

# CONSULTATION PAPER

June 2019

## **Guidelines on Individual Accountability and Conduct – Proposed Scope of Application**

MAS

Monetary Authority of Singapore

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## 1 Preface

1.1 On 26 April 2018, the Monetary Authority of Singapore (MAS) issued a consultation paper to seek feedback on a proposed set of guidelines to strengthen accountability and standards of conduct across the financial industry. Specifically, the Guidelines on Individual Accountability and Conduct (IAC Guidelines) aim to promote the individual accountability of senior managers, strengthen oversight of material risk personnel<sup>1</sup>, and reinforce standards of proper conduct among all employees. The IAC Guidelines set out *five* Outcomes and specific guidance underpinning each Outcome that Financial Institutions (FIs) should work towards:

- (i) Outcome 1: Senior managers who have responsibility for the management and conduct of functions that are core to the FI's operations are clearly identified.
- (ii) Outcome 2: Senior managers are fit and proper for their roles, and held responsible for the actions of their staff and the conduct of the business under their purview.
- (iii) Outcome 3: The FI's governance framework is supportive of and conducive to senior managers' performance of their roles and responsibilities. The FI's overall management structure and reporting relationships are clear and transparent.
- (iv) Outcome 4: Material Risk Personnel<sup>1</sup> are fit and proper for their roles, and subject to effective risk governance as well as the appropriate standards of conduct and incentive structure.
- (v) Outcome 5: The FI has a framework that promotes and sustains the desired conduct among all employees.

1.2 The consultation closed on 25 May 2018, and MAS issued our response to the feedback received on 6 June 2019. This consultation paper is an extension of the 26 April 2018 consultation paper, to seek additional feedback on the revised scope of FIs on which the IAC Guidelines will be applied.

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<sup>1</sup>The term "employees in material risk functions" was revised to "material risk personnel" in the Response to Feedback Received- Guidelines on Individual Accountability and Conduct issued on 6 June 2019 to clarify that it is the individual, rather than functional units, that forms the basis for identifying personnel in material risk functions.

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## 2 Applicability of the Guidelines

2.1 In the earlier consultation, MAS had proposed to apply the IAC Guidelines to the following FIs:

- (i) a bank licensed under the Banking Act (Cap. 19) (BA);
- (ii) a merchant bank approved under the Monetary Authority of Singapore Act (Cap. 186);
- (iii) a finance company licensed under the Finance Companies Act (Cap. 108);
- (iv) an insurer licensed under the Insurance Act (Cap. 142) (IA);
- (v) a foreign insurer operating in Singapore under a foreign insurer scheme established under the IA;
- (vi) an approved exchange under the Securities and Futures Act (Cap. 289) (SFA);
- (vii) an approved clearing house under the SFA;
- (viii) an approved holding company under the SFA;<sup>2</sup>
- (ix) a holder of a capital markets services licence under the SFA;
- (x) a financial adviser licensed under the Financial Advisers Act (Cap. 110); and
- (xi) a trust company licensed under the Trust Companies Act (Cap. 186).

2.2 Respondents had various comments on the scope of application of the IAC Guidelines. In particular, three respondents proposed to extend the IAC Guidelines to insurance brokers and approved trustees for collective investment schemes. Two others suggested to include registered fund management companies (RFMCs), while one was supportive of excluding RFMCs from scope. There was also one suggestion to extend the IAC Guidelines to all FIs regulated by MAS.

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<sup>2</sup> For approved exchanges and approved clearing houses that are operated as a single group, we will apply a single instance of the IAC on the entire group (including the approved holding company). For approved exchanges and approved clearing houses that are run as separate entities, we will apply the IAC separately to the disparate entities in the group (excluding the approved holding company).

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2.3 As the underlying principles of clarity in individual responsibilities and proper conduct are applicable across the financial sector, in addition to the list of FIs set out under paragraph 4.1 of the 26 April 2018 consultation paper, and subject to paragraph 2.4 below, MAS proposes to extend the Guidelines to all FIs regulated by MAS, including:

- (i) a person licensed under the BA to carry on the business of issuing credit cards or charge cards in Singapore;
- (ii) a registered insurance broker under the IA;
- (iii) a designated financial holding company under the Financial Holding Companies Act 2013 (Act 13 of 2013);
- (iv) a registered fund management company exempted from holding a capital markets services licence under paragraph 5(1)(i) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (SFR);
- (v) a person approved under the section 289 of the SFA to act as a trustee of a collective investment scheme which is authorised under section 286 of the SFA and constituted as a unit trust;
- (vi) a recognised market operator that is incorporated in Singapore under the SFA;
- (vii) a recognised clearing house that is incorporated in Singapore under the SFA;
- (viii) the Central Depository System as defined under the SFA;
- (ix) a licensed trade repository under the SFA;
- (x) an authorised benchmark administrator or exempt benchmark administrator under the SFA;
- (xi) an authorised benchmark submitter or designated benchmark submitter under the SFA<sup>3</sup>;
- (xii) an operator of designated payment systems under the Payment Systems (Oversight) Act (Cap. 222A) (PSA);

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<sup>3</sup> Exempt Benchmark Submitters should refer to their existing regulatory status or licence with MAS (e.g. as a bank, recognised market operator, etc) for the application of the IAC Guidelines.

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- (xiii) a holder of an approved stored value facility under the PSA;
  - (xiv) a licensee and regulated entity under the Payment Services Act 2019<sup>4</sup>;
  - (xv) a licensee under the Money-changing and Remittance Businesses Act (Cap. 187);  
and
  - (xvi) a licensed credit bureau under the Credit Bureau Act 2016<sup>5</sup>.

2.4 MAS does not consider it necessary to subject the following entities to the IAC Guidelines, as (a) the scope of activities conducted by these is limited, and these entities are subject to minimal business conduct and financial requirements; or (b) these entities have minimal presence in Singapore, or are primarily regulated by a foreign regulator:

- (i) an exempt financial adviser<sup>6</sup>;
- (ii) an exempt corporate finance adviser<sup>7</sup>;
- (iii) an exempt trust business<sup>8</sup>;
- (iv) an exempt over-the-counter (OTC) derivatives broker<sup>9</sup>;

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<sup>4</sup> The Payment Services Act has been passed in Parliament and is expected to come into effect towards the end of 2019. The explanatory brief of the Payment Services Act can be found at <http://www.mas.gov.sg/News-and-Publications/Speeches-and-Monetary-Policy-Statements/Speeches/2018/Explanatory-Brief-on-the-Payment-Services-Bill.aspx>.

<sup>5</sup> The Credit Bureau Act has been passed in Parliament and is pending commencement. The Second Reading and explanatory brief of the Credit Bureau Bill can be found at <http://www.mas.gov.sg/News-and-Publications/Speeches-and-Monetary-Policy-Statements/Speeches/2016/Credit-Bureau-Bill-2016.aspx> and <http://www.mas.gov.sg/News-and-Publications/Speeches-and-Monetary-Policy-Statements/Speeches/2016/Explanatory-Brief-Credit-Bureau-Bill-2016.aspx>.

<sup>6</sup> Persons providing financial advisory services for up to 30 Accredited Investors (“AIs”) under Regulation 27(1)(d) of the Financial Advisers Regulations.

<sup>7</sup> Persons giving advice on corporate finance to only AIs, Expert Investors (“EIs”) or Institutional Investors (“IIs”) under Paragraph 7(1)(b) of the Second Schedule to the SFR.

<sup>8</sup> Any practising solicitor, foreign practitioner, Singapore law practice, Joint Law Venture, Formal Law Alliance or Qualifying Foreign Law Practice carrying out trust business for up to 30 clients with each client’s trust assets not exceeding S\$2 million under Regulation 4(1)(b)(iv) of the Trust Companies (Exemption) Regulations.

<sup>9</sup> Corporations carrying on business in dealing in capital markets products that are OTC derivatives contracts with only AIs, EIs or IIs under Paragraph 3A(1)(d) of the Second Schedule to the SFR.

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- (v) an exempt future broker<sup>10</sup>;
  - (vi) a Recognised Market Operator (RMO) incorporated outside Singapore;
  - (vii) a Recognised Clearing House (RCH) incorporated outside Singapore;
  - (viii) a Licensed Foreign Trade Repository (LFTR); and
  - (ix) the Continuous Linked Settlement (CLS) Bank.

2.5 MAS had proposed in paragraph 5.2 of the Consultation Paper on Proposed Guidelines on Individual Accountability and Conduct dated 26 April 2018 that FIs should clearly identify senior managers who have responsibility for functions that are core to the management of the FIs affairs, including but not limited to the list of Core Management Functions (CMFs) set out in Annex B of the Consultation Paper. The list of CMFs in Annex A of the current consultation paper has been revised to include functions relevant to the additional FIs which MAS is proposing to include in scope under paragraph 2.3. The list of CMFs represents core functions relating to the management of an FI's day-to-day affairs that MAS would normally consider to be performed by senior managers. It provides general guidance and is not intended to be exhaustive nor prescribe a particular governance structure for all FIs.

#### **Proportionate application**

2.6 All FIs are expected to work towards the five Outcomes set out in paragraph 1.1 (i) to (v), which are fundamental to ensuring accountability and upholding high standards of conduct within the FIs.

2.7 Nevertheless, MAS recognises that in smaller firms, management oversight and control is generally less dispersed, and decision-making structures tend to be less complex. In these FIs, the directors and chief executive officers usually directly oversee most or all functions in the FIs. The accountability is also clearer in these smaller FIs with simple decision-making structures. As such, MAS will not ordinarily expect smaller FIs, such as those with a headcount of less than 20<sup>11</sup>, to adopt the specific guidance described

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<sup>10</sup> Corporations carrying on business in dealing in capital markets products that are block futures contracts with only AIs, EIs, or IIs under Paragraph 3(1)(d) of the Second Schedule to the SFR.

<sup>11</sup> For an FI that is a holder of a capital markets services licence under section 82(1) of the SFA or a financial adviser licensed under section 6(1) of the Financial Advisers Act, the FI should include the number of local and overseas-based representatives in determining its headcount.

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under the five Outcomes. For the avoidance of doubt, all the requirements in the relevant legislation administered by MAS on directors and key executives will continue to apply.

2.8 Notwithstanding paragraph 2.7, MAS may still specifically require a smaller FI (e.g. those with a headcount of less than 20) to adopt the specific guidance under any of the five Outcomes of the IAC Guidelines as necessary, after taking into account factors such as the nature and complexity of the FI's operations.

**Question 1.** MAS seeks comments on

- (a) the proposed additional scope of FIs to apply the IAC Guidelines on, as set out in paragraph 2.3; and
- (b) the proposed headcount threshold of less than 20, as set out in paragraph 2.7, to distinguish smaller FIs which MAS will not ordinarily expect to adopt the specific guidance under the five Outcomes.

2.9 For further details of MAS' expectations of FIs under the IAC Guidelines, please refer to the [Consultation Paper on Proposed Guidelines on Individual Accountability and Conduct](#) dated 26 April 2018 and the [Response to Feedback Received- Proposed Guidelines on Individual Accountability and Conduct](#) dated 6 June 2019.

2.10 Please submit written comments by 22 July 2019 to –

Markets Policy & Infrastructure Department  
Monetary Authority of Singapore  
10 Shenton Way, MAS Building  
Singapore 079117  
Fax: (65) 6220 3973  
Email: mas\_mcp@mas.gov.sg

2.11 Electronic submission is encouraged. Please use [this format](#) for your submission to ease our collation efforts.



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**Annex A**

**CORE MANAGEMENT FUNCTIONS**

In these Guidelines, “core management functions” include the following persons, by whatever name described –

- (a) “*chief executive officer*”, who is principally responsible for the management and conduct of the business of the financial institution, including its subsidiaries and branches if any, in accordance with the strategy and risk appetite approved by the Board or Head Office, as applicable;
- (b) “*chief financial officer*” or “*head of finance*”, who is principally responsible for managing the financial resources and financial reporting processes of the financial institution;
- (c) “*chief risk officer*” or “*head of risk*”, who is principally responsible for establishing and implementing the risk management framework to identify, monitor, and manage the risks of the financial institution;
- (d) “*chief operating officer*” or “*head of operations*”, who is principally responsible for managing the day-to-day operations of the financial institution;
- (e) “*chief information officer*”, “*chief technology officer*”, or “*head of information technology*”, who is principally responsible for establishing and implementing the overall information technology strategy, overseeing the day-to-day information technology operations, and managing the information technology risks of the financial institution;
- (f) “*chief information security officer*” or “*head of information security*”, who is principally responsible for the information security strategy and programme of the financial institution, including but not limited to information security policies and procedures to safeguard information assets, information security controls, and the management of information security breaches;
- (g) “*chief data officer*”, who is principally responsible for establishing and implementing the policies, systems, and processes of the financial institution as regard the governance, use, and analysis of data;

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- (h) *“head of business function”*, who is principally responsible for the management and conduct of a function which undertakes the business activities of the financial institution, including –
- (i) in relation to a bank licensed under the Banking Act, the functions involving retail banking, private banking, corporate banking, institutional banking, investment banking, and treasury, and any other material function;
  - (ii) in relation to a merchant bank approved under the MAS Act, the functions involving private banking, corporate banking, institutional banking, investment banking, and treasury, and any other material function;
  - (iii) in relation to a finance company licensed under the Finance Companies Act, the functions involving retail banking, corporate banking, and treasury, and any other material function;
  - (iv) in relation to an insurer licensed under the Insurance Act, or foreign insurer operating in Singapore under a foreign insurer scheme established under the Insurance Act, as the case may be, the functions involving agency and distribution, underwriting, marketing, and investment, and any other material function;
  - (v) in relation to a registered insurance broker under the Insurance Act, the functions of acting as an insurance broker as defined under section 1A of the Insurance Act, and any other material function;
  - (vi) in relation to an approved exchange, recognised market operator that is incorporated in Singapore, approved clearing house, recognised clearing house that is incorporated in Singapore, approved holding company, licensed trade repository or the Central Depository System under the Securities and Futures Act, as the case may be, the functions involving the creation, sale and marketing of regulated products, regulated activities or membership, and any other material function;
  - (vii) in relation to a holder of a capital markets services licence under the Securities and Futures Act, the functions involving any regulated activity specified in the Second Schedule of the Securities and Futures Act, and any other material function;

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- (viii) in relation to a registered fund management company exempted from holding a capital markets services licence under paragraph 5(1)(i) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations, the functions involving the regulated activity of fund management as defined in the Second Schedule of the Securities and Futures Act, and any other material function;
  - (ix) in relation to an approved trustee under the Securities and Futures Act, the functions involving acting as a trustee for collective investment schemes which are authorised under the Securities and Futures Act and constituted as unit trusts, and any other material functions;
  - (x) in relation to a financial adviser licensed under the Financial Advisers Act, the functions involving any regulated activity specified in the Second Schedule of the Financial Advisers Act, and any other material function; and
  - (xi) in relation to a trust company licensed under the Trust Companies Act, the functions involving any trust business specified in the First Schedule of the Trust Companies Act, and any other material function;
- (i) *“head of actuarial”, “appointed actuary”, or “certifying actuary”*, who, in relation to a licensed insurer or foreign insurer operating in Singapore under a foreign insurer scheme, as the case may be, is principally responsible for the actuarial function, including but not limited to the approval of premium rates, valuation of liabilities, computation of protected liabilities relating to policy owners’ protection scheme, financial condition investigation, risk management, investment, and product pricing and development of the insurer;
  - (j) *“head of human resources”*, who is principally responsible for establishing and implementing the financial institution’s employment policies and processes, including on recruitment, on-boarding, continuous training, performance evaluation, compensation, promotion, consequence management, and termination;
  - (k) *“head of compliance”*, who is principally responsible for monitoring and managing the financial institution’s compliance with regulatory

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requirements under the applicable laws and regulations as well as internal policies and procedures;

- (l) *“head of financial crime prevention”*, who is principally responsible for establishing and managing the policies, systems, and processes to counter the risks of the financial institution’s involvement in money laundering, terrorism financing, weapons proliferation and sanctions evasion, bribery, and corruption, as well as for filing Suspicious Transactions Reports (STRs)<sup>12</sup>;
- (m) *“head of internal audit”*, who is principally responsible for ensuring the adequacy and effectiveness of the financial institution’s internal controls, and reporting directly to the Board Audit Committee or the financial institution’s Head Office, as appropriate, on these matters; and
- (n) *“chief regulatory officer”*, who, in relation to an approved exchange, approved clearing house, or approved holding company, as the case may be, is principally responsible for overseeing the regulatory functions and changes to the business rules of the approved exchange, approved clearing house, or approved holding company.

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<sup>12</sup> STRs are filed with the Suspicious Transactions Reporting Office, which is part of the Singapore Police Force’s Commercial Affairs Department.