Monetary Authority of Singapore
10 Shenton Way MAS Building Singapore 079117 Telephone: (65) 6225 5577 Facsimile: (65) 6229 9229

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To: Chief Executive Officers
[All Licensed Financial Advisers and Exempt Financial Advisers]

Dear Sir/Madam

**CLARIFICATION OF MAS' POLICY INTENT IN RESPECT OF PERSONS DEEMED AS 'SUPERVISORS'**

**Background**

MAS has received some enquiries regarding the definition of 'supervisor' set out in section 2 of the Financial Advisers Act 2001 (FAA), following MAS' findings that a few financial advisers (FAs) had failed to comply with the applicable regulatory requirements. In particular, some FAs did not consider certain persons as 'supervisors' even though they were responsible for overseeing the conduct and performance of representatives or another supervisor. As a result, these persons had not been subject to the requirements under the Balanced Scorecard (BSC) and spreading and capping of commissions (SCC) frameworks by their FA firms. In their implementation of the BSC framework, some FAs also did not comply with the requirements set out under section 47 of the FAA and MAS Notice FAA-N20[1] regarding remuneration paid to representatives and their supervisors.

2 This circular sets out the following:

a) definition of 'supervisor' and MAS' policy intent with regard to the remuneration-related requirements under the BSC framework;
b) factors to consider when determining whether a person is a 'supervisor' and non-exhaustive examples of acts of supervision; and
c) clarification on the remuneration-related requirements under the BSC framework.

**Persons deemed as 'supervisors'**

3 Supervisors play important roles in coaching, guiding and monitoring the conduct of their representatives in providing recommendations to their clients. Under section 2 of the FAA, a 'supervisor' means any person who (a) is in the direct employment of, is acting for, or has an arrangement with the financial adviser; and (b) is responsible, whether directly or indirectly, for the

[1] Notice on Requirements for the Remuneration Framework for Representatives and Supervisors and Independent Sales Audit.

supervision[2] or management[3] of the conduct[4] and performance[5] of any representative of the financial adviser or another supervisor. Following MAS' implementation of the FAIR recommendations, FAs are required to subject their supervisors' remuneration to the requirements under the BSC[6] and SCC[7] frameworks.

**Factors to consider when determining whether a person is a 'supervisor'**

4 Having regard to the definition of 'supervisor' in the FAA and the ordinary meaning of 'supervision', 'management', 'conduct' and 'performance', we have set out in the Annex, a non-exhaustive list of the roles and responsibilities that a typical supervisor may perform. These include:

a) Overseeing specific representatives' sales and advisory processes;
b) Reviewing and/or monitoring specific representatives' adherence to the company's internal policies, procedures, and regulatory requirements, as well as its training, competency and compliance standards;
c) Setting, reviewing and/or monitoring targets relating to specific representatives' sales and/or recruitment for specific agency units/branches with a view to growing sales and/or the agency force; and
d) Making decisions or being involved in the decision-making process for promoting and/or terminating specific representatives and/or supervisors.

5 As is evident from the phrase 'directly[8] or indirectly[9]' in section 2 of the FAA, a 'supervisor' is not limited to being the immediate supervisor of a representative (in terms of reporting line). In determining whether an individual should be considered a 'supervisor', FAs will need to assess the activities performed by the individual and consider if the acts of 'supervision' or 'management' carried out by the individual are significant or material. Relevant factors include (but are not limited to) how much control, impact or influence the individual has, whether directly or indirectly, over the conduct and performance of representatives or another supervisor; whether the acts of supervision are a primary or significant objective or responsibility of the individual's position; and the proportion of time spent on such acts of supervision.

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[2] 'Supervision' refers to the act(s) of or being involved in overseeing the conduct and performance of the representative/another supervisor.

[3] 'Management' refers to the act(s) of or being involved in directing and/or controlling the conduct and performance of the representative/ another supervisor.

[4] 'Conduct' includes the representative's or another supervisor's behaviour in the lead-up to a sale of an investment product (whether or not a sale is concluded) and after sales services.

[5] 'Performance' refers to the representative's or another supervisor's achievement of sales and non-sales targets.

[6] Under the BSC framework, the supervisors' and representatives' variable income are determined with reference to the fulfilment of non-sales key performance indicators (KPIs).

[7] Under the SCC framework, FAs are required to cap the variable income payable to representatives and supervisors in the first year and spread the remaining variable income payable over a prescribed period.

[8] 'Directly' refers to the situation where a supervisor (e.g. Tier 2) exercises direct supervision over the representative (e.g. Tier 1).

[9] 'Indirectly' refers to the situation where a supervisor (e.g. Tier 3) does not exercise direct supervision over the representative (e.g. Tier 1), but does so through supervising the representative's supervisor (e.g. Tier 2)

6 The responsibilities of such individuals may differ from firm to firm and the determination of whether an individual is a 'supervisor' under section 2 of the FAA will depend on the facts and circumstances of the given case, taking into account the considerations set out in this circular. For instance, applying the guidance set out in paragraphs 4 and 5 above, Chief Executive Officers (CEOs) would typically not be deemed as 'supervisors' because they perform primarily strategic functions[10]. Individuals in corporate functions (i.e. compliance, human resources, learning and development) would also typically not be considered 'supervisors' even though some aspects of their job scope and activities may overlap with those performed by 'supervisors'.

**Remuneration-related requirements under the BSC framework**

7 MAS' requirements relating to the remuneration of representatives and supervisors are set out in section 47 of the FAA and MAS Notice FAA-N20. Based on the definition of 'variable income' set out in paragraph 2 of MAS Notice FAA-N20, remuneration paid or payable to a representative or supervisor that varies and is directly dependent[11], wholly or partly[12], on any of the variables set out in the definition, has to be captured under the BSC framework. While MAS does not prescribe specifically the types of remuneration caught under the definition of 'variable income', given the wide range of remuneration arrangements and terminologies used in the industry, FAs have to subject all remuneration payments which are in any way tied to the variables set out in MAS Notice FAA-N20 to the BSC framework. For example, bonuses (e.g. those related to recruitment incentives and tactical campaigns), administrative subsidies[13] and business allowances that are derived based on a percentage of the representatives' sales volume are deemed as 'variable income' and must be subject to the requirements under the BSC framework.

8 Nonetheless, where payments are made to meet expenses incurred, these will not be caught as 'variable income' and thus not captured under the BSC framework. There should be supporting documentation (e.g., invoices) that the payments are indeed used for expenses (e.g. used to defray rental or business expenses). Payments for expenses may be given in advance provided there is supporting documentation that the expense is to be incurred at a later date and the expense is subsequently incurred.

[10] Some of these strategic functions include overseeing the overall operations and resources of the company; increasing market share and competitiveness, locally and/or regionally; as well as developing new customer propositions and mix of products.
[11] 'Directly dependent' refers to whether there is a correlation between the remuneration and any of the components set out in the definition of 'variable income'.
[12] Whether the remuneration is 'wholly' directly dependent or 'partly' directly dependent refers to whether the remuneration is calculated by reference to variables or adjustments other than those set out in the definition of 'variable income'.
[13] This refers to remuneration provided to leaders to subsidise the cost of hiring support staff where the computation of the amount provided is tied to sales volume.

**Controls and Reviews**

9 FAs and their boards and senior management should institute proper controls and processes to comply with the requirements relating to supervisors and remuneration. MAS may conduct thematic reviews and engage FAs on a supervisory basis, which may include requesting for documentation of compliance with the requirements.

Yours faithfully

KOH HONG ENG
EXECUTIVE DIRECTOR
FINANCIAL ADVISERS SUPERVISION DEPARTMENT

**ANNEX**

**Examples of acts of supervision and management of the conduct and performance[14] of representatives or another supervisor**

a) Overseeing specific representatives' sales and advisory processes. This includes checking and endorsing representatives' product recommendations, and/or reviewing marketing materials produced by them prior to submission to Compliance for approval.

b) Reviewing and/or monitoring specific representatives' adherence to the company's internal policies, procedures, and regulatory requirements, as well as its training, competency and compliance standards. This may also include reviewing and/or monitoring sales quality standards (e.g. customer complaints and/or persistency ratios) and/or taking remedial actions to improve representatives' sales quality standards and/or conduct. These actions may take the form of providing advice, guidance, coaching, sharing of soft skills and experience on how to overcome difficulties and obstacles in work, and conducting joint-sales and/or re-training, when necessary. In addition, this may entail responding to inquiries from Compliance on the representatives' market conduct issues, service lapses and/or complaints.

c) Setting, reviewing and/or monitoring targets relating to specific representatives' sales and/or recruitment for specific agency units/branches with a view to growing sales and/or the agency force. This includes taking actions with the aim of helping specific representatives achieve sales targets by providing them with advice, guidance, coaching, and sharing of sales and marketing tactics. This may also entail providing advice, guidance or feedback to the company and/or designing, developing and implementing strategies on how the sales targets can be met for specific representatives or agency units/branches, such as approving the use of business budget for sales and marketing activities to boost sales production.

d) Making decisions or being involved in the decision-making process for promoting and/or terminating specific representatives and/or supervisors. This includes recommending candidates for promotion and/or termination, motivating and influencing specific representatives and/or agency units/branches with the intention to provide opportunities for career progression, providing comments on the candidates, and approving recommendations or appeals for promotion and/or termination.

[14] The examples are meant to guide FAs in their assessments and are not exhaustive.