Monetary Authority of Singapore

~~FINANCIAL ADVISERS ACT (CAP. 110)~~

GUIDELINES ON FAIR DEALING – BOARD AND SENIOR MANAGEMENT RESPONSIBILITIES FOR DELIVERING FAIR DEALING OUTCOMES TO CUSTOMERS

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Guideline No : ~~FAA-G11~~[TBC]
Issue Date : 3 April 2009 (Last revised on ~~20 February 2013~~dd/mmm/2023)

GUIDELINES ON FAIR DEALING — BOARD AND SENIOR MANAGEMENT RESPONSIBILITIES FOR DELIVERING FAIR DEALING OUTCOMES TO CUSTOMERS

INTRODUCTION

1 The ~~Monetary Authority of Singapore [“MAS”] has issued the~~ Guidelines on Fair Dealing — Board and Senior Management Responsibilities for Delivering Fair Dealing Outcomes to Customers ~~[“~~(“the Guidelines~~”] to promote fair dealing by~~”) focus on the responsibilities of a financial institution’s ~~when they conduct business with their customers. The Guidelines incorporate public comments, lessons from the recent financial crisis and MAS’ draft proposals from the Consultation Paper on Review of the Regulatory Regime Governing the Sale and Marketing of Unlisted Investment Products issued on 12 March 2009. The Guidelines focus on~~ Board and Senior Management ~~responsibilities for~~in delivering fair dealing outcomes to its customers. The Guidelines apply to the manufacture, selection, marketing and distribution of ~~investment~~financial products and the provision of advice and other services for these products.

2 The Guidelines also cover responsibilities for after-sales services and complaints handling. While the Guidelines have been written with retail customers ~~and investment products~~ in mind, the Monetary Authority of Singapore (MAS) expects financial institutions ~~are strongly encouraged~~ to apply the principles in the Guidelines to ~~other~~all customers ~~and products~~.

3 The Guidelines set out five fair dealing outcomes and explain why each outcome is important. They also list key issues, provide illustrations of good and poor practices, and set out self-assessment questions for the Board and Senior Management.

4 The five fair dealing outcomes are~~:~~ —

Outcome 1: Customers have confidence that they deal with financial institutions where fair dealing is central to the corporate culture.

Outcome 2: Financial institutions offer products and services that are suitable for their target customer segments.

Outcome 3: Financial institutions have competent representatives ~~who provide~~to serve customers ~~with quality advice and appropriate recommendations.~~.

Outcome 4: Customers receive clear, relevant and timely information ~~to make informed financial decisions~~that accurately represent the products and services offered and delivered.

Outcome 5: Financial institutions handle customer complaints in an independent, effective and prompt manner.

5 The Board is responsible for ~~charting the~~approving a corporate policy and strategy ~~to deliver the~~that delivers fair dealing outcomes to customers. The Board oversees Senior Management in implementing the corporate policy and strategy ~~approved by the Board~~. ~~The~~ Both the Board and Senior Management are ~~accountable~~responsible for setting ~~the~~a culture ~~and direction of the financial institution to align~~that aligns business practices with the fair dealing outcomes. This involves influencing attitudes and behaviour ~~of staff~~ at all levels of the financial institution, and requires concerted and wide-ranging measures, in particular:

a) demonstrated commitment by the Board and Senior Management to ~~the fair dealing outcomes~~safeguard the interests of their customers;
b) a management information framework to measure and monitor achievement of the fair dealing outcomes;
c) training for ~~staff and~~ representatives so that they have the skills and competencies to ~~deal with~~treat customers fairly; and
d) a performance evaluation and remuneration system to incentivise fair dealing conduct.

6 The ~~Board and Senior Management~~overall business model of a financial institution should ~~review the overall business model of the financial institution to ensure that it is consistent~~be determined with ~~dealing fairly with its customers.~~customers' interests in mind. In particular, ~~the financial institution should review~~ its Board and Senior Management should pay particular attention to any business model that relies primarily on incentives (e.g. commissions and ~~short-term product~~ sales targets~~. The Board and Senior Management~~) that overly favour short-term sales. They should ~~pay attention to~~also mitigate potential conflicts between the interests of the financial institution and ~~those~~that of its customers, especially where the financial institution is engaged in multiple business activities.

7 ~~The emphasis on outcomes is deliberate. Customers are concerned about their experiences when dealing with financial institutions, and whether the investment~~ Financial products and services ~~they buy~~provided to customers must provide real value~~.~~ to them. Financial institutions should take active steps to ensure the fair treatment of customers at various stages of the product life-cycle or provision of service, including:

a) design and governance;
b) identification of target markets;
c) prospecting, marketing and promotion;
d) sales and advisory;
e) after-sales information and service; and

f) complaints handling.

~~7~~8 The emphasis on outcomes is deliberate. The five outcomes provide clear benchmarks for MAS and the industry to assess the performance and success of financial institutions in promoting good market and business conduct practices.

9 These Guidelines apply to all financial institutions. The Guidelines should be read with the ~~Financial Advisers Act, its~~MAS-issued legislation, subsidiary legislation, written directions, notices, codes and other guidelines. Each financial institution ~~needs to~~must consider how best to apply the Guidelines ~~to suit~~in the context of the nature of its financial products and services. The financial institution remains accountable even if it engages third party service providers as part of its business model ~~and customer base~~.

~~8~~10 The Board and Senior Management of each financial institution should be able to demonstrate that its strategy, policies, systems and processes support the fair dealing outcomes. MAS will consider a financial institution's ability to observe the Guidelines when assessing if its leadership continues to be fit and proper in the conduct of its business with customers. Where the failings relate to obligations under the relevant legislation, MAS will take appropriate supervisory or enforcement action.

~~9~~11 ~~MAS will take into account a financial institution's ability or failure to observe the Guidelines in assessing whether it continues to be fit and proper to conduct regulated activities. Where the failings relate to obligations under the relevant legislation, MAS will take supervisory or enforcement action. MAS will use inspections and visits to financial institutions, interviews with the Board and Senior Management, surveys of financial institutions, customer surveys and mystery shopping exercises to assess whether financial institutions are observing the Guidelines.~~Industry and consumer associations play a key role in promoting the fair dealing outcomes. They can do so in several ways, including:

a) developing case studies ~~and examples of~~to promulgate best practices;
b) conducting mystery shopping exercises, customer surveys and other studies to identify areas ~~of market conduct practices~~ for improvement;
c) aligning their codes of practice with the fair dealing outcomes;
d) conducting training for ~~industry~~all relevant representatives; and
e) educating ~~consumers~~customers to help them understand the fair dealing ~~initiative and what~~outcomes they ~~can~~should expect from financial institutions.

~~10~~12 ~~Consumers~~Customers should also equip themselves to make informed financial decisions. MAS will continue to issue consumer guides and support activities under the ~~MoneySENSE~~MoneySense financial education programme.

13 MAS will update the Guidelines~~, where appropriate,~~ periodically to ~~incorporate feedback and comments received on the Consultation Paper on Review of the Regulatory Regime Governing the Sale and Marketing of Unlisted Investment Products, as well as~~ take

into account industry developments in Singapore and elsewhere, as well as other ~~jurisdictions~~relevant feedback.

DEFINITIONS

14 For the purposes of these Guidelines,

"customer" refers to users and prospective users of financial products and/or services. In the case of fund managers, customers and prospective customers also refer to unitholders and prospective unitholders of the collective investment scheme or closed-end fund;

"representative" refers to any employee and agent that is engaged by a financial institution involved in designing, manufacturing, marketing, distribution, provision of advice on financial products and other services on its behalf.

~~11~~15 The terms used in the Guidelines shall, except where expressly defined in the Guidelines or the context otherwise requires, have the same meanings as defined in the relevant Acts.

1 FAIR DEALING OUTCOME ONE

Customers have confidence that they deal with financial institutions where fair dealing is central to the corporate culture.

1.1 RATIONALE

1.1.1 Financial institutions play an important role in ~~influencing customers'~~helping customers make good financial decisions. Customers rely on financial institutions for relevant information, quality advice and appropriate recommendations.

1.1.2 ~~As~~ The Board and Senior Management provide leadership and set the culture of ~~the~~a financial institution, ~~they~~and should be the champions and stewards of an organisational culture of fair dealing.

1.1.3 To develop an organisational culture of fair dealing, the Board and Senior Management should among others, address the following key areas:

a) devise a clear strategy to achieve the fair dealing outcomes;
b) align organisational policies and practices to the fair dealing outcomes;
c) communicate to internal and external stakeholders that fair dealing is a priority for the financial institution; and
d) monitor the effectiveness of the strategy and policies to achieve the fair dealing outcomes.

1.2 DEVISING A CLEAR STRATEGY TO ACHIEVE THE FAIR DEALING OUTCOMES

1.2.1 The Board and Senior Management should be able to demonstrate that they have devised a strategy and implemented plans to achieve the fair dealing outcomes. These plans should include:

a) allocation of executive responsibilities and accountability;
b) implementation of a set of measurable targets; and
c) development of a remuneration structure for senior executives ~~which~~that is linked to key performance indicators for achieving the fair dealing outcomes.

~~Illustration~~Good practice illustration 1.1

The Board of a financial institution assigns its Chief Executive Officer to ~~spearhead~~oversee a Fair Dealing ~~Taskforce~~team. The ~~Taskforce~~team is responsible for ~~conductinga review of~~periodically reviewing the financial institution's ~~advisory and sales process~~processes to identify areas ~~where it falls short.~~for improvement. Based on the findings, the ~~Taskforce~~team formulates a strategy, which includes defining a set of principles to drive cultural change, as well as training and supervising ~~staff and~~ representatives on ~~dealing with~~treating customers fairly. ~~This~~ The Board endorses the strategy ~~is endorsed by the Board, which~~ , and its implementation progress is updated ~~on the progressof implementing the strategy~~ on a quarterly basis.

~~Comment~~Supervisory expectations: The Board and Senior Management should assign responsibilities to specific executives for carrying out initiatives to promote fair dealing practices within the financial institution. The formation of a ~~taskforce~~team dedicated to achieving the fair dealing outcomes, ~~as well as~~and support for the initiatives at the Board and Senior Management levels, are some ways to demonstrate the financial institution's commitment to ~~dealing with~~treating customers fairly.

1.3 ALIGNING ORGANISATIONAL POLICIES AND PRACTICES TO THE FAIR DEALING OUTCOMES

1.3.1 The Board and Senior Management should review the financial institution's policies, systems and processes to ensure that its market and business conduct practices achieve the fair dealing outcomes for customers. These include having:

a) robust due diligence procedures for ~~selecting investment~~the manufacture, selection, marketing, and distribution of financial products and services that are suitable for its customers;

b) a sound and objective process to assess applications received for financial products and services;

~~b)~~c) formalised recruitment practices and training to ensure its ~~staff and~~ representatives are competent, fit and proper, and ethical;

~~c)~~d) strong and effective systems and controls to ensure proper ongoing supervision of its ~~staff and~~ representatives;

e) transparent pricing and fee structures;

f) procedures to identify conflicts of interest, as well as to either eliminate, or to mitigate and disclose such conflicts of interest;

~~d)~~g) procedures for whistle-blowers to report on misconduct;

~~e)~~h) effective performance evaluation and remuneration systems to ~~encourage the right~~incentivise behaviour ~~to achieve~~that achieves the fair dealing outcomes; ~~and~~

~~f)~~i) proper due diligence assessments and clear service standards for partnerships with other financial institutions or persons (e.g. introducers in its distribution business~~.~~);

j) clear service standards for processing key service deliverables to customers (e.g. processing of insurance claims); and

k) effective framework and procedures to process and resolve complaints of unfair dealings.

The financial institution should also identify and address any other issues that could potentially compromise the interests of customers.

1.3.2 The Board and Senior Management should design a remuneration structure for its ~~staff and~~ representatives that encourages the achievement of the fair dealing outcomes. The financial institution should not incentivise ~~inappropriate~~poor practices such as misleading marketing practices, aggressive product pushing or improper switching of ~~investment~~financial products.

1.3.3 For a financial institution ~~which~~that conducts both financial advisory and non-financial advisory businesses at the same physical location, the financial institution should ensure that its ~~staff~~representatives do not solicit financial advisory business from customers of the non-financial advisory business. This is particularly relevant for banks and finance companies that accept deposits from customers. Such segregation will minimise the risk of customers confusing an investment product with a deposit.

1.3.4 When providing financial products and services, financial institutions should not accord differential treatment to any individual or groups of individuals unless there are justifications supported by relevant and reliable information or data. An example of inappropriate differential treatment would be rejecting an application for insurance based on declaration of personal information, without a properly substantiated risk-based assessment of the customer.

~~Illustration~~Good practice illustration 1.2

The ~~Board~~Senior Management of a financial institution ~~sets up~~institutes a ~~project team to align~~review of its policies and practices to ensure consistent alignment with the fair dealing outcomes. The Board instructs that special attention be paid to remuneration structures, disclosure standards and product selection process, as these areas have greater impact on ~~customers.~~customers' interests. One of the initiatives ~~by this project team~~arising from the review is to establish formal customer feedback procedures, including quarterly customer forums. The objective of such forums is to gather customer feedback on their experiences when receiving financial advisory services, on the quality of marketing materials and on recent launchesof investment products and services. Following each forum, ~~the project team produces~~ a report is generated for discussion and endorsement at the quarterly Board meetings. This report summarises customer feedback and suggests corrective actions where weaknesses are identified.

~~Comment~~Supervisory expectations: The Board and Senior Management should view customer feedback as essential to achieving the fair dealing outcomes. This enables the

financial institution to take into account customer opinions and interests when aligning its policies and practices of key business areas to the fair dealing outcomes for customers. This is a strong display of how the Board and Senior Management can integrate good market conduct practices into the financial institution's business strategy and conduct.

Good practice illustration 1.3

The financial institution has a structured approval process for all marketing materials that is disseminated by the financial institution to ensure that the marketing materials are fair and balanced; and financial institutions and their representatives should not apply unnecessary pressure or inducement, scare tactics or inappropriate dark patterns[1] to lure customers into taking unconsidered and uninformed actions.

Supervisory expectations: The Board and Senior Management should ensure all forms of marketing materials, regardless of delivery modes, provide customers with an accurate description of what the products and services entail. This enables customers to make informed decisions and appropriate choices.

Good practice illustration 1.4

An insurer applies a consistent risk assessment process to all insurance applications. In making the underwriting decision, the insurer considers the risks presented by each applicant holistically according to its assessment framework, and determines the appropriate underwriting outcome that reflects the risks of each applicant. Whether an application is accepted, declined, or subject to any loading or conditions, is based on an objective assessment of information or data relevant to the risks being insured.

Supervisory expectations: An insurer should not turn away an insurance application or apply differential treatment in terms of the application outcome to a customer, merely on the basis of declaration of personal information (such as occupation, income, disability or medical condition) in the application form without evaluating the applicant's risk profile. Instead, it should carry out an objective assessment of every application based on the risks presented by the customer.

The assessment should be properly substantiated with reliable information or data relevant to the risks being insured, such as medical reports, claims history, results of analysis of statistical or actuarial data, clinical surveys or studies, or claims experience. In their underwriting assessment, insurers may also take into consideration factors such as their underwriting expertise and risk appetite.

[1] Dark patterns refer to user interface designs which leverage on human biases and are intended to mislead customers into doing something they did not mean to, such as buying a financial product. An example is having an offer on a website without a clear end date or stating that the limited deal is running out. This leverages on customers' fear of missing out and customers may purchase the product quickly to avoid missing out on a good deal, which might not be in their best interest.

Where an application is rejected or approved with additional conditions, insurers should properly explain to the customer the basis for the underwriting decision with reference to the information or data relevant to the risks being insured.

1.4 COMMUNICATING THE FAIR DEALING OUTCOMES AS A PRIORITY FOR THE FINANCIAL INSTITUTION

1.4.1 The Board and Senior Management should communicate a clear and consistent message to internal and external stakeholders that delivering the fair dealing outcomes to customers is an important organisational priority.

~~Illustration 1.3~~

Good practice illustration 1.5

To cultivate an organisation-wide fair dealing culture, ~~a financial institution launches an online training module as part of an institution-wide communications plan.~~ Senior Management ~~show their~~actively conveys its commitment ~~by being actively involved in the~~and expectations through its communications ~~plan~~and training regularly. In addition, they request that the Compliance Department surveys the ~~staff and~~ representatives to gauge the success of the plan.

~~Comment~~Supervisory expectations: Developing a fair dealing culture requires ~~a mindset change.~~consistent commitment. Senior Management should play an active role in communicating ~~the importance of this shift in mindset~~its expectations to act in the customers' interests to reflect their commitment to ~~the~~ embed a culture of fair dealing ~~initiative.~~ in its organisation.

1.5 MONITORING IMPLEMENTATION OF THE FAIR DEALING STRATEGY

1.5.1 The Board and Senior Management should ensure that the financial institution establishes a management information framework to measure and monitor achievement of the fair dealing outcomes. This could include:

a) monitoring complaints and misconduct trends;
b) conducting customer surveys;
c) conducting mystery shopping exercises; and
d) ~~preparing~~conducting compliance ~~reports~~reviews and audits.

~~Illustration 1.4~~

Good practice illustration 1.6

A financial institution prepares ~~quarterly~~monthly management information reports which cover compliance issues, complaints trends, customer feedback and other relevant indicators. These reports are reviewed at the ~~quarterly~~monthly management meetings to *identify shortcomings and possible enhancements to its ~~fair dealing initiative.~~policies and practices. In addition, the financial institution conducts regular customer surveys and mystery shopping exercises ~~on an annual basis~~ to track the effectiveness ~~and progress of its initiative~~in safeguarding customer interests.*

~~Comment~~Supervisory expectations: A good management information framework encompasses the collation of all relevant information and proper review of this information by appropriate levels of management.

1.6 KEY ISSUES FOR SELF-ASSESSMENT

1.6.1 How do the Board and Senior Management lead the financial institution in delivering the fair dealing outcomes to its customers? Are executive responsibilities clearly assigned?

1.6.2 Have the Board and Senior Management reviewed the financial institution's business model to ensure that it supports fair dealing ~~with its customers?~~in the customers' interests? How is the achievement of the fair dealing outcomes incorporated ~~into~~within the financial institution's policies and practices?

1.6.3 How do the Board and Senior Management clearly communicate to internal and external stakeholders the message that delivering the fair dealing outcomes is a priority for the financial institution?

1.6.4 How do the Board and Senior Management measure and monitor the achievement of the fair dealing outcomes? What measures have the Board and Senior Management drawn up to address areas where the financial institution has fallen short of delivering the fair dealing outcomes?

2 FAIR DEALING OUTCOME TWO

Financial institutions offer products and services that are suitable for their target customer segments.

2.1 RATIONALE

2.1.1 Financial institutions should carefully assess the suitability of every ~~investment~~financial product and service before manufacturing or marketing the financial product or service to customers. This should include establishing policies and procedures that support the design of products appropriate for the target customer segments. For example, financial institutions should consider customer needs and interests when designing, developing, and issuing new products and services.

2.1.2 Making financial decisions can be a complex process that has a significant impact on the livelihood of customers. Some customers find it difficult to make the most appropriate financial decision when faced with the wide variety of ~~investment~~financial products and services available in the market. For customers with limited knowledge of ~~investment~~financial products, they often focus too much on factors such as the short-term or headline returns, while not fully understanding the ~~risk-reward~~ characteristics of the product.

2.2 DESIGN AND GOVERNANCE OF PRODUCTS

2.2.1 When undertaking product or service design, the financial institution should incorporate the needs and financial objectives of the target market in its design. It should not design products, including bundled products, that would not be beneficial to customers. It should also consider potential adverse implications, and have systems and controls to manage the risks posed by the design of the product or service.

~~2.2~~2.3 CONDUCTING PRODUCT DUE DILIGENCE

~~2.2.1~~2.3.1 The financial institution should undertake formal due diligence on any ~~investment~~financial product it intends to distribute, in order to:

a) assess and fully understand the features and ~~risk-reward~~ characteristics of the product to enable its assessment of implications on a customer; and
b) identify customer segments for which the product is suitable, and customer segments for which the product is clearly not suitable.

~~2.2.2~~2.3.2 The product due diligence process should include a thorough review of the point-of-sale documents by the financial institution ~~of the prospectus, pricing statement, Product Highlights Sheet[2], factsheet, marketing materials and other representations from~~,

~~[2] The Product Highlights Sheet is a separate simplified document to supplement the prospectus. It is proposed under the *Consultation Paper on Review of Regulatory Regime Governing the Sale and Marketing of Unlisted Investment Products* issued on 12 March 2009 that issuers are required to develop this document and it must be given together with the prospectus to customers before they make investment decisions.~~

including the ~~product provider.~~following (where applicable):

- services and charges;
- terms and conditions (T&Cs);
- marketing materials;
- prospectus;
- pricing statement;
- product highlights sheet;
- fact sheet;
- application/proposal form;
- product summary;
- policy illustration;
- policy contract;
- and other representations from the product provider as well as other materials used by representatives of the financial institution.

~~2.2.3~~2.3.3 In deciding whether to distribute a new ~~investment~~financial product, the financial institution should consider, among other matters:

a) whether the financial institution's target customer segments are able to understand the product, given its ~~risk-reward~~ characteristics and level of complexity;
b) whether the product's ~~investment~~ objectives, ~~risk-reward~~ characteristics and associated cost and fees are suitable for the financial institution's target customer segments;
c) the proposed marketing channel for the product, for example, through representatives, the internet or direct marketing;
d) the competency of its representatives and their ability to understand and explain the product features and ~~risk-reward~~ characteristics; and
e) whether its systems and processes, including fact-find forms, risk profiling questionnaires and other documents, are able to support the sale of the product.

If the financial institution disagrees with the disclosures made or target customer segments recommended by the product provider, the financial institution should not market and/or sell the financial product or service to these customers.

~~2.2.4~~2.3.4 In performing product due diligence, the financial institution should involve legal, compliance and operational personnel, as well as financial advisory~~-~~ and frontline supervisory staff familiar with the needs and profile of its customers. The financial institution should maintain proper documentation of the due diligence performed. Formal management approval to distribute the ~~investment~~financial product to target customer segments should be obtained and properly documented. The documentation should include determination of the product risk assessment and identified customer segments for which the product is or is not suitable.

~~Illustration~~Good practice illustration 2.1

A financial institution has recently been offered distribution rights for a complex investment product, which is recommended by the product provider as suitable for distribution to retail customers. Upon evaluation of the product's complexity and risks, the financial institution assessed that the product may not be easily understood by its target customer segments which are retail customers. The financial institution decided not to take up the distribution rights for that product.

~~Comment~~Supervisory expectations: In deciding whether to distribute a new ~~investment~~financial product, a financial institution should conduct proper due diligence to assess the features and risk-~~-~~reward characteristics of the product, and determine if it is suitable for its target customer segments. The financial institution should form an independent conclusion, rather than rely solely on the assessment of the product provider. ~~This will ensure that~~ Although the financial institution ~~only offers~~may not have manufactured the product, it has the responsibility to ensure that it distributes products ~~that suit the profile of~~suitable for its ~~target~~ customer segments.

~~2.3~~2.4 MARKETING TO TARGET CUSTOMER SEGMENTS

2.4.1 The manufacturing financial institution should ~~tailor~~provide materials on the financial product or service (e.g. prospectus, pricing statement, product highlights sheet, or other marketing materials) to its distributors and customers that contain sufficient information for customers to make an informed decision about the financial product or service.

~~2.3.1 The financial institution should clearly communicate to its staff, especially its representatives, the target customer segments and key features and risk-reward characteristics of each investment product and service it offers. The financial institution should also educate representatives on how to classifythe product, in particular, whether the product falls under a distinct asset class. This allows representatives to provide quality advice and make appropriate recommendations on products and asset allocation to customers.~~

~~2.3.2~~1.1.1 ~~The financial institution should pay special attention when marketing investment products to certain customer segments, in particular, those with limited knowledge of investment products. It should encourage such customers to opt for a full fact-find to ensure that the advice and recommendation made by representatives suit their financial objectives and personal circumstances. The financial institution should also ensure that these customers are provided with relevant information, in a manner easily understood by them.~~

~~2.3.3~~1.1.1 ~~In marketing a complex investment product, the financial institution should make clear to customers that the product cannot generally be sold to them without advice. In addition, the financial institution should ensure that its representatives are properly~~

~~trained on the features and risk-reward characteristics of such products before they are allowed to market and advise on such products to customers. This includes passing any prescribed regulatory examinations. When representatives sell complex investment products to customers with limited knowledge of investment products, the financial institution should require its representatives to obtain higher level approval before the transaction can be executed.~~

~~2.3.4~~2.4.2 The financial institution should adjust its marketing approach to cater to the profiles, financial objectives, and general financial literacy of its target customer segments. The financial institution should not assume ~~that an investment~~a financial product is suitable for all customers within a target customer segment. The financial institution should take steps to identify any customer profiles and circumstances within the target customer segment for which the product is not suitable, and have robust controls to prevent inappropriate sales of the product to these customers.

2.4.3 The financial institution should pay special attention when marketing financial products to certain customer segments, such as in marketing investment products to persons with limited knowledge of such products. It should encourage such customers to obtain advice. The financial institution should also ensure that these customers are provided with relevant information, in a manner easily understood by them.

2.4.4 In marketing a complex investment product, the financial institution should make clear to customers that the product cannot generally be sold to them without advice. When representatives sell complex investment products to customers with limited knowledge of investment products, the financial institution should require its representatives to obtain higher level approval before the transaction can be executed.

2.4.5 Financial institutions should not market products or services to customer segments that it has deemed not suitable, or encourage excessive consumption beyond the means of customers. In particular, financial institutions should not encourage customers to take on excessive loans, risks, leverage, or insurance coverage that would compromise customers' interests when their financial circumstances change.

~~Illustration~~Good practice illustration 2.2

At a training session before the launch of a regular premium investment-linked policy, a financial institution communicated its marketing strategy to its representatives. The strategy identified the target customer segment as young executives who have worked for at least a year and who are in search of ~~savings.~~wealth accumulation needs. The financial institution further informed its representatives that while the target customer segment has been identified, they should note that the product is not suitable for customers who are seeking pure insurance protection, given the product's high investment element. The financial institution also instructs its Compliance Department to conduct post-sales sampling checks to ensure that the sales made are suitable for its customers.

~~Comment~~Supervisory expectations: In identifying a target customer segment for the distribution of ~~an investment~~a financial product or service, a financial institution should be mindful that the product may not suit all customers within the target customer segments ~~and should~~. It should communicate this clearly to its representatives, and put in place controls to ensure appropriate sales of the product to its customers.

~~[Amended on 20 February 2013]~~

~~2.4~~2.5 KEY ISSUES FOR SELF-ASSESSMENT

~~2.4.1~~2.5.1 What policies and procedures has the financial institution put in place to conduct product due diligence before offering a new ~~investment~~financial product or service to its customers?

~~2.4.2~~2.5.2 How does the financial institution ensure that its products and services are only marketed to customer segments for which they are suitable?

~~2.4.3~~2.5.3 What controls has the financial institution put in place to identify the customer profiles and circumstances within the target customer segment for which the ~~investment~~financial product or service is not suitable?

2.5.4 How does the financial institution ensure that its products and services are inclusive, such as to those who are less technologically savvy?

3 FAIR DEALING OUTCOME THREE

Financial institutions have competent representatives ~~who provide~~to serve customers~~ with quality advice and appropriate recommendations~~.

3.1 RATIONALE

3.1.1 There is a wide variety of ~~investment~~financial products that cater to customers' different financial needs, investment objectives, preferences and risk profiles. Customers often rely on representatives of financial institutions to explain ~~these~~ and recommend products and ~~recommend products~~services that are suitable for them. This requires ~~fully~~properly trained and competent representatives.

3.1.2 The conduct of representatives is influenced by pay, rewards and other incentives. Financial institutions should implement remuneration structures that align representatives' interests with those of their customers.

3.2 ENSURING COMPETENCY OF REPRESENTATIVES

~~3.2.1~~ Besides meeting the relevant minimum regulatory entry and examination requirements ~~under~~ appropriate to the ~~Financial Advisers Act~~product or service marketed, the financial institution should ~~ensure that~~equip all representatives ~~have~~with the knowledge and skills to provide quality advice or other services to customers ~~by:~~

~~3.2.2~~3.2.1 ~~undergoing a~~through structured continuous training ~~programme~~programmes covering ~~the advisory and sales process,~~ regulatory requirements, market developments, how to deliver fair dealing outcomes to customers, and other relevant topics~~;~~.

~~a) receiving continuous professional training; and~~

~~b) being fully trained~~The financial institution should train its representatives on the key features and risk-reward characteristics of ~~any investment product distributed by the financial institution, and on the profile of the target customer segments of the~~ each financial product~~,~~ and service offered before they are allowed to ~~advise on and sell the~~ market and/or advise on such products and services to customers. It should also clearly communicate to its representatives the customer segments the product ~~to customers~~

~~3.2.3~~3.2.2 ~~The financial institution should provide quality, ongoing training to its representatives. Training programmes should be well structured and go beyond satisfying requirements on training hours. The~~ or service is targeted at. Where applicable, the financial institution should ~~ensure that its training materials contain accurate and clear information on each investment~~also educate its representatives to consider the customer's profile and asset allocation and how the recommended product~~, consistent with the product due diligence performed by the financial institution and information furnished by the product provider.~~

~~Where training is conducted by the product provider or any third party trainer, it is the responsibility of the financial institution to be satisfied that the training is adequate.~~ is suitable for the customer's overall portfolio.

~~3.2.4~~3.2.3 Where applicable, a financial institution should set limits on the supervisory span of control of its supervisors so that they can effectively coach, monitor and supervise the representatives under their charge. To underscore the importance of supervisory oversight, the financial institution should ensure that supervisors are primarily focused on performing supervisory duties and are not distracted by their own sales function.

~~3.2.5 Supervisors should conduct quality coaching sessions for their representatives. They should also thoroughly review the sales conducted by the representatives, including:~~

~~a) verifying that the representatives' recommendations meet the needs of customers;~~
~~b) ensuring that representatives seek higher level approval for sales of complex investment products to customers with limited knowledge of investment products;~~
~~c) monitoring representatives' sales activities to ensure they only conduct activities which they are qualified and authorised to perform; and~~
~~d) monitoring representatives to ensure that they follow the financial institution's prescribed advisory and sales process, including propercollection of information from customers and documentation of the basis of recommendation. The financial institution should have a zero tolerance policy for failures by representatives to follow its prescribed advisory and sales process.~~

~~Illustration~~Good practice illustration 3.1

A financial institution requires new representatives to be placed under the guidance of supervisors. The supervisor observes the representatives in the advisory and sales process to see how they conduct fact-finds, needs analysis and make recommendations. During the observation period, the supervisor identifies areas of weaknesses and arranges for additional training and coaching for these representatives. The representatives are only allowed to deal with customers independently when the supervisor is satisfied that they are competent and ready to provide financial advisory services to customers.

~~Comment~~Supervisory expectations: A financial institution should develop a robust training and competency programme to ensure that its representatives are equipped with the necessary skills and knowledge to provide quality advice to customers. A supervisor should not allow representatives to perform financial advisory services independently unless he is satisfied that they are competent to do so.

~~Illustration~~Poor practice illustration 3.2

A financial institution wants to offer a new investment product to its customers. The financial institution arranges for the product provider to explain the product to its representatives. However, the financial institution does not review the adequacy of the product provider's training materials. The financial institution allows its representatives to provide advice on the product even if they have not attended the product training or demonstrated an understanding of the product and its features. As a result, the representatives are not properly trained and are unable to explain the features and risk-reward characteristics of the product to their customers.

~~Comment~~Supervisory expectations: A financial institution should not allow its representatives to advise on and sell a new investment product unless they are fully trained on its features ~~and~~, risk-reward characteristics and are able to properly explain the product to customers. For training conducted by product providers or third party trainers, the financial institution should not only rely on them but should satisfy itself that the training materials used by these product providers or third party trainers are adequate.

3.3 PROVIDING QUALITY ADVICE AND APPROPRIATE RECOMMENDATIONS

3.3.1 The quality of fact-find ~~affects~~may affect the needs analysis of customers and recommendation of ~~investment~~financial products to customers. ~~The~~Where relevant, the financial institution should ensure that its fact-find form and risk profiling questionnaire adequately and correctly capture all important information about the customer. In addition, the financial institution should ensure that any scoring methodology used in the advisory and sales process is soundly designed and correctly applied. The financial institution should demonstrate that it has properly tested and validated its scoring and risk profiling methodologies, including the extent to which it has performed customer testing or obtained external expert review and evaluation.

3.3.2 The financial institution should make clear to its customers the scope of financial ~~advisory services it provides. The financial institution should offer advice to customers for investment products that it distributes, except in very limited circumstances. These are either where the customer contacts the financial institution on his own initiative to purchase the product, for example, through internet portals, or in respect of the limited activities for which an "execution only" model is appropriate, such as active trading of securities quoted on an exchange, futures contracts or foreign exchange. A financial institution that provides "execution only" services must put in place appropriate systems, procedures and training to ensure that it does not provide advice to customers. If advice is in fact given to a customer notwithstanding the "execution only" model adopted by the financial institution, it will be deemed to be providing advice and will be subject to the provisions under the Financial Advisers Act.~~products and services it provides. When investment products are sold, the distributing financial institution should offer advice to customers, where applicable. Where no advice is provided on any investment product by a financial institution, it should highlight to the customer in writing that it is not providing advice to the customer, and what the implications are. For complex investment products, the financial institution should make clear to customers that such products cannot generally be sold to them without advice.

3.3.3 Where relevant, the financial institution should train its representatives to undertake a proper fact-find ~~and risk profiling analysis~~ to provide each customer with quality advice and appropriate recommendations. In particular, the financial institution should ensure that its representatives:

a) make reasonable enquiries and collect sufficient information to understand and analyse the customer's ~~risk tolerance, financial situation, personal circumstances, investment experience, investment priorities and ability to bear potential losses arising from the proposed investment~~financial needs and objectives;
b) present sufficient ~~investment~~ options to the customer, and provide advice that suits his financial objectives, risk tolerance and personal circumstances~~;~~, considering factors such as:
   i) the financial product's investment objectives, characteristics (including any special or unusual features), liquidity, volatility, expected returns and likely performance in a variety of market and economic conditions;
   ii) the risks arising from the proposed transaction(s);
   iii) where a series of transactions are recommended, it is not excessive and is in the customer's interest;
c) strongly encourage any customer with limited knowledge of ~~investment~~financial products to opt for a full fact-find so that the representatives can conduct meaningful needs analysis and make appropriate recommendations; and
d) fully document the basis of recommendation, at a minimum, by stating the customer's objectives and needs, explaining why the ~~investment~~financial product is recommended, and highlighting any possible risks of the product. Besides helping the customer to understand why the product is suitable for him and to make an informed decision, this documentation serves as an important record of the advisory and sales process.

3.3.4 Supervisors should also thoroughly review the sales conducted by the representatives, including:

a) verifying that the recommendations meet the needs of customers;
b) ensuring that higher level approval is sought for sales of complex investment products to customers with limited knowledge of investment products;
c) monitoring sales activities to ensure they only conduct activities which they are qualified and authorised to perform; and
d) monitoring adherence to the financial institution's prescribed advisory and sales process, including proper collection of information from customers and documentation of the basis of recommendation. The financial institution should have a zero-tolerance policy for failures to follow its prescribed advisory and sales process.

~~3.3.4~~3.3.5 The financial institution should not unduly influence the financial decisions of customers by offering gifts or rebates. The financial institution should also ensure that its representatives do not use aggressive sales tactics.

~~3.3.5~~3.3.6 Where the financial institution has informed customers that it provides periodic review of their profiles and portfolios as part of its after-sales services, it should require its representatives to undertake such reviews. For such reviews, the representatives should consider any change in circumstances and financial objectives of the customers. They can then provide them with updated analyses and recommendations, which customers can use to modify their ~~investment~~financial portfolios.

~~3.3.6~~3.3.7 Where relevant, the financial institution should ensure that regular compliance checks and other reviews of the ~~advisory and~~ sales process are performed by a function which is not involved in the ~~provision of financial advisory services.~~sales process. They may include reviews of completed fact-find forms and sales documents to monitor the quality of advice and suitability of recommendations given by the representatives and adequacy of documentation of the advisory process. The financial institution should pay particular attention to ensure that any fact-find conducted by its representatives is not a mere form-filling exercise.

~~Illustration~~Good practice illustration 3.3

The ~~Compliance Department~~Independent Sales Unit of a financial institution carries out ~~monthly compliance reviews of~~documentary checks under the Balanced Scorecard Framework on the Financial Needs Analysis forms to ensure that the recommendations made by its representatives meet the needs of customers. ~~These forms~~For representatives who are graded ~~"pass", "pass with improvements needed" and "unsatisfactory". The~~below "A", other than effecting the necessary clawbacks, the Compliance and Training Departments follow up with such representatives ~~graded "pass with improvements needed" and "unsatisfactory"~~ and their supervisors to address shortcomings and weaknesses.

~~Comment~~Supervisory expectations: A financial institution should ~~conduct regular and independent~~take into account results of such reviews ~~of the quality of advice provided by its representatives~~to formulate effective oversight measures and monitoring mechanisms to ensure that the investment products recommended meet customers' financial objectives and personal circumstances. ~~Such reviews are also useful in highlighting areas where representatives need further support and training.~~

~~Illustration~~Good practice illustration 3.4

A financial institution assigns its Compliance Department to conduct regular mystery shopping exercises to assess the competency of representatives in providing adequate disclosures and recommending suitable investment products according to the needs of customers. Results from the exercise are factored into their remuneration and training.

~~Comment~~Supervisory expectations: Regular and independent reviews of the quality of financial advisory services help uphold the professional standards of representatives, thereby safeguarding customers' interests. Besides desktop reviews of documentation made during the advisory and sales process and client surveys, the financial institution should consider conducting regular mystery shopping exercises to validate if its representatives are competent to provide quality advice and appropriate recommendations to customers. Such reviews are also useful in highlighting areas where representatives need further training.

~~Illustration~~Poor practice illustration 3.5

A representative advised his customers to switch their ~~unit trusts~~collective investment schemes ("CIS") within a short period of the initial investment to lock in gains. However, the representative failed to inform the customers that they were entitled to free switches to other ~~unit trusts~~CIS managed by the same fund house. This resulted in the representative pocketing extra commissions at the expense of his customers for every switch transaction. The financial institution which he represented detected the improper switches and refunded the customers all associated commissions and fees. In addition, the financial institution clawed back the commissions earned by the representative and took disciplinary action against him.

~~Comment~~Supervisory expectations: Representatives should not recommend customers to switch from one investment product to another in a manner that would be detrimental to their interests. To curb improper switching, the financial institution should ensure that it has proper controls, processes and procedures in place to monitor switching practices, as spelt out in MAS' Guidelines on Switching of Designated Investment Products.

~~Illustration~~Poor practice illustration 3.6

At a roadshow, a representative pressured a customer into buying an investment product. The representative emphasised that it was the last day of the promotion period and the customer would receive a free ~~digital camera~~tablet if he purchased the product on that day. The customer bought the product but realised later that it did not meet his needs.

~~Comment~~Supervisory expectations: The financial institution should not unduly influence the financial decisions of customers by offering gifts or promotions, or by applying aggressive sales tactics. It is important that the financial institution gives customers sufficient time to understand the information provided and consider the recommendations made by its representatives. Most investment products require long term financial commitment and the purchase of unsuitable products by customers can be detrimental to their financial well-being.

3.4 ALIGNING REMUNERATION STRUCTURES WITH CUSTOMERS' INTEREST

3.4.1 Poor remuneration structures ~~that rely primarily on commissions or are biased towards rewarding representatives for recommending certain investment products may encourage poor~~can lead to bad market conduct practices, such as product pushing and improper switching. Examples of problematic remuneration structures include those with product quotas and highly differentiated commissions for the sale of different products or services. The financial institution should ~~ensure that its~~ establish a remuneration structure that encourages representatives to act in the best interests of customers~~ in the course~~, and not engender conflicts of ~~providing~~interest that prejudices consumer interests. One example would be a balanced scorecard approach that takes into account conduct-related factors and not just financial targets. Financial institutions that provide advisory services~~. The financial institution~~ can ~~consider adopting a balanced scorecard approach, incorporating indicators such as number of full fact-finds conducted, compliance records and competency assessments in its remuneration structure for its representatives. Alternatively, the financial institution can~~also consider adopting a "fee for advice" instead of commission-based model, or pegging the remuneration of representatives to other objective indicators such as the medium-term performance of assets under advice.

~~Illustration~~Good practice illustration 3.7
To align the interests of its representatives with customers, a financial institution designs a remuneration package for its representatives such that a representative's remuneration is based on a fixed salary and a variable component. The variable component is structured such that 40% is based on sales volume while the other 60% is based on ~~qualitative~~ factors such as client retention, assets under advice, complaints, compliance records~~, proportion of full fact-finds conducted~~, competency assessments, and customer satisfaction derived from customer surveys.
~~Comment~~Supervisory expectations: A remuneration structure for representatives that relies primarily on commissions may create risks of product pushing and aggressive selling. Hence, a financial institution should incorporate indicators which support fair dealing objectives into the remuneration structure of its representatives.

~~Illustration~~Good practice illustration 3.8
To discourage representatives from adopting a product-focused approach when recommending investment products to customers, a financial institution rejected the proposal from one of its business units to offer representatives higher remuneration for the sale of a new investment product.
~~Comment~~Supervisory expectations: Differentiating remuneration among different types of investment products may encourage representatives to recommend products without due consideration for the needs of customers. This leads to poor market conduct practices such as aggressive product pushing. Instead, the financial institution should consider

remunerating its representatives based on objective indicators such as the medium-term performance of assets under advice.

~~Illustration~~Poor practice illustration 3.9

A customer had cash of $200,000. He sought a representative's advice on ~~the best way to make the most of this money, in particular~~ whether to invest the money or use it to repay his mortgage. The representative was primarily concerned about meeting the sales target for a new investment product that the financial institution was promoting. The representative convinced the customer to purchase the new product without considering whether the potential return from the investment ~~outweighs~~was higher than the mortgage interest on the housing loan. ~~Subsequently, the~~ The customer later found out that ~~the return from his investment in the product~~it was not ~~sufficient to cover the mortgage interest on his housing loan~~the case.

~~Comment: Representatives should not limit their recommendations to investment options for which they would earn a higher fee or commission.~~Supervisory expectations: Representatives should ensure that the fact-find process is thorough and consider all information provided by customers when providing advice. Representatives should not limit their recommendations to investment options for which they would earn a higher fee or commission.

3.5 KEY ISSUES FOR SELF-ASSESSMENT

3.5.1 How does the financial institution ensure that its training and competency programmes identify and address gaps in the knowledge and skills of its representatives, so that they are competent to provide quality advice and appropriate recommendations to its customers?

3.5.2 What has the financial institution done to put in place a robust supervisory framework for its representatives?

3.5.3 Where relevant, how does the financial institution ensure that ~~all~~ its representatives conduct proper fact-finds and needs analyses and provide quality advice that takes into account the financial objectives, risk tolerance and personal circumstances of customers?

3.5.4 Where relevant, how does the financial institution ensure that its remuneration structure~~—~~ incentivises representatives to provide quality advice and appropriate recommendations to its customers?

3.5.5 How does the financial institution ensure that its representatives explain to customers the key information on financial products, such as the product features, fees and charges, benefits and risks, as well as important terms and conditions when new products are launched and on an on-going-basis?

4 FAIR DEALING OUTCOME FOUR

Customers receive clear, relevant and timely information ~~to make informed financial decisions.~~ that accurately represents the products and services offered and delivered.

4.1 RATIONALE

4.1.1 Financial institutions should provide customers with clear and relevant information that can be readily accessed and understood, to enable them to make informed financial decisions. Such information should be given before, during and after the ~~advisory and~~ sales process. This includes after-sales updates on product performance and any material developments relating to the ~~investments~~financial product so that customers can take steps to protect their interests. This information, whether written or verbal, should be presented in a fair and balanced ~~fashion~~manner.

4.1.2 The financial institution should accurately state what customers can expect of the products and services provided by the financial institution at the start of the customer journey. Customers should not be led into having unrealistic expectations of the products to be purchased or the level of service they will receive. For example, the financial institution should clarify whether its after-sales services include periodic reviews of customers' profiles and portfolios. The financial institution should also provide its contact details to customers, to facilitate an open channel of communication.

4.2 PROVIDING CLEAR INFORMATION

4.2.1 The extent to which customers are able to understand a particular ~~investment~~financial product depends on their ~~investment~~ experience and level of financial literacy as well as clarity of the information provided by the financial institution. In developing its marketing and disclosure documents, a financial institution must ensure that information presented in the documents is consistent with the information from the product or service provider. The financial institution should ensure that disclosures to customers are:~~The financial institution should ensure that disclosures to customers are:~~

a) readily accessible[3];
b) in plain language ~~and avoid~~ that avoids the use of technical terms;
~~a)~~c) presented in a format that highlights key features and risks and does not obscure important terms and conditions; and
~~b)~~d) presented in a format that is simple to read and easy to understand.

~~In developing its marketing and disclosure documents, a financial institution must ensure that information presented in the documents is consistent with the information from the product provider. The financial institution should present key information clearly and in a simple~~

[3] Financial institutions should take into consideration the needs of different customer segments (e.g., less technologically savvy) when designing how disclosures can be readily accessed by customers.

~~format. Important features and risks of the investment product should not be in fine print.~~

4.2.2 Where information is explained verbally by its representatives, the financial institution must ensure that ~~any~~all representations are consistent with the written information provided in the ~~product~~ disclosure documents. The financial institution should provide scripts ~~for~~to its representatives to ensure that any statements they make are consistent with due diligence conducted on the features and risk-reward characteristics of the ~~investment~~financial product and on customer suitability. The financial institution should train its representatives to avoid the use of terms or phrases ~~which~~that some customers may not understand or convey a false sense of security, ~~for example~~such as "capital protected" or "similar to fixed deposits and bonds". The financial institution should have procedures to effectively monitor that its representatives keep proper records of any representations made ~~and~~or advice given to its customers.

4.2.3 When ~~dealing with~~serving customers with limited knowledge or understanding of ~~investment~~financial products, the financial institution should put in place additional safeguards ~~during the advisory and~~in its sales process, ~~including~~such as:

a) providing appropriate translations of the product disclosure documents to non-English speaking customers. Particular care should be taken when translating technical terms into other languages so as not to change their meaning or lose important nuances;
b) requiring the ~~representative's~~ supervisor or an English-~~-~~speaking relative to be present during the advisory or sales process; and
c) requiring the representative to clearly document the additional steps taken to ensure that the customer fully understands the ~~investment~~financial product, and the basis for recommending the product or service to the customer.

~~Illustration~~Poor practice illustration 4.1

A financial institution recently launched an interest rate-linked structured deposit. The product disclosure documents and marketing materials furnished to customers contain numerous technical terms such as "barrier spread", "first year no barrier" and "reference rate". There was no explanation or glossary provided for these terms. As a result, many of its customers were unable to understand the product. The representatives also failed to explain the technical terms to the customers during the advisory and sales process.

~~Comment: A financial institution~~Supervisory expectations: Financial institutions should not provide customers with disclosures containing information ~~which~~that they cannot understand. Such information should be presented in plain language, ~~and avoid use of~~without technical terms, where possible. The financial institution should consider providing tables, diagrams, graphics or ~~simple~~clear examples to aid customers in understanding the key features and risk-reward characteristics of the ~~investment~~financial product or service. Representatives should ensure that customers understand the information disclosed to them. Where technical terms are used in the product disclosure

documents and marketing materials furnished to customers, ~~representatives~~they should ~~ensure that these terms are~~be clearly explained to customers. ~~If, despite these explanations,~~ If a customer is still unable to fully understand the product~~, ~~ or service despite these explanations, the representative should not proceed with the transaction.

4.3 PROVIDING RELEVANT INFORMATION

4.3.1 Before customers make any financial ~~decisions~~decision, the financial institution should provide them with all relevant information. ~~The financial institution should provide product~~This includes disclosure documents~~, including those~~ prepared by the product or service provider such as the policy illustration, prospectus, pricing statement, Product Highlights Sheet, and factsheet~~ and marketing materials, to a customer before he makes a financial decision~~.

4.3.2 The financial institution should present ~~the ~~information ~~in~~that gives a fair and balanced ~~manner.~~representation of the features and risk-reward characteristics. It should highlight ~~all ~~key risks of the ~~investment~~financial product, the potential upside and downside of the ~~investment~~product, fees and charges, important terms and conditions, rights and obligations of customers, and early withdrawal penalties. Information on the free-look, lock-in or cooling off period of the product, where applicable, must be highlighted to customers.

4.3.3 The financial institution ~~should ensure~~must not provide false or misleading information. During the pre-sale process, customers should be provided with clear and accurate information so that ~~all marketing and advertising materials, in particular those for unlisted investment products, give a fair~~they do not proceed on the basis of inaccurate information and ~~balanced representation of the features and risk-reward characteristics of the products.~~false expectations. The financial institution should be mindful that ~~such~~all advertising and marketing materials:

a) do not misrepresent or omit key product features and risks;
b) do not contain words or graphics that could convey an impression that is inaccurate or inconsistent with the nature or risks of the ~~products~~product or service;
c) do not give the impression that a customer can make a profit without bearing any risk. For~~ unlisted~~ investment products, the financial institution should ensure that these materials do not suggest that the products are, or are comparable to, bank deposits, or there is little or no risk of the customer losing his principal or not achieving the stated or targeted rate of returns; and
d) do not mislead customers about the intended purposes and possible performance of the products.

4.3.4 The financial institution should ~~explain~~make clear to customers the range of possible outcomes for the ~~investment~~financial product, including the worst~~-~~-case scenario. For example, for products that involve market risk such as variable interest rates, the possible impact of market movements should be made clear. For products where there is a risk of the customer losing a portion of or the entire principal amount in return for potentially higher ~~interest~~returns, this risk should be highlighted to the customer~~.~~ and not trivialised. This is especially important when customers are opting for ~~such~~ products ~~as~~perceived to be an alternative to traditional fixed income investments. For ~~life~~ insurance products, information about exclusions and the likelihood of not being able to make a claim should be carefully explained. For investment products, financial institutions should also provide illustrations on the expected returns net of fees under a range of scenarios to allow customers to assess the cost-benefit and make informed decisions.

4.3.5 The financial institution should ~~inform~~ also identify, mitigate and disclose to its customers ~~how they can provide feedback~~any actual or ~~lodge complaints about~~ potential conflicts of interests, as well as their implications. Examples of such conflicts include the following:

a) the financial institution or its ~~representatives. This information should be provided to customers at the start of their relationship with~~representative involved in making the recommendation has a financial interest in the financial product recommended e.g. the financial institution~~, and should include information on the scope of complaints~~ is a market maker of the recommended product or its underlying, or acted as an issue manager of the recommended security's public offering in the past 12 months;

b) the financial institution invests customers' monies into related corporations or other entities in which the financial institution's shareholders, directors or staff hold existing business interests, such as directorships or shareholdings; and

~~a)~~c) the financial institution has business interests in the companies held by its collective investment schemes or funds, such that ~~can be heard at the Financial Industry Disputes Resolution Centre Ltd ["FIDReC"].~~the financial institution is able to influence business decisions that could affect downstream costs borne by its customers.

~~Illustration~~Poor practice illustration 4.2

A customer sought advice from a representative on the purchase of an investment product with high potential returns. She communicated that her primary objective was preservation of capital. Upon the representative's recommendation, she purchased a single premium investment-linked policy. She later realised that the representative did not explain to her that under certain circumstances, she could lose a portion of or the entire principal amount.

~~Comment~~Supervisory expectations: A financial institution should not withhold relevant information from customers when providing financial advisory services. When making recommendations on investment products, the financial institution should ensure that its representatives highlight all key risks to customers so that they can make informed financial decisions.

~~[Amended on 20 February 2013]~~

~~Illustration~~Poor practice illustration 4.3

~~At the account opening stage, a financial institution provides a brochure to all its customers on the procedures for lodging feedback, queries or complaints, as well as the contact details of the independent dispute resolution centre, FIDReC.~~

~~Comment:~~ *~~A financial institution should inform customers of its after-sales services, customer support facilities as well as the avenues for dispute resolution at the start of the relationship. This is so that customers know who to approach and how to go about resolving a dispute with the financial institution or its representatives should the need arise.~~A customer sought advice from a financial institution's staff on maximising the interest to be earned on his savings account. Upon the salesperson's recommendation, he decided to purchase an eligible financial product from the financial institution to fulfil the criteria of achieving higher bonus interest. He later realised that the staff did not explain to him that the higher bonus interest will be accorded for a period of 12 months only.*

Supervisory expectation: A financial institution should not withhold relevant information from customers during the advisory and sales process. When making recommendations on financial products, the financial institution should ensure that its staff highlight all key features and possible performance of the financial products to customers so that they can make informed financial decisions. There should be proper collection of information from customers and documentation of the basis of recommendation, including the relevant information highlighted to customers. The documentation serves as an important record of the advisory and sales process.

Good practice illustration 4.4

A customer obtained a three-month compounded SORA-pegged home loan package from a financial institution. When explaining the Residential Property Loans Fact Sheet to the customer prior to the issuance of a Letter of Offer, the staff ensured that the risks of the SORA-pegged loan had been sufficiently and clearly disclosed to, and understood by the customer. The staff also explained the lock-in period, description of interest rates for loan and repayment details and advance notice period for any changes of the loan. For example, when SORA increases in tandem with rising global interest rates, the interest on the loan goes up accordingly, and vice versa.

Supervisory expectations: Before customers make any financial decision, the financial institution should provide them with all relevant information and explain to them the range of possible outcomes for the financial product. For example, if a loan is pegged against a variable rate, the customer should be made aware of the potential extent of rate increases to determine if he or she is able to bear the risk.

Poor practice illustration 4.5

A financial institution touts zero-commission trades in their advertisements. This is in spite of the financial institution levying other related trading fees and charges, which are not prominently disclosed in its advertisements.

Supervisory expectations: Financial institutions should ensure that all advertisements on its products and services are clear, fair and balanced, not false or misleading, and be approved by its Senior Management. Financial institutions should not give the impression that a service is free if this is not the case. All fees and charges (including any subsequent changes) should be clearly disclosed and communicated to customers.

Poor practice illustration 4.6

A customer purchased a health insurance policy for hospitalisation coverage, but the representative did not ask about the customer's existing medical conditions or go through the health declaration questions in detail in the application form. A few months later, the customer received medical treatment after suffering a stroke. However, the customer's claim for the associated medical expenses was rejected, as the customer was found to have hypertension at the point of application and it was not disclosed in the application.

Supervisory expectations: The principle of utmost good faith[4] applies to insurance contracts, and the onus is on customers to disclose all material facts at point of application. Failure to do so could result in claims being rejected or policies being voided. Given these potentially serious repercussions, the insurer and the representative (if applicable) have a duty of care to highlight to customers the need to disclose all material facts in the application, and the consequences of not doing so.

4.4 PROVIDING TIMELY INFORMATION

~~i. The financial institution should set out the scope of its services, and what customers can expect on the services provided by the financial institution atthe start of the relationship with its customers. For example, the financial institution should clarify whether its after-sales services include periodic reviews of customers' profiles and portfolios.~~

4.4.1 The financial institution should provide customers with information and updates about their ~~investments~~financial purchases, both during the advisory and sales process and after the sale has been concluded.

4.4.2 When product providers provide ongoing disclosures on investment products, such as semi-annual and annual reports or updates on material developments affecting the

[4] As an insurance contract relates to a promise that hinges on the likelihood of an uncertain event occurring in the future, contracting parties (i.e., the insurer and the customer) rely on each other to produce all information that is relevant and material to the basis of the contract. Deviating from general insurance law in respect of "caveat emptor" (i.e., buyers beware), insurance contracts fall within a special class of contracts which are deemed uberrima fides (utmost good faith). Material non-disclosure by the customer can result in insurance contracts being voided.

investments, the financial institution should, in turn, provide such after-sales updates to customers. This ensures that customers are kept abreast of the investment performance and any material developments affecting their investments. The financial institution should provide information on where customers can access information about the product, such as the bid or redemption prices.

> *~~Illustration 4.4~~*
>
> *Good practice illustration 4.7*
>
> *The product provider of an investment-linked policy has appointed a new investment manager for a number of its sub-funds. It informs the financial institution which distributes the product about the change in investment manager, and clarifies that there will be no change to the investment objectives of the sub-~~-~~funds. The financial institution promptly issues a circular to all customers of the product to update them on the matter.*
>
> *~~Comment~~Supervisory expectations: A financial institution should ensure that customers are given relevant information in a timely manner as part of its after-sales services. This would enable customers to make changes or adjustments to their investment portfolios, where necessary.*
>
> *~~[Amended on 20 February 2013]~~*

4.5 REVISING TERMS AND CONDITIONS

4.5.1 When revising the terms and conditions of existing products, financial institutions should consider any potential customer impact and detriment to customer interests, and whether any action taken is aligned with what the financial institution had led customers to expect. Pricing and fees should be clearly disclosed during the sales process. Where any pricing and fees are revised following the sale of the product, such revisions should be clearly communicated to the customers with sufficient notice, so that they can consider alternatives.

> *Poor practice illustration 4.8*
>
> *Drops in prevailing market rate of interest triggered a downward revision of fixed deposit rates by a financial institution. However, the financial institution made small or no changes to the rates of certain tenors of fixed deposits to which mortgage interest rates were pegged.*
>
> *Supervisory expectations: Financial institutions should consider potential customer impact and detriment to customer interests when reviewing and/or revising the terms and conditions and when providing products/services in practice, such as when adjusting benchmark interest rates of mortgage products. For example, financial institutions should consider whether adjustments to interest rates are being done in a selective manner which is detrimental to customers and is not aligned with what customers had been led to expect when purchasing the product/service.*

Poor practice illustration 4.9

A brokerage introduced a transaction fee for trading in certain shares, applied at a fixed rate per share without a cap. As a result, some customers found themselves in situations where they were levied with fees that exceeded the market value of the shares sold. The customers were also not provided with sufficient information on the fee change.

Supervisory expectations: Financial institutions should not impose on customers prohibitive fees that are clearly beyond what customers would expect. Financial institutions should have processes to review and approve changes to their fees, including evaluating that the revised fees are not prohibitive. Fees charged by financial institutions should not exceed the value of the transaction entered into by the customer. Customers should also be provided with clear and sufficient information on the fee change, and given sufficient notice (such as a minimal notice period of 30 days), so that they can consider alternatives.

4.5.2 Some financial institutions provide themselves with a contractual right to revise the terms and conditions of a product or service (i.e. right of review, or RoR). Where this is provided for, financial institutions should clearly disclose this to customers during the sales process, the circumstances that will trigger the use of the clause, and the customer's rights in the event that the clause is exercised.

4.5.3 A financial institution should refrain from exercising the RoR clause in its contracts with retail customers except in extraordinary and unforeseen circumstances.[5]

4.5.4 Should a financial institution exercise the RoR clause in such circumstances, MAS expects the financial institution to minimally:

a) develop and maintain a robust governance process to approve the exercise of the RoR clause. The approval process should involve escalation to a management forum that has representation from senior management independent from the relevant business line. The forum should explicitly consider fair dealing outcomes for customers, including the impact that the changes are expected to have on customers, and how the financial institution intends to mitigate any potential detriment that customers may experience;

b) provide customers with a waiver of any lock-in mechanisms and fees to allow them to switch out of the financial products without penalties and, as far as possible, offer other alternative arrangements; and

c) disclose these changes early and in writing, providing customers with sufficient advance notice before the changes take effect.[6] This written notice should

[5] For example, a financial institution should not exercise the right of review clause solely in response to changes in interest rates or market conditions. This is because financial institutions are better placed to manage such financial risks and should not unfairly pass on costs due to unanticipated changes to its customers.

[6] In line with the ABS Consumer Guide to Housing Loans, a minimum of 30 days' notice should be given to customers of housing loans.

clearly explain the financial institution's reasons for initiating the change, the impact that the change will have on customers and the options that customers can consider if they do not agree with the change.

Poor practice illustration 4.10

A financial institution had intended to increase the floor rate on SORA for SORA-pegged mortgages from 0.2% to 1%. The Right of Review (RoR) clause had stated broadly that the financial institution has the right to review and amend the interest rate, basis of calculation and terms of the mortgage interest rate by giving the customer one month's notice. However, the financial institution did not communicate and state explicitly that its RoR clause in the terms and conditions (T&Cs) covered revisions to the floor rate. As such, customers were not expecting the floor rate to change. Moreover, SORA-pegged mortgage packages had been marketed as packages with greater transparency because the interest rates tracked a market index.

Supervisory expectations: Financial institutions should perform their obligations in accordance with the T&Cs and as they have explained and led customers to expect. Where a financial institution revises the T&Cs following the inception of the product, it should clearly communicate such revisions and provide sufficient notice to customers so that they can consider alternatives.

~~4.5~~4.6 KEY ISSUES FOR SELF-ASSESSMENT

~~4.5.1~~4.6.1 How does the financial institution ensure that customers with limited knowledge of ~~investment~~financial products or who are non-English speaking understand the information that is disclosed to them?

4.6.2 What safeguards does the financial institution implement to protect customers with physical disabilities or lack mental capacity, and to ensure they understand the information that is disclosed to them?

~~4.5.2~~4.6.3 How does the financial institution ensure that relevant information on ~~investment~~financial products, such as the product features, fees and charges, benefits and risks, as well as important terms and conditions, are properly explained and highlighted to customers before they make any decision to purchase the product?

4.6.4 How does the financial institution ensure that products perform as it has led customers to expect and the associated service is of an acceptable standard?

~~4.5.3~~4.6.5 What does the financial institution do to ensure that customers are provided with timely updates on their ~~investments~~financial products?

4.6.6 What has the financial institution done to ensure that any revisions to pricing and fees of products and services are clearly communicated to customers with sufficient notice?

4.6.7 What policies and procedures has the financial institution put in place to ensure a robust and independent governance process to approve and review decisions related to the exercise of the RoR clause? Does the process for deciding the exercise of the RoR clause explicitly consider fair dealing outcomes for customers, including impact of the change on customers, whether exercising the RoR clause is in line with what the financial institution had led customers to expect, and whether measures to mitigate any potential detriment that customers may experience are made available to them?

5 FAIR DEALING OUTCOME FIVE

Financial institutions handle customer complaints in an independent, effective and prompt manner.

5.1 RATIONALE

5.1.1 Financial institutions should establish a robust process to resolve customer grievances independently, effectively and promptly. This is key to providing assurance to customers that their concerns and feedback are dealt with fairly and professionally. Financial institutions should regard complaints as potential indicators of areas for improvement.

5.2 HANDLING COMPLAINTS INDEPENDENTLY AND EFFECTIVELY

5.2.1 ~~Each financial institution must have a formalised complaints handling process to ensure that complaints are handled independently and effectively. Every complainant must be afforded full opportunity to state his complaint.~~Every customer must be afforded the opportunity to lodge a complaint. Information on how to make a complaint and the contact details of the financial institution for complaints handling, should also be made available and easily accessible by the public. This information should be provided to customers at the start of their relationship with the financial institution, and should include information on the scope of complaints that can be heard at the Financial Industry Disputes Resolution Centre Ltd ("FIDReC").

5.2.2 Each financial institution should establish a system to record, track and manage complaints received from complainants. This includes keeping records of complaints made, correspondences and materials reviewed in relation to the complaints. This should include among others, an assessment of the merits of each complaint, escalation procedures, and a reasonable timeframe for handling and resolving complaints.

~~5.2.1~~5.2.3 The financial institution should resolve complaints fairly and consistently, by setting clear criteria for assessing the merits of each complaint. In reviewing a complaint, the financial institution should make its assessment based on the facts and circumstances of each case. This includes considering factors such as the customer's profile, and the internal processes for the sale of the financial product or service, including any verbal representations or promises made to the customer during the advisory and sales process. The financial institution should work with the complainant to identify all facts required for a fair assessment of the complaint. The assessment outcome for each complaint should be properly documented~~ and a copy of the interview statements made by the complainant should be furnished to him~~.

5.2.4 ~~The financial institution should resolve complaints fairly and consistently.~~ In ~~reviewing a~~ communicating the outcome of its review of the complaint, the financial institution should ~~look at the facts and circumstances of each case. The financial institution should consider relevant factors, such~~ be as ~~its internal processes for the sale of the~~

~~investment product;~~clear and transparent as possible, so that the complainant is able to appreciate the ~~customer's profile; and how~~rationale behind the ~~sale was conducted, including any verbal representations or promises~~outcome. Where applicable, a copy of the interview statements made by the ~~representative to the customer during~~complainant should be furnished to him.

~~ii.~~Senior Management should oversee the ~~advisory and sales~~ complaints handling process~~.~~

~~5.2.2~~5.2.5 ~~Staff~~, and staff handling complaints should be properly trained. Complaints must be assessed by reviewers who are not involved in the provision of financial ~~advisory services. The financial institution should set clear criteria for assessing the merits of each complaint. The assessment outcome for each complaint should be properly documented.~~services. Where appropriate, complaints should be escalated to the Board and Senior Management.

~~5.2.3~~5.2.6 Complaints can be a valuable indicator of potential systemic problems ~~which~~that need to be addressed. Where the financial institution receives a significant number of complaints about a specific issue ~~or investment~~, financial product or service, it should ~~conduct investigations to identify~~investigate and rectify the root cause ~~of the problems~~promptly. The same applies if there are multiple complaints relating to a specific representative, group of representatives, representatives based at a specific location, or from customers of a specific profile. ~~The financial institution should take steps to rectify any problems immediately~~Financial institutions should incorporate lessons learnt from such incidents into its policies and practices to prevent recurrence.

~~Illustration~~Good practice illustration 5.1

A financial institution sets up a centralised unit to handle complaints and implements an information system to document all complaint cases. It assigns the Compliance Department to independently review and investigate all complaints. All serious complaint cases and analysis of complaints are discussed at the monthly management meetings involving the Chief Executive Officer and ~~all~~relevant Heads of Department. The Senior Management instructs additional measures to be taken to rectify systemic issues identified, to prevent such incidents from recurring. To underscore the importance of dealing fairly with customers, the Chairman of the financial institution reads all customer complaints addressed to him, and monitors the progress of the rectification measures.

~~Comment~~Supervisory expectations: To ensure that complaints are handled independently and effectively, the financial institution should appoint reviewers who are not involved in the provision of financial ~~advisory~~ services to oversee the investigation and resolution of complaints. There should also be guidelines on when ~~to escalate~~and what complaints to escalate to the Board and Senior Management.

Good practice illustration 5.2

At the account opening stage, a financial institution provides a brochure to all its customers on the procedures for lodging feedback, queries or complaints, as well as the contact details of the independent dispute resolution centre, FIDReC.

Supervisory expectation: A financial institution should inform customers of its after-sales services, customer support facilities as well as the avenues for dispute resolution at the start of the relationship. This is so that customers know who to approach and how to go about resolving a dispute with the financial institution or its representatives should the need arise.

5.3 RESOLVING COMPLAINTS PROMPTLY

5.3.1 The financial institution should set service standards for its complaints handling and resolution, including reasonable timeframes to acknowledge a customer's complaint, interview the customer and complete the review of the complaint. The financial institution must devote sufficient resources to attend to and resolve customer complaints within ~~the~~its stipulated turnaround times, without compromising the quality of review.

5.4 KEY ISSUES FOR SELF-ASSESSMENT

5.4.1 How does the financial institution ensure that all complaints are handled independently, effectively and promptly?

5.4.2 How does the financial institution ensure that it has adequate resources to resolve all complaints within ~~the~~its stipulated timeframes?

5.4.3 What controls, processes and procedures does the financial institution have to deal with recurring complaints?