

**RESPONSE TO
FEEDBACK RECEIVED**

14 May 2021

**Public Consultation on
Revisions to Misconduct
Reporting Requirements and
Proposals to Mandate
Reference Checks for
Representatives**

MAS

Monetary Authority of Singapore

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1 Preface

1.1 On 6 July 2018, MAS issued a consultation paper to seek feedback on proposed revisions to the misconduct reporting requirements and proposals to mandate reference checks for representatives and broking staff (henceforth collectively referred to as “representatives”¹) conducting regulated activities under the Securities and Futures Act (“SFA”), Financial Advisers Act (“FAA”) and Insurance Act (“IA”).

1.2 The consultation closed on 6 August 2018, and MAS would like to thank all respondents for their comments. The list of respondents is set out in Annex 3, and the full submissions are provided in Annex 4.

1.3 This document sets out the feedback received on the proposals and MAS’ responses to the feedback. On 14 May 2021, MAS issued a consultation paper² to seek feedback on the proposal to extend reference checks to other classes of individuals working in the financial industry. Where relevant, MAS will also take into consideration feedback received from this consultation dated 14 May 2021 when implementing the reference check requirements mentioned in this document. This is to ensure that the reference check requirements for both groups of individuals are aligned, where appropriate.

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

² <https://www.mas.gov.sg/-/media/MAS/News-and-Publications/Consultation-Papers/2021-Mandate-Reference-Checks/Consultation-on-Proposals-to-Mandate-Reference-Checks.pdf>

2 Scope to include Registered Fund Management Companies

2.1 Respondents were supportive of the proposal to apply the misconduct reporting requirements to Registered Fund Management Companies (“RFMCs”). One respondent requested MAS to clarify the intention behind the proposed extension of scope, given that RFMCs are already required to comply with fit and proper requirements³.

MAS’ Response

2.2 MAS will proceed with the proposal to apply the misconduct reporting requirements to RFMCs. The misconduct reporting requirements will complement the fit and proper requirements on RFMCs and their representatives. RFMCs will now have clarity in the information and details that they would be expected to provide to MAS when they uncover incidents or misconduct which could impact their representatives’ fitness and propriety.

3 Revisions to the categories of reportable misconduct

3.1 MAS consulted on the proposal to revise the categories of misconduct set out in the respective Notices⁴ under the SFA, FAA, and IA (collectively referred to as “Misconduct Notices”), to provide greater clarity on the intended types of misconduct that should be reported to MAS and to reduce overlap between the different categories of misconduct. The following sections set out MAS’ response to the feedback received on each misconduct category.

Revision to the category on “Acts relating to market conduct provisions under Part XII of the SFA (e.g. prohibited conduct or insider trading as set out in Part XII of the SFA)” under the SFA

3.2 MAS proposed to cite more examples to provide greater clarity on the intended acts that should be reported to MAS under this category. The revision is aligned with the

³ RFMCs are required to satisfy MAS that their shareholders, directors and representatives, as well as the RFMC itself, are fit and proper, in accordance with the Guidelines on Fit and Proper Criteria issued by MAS and pursuant to regulation 14A(2)(b) of the Securities and Futures (Licensing and Conduct of Business) Regulations.

⁴ These Notices are (a) Notice on Reporting of Misconduct of Representatives by Holders of Capital Markets Services Licence and Exempt Financial Institutions (Notice SFA 04-N11); (b) Notice on Reporting of Misconduct of Representatives by Financial Advisers (Notice FAA-N14); and (c) Notice on Reporting of Misconduct of Broking Staff by Insurance Brokers (Notice MAS 504).

expansion of market conduct provisions under Part XII of the SFA to prohibit the manipulation of any financial benchmark.

MAS' Response

3.3 MAS did not receive any objection to this proposal, and will proceed with the revision.

Revision to the category on “Acts involving inappropriate advice, misrepresentation, or inadequate disclosure of information” under the FAA

3.4 MAS proposed to revise this category with the revisions (highlighted in bold) set out in Table 1, to provide greater clarity on the intended acts that should be reported to MAS. These revisions are consistent with the classification of Category 1 infractions under the Notice on Requirements for the Remuneration Framework for Representatives and Supervisors (“Balanced Scorecard Framework”) and Independent Sales Audit Unit.

Table 1: Revised reportable category under the FAA

Acts involving inappropriate advice or recommendation , misrepresentation, gross negligence , or inadequate disclosure of information which have material adverse impact on the interests of the client or impinges on the fitness and propriety of the representative

3.5 A group of respondents sought clarifications on whether “gross negligence” is circumscribed to situations where the representative is conducting regulated activity. Some respondents wanted more guidance on how to assess “gross negligence” and “material adverse impact on the interests of the client”. A few respondents sought clarity on whether all misconduct filed under this category should also be assessed as Category 1 infractions under the balanced scorecard framework, and vice versa. Where the Category 1 infraction is reportable, respondents asked whether Financial Institutions (“FIs”) would need to undertake a formal investigation, given that the infractions would have already been subject to review by an independent post sales audit unit.

MAS' Response

3.6 MAS will proceed to revise this reportable category as proposed. This category, including acts that constitute “gross negligence”, will be circumscribed to misconduct committed by representatives while performing regulated activities under the FAA. FIs should refer to the Guidelines on the Remuneration Framework for Representatives and

Supervisors (“Balanced Scorecard Framework”), Reference Checks and Pre-transaction Checks which set out examples of Category 1 infractions. These examples would also constitute acts that are captured in this reportable category.

3.7 The terms, “gross negligence” and “material adverse impact on the interests of the client”, are not new. Under the balanced scorecard framework, FIs are already required to review the quality of their representatives’ financial advisory services to identify instances of infractions that are due to gross negligence or which result in material impact on the interests of the clients. We have provided in Table 2 guidance on factors (non-exhaustive) to be considered in the assessment of “gross negligence” and “material adverse impact on the interests of the client”.

Table 2: Factors (non-exhaustive) to consider in assessing “gross negligence” and “material adverse impact on interest of client”

<p>In assessing “gross negligence”, factors to consider include:</p> <ul style="list-style-type: none"> • whether the act was reckless or was conducted without reasonable care; • whether it was a repeated act 	<p>In assessing “material adverse impact on the interests of the client”, factors to consider include:</p> <ul style="list-style-type: none"> • actual or potential monetary loss to clients; • actual or potential number of clients impacted; • profile of clients impacted; • duration of the misconduct
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3.8 Given that the revised category is consistent with the classification of Category 1 infractions under the balanced scorecard framework, MAS expects that misconduct reported under this category would be assessed as Category 1 infraction under the balanced scorecard framework.

No change to the category on “Acts involving failure to exercise due care and diligence, misrepresentation, or inadequate disclosure of information” under the IA

3.9 MAS did not propose any changes to this category. Nonetheless, several respondents highlighted that the scope of reportable misconduct under this category is

not consistent with the equivalent category under the FAA, and suggested aligning both categories.

MAS' Response

3.10 MAS agrees with the feedback received and will revise this category with the revisions (highlighted in bold) set out in Table 3.

Table 3: Revised reportable category under the IA

Acts involving inappropriate advice or recommendation , misrepresentation, gross negligence , or inadequate disclosure of information which have material adverse impact on the interests of the client or impinges on the fitness and propriety of the broking staff
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Removal of the reportable categories on “Failure to satisfy the Guidelines on Fit and Proper Criteria” and “Other misconduct resulting in (i) a non-compliance with any regulatory requirement relating to the provision of any regulated activity”

3.11 MAS proposed to remove this category to reduce overlap with other reportable categories. This is because reportable misconduct under other categories could also impinge on the fitness and propriety of representatives or result in non-compliance with regulatory requirements.

3.12 There were mixed views on this proposal. Some respondents were supportive while others felt that not all non-compliance with the fit and proper criteria in the Guidelines on Fit and Proper Criteria (“Fit and Proper Guidelines”) were captured in the revised reportable scope. One respondent highlighted the inconsistency between the removal of this category and broader reporting obligations imposed on FIs via licence conditions, given that the latter requires FIs to report to MAS matters affecting the fitness and propriety of their officers and representatives.

MAS' Response

3.13 MAS will proceed with the proposal to remove these categories. The Fit and Proper Guidelines set out factors that FIs should take into consideration in their assessment of an individual’s fitness and propriety. As mentioned in the Fit and Proper Guidelines, the inability of an individual to meet a specific criterion (e.g. an individual who is a director of a business that has gone into insolvency) does not automatically render him not fit and proper to conduct regulated activities under the SFA, FAA, or IA. FIs should

not adopt a check-box approach and automatically file a misconduct report for every representative who is not able to meet any single factor mentioned in the Fit and Proper Guidelines or is not able to comply with certain regulatory requirements. FIs will need to holistically consider the facts and circumstances of the act committed by the representative, and determine if it constitutes a misconduct that falls within one of the reportable categories. This is also applicable for regulatory breaches by representatives.

3.14 Representatives are currently required to notify MAS where they become aware of any investigation or disciplinary actions taken on them under their representatives' notification conditions. In practice, representatives provide such notifications to MAS through their principal firms. To align the notification conditions with current practice and FIs' reporting obligations to MAS, MAS will revise the representative notification condition for representatives to notify their principal firms, instead of MAS, of adverse information on themselves. As the onus is on FIs to ensure that their representatives are fit and proper on an ongoing basis, FIs are expected to review these notifications by their representatives, including assessing whether to inform MAS via misconduct reporting and whether the individual remains fit and proper.

3.15 Respondents have also provided feedback that FIs' reporting obligations under their licence conditions are not fully aligned with their reporting obligations for representatives' misconduct. MAS will be undertaking a separate review with a view to rationalise any inconsistency.

3.16 To provide guidance to the industry, MAS has set out non-exhaustive examples of reportable and non-reportable misconduct in [Annex 1](#).

Removal of the reportable category on “Other misconduct resulting in (ii) a serious breach of the FI’s internal policy or code of conduct which would render the representatives liable to demotion, suspension or termination of the representative’s employment or arrangement with the FI”

3.17 MAS proposed to remove this category as the reporting of breaches of FIs' internal policies and procedures could unfairly penalise representatives of FIs with more stringent standards.

3.18 There were mixed views on this proposal. Some respondents were supportive of the removal while others felt that some acts which constituted a serious breach of an FI's internal policy were not included in the revised categories.

3.19 Some respondents also suggested retaining this category but putting in place a materiality threshold wherein reporting is circumscribed to acts that are egregious in nature.

MAS' Response

3.20 MAS will proceed with the proposal to remove this category. It is MAS' intention for acts, which have elements of dishonesty, as well as harm to clients and to the financial industry, to be reportable. For all other misconduct, FIs are expected to assess accordingly and put in place proper monitoring mechanisms and additional controls where applicable. This is aligned with MAS' expectation that the onus is on the FI to establish and certify that its representatives remain fit and proper to conduct regulated activities.

3.21 To provide guidance to the industry, MAS has set out non-exhaustive examples of reportable and non-reportable misconduct in [Annex 1](#), including misconduct cited by respondents that would result in breaches of an FI's internal policies.

Inclusion of new category "Acts involving illegal/improper monetary gains, or which may lead to erosion of trust in the financial system, such as money laundering"

3.22 MAS proposed this new category to capture acts that may render a representative unfit to conduct regulated activities, but do not fall under other categories. Examples of such acts include failing to exercise sufficient care, judgment, and objectivity in the monitoring and reporting of suspicious transactions, or being complicit, in relation to clients' money laundering or tax evasion offences.

3.23 Some respondents highlighted that the new category overlaps with the existing category which captures acts on fraud, dishonesty and other similar offences. A few respondents sought clarity on the interpretation of the new category. For instance, what is the definition of "improper" monetary gains which is not illegal and the materiality threshold to establish there is an "erosion of trust". Specific to tax evasion or money laundering offences, a few respondents also highlighted that FIs commonly report such acts as suspicious activities⁵, rather than conclusively determine the representative's culpability in the act. This is because it is often difficult for FIs to determine if a representative was complicit in relation to clients' money laundering or tax evasion

⁵ Under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act and the Terrorism (Suppression of Terrorism) Act.

offences, until an outcome is received from the relevant authority. Respondents also sought clarity on which notices⁶ such misconduct should be reported under.

MAS' Response

3.24 MAS acknowledges that there are overlaps between the new category and the existing category on fraud, dishonesty and other similar offences. MAS also recognises that it is practically challenging to determine whether an act has resulted in an “erosion of trust” given its subjective nature. Therefore, MAS will subsume this proposed category under the existing category on acts on fraud, dishonesty and other similar offences with the revisions (highlighted in bold) set out in Table 4:

Table 4: Revised category related to fraud, dishonesty and other similar offences

Acts involving fraud, dishonesty, illegal monetary gains , or other offences of a similar nature (e.g. cheating, forgery, misappropriation of monies, criminal breach of trust, bribery, money laundering or tax evasion)
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3.25 This revised category is meant to capture any dishonest or fraudulent act which impinges on the representative’s professional integrity and ability to carry out his regulated activities under the SFA, FAA and IA. For avoidance of doubt, it is not MAS’ intention to capture acts by individuals which are carried out in their personal capacity, did not result in any client detriment, and which are unlikely to undermine the representative’s professional integrity and ability to conduct regulated activities. Examples of such acts are traffic-related offences. Nonetheless, for such acts, representatives are expected to declare them to their current or prospective FIs. The FIs are required to assess if the individual would nevertheless be considered fit and proper to be a representative. We have similarly set out non-exhaustive examples of reportable and non-reportable misconduct under this category in [Annex 1](#).

3.26 On acts relating to tax evasion or money laundering, MAS acknowledges the challenge faced by FIs in determining whether a representative was complicit in relation to a client’s money laundering or tax evasion offences. Therefore, where the FI has reasonable grounds to believe that a misconduct has been committed, it should factually state so in its reporting to MAS, notwithstanding that it is not able to conclusively

⁶ These refer to the Misconduct Notices, and the notices regarding the reporting of suspicious activities and incidents of fraud, under the respective MAS-administered Acts.

determine the representative's culpability. For the reporting of such acts, FIs have to comply with both the reporting requirements set out in the Misconduct Notices and the notices regarding the reporting of suspicious activities and incidents of fraud.

Feedback on all categories and MAS' response

3.27 Respondents had cited many specific misconduct examples and sought clarity on whether the specific acts were reportable. As there are many varying circumstances for each act, it is not MAS' intention, nor is it practicable, to provide an exhaustive list of reportable misconduct. In this regard, FIs should assess the act holistically and determine whether it constitutes a misconduct that falls within the reportable categories. FIs may use the following guiding principles, which are also factors that underpin the reportable categories, to determine whether an act is a misconduct that is reportable to MAS:

- (a) Actual and potential detriment to the client and/or the FI;
- (b) Actual and potential number of clients impacted;
- (c) Wilfulness of the representative;
- (d) Sufficiency of care and diligence exercised and whether the representative acted in the best interest of the client; and
- (e) Impact to the financial industry's reputation, integrity and interest.

3.28 To provide better guidance, we have set out some examples of reportable and non-reportable misconduct under [Annex 1](#).

4 Other related matters

Reporting timeline

4.1 Under the Misconduct Notices, FIs are required to lodge a report with MAS no later than 14 days after the discovery of a representative's misconduct. Several respondents sought clarity on how "discovery of the misconduct" should be interpreted. Respondents suggested that only substantiated misconduct should be reported as it would be unfair to the representative if a misconduct report was filed based on suspected misconduct while the investigation is ongoing given that the misconduct report could adversely affect the representative's future employment prospect.

MAS' Response

4.2 MAS recognises that reporting a misconduct on an individual for a suspected breach may prejudice individuals who may not have committed any wrongdoing. Therefore, MAS will specify in the revised Misconduct Notices that FIs are required to report a representative’s misconduct when there are reasonable grounds to believe that a misconduct has been committed. In other words, MAS expects FIs to have established, with reasonable certainty, that the representative has committed the misconduct before reporting the misconduct to MAS. This could take place in the course of investigations or at the conclusion of investigation of the case, depending on the facts and circumstances surrounding the case in question.

4.3 In conjunction with the revisions set out in paragraph 4.2, MAS will also extend the timeline for FIs to lodge a misconduct report with MAS. FIs will be required to lodge a misconduct report within 21 calendar days when the FI has reasonable grounds to believe that a misconduct has been committed. This balances the time FIs need to conduct investigations and the need for MAS to be notified of misconduct on a timely basis. We have provided in Table 5 the reporting timeline for misconduct report and updates to misconduct report.

Table 5: Reporting timeline

Event	Timeline
When FI has reasonable grounds to believe that a misconduct has been committed.	T-date
Deadline for FI to file a misconduct report with MAS. The misconduct report would typically be accompanied with an investigation report for cases where an investigation was conducted and concluded.	T+21 days
The occurrence of a significant development subsequent to FIs’ original submission, such as: <ul style="list-style-type: none"> • FI has lodged a police report on the misconduct • FI has completed its internal investigations on the misconduct • FI has decided on and meted out disciplinary action against the representative • There has been a change in disciplinary action taken against the representative, e.g. new investigation outcome following the receipt of new evidence or successful appeals by the representative • FI is made aware of the outcome of police investigations • FI has put in place new control measures to prevent recurrence of similar misconduct 	D-date

Deadline for FIs to update MAS (through lodgement of an update to the misconduct report, investigation report or update to investigation report, whichever is applicable)	D+21 days
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Misconduct uncovered through mystery shopping exercises

4.4 MAS clarified in the consultation paper that any misconduct identified through mystery shopping exercises (“MSE”), which falls within the reportable misconduct categories, should be reported to MAS. Some respondents commented that misconduct uncovered from MSE should not be reportable. The respondents viewed MSE as a self-assessment exercise and surveillance tool employed to improve their advisory and sales process with no bona fide transaction and hence, no real detriment to clients. In addition, infractions uncovered from MSE are already subject to claw back of variable remuneration under the balance scorecard framework.

MAS’ Response

4.5 MAS reiterates that any misconduct identified through MSE, which falls within the reportable misconduct categories, is required to be reported to MAS. The absence of an actual sale or actual consumer detriment does not nullify the wrongdoing committed by a representative. Whether a wrongdoing is reportable depends on the severity of the act and not the channel through which the misconduct is uncovered. FIs will need to holistically consider the facts and circumstances of each MSE finding and determine whether the finding falls within the reportable misconduct categories and report the misconduct to MAS accordingly.

Acts relating to the investigation of a representative’s conduct by foreign authorities

4.6 One respondent sought clarity on MAS’ expectation for FIs to report matters relating to the investigation of a representative’s conduct by foreign regulators/authorities, for instance, where a representative is being investigated for his conduct in his regional or global capacity. The respondent commented that FIs could be prohibited from making such a disclosure by other regulators/authorities.

MAS’ Response

4.7 MAS would like to clarify that a representative's misconduct, committed in Singapore or overseas, has a direct bearing on the representative's fitness and propriety to conduct regulated activities in Singapore and hence, should be reported to MAS. FIs are required to file misconduct reports for acts that fall within the reportable scope, to the extent that they are not explicitly prohibited by foreign regulatory or enforcement agencies from doing so.

Reporting of misconduct relating to long-term accident and health insurance

4.8 Currently, the misconduct reporting requirements on the distribution of long-term accident and health ("A&H") products apply to registered insurance brokers and exempt insurance brokers. As such, improper sales or advice on long-term A&H products by representatives of financial advisory ("FA") firms that are not exempt insurance brokers are technically not caught within the scope of the current misconduct reporting requirements. Nonetheless, many of such FA representatives provide advice on both long-term A&H products and investment products such as life policies governed under the FAA. Hence, in practice, FA firms have been reporting misconduct relating to long-term A&H to MAS.

4.9 As improper sales or advice on long-term A&H could result in material adverse impact on a client's interest, MAS' intent is for FIs to report to MAS misconduct committed by representatives advising on long-term A&H products regardless of the type of FI the representative is appointed with. MAS will therefore issue misconduct reporting requirements under the IA to require the reporting of misconduct committed by FA representatives advising on long-term A&H products. Meanwhile, FA firms should continue their current practice of reporting misconduct committed by their representatives in the advisory and sales process for long-term A&H products.

5 FIs to notify representatives when they are under investigation

5.1 FIs are expected to obtain written self-declarations from their proposed representatives to assess whether they are fit and proper to conduct regulated activities⁷. However, MAS has observed instances when representatives were unaware that they were under investigation by their former FIs. Consequently, representatives were unable

⁷ MAS' expectations on representatives' fit and proper declaration are set out in the Circular on Due Diligence Checks and Documentation in Respect of the Appointment of Appointed, Provisional and Temporary Representatives.

to make accurate declarations about their compliance records, including ongoing investigations conducted by their past employers, when applying to join a new FI. Recruiting FIs were thus unable to make a proper assessment of the representative's fitness and propriety. Several respondents were supportive of the proposal for FIs to inform representatives when they are under investigation. They commented that they have existing processes in place to inform representatives or involve them in the investigation process.

5.2 MAS also received extensive feedback from respondents who sought guidance on the scope of the requirement. In the consultation paper, MAS clarified that FIs would not be required to inform representatives that they are under investigation if this would tip-off the representative or compromise the quality of the FI's investigation. MAS provided examples of such investigations⁸. Two respondents sought clarification if the list of examples provided was exhaustive and whether FIs are required to notify representatives for all other types of investigations that are not found within the list of examples provided. A respondent also queried if the requirement to notify representatives was circumscribed to investigations relating to misconduct which may lead to a misconduct report being filed with MAS.

5.3 Some respondents expressed concerns that disclosure to representatives that they are under investigation would tip them off. For instance, there might be risk of representatives tampering with crucial evidence after they are informed of the investigation, resulting in the investigation being compromised. FIs may also not be apprised of investigations conducted by law enforcement authorities. The respondents sought clarification on whether FIs are required to seek clearance from law enforcement agencies before notifying representatives that they are under investigation. The respondents requested MAS to provide guidance so that FIs can effectively assess if it would be appropriate to notify representatives when they are under investigation.

5.4 A few respondents shared that FIs may conduct an initial fact-finding inquiry to establish if it is necessary to commence an investigation to verify allegations levelled against the representative. They queried if FIs are required to notify representatives when conducting such an inquiry. These respondents commented that it would be premature to notify representatives during an inquiry as it could compromise the ability of FIs to

⁸ Examples of such investigations include misconduct relating to money laundering, finance of terrorism or other offences that may require lodgement of Suspicious Transaction Reports under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act and the Terrorism (Suppression of Financing) Act.

gather evidence and influence representatives' responses when they are being interviewed subsequently. The respondents also highlighted that the inquiry may conclude that the allegations lack merit. In this regard, it would be unnecessary to proceed with an investigation. As such, they felt that notifying representatives when an initial inquiry has commenced would not be useful.

5.5 Some respondents provided feedback on the appropriate timing to notify representatives of the investigation being conducted on them. In view of tip-off risks, one respondent suggested that representatives should be informed only after the conclusion of an investigation. On the other hand, other respondents were of the view that it would not be appropriate to prescribe a standard timing as circumstances of investigations may differ. They commented that FIs should have the discretion to determine an appropriate timing to notify representatives on a case-by-case basis.

5.6 Two respondents queried if FIs are required to notify representatives in the event that the investigation concluded that there was no wrongdoing committed by the representatives.

5.7 There was also feedback from two respondents who suggested to circumscribe the requirement to notify only representatives who are leaving the FI. The respondents were of the view that it would not be necessary to notify existing representatives who are still appointed with the FI, as they would be informed about the outcome of the investigations if there were adverse findings. The respondents also proposed for FIs to have the latitude to decide whether to notify existing representatives that they are under investigation.

5.8 Two respondents sought guidance from MAS on the mode of notification to inform representatives that they are under investigation. In addition, several respondents highlighted potential challenges to notify former representatives, as FIs may not have their updated contact details or if they are uncontactable. The respondents sought clarification on MAS' expectations for FIs to demonstrate that they have made reasonable efforts to contact their former representatives. In view of the potential challenges in contacting former representatives, one respondent was of the view that FIs should not be required to notify such representatives when they are under investigation.

MAS' Response

5.9 MAS acknowledges that complexity of investigations can differ and the appropriate timing to notify representatives may vary from case to case. For instance, in certain investigations, FIs may prefer to gather evidence and establish the veracity of the allegations prior to requesting for the representative's assistance in the investigation.

MAS agrees that notifying representatives at the initial stage of the fact-finding process may compromise the investigation and tip-off the representative if the investigation has not proceeded to a stage where the FI is ready to interview the representative or share the outcome of the investigation with the representative. MAS also recognises that there may be challenges for FIs to assess the risks of tip-off, particularly if the investigation is conducted by external parties, such as foreign regulators or law enforcement agencies. The FIs may also not be fully aware of such external investigations.

5.10 In view of the above considerations, MAS will not proceed with the proposal to mandate FIs to notify representatives when they are under investigation. Notwithstanding, FIs which have existing processes to inform representatives when they are under investigation, should continue to do so.

6 FIs to provide their representatives with misconduct reports filed with MAS, including subsequent updates to the misconduct report

6.1 MAS has observed that some FIs do not inform affected representatives that they have lodged a misconduct report with MAS, particularly when the representatives concerned have left the FI. This has resulted in such representatives not being able to make accurate declarations to their prospective FIs. This has, in turn, impeded the ability of the recruiting FI to make an accurate assessment of the prospective representative's fitness and propriety to conduct regulated activities.

6.2 MAS received mixed feedback on the proposed requirement for FIs to provide representatives with a copy of the misconduct report filed with MAS (as well as subsequent updates provided to MAS). While some respondents supported the proposed requirement, several respondents disagreed with the proposal for varying reasons. Some of the respondents shared that they have processes in place to inform representatives if they were found to be in non-compliance with MAS' regulatory requirement or the FI's internal policy or code of conduct. Based on the feedback provided by the respondents, FIs have different ways of informing their representatives, ranging from verbal communication, emails to letters conveying the outcome of their investigations or disciplinary actions to be meted out against the representative.

6.3 Some respondents commented that misconduct reports may contain confidential or sensitive information relating to the investigation and personal data pertaining to clients and representatives. As such, they expressed concerns that FIs could be exposed to litigation risk arising from data privacy breaches if the misconduct report was accessed by unauthorised third parties. They were also of the view that the representatives concerned could challenge the information in the misconduct report and

file lawsuits against the filing FI. One respondent highlighted that in instances where FIs had sought legal advice on alleged misconduct committed by representatives, the disclosure of confidential information to a third party could cause the FI to lose legal privileges on the information. In view of the legal risks, a few respondents suggested for FIs to provide representatives with only a summarised version of the misconduct report. Another respondent proposed to notify representatives that a misconduct report was filed against them without extending a copy of the misconduct report filed with MAS. One respondent sought confirmation that FIs are not required to provide investigation reports to representatives.

6.4 Some respondents provided feedback on instances where they felt that FIs should not be required to provide representatives with a copy of the misconduct report filed with MAS. For instance, if the representative did not assist in the investigation, such as agreeing to be interviewed, or if the allegations were unsubstantiated. In the consultation paper, MAS indicated that FIs will not be required to provide representatives with the misconduct report if this would tip-off the representative or compromise the quality of the FI's investigation. One respondent commented that some investigations may be conducted by external parties (such as law enforcement agencies). For such investigations where FIs may not have the full facts of the investigation, they may be unable to determine if providing misconduct reports to representatives would compromise the investigation.

6.5 Several respondents commented that FIs may not be able to reach their former representatives to provide them with a copy of the misconduct report, if they have changed their contact details without informing their former FIs. They sought clarification on MAS' expectations on FIs' responsibilities in contacting their former representations, or obligations to ensure receipt of misconduct reports by representatives.

6.6 Two respondents sought clarification on the timeline to provide a copy of the misconduct report to representatives. One respondent observed that FIs may lodge misconduct reports with MAS whilst investigations are ongoing and the representatives may not have been informed about the investigation. As the misconduct reports contain information on the allegation, there could be tip-off risks if a copy of the misconduct report was provided to the representative. The respondent asked if FIs could extend a copy of the misconduct report to representatives after the investigation is completed. Another respondent queried if MAS would allow FIs a longer period to contact their former representatives to provide them with a copy of the misconduct report.

6.7 Two respondents sought clarification on updates to be provided to representatives. One respondent commented that there could be instances where

investigations could take years to conclude, which may result in multiple updates to the misconduct report filed with MAS. The respondent asked if MAS would set a restriction on the time period of such updates to be provided to representatives. Another respondent was of the view that only material updates to the misconduct report should be provided to the representative.

6.8 Some respondents commented that representatives may choose not to disclose to recruiting FIs misconduct reports that were filed against them. As such, they suggested for the filing FI to provide a copy of the misconduct report to the recruiting FI directly, instead of extending it to the representative. Respondents also suggested that MAS provides the information bilaterally to recruiting FIs or administers a common utility for recruiting FIs to access misconduct reports filed against representatives.

MAS' Response

6.9 While FIs may inform their representatives of the outcome of investigations or the disciplinary actions meted out against them, MAS is of the view that where FIs lodge misconduct reports with MAS, the representatives concerned should also have a copy of the misconduct report that were filed against them for information symmetry. MAS will proceed with the proposal to make it mandatory for FIs to provide representatives with a copy of the misconduct report filed with MAS within 21 calendar days from the date of submission of the misconduct report to MAS. When FIs subsequently lodge an update on the misconduct report ("Update Report") with MAS, they are also required to provide a copy of the Update Report to representatives within 21 calendar days from the date of submission of the Update Report to MAS.

6.10 MAS expects FIs to take reasonable steps to contact their former representatives to provide them with a copy of the misconduct report. However, FIs will not be required to extend a copy of the misconduct report to their former representatives, if they cannot be contacted using their last known contact details. MAS is of the view that 21 calendar days is a reasonable timeline for FIs to contact their former representatives. It is also aligned with the timeline for FIs to lodge a misconduct report with MAS.

6.11 As mentioned in the consultation paper, FIs should ensure that the misconduct report does not contain any confidential client information. In addition, details of the investigation should be set out in a separate investigation report submitted to MAS, and need not be provided to the representative concerned.

6.12 As set out in paragraph 4.2, MAS will require FIs to report a representative's misconduct when FIs have reasonable grounds to believe that the representative had committed a misconduct. MAS expects that FIs would have conducted investigations to

gather facts and documentary evidence as well as interviews with relevant parties (including the representative concerned, where appropriate). As such, MAS is of the view that the risks of tip-off arising from providing a copy of the misconduct report to the representatives are contained.

6.13 There have been suggestions for MAS to provide misconduct reports to recruiting FIs. After careful consideration, MAS does not consider it appropriate to provide misconduct reports to recruiting FIs bilaterally or administer a utility for FIs to access misconduct reports. More details on MAS' views are set out in paragraph [11.5](#).

7 Representatives to provide their current or recruiting FIs with any misconduct report that has been filed against them, including subsequent updates to the misconduct report

7.1 In line with the policy intent to enable FIs to make proper assessment of their current or prospective representatives' fitness and propriety, MAS proposed for representatives to provide their current or recruiting FIs with any misconduct report that has been filed against them, including Update Reports. MAS received mixed feedback on the proposal. Several respondents were supportive but a number of respondents suggested for filing FIs or MAS to provide a copy of the misconduct reports to the current or recruiting FIs. One respondent proposed that FIs request misconduct report updates from the previous FI in instances where investigation is still ongoing.

7.2 A few respondents asked if MAS would impose penalties on representatives who fail to disclose misconduct reports to the recruiting FIs or update the current FI, despite being aware of misconduct reports filed by previous FIs.

MAS' Response

7.3 MAS will proceed with the proposal to require representatives to provide their current or recruiting FIs with any misconduct report that has been filed against them, including subsequent updates to the misconduct report. On suggestions for MAS to provide the misconduct reports to the current or recruiting FIs, MAS is unable to do so as information obtained from our dealings with FIs is confidential.

7.4 As set out in MAS' responses in [Section 11](#), MAS will make it mandatory for FIs to conduct reference checks on representatives and to respond to reference check requests. Responding FIs are required to inform the recruiting FIs if they have lodged misconduct reports on the representative concerned, as well as provide relevant information on the misconduct. Coupled with the requirement for representatives to disclose misconduct

reports filed against them, FIs will have complete and relevant information to determine if representatives are fit and proper to conduct regulated activities.

7.5 MAS will not hesitate to take regulatory actions against representatives who breach our regulatory requirements, including those who intentionally conceal material information.

8 FIs to update MAS on the outcome of police investigations

8.1 FIs are currently required to lodge a police report and submit a copy of the police report to MAS when they have reasons to suspect that their representatives have committed any offence involving cheating, dishonesty, fraud, forgery, misappropriation of monies, or criminal breach of trust. To enable MAS to conduct timely assessment, we proposed to require FIs to update us no later than 14 days after they become aware of the outcome of police investigations.

8.2 Respondents were supportive of the proposal. The feedback provided was primarily on the operational aspects of the proposal such as the proposed timeline of 14 days. Several respondents expressed concerns regarding the extent of information they can obtain from criminal investigative agencies given the confidentiality of investigations, and the duration it may take for certain investigations to conclude. There were also requests for clarification on what constituted the outcome of police investigations.

MAS' Response

8.3 MAS will proceed with the proposal to require FIs to update MAS after they are aware of the outcome of police investigations. This will be circumscribed to cases that are reported to the police by the FIs. Given the nature of police investigations, FIs will not be expected to actively seek updates on the progress or outcome of the investigations.

8.4 We recognise that FIs would like time to review information they receive prior to submitting updates to MAS. Aligning with the timeline for FIs to lodge a misconduct report with MAS, FIs will be required to update MAS within 21 calendar days following the receipt of information from the police or other sources⁹ on the conclusion of the investigation and whether further action will be taken (such as the initiation of prosecution against the representative).

⁹ Such as in FIs' routine monitoring of public news for information and updates.

9 Enhanced standards for FIs' investigation processes

9.1 The current Misconduct Notices set out MAS' expectations regarding FIs' investigations into misconduct committed by their representatives. MAS has observed varying standards in FIs' investigation processes. For example, where investigations pertain to complaints from clients, there were instances when FIs did not attempt to engage the client concerned to obtain his or her account¹⁰; instead, the FIs relied purely on the representative's repudiation of the allegations that were levelled against them. As a result, the fact-finding process may encompass only selected sources of information, resulting in a less than holistic and fair assessment of the veracity of the allegations.

9.2 Several respondents were supportive of MAS' intent to provide greater guidance on our expectations with regard to the rigour and quality of FIs' investigations, and asked if MAS intended to issue a new set of guidelines. Some of the respondents were of the view that MAS should only provide broad principles to guide FIs in their investigations and avoid setting prescriptive investigation standards. The respondents commented that the circumstances of each investigation may vary and FIs should have flexibility to adopt an appropriate investigation approach. We did not receive any detailed comments from respondents on the standards that FIs should uphold when conducting investigations.

MAS' Response

9.3 We will expand on the current guidance set out in the Misconduct Notices with regard to MAS' expectations on the rigour and quality of FIs' investigations into misconduct committed by their representatives. We agree that the circumstances surrounding investigations of misconduct committed by representatives may vary, resulting in different investigation approaches by FIs. As such, MAS will not prescribe specific standards for FIs to comply with when conducting investigations. However, MAS expects FIs to put in place an investigation process to ensure a holistic and fair assessment of misconduct committed by their representatives. When FIs conduct investigations into misconduct committed by their representatives, they should consider various sources of available information to establish reasonable grounds that a misconduct has been committed. For instance, FIs should take steps, where appropriate, to interview the relevant parties (including clients, representatives, and/or their supervisors) as well as

¹⁰ This should be contrasted against situations where the FI has sufficient information of the client's account or the client does not wish to be contacted.

review transactions and other documentary evidence available. FIs are also expected to ensure proper documentation of the evidence collected and assessment outcome.

10 Templates for submission of misconduct and investigation reports to MAS

10.1 FIs are currently required to submit to MAS any misconduct report in accordance to the misconduct report template prescribed in the relevant Misconduct Notices. MAS has proposed to revise the misconduct report template given proposed changes to misconduct reporting requirements. In addition, MAS has also proposed to require FIs to submit investigation reports using a prescribed format. This is to ensure that consistent and sufficient information is provided to MAS, and is aligned with MAS' move towards requiring data to be submitted in machine-readable formats.

10.2 Several respondents asked whether all fields in the templates are mandatory at the time of submission. Some respondents explained that certain fields such as disciplinary actions and measures to improve FI's internal controls and system to address weaknesses uncovered from the misconduct may not be finalised at the point of submission. Other respondents commented that some sections of the template would not be applicable for misconduct relating to market manipulation, fraud or money laundering. For misconduct uncovered from an internal complaint where no customer was involved, the section on customer information would not be applicable.

10.3 Specific to the template for investigation report, some respondents sought further clarification on MAS' policy intent of prescribing a template for investigation. They queried if the template would apply only to investigations relating to representatives' reportable misconduct and need not be used in other investigations that the FIs may conduct. They also sought guidance on when investigation reports should be submitted to MAS.

10.4 Two respondents sought confirmation that investigation reports received by MAS will be kept confidential and will be reflected as such in the template. Of these two respondents, one proposed that MAS allow FIs, who claim legal privilege over an investigation report, not to be required to submit the privileged investigation report to MAS.

10.5 Respondents have also provided feedback and suggestions on certain terminologies used for both the proposed templates for misconduct and investigation reports.

MAS' Response

10.6 MAS will proceed to require FIs to submit their misconduct and investigation reports to MAS using prescribed formats. Not all fields in the templates are mandatory. Similarly, for information that has not been finalised at the time of submission, FIs may provide an update to MAS subsequently.

10.7 It is not MAS' intent to mandate FIs to use the investigation report template for all investigations. FIs would only be required to adopt the investigation report template for the submission of investigations relating to representatives' reportable misconduct.

10.8 When an investigation has been conducted for a suspected reportable misconduct, FIs should submit the investigation report within 21 calendar days upon establishing, with reasonable certainty, that a misconduct has been committed. This is aligned with the timeline for FIs to lodge a misconduct report with MAS.

10.9 MAS' supervisory dealings with FIs are confidential, which includes investigation reports submitted by FIs to MAS. As part of our supervision, MAS also reviews FIs' investigation reports, and follow up with FIs on matters of supervisory concerns, such as the rigour and quality of investigation, fairness in assessing relevant information and in dealing with consumers, and weaknesses in controls and procedures which could have resulted in the misconduct. As such, unless there are exceptional justifications, MAS expects FIs to submit the relevant investigation reports to MAS promptly.

10.10 Following the consultation, MAS has also conducted pilot trials with selected FIs on the use of the prescribed template for submission of investigation reports to MAS. The templates for misconduct report and investigation report have been fine-tuned, factoring in comments and suggestions received from the consultation, as well as from MAS' pilot trial with selected FIs. The revised templates are appended at [Annex 2](#). MAS will continue to fine-tune the templates as we work with the industry. FIs will also be given sufficient lead-time for the adoption of the finalised templates.

11 Requirement to conduct reference checks and respond to reference check requests

11.1 Respondents were broadly supportive of the proposal for FIs, including RFMCs, to conduct reference checks on prospective representatives and to respond to reference check requests. However, some respondents expressed concerns that FIs could be exposed to risks of legal challenges from representatives, such as defamation lawsuits, if information regarding representatives' fitness and propriety is shared in reference checks. They requested MAS to provide FIs with immunity from liability arising from such legal challenges.

11.2 Several respondents suggested that MAS provides misconduct reports to the recruiting FI or discloses misconduct reports in the Register of Representatives. There was also a suggestion for a common utility to allow FIs to obtain misconduct reports filed against representatives.

MAS' Response

11.3 MAS will proceed with the proposal for FIs, including RFMCs, to conduct reference checks on prospective representatives with their current/past employer(s) and to respond to reference check requests. It is an existing expectation that FIs conduct reference checks with the prospective representative's past employer(s) and assess the individual's fitness and propriety, when appointing a representative¹¹. By mandating reference checks, it will level the playing field across the industry and provide greater consistency in FIs' standards and practices in conducting and responding to reference check requests.

11.4 MAS has considered that it is not necessary or appropriate to provide legal immunity to FIs to absolve them of liability arising from their responses to reference check requests. When responding to reference check requests, FIs should provide true and accurate information and not act with malice. FIs should exercise reasonable care in preparing and communicating references that are accurate, objective, clear, balanced and based on verifiable facts. FIs should also not selectively disclose information, if withholding certain information will render the reference incomplete, inaccurate or unfair.

11.5 We have also considered feedback by respondents for MAS to provide recruiting FIs with access to misconduct reports filed against representatives. As information obtained from our dealings with FIs is confidential, MAS is unable to provide such information to third parties. On suggestions for an industry-wide utility to allow recruiting FIs to access misconduct reports filed against representatives, MAS is of the view that industry stakeholders would be best placed to create market-driven solutions that would serve their needs in conducting reference checks. MAS encourages FIs to collaborate and identify such solutions to uplift the effectiveness and efficiency of conducting reference checks.

¹¹ MAS' expectations on reference checks are set out in the Circular on Due Diligence Checks and Documentation in Respect of the Appointment of Appointed, Provisional and Temporary Representatives and Guidelines on the Remuneration Framework for Representatives and Supervisors ("Balanced Scorecard Framework"), Reference Checks and Pre-transaction Checks.

12 Scope of reference checks

Mandatory information

12.1 MAS received extensive feedback on the proposed list of mandatory information for FIs to provide in response to reference check requests. Two respondents agreed with the proposed list, while three respondents suggested to expand the list to include other information that would assist in the assessment of the representative's fitness and propriety. For example, the respondents suggested to include instances where the representative exhibited exemplary conduct or conversely if the FI imposed safeguards or controls to supervise the representative. The respondents also felt that it would be useful to include information regarding the representative's Capital Markets and Financial Advisory Services (CMFAS) qualification.

12.2 On the other hand, several respondents preferred to circumscribe the list of mandatory information to the representative's compliance records. They were of the view that the scope of information should be aligned with the misconduct reporting requirements as set out in the Misconduct Notices. The respondents suggested to confine the disclosure of compliance information in reference check responses to concluded investigations which led to the filing of misconduct reports with MAS and/or incidents where disciplinary actions were taken against the representative. Some respondents suggested sharing only incidents that impinged on the representative's fitness and propriety and/or resulted in consumer detriment. Conversely, past investigations which did not lead to any misconduct reports filed against the representative, need not be shared in references. Respondents also highlighted that FIs may not be fully aware of external investigations conducted by third parties such as foreign regulators and law enforcement authorities. They noted that some authorities may impose restrictions on FIs disclosing confidential details of such investigations. On disclosure of ongoing investigations in reference check responses, respondents expressed concerns that it may tip-off the representative and compromise the investigation, if the representative is not aware that he is under investigation.

12.3 Two respondents requested MAS to clarify whether FIs are required to include only incidents that resulted in breaches of the FAA and SFA.

12.4 Several respondents queried on the scope of disciplinary actions that FIs should furnish in references. They noted that FIs may have differing thresholds for meting out disciplinary actions. They asked if references should include only disciplinary actions meted out for misconduct reportable to MAS or if breaches of the FI's internal policy should be reflected as well. Respondents also sought clarity on whether details, such as

the nature of the offence committed that led to disciplinary action meted out against the representative, should be included.

12.5 MAS also proposed to include persistency details of insurance policies sold by the representative in the prescribed list of information to be included in references. Several respondents, primarily FIs which are third-party distributors of insurance policies, commented that it would be operationally challenging to obtain such information from the product manufacturers (i.e. insurers).

12.6 Several respondents sought guidance on the extent of details that FIs should provide when responding to reference check requests. For instance, they asked if circumstances surrounding the reason for cessation of appointment are required to be reflected in the reference. Respondents commented that in situations where the FI has a contractual right to terminate or cease the representative's employment without cause, the reason for termination or cessation may not have been communicated to the representative.

MAS' Response

12.7 Under the Representative Notification Framework, FIs have the primary responsibility for ensuring that the representatives they appoint are fit and proper. FIs are required to certify to MAS that they have conducted due diligence checks and are satisfied that their proposed representatives meet the fit and proper criteria set out in Fit and Proper Guidelines. Therefore, it is important for FIs to have the relevant information to make such assessment.

12.8 MAS appreciates that FIs may have their own internal recruitment criteria and may wish to request additional information beyond the prescribed list when conducting reference checks. Conversely, current or former employers may also find it beneficial to provide additional information in references regarding the individual's fitness and propriety. As such, MAS would not restrict FIs from requesting or providing additional information in reference checks, in addition to the set of mandatory baseline information prescribed by MAS.

12.9 MAS recognises that requiring the disclosure of investigations which were concluded without merit may prejudice individuals who may not have committed any wrongdoing. Therefore, MAS agrees that FIs need not disclose investigations which were concluded in favour of the representative. However, MAS intends to require FIs to provide information on past investigations where they have reasonable grounds to believe that there was wrongdoing committed by the representative.

12.10 In cases where an individual is the subject of an ongoing investigation when a reference check request is made, MAS intends to require the FI to provide information to the recruiting FI if there is no risk of compromising the investigation. For instance, if the FI has informed the individual of the investigation, there would not be any risk of tip-off. Such information allows the recruiting FI to make a more comprehensive fit and proper assessment of the individual.

12.11 MAS acknowledges that for investigations conducted by external parties, such as foreign regulators or enforcement agencies, FIs could be subjected to constraints in sharing confidential information regarding such investigations. Accordingly, MAS will not require FIs to disclose knowledge of investigations conducted by foreign regulators or enforcement agencies on their representatives. However, this should be contrasted with cases where the FI relies on a third party to conduct an investigation (e.g. outsourcing of investigation to a private investigator or related entities within the group). In such cases, the FI is required to provide information relating to investigations that have concluded with adverse findings or ongoing investigations where there is no risk of tip-off.

12.12 When providing information on investigations, FIs should also include information on investigations pertaining to breaches of the FI's internal policy if the breach impinges on the individual's fitness and propriety. On incidents where the individual was found to be in breach of legal or regulatory requirements, FIs may confine the information to any Act administered by MAS and any other legal and regulatory breaches administered by other government agencies if those breaches relate to the individual's conduct of MAS-regulated activities. For instance, misappropriation of a customer's insurance policy premiums resulting in a breach of the Penal Code for criminal breach of trust should be disclosed in reference checks.

12.13 As a general principle, when providing references, FIs should provide sufficient details such that a reasonable person can make an informed judgement about the nature and severity of the representative's adverse record. For example, when providing information on an individual's wrongdoing, FIs should include information such as financial losses suffered by customers, period of wrongdoing, and the number of customers affected, where applicable.

12.14 Similarly, FIs should include all forms of disciplinary actions meted out against the individual, including information on the nature of misconduct, when responding to reference check requests. This will allow recruiting FIs to assess if the individual remains fit and proper to carry out regulated activities, as well as if additional control measures should be implemented to monitor the individual's conduct.

12.15 In the same vein, MAS is of the view that persistency ratio is an important metric that FIs should take into account when recruiting a prospective representative. This is because it is a measure of the suitability of the product recommendation, the customers' satisfaction with the financial advice or after-sales services provided by the representative. However, MAS recognises that some FIs may face operational challenges in obtaining the information from product manufacturers. As such, the provision of persistency ratio will only be applicable to FIs which have the information.

12.16 When indicating the reason for the cessation of the representative's appointment in references, FIs are not required to elaborate on the reasons for resignation, termination, dismissal or cessation that are of a contractual tenure. However, there may be situations where an individual resigned by paying the FI compensation in lieu of notice prior to commencement of an investigation, or while the FI was in the midst of conducting an investigation on the individual. MAS recognises that there are professional or personal reasons for representatives resigning from their current FIs. However, this can also be an indication that the individual is avoiding investigation, particularly if the FI has requested the representative's assistance in the investigation. Accordingly, the recruiting FI should be informed about the circumstances of the individual's resignation, if the individual resigned by paying the FI compensation in lieu of notice prior to or during investigation. Therefore, MAS intends to expand the reasons for cessation to include "resignation by paying compensation in lieu of notice prior to or during investigation". Further, where FIs specify "resignation by paying compensation in lieu of notice prior to or during investigation" as a reason for cessation, FIs are required to indicate if they have requested the representative's assistance in the investigation and whether the representative has assisted or would be assisting in the investigation.

Lookback period

12.17 MAS had proposed for reference checks to minimally cover the individual's employment history in the past ten years (henceforth referred to as "lookback period"). Several respondents commented that the lookback period was inconsistent with existing record keeping requirements in Singapore that prescribe a retention period of less than ten years. Respondents highlighted potential operational challenges to obtain information beyond the existing mandatory record keeping period. One respondent was of the view that a shorter lookback period would provide sufficient history to determine the fitness and propriety of an individual.

12.18 Two respondents also sought guidance whether the lookback period would be based on the number of years of employment, if there were gaps in the individual's

employment history. One respondent asked if FIs would be required to conduct reference checks on all of the individual's past employers during the lookback period.

MAS' Response

12.19 MAS acknowledges that existing data retention requirements in Singapore specify a record keeping period of at least five years¹². In other jurisdictions, the regulatory requirement for reference checks mandates a lookback period of less than ten years. To be consistent with existing record retention requirements in Singapore, MAS will revise the lookback period for reference checks to a minimum of five years.

12.20 FIs are required to conduct reference checks with all of the individual's current/former employer(s) during the lookback period. The lookback period would be based on the number of calendar years and not years of employment. In instances where there are gaps in the individual's employment history, FIs are not required to extend the lookback period when conducting reference checks.

12.21 In summary, MAS intends for FIs to provide the following mandatory information (where applicable) covering the representative's appointment history in the past five years:

- (a) information pertaining to the individual's appointment history with the FI, including,
 - i. the duration of appointment;
 - ii. the roles and job functions of the individual (including last position held); and
 - iii. the reason for cessation of appointment including but not limited to the following:
 - resignation,

¹² For instance, MAS Notice 626 "Prevention of Money Laundering and Countering the Financing of Terrorism – Banks".

-
- resignation by paying compensation in lieu of notice prior to or during investigation¹³,
 - termination,
 - dismissal or
 - expiry of contract;
- (b) compliance records relating to the individual's fitness and propriety, unless there is risk of tipping-off the individual which may compromise the integrity of the investigation, including but not limited to records concerning the following:
- i. concluded investigations with reasonable grounds to believe that a wrongdoing has been committed and the extent of consumer detriment (where applicable) resulting from the wrongdoing;
 - ii. ongoing investigations and the extent of consumer detriment (where applicable) resulting from the wrongdoing if substantiated;
 - iii. incidents where the FI has knowledge of, or reasonable grounds to believe that the individual has or may have been in breach of legal or regulatory requirements administered by MAS or any other law, if those breaches relate to the individual's conduct of MAS-regulated activities, and the extent of consumer detriment (where applicable) resulting from the incident;
 - iv. disciplinary actions taken against the individual or would have been taken against the individual if the individual was still with the FI (where applicable); and
 - v. whether misconduct reports were filed with MAS against the individual and, if so, details on the nature of the misconduct committed and the extent of consumer detriment (where applicable) resulting from the misconduct.

¹³ FIs are required to indicate if they have requested the representative's assistance in the investigation and whether the representative has assisted or would be assisting in the investigation.

- (c) last four balanced scorecard grades assigned to the individual (where applicable); and
- (d) persistency ratio of insurance policies sold by the individual and the methodology used in computing the persistency ratio (where applicable and available).

13 Implementation of reference checks

Timeline to respond to reference check

13.1 Respondents provided mixed feedback on the timeline for FIs to respond to reference check requests. Some respondents agreed with the proposed 14-day period, while one respondent suggested that seven days would be sufficient. However, several respondents commented that there would be operational challenges to meet the 14-day timeline.

13.2 Some respondents suggested that the prescribed timeline should commence after the representative has completed his/her last day of employment, or upon receipt of reference check request, whichever is later. The respondents commented that this would avoid sharing of sensitive information in instances where the representative does not join the recruiting FI ultimately. They were also of the view that this would allow the FI to provide the most complete reference check response up to the exit of the representative.

MAS' Response

13.3 In view of the feedback, MAS intends to prescribe a timeline of 21 calendar days for FIs to respond to reference check requests. The revised timeline seeks to strike a balance between addressing FIs' operational challenges, while meeting the need for references to be provided in a timely manner to facilitate FIs' recruitment efforts.

13.4 The prescribed timeline will commence upon receipt of the reference check requests from recruiting FIs. MAS considered that requiring FIs to only respond to reference checks after the individual's last day of work may delay the recruiting FI's ability to complete its assessment of an individual's fitness and propriety. This could, in turn, impede the recruiting FI's recruitment process and onboarding of new representatives.

13.5 That said, MAS acknowledges that individuals may request recruiting FIs to maintain the confidentiality of their applications. In such a case, the recruiting FI may conduct the reference check after the individual's appointment has ceased with his

current FI. Individuals should note that FIs are expected to take appropriate action (including, if justified, to withdraw the offer or to inform the individual that the offer condition has not been satisfied, as the case may be) if there are adverse responses on the individual in the reference check.

Challenges in obtaining reference checks or responding to reference check requests

13.6 Several respondents sought guidance in instances where FIs do not respond to reference check requests within the prescribed timeline or if insufficient details are provided in the references. One respondent asked if the prescribed timeline applies to individuals based overseas, citing challenges in conducting reference checks with employers based overseas. The respondents were of the view that recruiting FIs should still be allowed to complete their assessment of the individual's fitness and propriety.

13.7 Respondents also sought clarification on whether MAS would accord flexibility in terms of the timeline for FIs to respond to reference check requests.

MAS' Response

13.8 The reference check requirements and prescribed response timeline will only be applicable to FIs that are regulated by MAS. While recruiting FIs should, on a best effort basis, take reasonable steps to conduct reference checks with the individual's employers, MAS acknowledges that FIs may encounter difficulties when conducting reference checks with employers that are not regulated by MAS, including employers based overseas.

13.9 In instances where the recruiting FI is unable to obtain a reference from the individual's current/past employers within the prescribed timeline or if the reference obtained is incomplete, the FI is still required to make an assessment of the individual's fitness and propriety based on other available information and due diligence conducted. Nonetheless, should the individual's employers provide a reference subsequently, the FI is required to factor in the new information received in its assessment on whether the representative remains fit and proper. The FI should take appropriate action (including, if justified, to terminate the appointment) thereafter, if the FI has reasonable grounds to believe that the representative is not fit and proper to conduct regulated activities. This is no different from the current requirement where FIs are expected to factor in new information in assessing whether their representative remains fit and proper.

13.10 FIs are required to respond to reference check requests within the prescribed timeline. Should MAS become aware of FIs that fail to do so in the course of our supervision, we will adopt a calibrated and judicious approach in assessing such breaches.

Other feedback on implementation

13.11 Three respondents requested MAS to provide a standard template for FIs to conduct and respond to reference checks.

13.12 Two respondents requested a transitional period to facilitate FIs' implementation of reference check requirements. They highlighted challenges with obtaining compliance information on individuals under the previously proposed lookback period of 10 years.

MAS' Response

13.13 As set out in paragraph [12.21](#), MAS will be prescribing the baseline information that must be included in reference checks. Accordingly there is no need for MAS to prescribe a template. Further, FIs have the flexibility to request for or provide additional information in reference checks, beyond the mandatory information required.

13.14 MAS notes respondents' feedback requesting for a transitional period, and will take that into consideration when implementing the reference check requirements.

MONETARY AUTHORITY OF SINGAPORE

14 May 2021

Annex 1

**Non-Exhaustive Examples of Reportable and Non-Reportable Acts Under
 the Revised Misconduct Categories**

The onus is on FIs to establish and certify that their representatives are fit and proper to conduct regulated activities on an ongoing basis. For any misconduct committed by their representatives, FIs will need to holistically consider the facts and circumstances of the act, and assess:

- a) the appropriate disciplinary action to take and the need to put in place proper monitoring mechanisms and additional controls, where applicable;
- b) whether to inform MAS about the misconduct; and
- c) where the circumstances render the representatives no longer fit and proper, whether the FI should cease the appointment of that individual as a representative.

This table sets out examples to illustrate the factors that FIs should take into account when determining if an act constitutes a misconduct that needs to be reported to MAS.

Examples	Is this a reportable misconduct?	Reportable category that the misconduct falls under
<p><i>Representative's failure to satisfy a specific criterion in the Fit and Proper Guidelines.</i> For example:</p> <p>(A) Representative under a debt-repayment scheme with a bank</p> <p>(B) Representative who is a director of a business that has gone into insolvency</p>	<p>Not reportable for both (A) and (B) in the absence of aggravating factors. For clarity, the failure to satisfy a specific criterion in the Fit and Proper Guidelines does not automatically render the representative not fit and proper to conduct regulated activities under the SFA, FAA, or IA.</p>	<p>N/A</p>

<p>Data confidentiality-related incidents¹⁴. For example: (A) Representative accessed the FI's IT systems without authorisation to obtain confidential client information to benefit himself (B) Representative sent his client's personal details to his personal email for convenience</p>	<p>For (A), yes, as the representative was dishonest and committed the act with the intent of benefiting himself. For (B), not reportable in the absence of aggravating factors, as the representative committed the act out of convenience (i.e. without malicious intent) and it was an isolated incident involving only one client.</p>	<p>For (A), 'Acts involving fraud, dishonesty, illegal monetary gains or other offences of a similar nature'. For (B), N/A.</p>
<p>Breach of FI's compliance rules on staff dealing. For example: (A) Representative executed trades without his client's consent to earn commissions / corner the market (B) Representative inadvertently forgot to declare his personal investment holdings to his firm on one occasion</p>	<p>For (A), yes, as the breach was committed with the intent of benefiting the representative and/or manipulating the market. For (B), not reportable in the absence of aggravating factors, as the act was not wilful and it was a one-off incident.</p>	<p>For (A), depending on the facts and circumstances, to report as:</p> <ul style="list-style-type: none"> • 'Acts involving fraud, dishonesty, illegal monetary gains, or other offences of a similar nature'; and/or • 'Acts relating to market conduct provisions under Part XII of the SFA' <p>For (B), N/A.</p>
<p>Representative's general conduct. For example:</p> <ul style="list-style-type: none"> • Traffic offence (e.g. hit and run) • Inappropriate workplace behavior (e.g. use of 	<p>Not reportable in the absence of aggravating factors, as these acts were carried out in the representative's personal capacity, did not result in any client detriment, and would unlikely to undermine the representative's</p>	<p>N/A</p>

¹⁴ For data confidentiality-related breaches, FIs will additionally need to assess the need to refer the case to other relevant authorities (e.g. Personal Data Protection Commission).

<p>offensive/ discriminatory language)</p>	<p>professional integrity and ability to conduct regulated activities.</p>	
<p>Other dishonest acts. For example: (A) Representative falsified client details in transport claims (B) Representative could not support his expense claims due to misplacement of receipt (C) Representative was charged in court for collusion with a third party that resulted in him obtaining illegal monetary gains</p>	<p>For (A), yes, as the breach was committed with the intent of benefiting the representative by wilfully falsifying information. For (B), not reportable in the absence of aggravating factors, as the act was due to oversight and it was a one-off incident. For (C), yes, in the absence of mitigating factors, being charged in court would typically suggest that the law enforcement agency has obtained sufficient evidence to show that an offence has been committed. In addition, the act committed falls within the reportable categories as the representative was dishonest and obtained illegal monetary gains.</p>	<p>For (A), 'Acts involving fraud, dishonesty, illegal monetary gains, or other offences of a similar nature' For (B), N/A. For (C), 'Acts involving fraud, dishonesty, illegal monetary gains, or other offences of a similar nature'.</p>

Annex 2

MISCONDUCT REPORT AND INVESTIGATION REPORT TEMPLATE

Note: Please refer to the attachment uploaded separately.

Annex 3

**LIST OF RESPONDENTS TO THE CONSULTATION PAPER ON
REVISIONS TO MISCONDUCT REPORTING REQUIREMENTS AND PROPOSALS
TO MANDATE REFERENCE CHECKS FOR REPRESENTATIVES**

1. ABN AMRO Bank N.V., Singapore Branch
2. AIM Screening Pte Ltd
3. Aon Hewitt Wealth Management Pte Ltd
4. Aon Singapore Pte Ltd
5. Asia Securities Industry & Financial Markets Association (ASIFMA)
6. Association of Independent Asset Managers Singapore (AIAM)
7. Aviva Financial Advisers Pte Ltd
8. Aviva Ltd
9. AXA Insurance Pte Ltd
10. Bank of China Limited, Singapore Branch
11. CEL Impetus Corporate Finance Pte Ltd
12. Citibank Singapore Limited
13. Duff & Phelps
14. Eastspring Investments (Singapore) Limited
15. Elpis Financial Pte Ltd
16. GAIN Capital Singapore Pte Ltd
17. Great Eastern Financial Advisers Pte Ltd
18. Jardine Lloyd Thompson PCS Pte. Ltd.
19. Manulife (Singapore) Pte Ltd
20. Mizuho Bank, Ltd., Singapore Branch

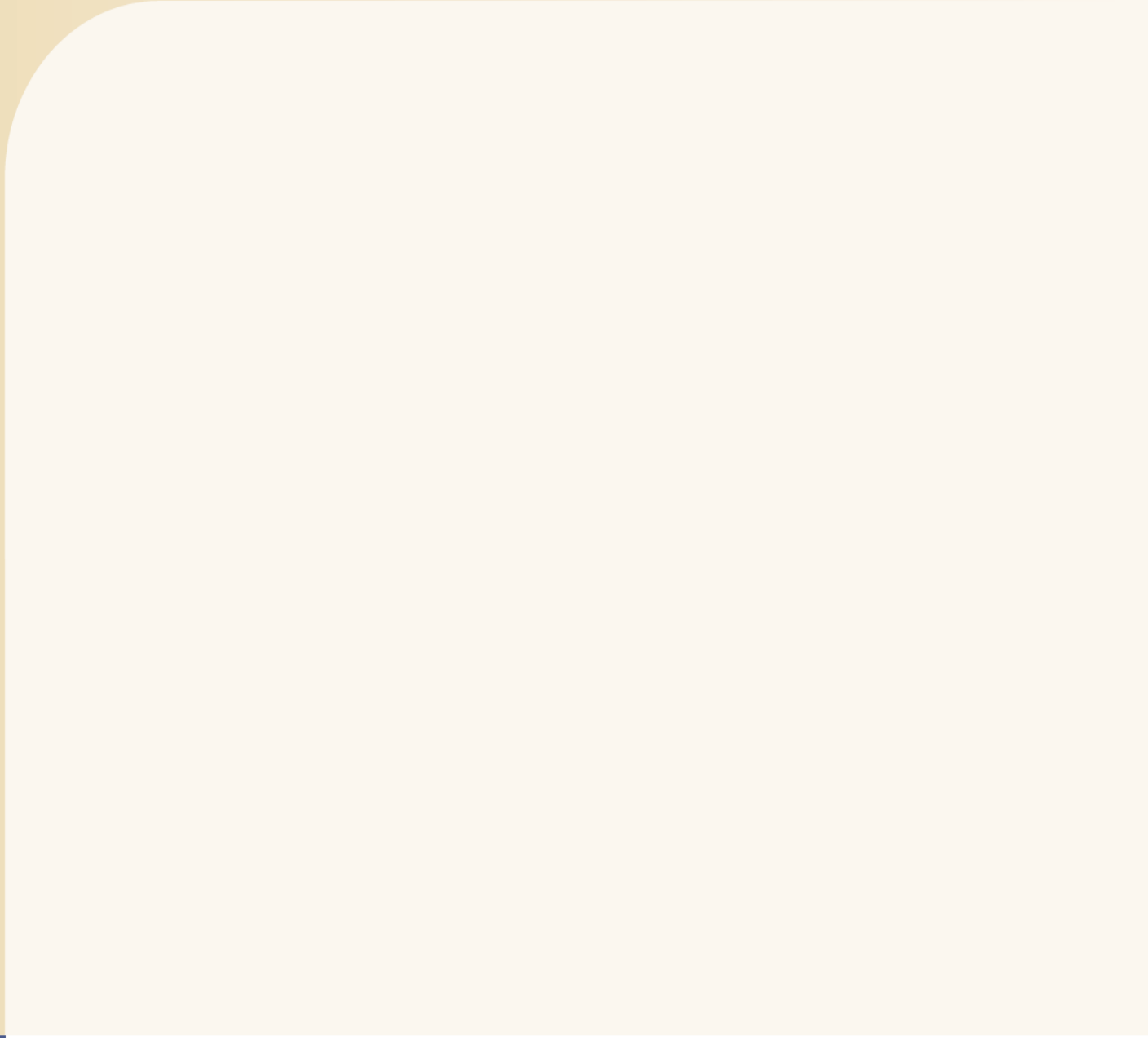
21. Moody's Investors Service Singapore Pte Ltd
22. MUFG Bank, Ltd
23. Phillip Securities Pte Ltd
24. Prudential Assurance Company Singapore (Pte) Limited
25. Schroder Investment Management (Singapore) Ltd
26. St. James's Place (Singapore) Private Limited
27. Sumitomo Mitsui Banking Corporation Singapore Branch
28. The Great Eastern Life Assurance Co Ltd
29. United Overseas Bank Limited
30. Viva Industrial Trust Management Pte Ltd
31. ZICO Capital Pte Ltd

Note: This list only includes the names of respondents who did not request that their identity and/or responses be kept confidential.

Annex 4

FULL SUBMISSIONS FROM RESPONDENTS TO THE CONSULTATION PAPER ON REVISIONS TO MISCONDUCT REPORTING REQUIREMENTS AND PROPOSALS TO MANDATE REFERENCE CHECKS FOR REPRESENTATIVES

Note: Please refer to the attachment uploaded separately. Only submissions for which respondents did not request that their identity and/or responses be kept confidential have been included.



Monetary Authority of Singapore