knowledge Assessment.

Where the intermediary assesses the customer to have the relevant knowledge or experience in the particular unlisted NEIP after conducting the Customer Knowledge Assessment, it should still offer to provide financial advice to the customer.

Where the customer decides to purchase the particular unlisted NEIP without advice, the intermediary should warn the customer that he has chosen to buy the product without advice and will not be able to rely on section 27 of the FAA to file a civil claim in the event he alleges he has suffered a loss.

If the customer wishes to still proceed with the transaction, the intermediary may complete the sale of the unlisted NEIP.

Unlisted NEIPs - Illustration 2



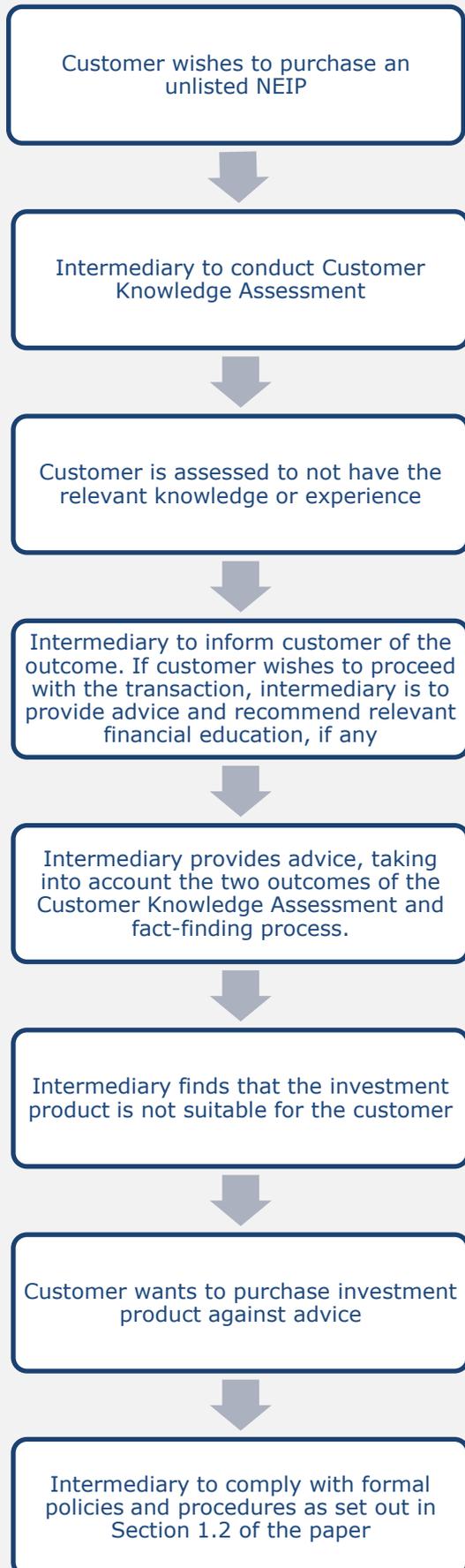
Where a customer wishes to purchase an unlisted NEIP, the intermediary will conduct a Customer Knowledge Assessment.

Where the intermediary assesses the customer to have the relevant knowledge or experience in the particular unlisted NEIP after conducting the Customer Knowledge Assessment, it should still offer to provide financial advice to the customer.

Should the customer decide to accept the intermediary's offer to provide advice, the intermediary should take into account the two outcomes of the Customer Knowledge Assessment and the fact-finding process in providing advice.

Where the intermediary finds that the particular unlisted NEIP is not suitable for the customer but the customer still wants to purchase the product, the intermediary must be satisfied that the customer has decided to proceed against advice and document the customer's decision. In proceeding with the customer's request, the intermediary has to comply with its formal policies and procedures that incorporate MAS' requirements as set out in Section 1.2 of the response paper.

Unlisted NEIPs -Illustration 3

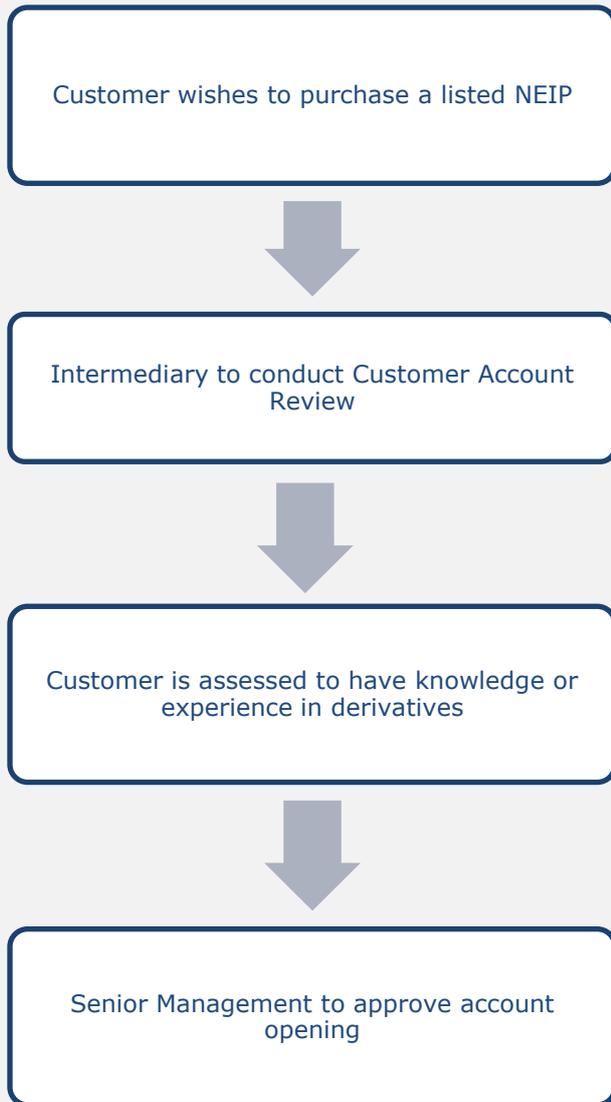


Where a customer wishes to purchase an unlisted NEIP, the intermediary will conduct a Customer Knowledge Assessment.

Where the intermediary assesses the customer to not have the relevant knowledge or experience in the particular unlisted NEIP after conducting the Customer Knowledge Assessment, it should inform the customer of the outcome from the Customer Knowledge Assessment and confirm if the customer wishes to proceed. If so, the intermediary should take into account the two outcomes of the Customer Knowledge Assessment and the fact-finding process in providing advice. The intermediary could also recommend to the customer available financial education relevant to the product.

Where the intermediary finds that the particular unlisted NEIP is not suitable for the customer but the customer still wants to purchase the product, the intermediary must be satisfied that the customer has decided to proceed against advice and ensure that there is proper documentation of this decision. In proceeding with the customer's request, the intermediary must be satisfied that the customer has decided to proceed against advice and document the customer's decision. In proceeding with the customer's request, the intermediary has to comply with its formal policies and procedures that incorporate MAS' requirements as set out in Section 1.2 of the response paper.

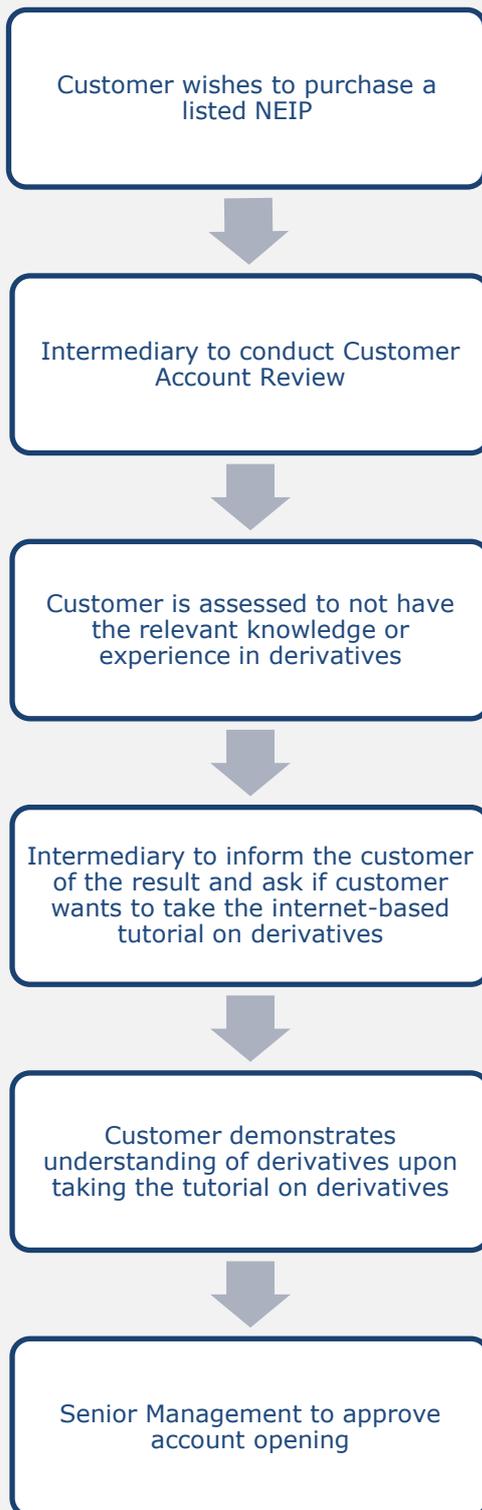
Listed NEIPs - Illustration 1



Where a customer wishes to purchase a listed NEIP, the intermediary will have to conduct a Customer Account Review to ascertain if the customer has knowledge or experience in derivatives.

Where the intermediary assesses that the customer has the relevant knowledge or experience in derivatives after conducting the Customer Account Review, it may open the account for the customer to purchase listed NEIPs. A member of the intermediary's senior management is required to approve the opening of the account.

Listed NEIPs - Illustration 2

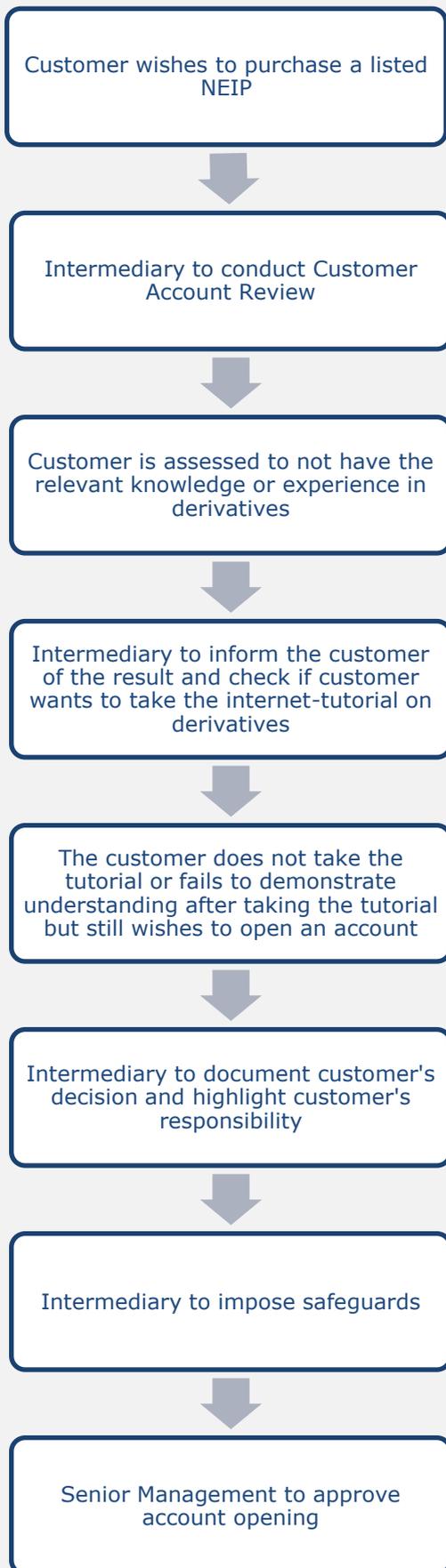


Where a customer wishes to purchase a listed NEIP, the intermediary will have to conduct a Customer Account Review to ascertain if the customer has knowledge or experience in derivatives.

Where the intermediary assesses the customer to not have the relevant knowledge or experience in derivatives after conducting the Customer Account Review, the intermediary should inform the customer that he does not have the relevant knowledge or experience in derivatives to purchase listed NEIPs. The intermediary could ask the customer if he wants to take the internet-based tutorial on derivatives.

If the customer decides to take the tutorial and demonstrates knowledge in derivatives after the tutorial, the intermediary may open the account for the customer to purchase listed NEIPs. A member of the intermediary's senior management is required to approve the opening of the account.

Listed NEIPs - Illustration 3



Where a customer wishes to purchase a listed NEIP, the intermediary will have to conduct a Customer Account Review to ascertain if the customer has knowledge or experience in derivatives.

Where the intermediary assesses the customer to not have the relevant knowledge or experience in derivatives after conducting the Customer Account Review, the intermediary should inform the customer that he does not have the relevant knowledge or experience in derivatives to purchase listed NEIPs. The intermediary could ask the customer if he wants to take the internet-based tutorial on derivatives.

If the customer does not want to take the tutorial or fails to demonstrate knowledge in derivatives after taking the tutorial but insists on opening the account, the intermediary should highlight to the customer his responsibility to ensure that he understands the product purchased and document the customer's decision.

The intermediary may then open the account, but with the required safeguards in place. A member of the intermediary's senior management is required to approve the opening of the account.

If the customer subsequently wishes to purchase a listed NEIP, the intermediary would be required at the point of purchase to obtain the customer's confirmation that he was assessed to not have the relevant knowledge or experience in derivatives and that he is responsible to ensure that he understands the features and risks of the NEIP that he wishes to purchase.