



Monetary Authority of Singapore

Consultation Paper

P005-2024

July 2024

# Consultation Paper on Proposed Legislative Amendments to the Requirements for Enhancing Pre and Post- Transaction Safeguards for Retail Clients



# Contents

<b>1. Preface</b>	<b>3</b>
<b>2. Amendments to the Notice on Recommendations on Investment Products [“FAA-N16”]</b>	<b>4</b>
<b>3. Proposed Amendments to the Notice on Requirements for the Remuneration Framework for Representatives and Supervisors (“Balanced Scorecard Framework”) and Independent Sales Audit Unit [“FAA-N20”]</b>	<b>8</b>
<b>4. Proposed Amendments to the Guidelines on the Remuneration Framework for Representatives and Supervisors (“Balanced Scorecard Framework”), Reference Checks and Pre-Transaction Checks [“FAA-G14”]</b>	<b>9</b>
<b>5. Transitional period</b>	<b>9</b>
<b>Annex A – List of Questions</b>	<b>10</b>



## 1. Preface

- 1.1. On 22 June 2021, MAS issued a consultation paper to seek feedback on proposed changes to enhance pre and post-transaction safeguards for retail clients (the “Consultation Paper”). The consultation closed on 3 August 2021, and MAS published its response to the feedback (the “Response Paper”) on 24 August 2023<sup>1</sup>.
- 1.2. MAS is now consulting on proposed legislative amendments to the following Notices and Guidelines to effect the proposed changes set out in the Consultation Paper:
  - (a) Notice on Recommendations on Investment Products [“FAA-N16”];
  - (b) Notice on Requirements for the Remuneration Framework for Representatives and Supervisors (“Balanced Scorecard Framework”) and Independent Sales Audit Unit [“FAA-N20”]; and
  - (c) Guidelines on the Remuneration Framework for Representatives and Supervisors (“Balanced Scorecard Framework”), Reference Checks and Pre-transaction Checks [“FAA-G14”].
- 1.3. **Please note that all submissions received will be published and attributed to the respective respondents unless they expressly request MAS not to do so. As such, if respondents would like:**
  - (a) **their whole submission or part of it (but not their identity), or**
  - (b) **their identity along with their whole submission,**

**to be kept confidential, please expressly state so in the submission to MAS. MAS will only publish non-anonymous submissions. In addition, MAS reserves the right not to publish any submission received where MAS considers it not in the public interest to do so, such as where the submission appears to be libellous or offensive.**
- 1.4. Please submit written comments by 30 Aug 2024 via the link provided <https://form.gov.sg/66a9a9bbff1c0b9a7a2dd457>.
- 1.5. Should you encounter any technical difficulties in your submission, please send your enquiry or feedback to [mas\\_mcp@mas.gov.sg](mailto:mas_mcp@mas.gov.sg).

---

<sup>1</sup> MAS’ proposals and response to the consultation feedback can be found at the following link: <https://www.mas.gov.sg/publications/consultations/2021/consultation-paper-on-enhancing-pre-and-post-transaction-safeguards-for-retail-clients>



## 2. Amendments to the Notice on Recommendations on Investment Products [“FAA-N16”]

2.1. To implement the proposals in the Response Paper, MAS will be making the following key amendments to FAA-N16:

- (a) introduce requirements on pre-transaction checks (i.e. documentation reviews and call-backs) by financial advisory (FA) firms by moving paragraphs 25 to 33 of FAA-G14 to FAA-N16;
- (b) introduce the requirements for representatives to (i) check for and document a client’s Selected Client (“SC”) status and (ii) make a formal declaration that the assessment of whether a client is an SC has been duly performed;
- (c) introduce the requirement for a Trusted Individual (“TI”) to be present when investment recommendations are made to SCs, and the criteria to qualify as a TI;
- (d) mandate the types of information that should be covered during a client call-back; and
- (e) introduce the requirements for FA firms to audio record pre-transaction call-backs to SCs and clients of Selected Representatives (“SRs”)<sup>2</sup>, and to provide a copy of the audio recording to clients upon clients’ request.

2.2. MAS is also consulting on other proposed amendments and clarifications relating to pre-transaction checks and safeguards for selected clients. These are outlined in paragraphs 2.3 to 2.15 below. The revised FAA-N16 can be found under **Annex B**.

### Clarification on when pre-transaction checks should be performed

2.3. Aligned with the intent of FAA-G14, FAA-N16 will expressly require “pre-transaction checks” in relation to any recommendation made by a representative to a client on an investment product to be performed before the effective date of the relevant transaction, with “effective date” in relation to a transaction defined as -

- (a) In the case of a transaction in a life policy -
  - (i) the date on which the policy is issued;
  - (ii) the date on which the policy takes effect; or
  - (iii) the date on which the cover commences,whichever is the latest, and
- (b) in the case of a transaction in an investment product other than a life policy, the date on which the client’s application for the transaction has been accepted by the product manufacturer.

---

<sup>2</sup> “selected representative” means a representative who has been assigned a balanced scorecard grade B or worse under the balanced scorecard framework consecutively for two calendar quarters immediately preceding the measurement quarter.



- 2.4. While the intent is that pre-transaction checks should be completed before the transaction is effected, it is recognised that there may be situations where FA firms are unable to do so<sup>3</sup>. Currently, under FAA-G14, FA firms may complete the pre-transaction checks within the free-look or cancellation period where they are unable to do so before the effective date of the transaction. Where the transactions are time-sensitive and do not have a free-look or cancellation period, FA firms are allowed to complete the pre-transaction checks within 5 business days from the effective date of the transaction. Such exceptions are permitted on the condition that if a product is subsequently found to be unsuitable during the pre-transaction check, FA firms should allow the client to modify or cancel the transaction without requiring the client to bear any difference in the value of investment product, or incurring any fees or charges arising from such modification or cancellation.
- 2.5. To enhance safeguards for SCs and clients of SRs, MAS will require FA firms to complete the pre-transaction checks before transactions can be effected for such clients. There will be no exception set out in the revised FAA-N16 to allow transactions to be effected for such clients prior to the completion of pre-transaction checks. The current exception in FAA-G14 (described in paragraph 2.4 above) will continue to be allowed for other types of clients under the revised FAA-N16.
- 2.6. MAS will also require every infraction uncovered during the pre-transaction checks to be rectified before the transaction is effected. For cases where pre-transaction checks are allowed to be conducted after the transactions are effected, the rectification should be completed as soon as possible.

#### **Clarification on how pre-transaction call-backs should be performed**

- 2.7. As set out in section 4 of the Response Paper, to ensure the effectiveness of pre-transaction call-backs, FA firms will be required to cover minimally the following types of information in their call-backs:
- (a) Basis of recommendation;
  - (b) Main features of the product being recommended;
  - (c) Key risks and limitations of the product;
  - (d) Existence of a free-look period (if any);
  - (e) For sales to an SC without a TI, whether the SC was offered an opportunity for a TI to be present at the sales and advisory transaction and whether the SC had confirmed that he did not want to have a TI present and is able to fully make his decision without a TI; and

---

<sup>3</sup> For example, time-sensitive trades such as a dual currency investment, where delays in transaction processing could result in an opportunity loss.



(f) Whether the representative had been professional and ethical in his or her dealings with the client.

2.8. To ensure consistency in the conduct of call-backs across FA firms, MAS proposes to require persons<sup>4</sup> conducting the call-backs:

(a) for the information listed in paragraph 2.7(a) to (d), to reiterate the information to the client, and ask the client whether the representative had explained the information and whether the client's understanding is in line with the reiteration by the person; and

(b) for the information listed in paragraph 2.7(e) and (f), to ask and seek confirmation from the client.

These requirements are set out in paragraphs 41S(b) and 41S(c) of the revised FAA-N16.

2.9. As an alternative, MAS is prepared to consider a principles-based approach, where MAS will not prescribe the manner in which the call-back is conducted. Under this approach, FA firms should design the appropriate questions covering all types of information listed in paragraph 2.7, bearing in mind the objectives of the call-back (i.e. to ensure that clients understand the products that they are purchasing, verify that SCs have been afforded the opportunity to have a TI present and are able to make investment decisions on their own without a TI, and assess the conduct of the representative). Questions should not be framed to elicit simple "yes or no" replies to avoid situations where clients would respond "yes" without a proper understanding. Recall questions could instead be used to determine clients' understanding of the information listed in paragraph 2.7.

2.10. For clarity, under either approach, FA firms should not proceed with the transaction and should take appropriate rectification action, if the person conducting the call-back uncovers from the call-back that the client does not understand the product he is purchasing or that there are inconsistencies or anomalies in the client's responses.

### **Requiring checks where clients transact in non-recommended products**

2.11. To strengthen the safeguards for clients who do not accept the recommendation of the FA firm, checks should also be conducted where a client does not accept the recommendation of the FA firm and decides to purchase another investment product ("Clients of Non-Recommended Products"). This is set out in paragraphs 41V, 41W, 41X, 41Y and 41Z of FAA-N16. The checks will include:

(a) A review for all Clients of Non-Recommended Products to ensure that the following have been documented -

(i) the decision of the client not to accept the FA firm's recommendation; and

---

<sup>4</sup> "Persons" could include the supervisor of the representative who made the recommendation, non-sales staff, or a third party service provider.



- (ii) it is the client's responsibility to ensure the suitability of the selected product;
- (b) Call-back for Clients of Non-Recommended Products who are SCs and clients of SRs to -
  - (i) confirm the client's decision not to accept the FA firm's recommendation;
  - (ii) check with the client on the reason for not accepting the recommendation and choosing to purchase a non-recommended product; and
  - (iii) confirm that the client understands that it is the client's responsibility to ensure the suitability of the selected product.

2.12. The checks for Clients of Non-Recommended Products would need to be completed before the effective date of the transaction.

**Clarification on when a client should be classified as a selected client**

2.13. MAS will require FA firms to ascertain a client's SC status and make a formal declaration that the assessment has been duly performed, before starting any sales and advisory process with a client. Accordingly, an FA firm must ascertain the following:

- (a) whether the client is under 62 years of age;
- (b) whether the client is proficient in spoken and written English, or in such other language in which -
  - (i) the sales and advisory process will be carried out; and
  - (ii) all documents provided to the client in that process will be written;
- (c) whether the client has at least GCE 'O' Level or 'N' Level certifications or equivalent academic qualifications.

If at least two of the above are answered in the negative, the client must be treated as an SC.

2.14. MAS will allow FA firms to choose not to classify the client as an SC where the FA firm has reasons to conclude that the client possesses adequate knowledge and experience in any class of investment products, and that the recommendation made by the FA firm is limited to such investment products. This assessment, including reasons, not to classify the client as an SC is to be documented in writing and the FA firm should review this as part of the documentation review under the pre-transaction checks. MAS recognises that in rare circumstances, some clients, through their extensive investment and work experience, may not need the safeguards designed for an SC. In such circumstances, FA firms may choose not to classify the client as an SC where they have assessed that a client possesses adequate investment or work experience in the specific class of investment product, such that the client may be deemed to have adequate knowledge of the investment product.



### Clarification on language proficiency of trusted individual

2.15. MAS will require FA firms to ask that SCs have a TI present during the sales and advisory process. MAS is prepared to allow a TI to be proficient in a language other than English, where the representative also provides financial advisory services to the client in that language and all sales documentation provided to the client is written in that language.

Question 1. MAS seeks comments on the revised FAA-N16 (Annex B). Please also provide the proposed drafting in your feedback.

Question 2: MAS seeks comments on the alternative approach to conduct call-backs as set out in paragraph 2.9, in place of the proposed requirements in paragraphs 41S(b) and 41S(c) of the revised FAA-N16.

Question 3: MAS seeks comments on the proposal for checks to be performed when clients transact in non-recommended products as set out in paragraphs 2.11 and 2.12.

### **3. Proposed Amendments to the Notice on Requirements for the Remuneration Framework for Representatives and Supervisors (“Balanced Scorecard Framework”) and Independent Sales Audit Unit [“FAA-N20”]**

3.1. MAS is making amendments to FAA-N20 to update the scope of post-transaction checks performed by the Independent Sales Audit (“ISA”) unit. As pre-transaction call-backs must be recorded under the revised FAA-N16, the ISA unit will be required to perform a review of the recordings (or a summary document where the call-back is not recorded) under FAA-N20. The revised FAA-N20 can be found under **Annex C**.

3.2. For clarity, there is no change to the scope of transactions subject to FAA-N20 and its corresponding guidelines, FAA-G14. FAA-N20 and FAA-G14 will continue to apply when clients are provided with financial advice and transact in products in accordance with the recommendations of FA firms. Transactions for which no financial advice or recommendation is provided are not subject to FAA-N20 or FAA-G14.

Question 4. MAS seeks comments on the revised FAA-N20 (Annex C). Please also provide the proposed drafting in your feedback.





#### 4. Proposed Amendments to the Guidelines on the Remuneration Framework for Representatives and Supervisors (“Balanced Scorecard Framework”), Reference Checks and Pre-Transaction Checks [“FAA-G14”]

4.1. MAS is making amendments to FAA-G14 to:

- (a) remove the existing guidance on pre-transaction checks as these have been moved to FAA-N16; and
- (b) update the guidance on documentation reviews, which are performed as part of the post-transaction checks. The documentation reviews are expected to cover the following:
  - (i) whether the representative had ascertained and documented if a client was an SC; and
  - (ii) whether the supervisor had performed the call-backs to SCs and clients of SRs in accordance with the requirements on call-backs under FAA-N16.

4.2. The revised FAA-G14 can be found under **Annex D**.

Question 5. MAS seeks comments on the revised FAA-G14 (Annex D). Please also provide the proposed drafting in your feedback.

#### 5. Transitional period

5.1. MAS has considered the feedback for a longer transitional time as FA firms will need to make changes to their internal processes and systems. As such, MAS will provide a transitional period of 9 months from the effective date of the amended Notices and Guidelines. MAS encourages the industry to start early preparations to implement the revised measures.



## **Annex A – List of Questions**

Question 1. MAS seeks comments on the revised FAA-N16 (Annex B). Please also provide the proposed drafting in your feedback.

Question 2. MAS seeks comments on the alternative approach to conduct call-backs as set out in paragraph 2.9, in place of the proposed requirements in paragraphs 41S(b) and 41S(c) of the revised FAA-N16.

Question 3. MAS seeks comments on the proposal for checks to be performed when clients transact in non-recommended products as set out in paragraphs 2.11 and 2.12.

Question 4: MAS seeks comments on the revised FAA-N20 (Annex C). Please also provide the proposed drafting in your feedback.

Question 5. MAS seeks comments on the revised FAA-G14 (Annex D). Please also provide the proposed drafting in your feedback.