



RESPONSE TO FEEDBACK RECEIVED – POLICY CONSULTATION ON PROPOSALS TO FACILITATE BETTER UNDERSTANDING OF PROSPECTUSES

1 INTRODUCTION

- 1.1 On 14 October 2013, MAS issued a consultation paper inviting comments on proposals aimed at improving the quality of information disclosed and facilitating better understanding by investors of key information presented in prospectuses. The consultation closed on 14 November 2013. The list of respondents is found in Annex 1.
- 1.2 MAS thanks all respondents for their feedback. MAS has carefully considered the feedback received and further clarifications from respondents where necessary. Comments of wider interest, together with MAS' responses, are set out below.

2 PRODUCT HIGHLIGHTS SHEET

2.1 Extension of Product Highlights Sheet Requirements

- 2.1.1 MAS proposed to extend the requirement for a Product Highlights Sheet ("PHS") to the following securities for offers that are made in or accompanied by a prospectus or, with the exception of (c) below, an offer information statement ("OIS")¹:
- (a) plain vanilla corporate debentures ("Debt Securities");
 - (b) preference shares, perpetual securities and convertible bonds ("Hybrid Instruments"); and
 - (c) ordinary shares, units in real estate investment trusts ("REITs") and units in business trusts (collectively, "Equity Securities").

¹ Currently, a PHS is required for offers of investment products which are more complex in structure (namely, asset-backed securities, structured notes, unlisted collective investment schemes, exchange-traded funds and investment-linked product sub-funds), where the offer is made in or accompanied by a prospectus.

- 2.1.2 Respondents were generally supportive of the proposals. They noted that the PHS would facilitate clearer and more effective disclosures and help investors understand the nature and key risks of the securities they are considering to invest in. Some respondents suggested that MAS prescribe content requirements for disclosures in the prospectus summary or overview in the front section of the prospectus (the “Prospectus Summary”) instead of a separate document, given the common practice amongst issuers to provide a summary or overview². These respondents suggested that requirements be confined to the content, and not the form of the Prospectus Summary (such as its presentation and page limits). It was highlighted that if the Prospectus Summary is required to be prepared in accordance with a certain prescribed form, issuers whose Singapore offerings are made in conjunction with international offerings (which are accustomed to certain drafting norms) could face practical difficulties.
- 2.1.3 Some respondents highlighted possible difficulties in ensuring that the PHS is given out to investors together with the prospectus. Others questioned if having a standalone summary document could result in certain investors reading the PHS in lieu of the prospectus.

MAS’ Response

- 2.1.4 MAS has considered the suggestion to prescribe the content requirements for the Prospectus Summary in place of a separate PHS. The Prospectus Summary may become lengthy and convoluted if requirements relate only to the content but not the form of the Prospectus Summary. This would not meet the objectives our proposals mentioned in paragraph 1.1 above.
- 2.1.5 MAS is of the view that adopting a common PHS format will improve the presentation of key information in prospectuses and enhance the comparability of investment products by investors. The adoption of a common PHS format does not give rise to practical problems highlighted in paragraph 2.1.2.
- 2.1.6 As for concerns that the PHS may be distributed to investors separately from the prospectus, MAS expects the issuer to provide the PHS to the investor together with the prospectus. This is already practised in offers

² This is more prevalent in prospectuses for offerings of Equity Securities.

of more complex investment products (e.g. collective investment schemes). MAS would like to emphasize that the prospectus is required to contain all information that investors and their advisors would reasonably require to make an informed investment decision. The PHS does not replace, but complements the prospectus by providing key information on the nature and risks of the securities in a clear and concise manner. The cross-references in the PHS will enable investors to read the relevant sections in the prospectus for further details.

- 2.1.7 Given the above considerations, MAS will proceed with the proposal for a PHS to be provided to investors in any offer of:
- (a) Debt Securities;
 - (b) Hybrid Instruments; and
 - (c) Equity Securities,

where the offer is required to be made in or accompanied by a prospectus or OIS³.

- 2.1.8 As explained in the consultation paper, the PHS proposals will not be extended to secondary offers⁴ of Equity Securities where the offer is made in or accompanied by an OIS. Nonetheless, issuers are encouraged to provide a PHS for such secondary offers of Equity Securities if they consider it to be useful for investors.

2.2 Page Limits

- 2.2.1 MAS proposed the following page limits for PHS:
- (a) Debt Securities – 4 pages (or 8 pages including diagrams and glossary); and
 - (b) Hybrid Instruments and Equity Securities – 8 pages (or 12 pages including diagrams and glossary).
- 2.2.2 MAS also proposed that the PHS be subject to the following requirements (collectively, the “Requirements”):
- (a) the PHS shall not contain any statement or matter that is false or misleading in the form and context in which it is included;
 - (b) the PHS shall not contain any material information that is not contained in the prospectus;

³ With the exception of paragraph 2.1.1(c) for OIS.

⁴ A secondary offer means a subsequent offer of securities made by the issuer after the listing of its shares on the securities exchange.

- (c) the PHS shall not contain any material information that differs in any material particular from that set out in the prospectus;
- (d) the PHS should not omit any information from any part of the PHS which would result in any part of the PHS being construed as false or misleading; and
- (e) the PHS shall give a fair and balanced view of the nature, material benefits and material risks of the securities offered.

2.2.3 A number of respondents highlighted the challenges of summarising information on the business, assets and performance of the issuer within the proposed page limits. One respondent suggested that the PHS for offers of Debt Securities should be subject to the same page limit as the PHS for offers of Hybrid Instruments and Equity Securities, given that similar issuer-related information is expected to be provided on offers of Debt Securities.

MAS' Response

2.2.4 The Requirements are important to ensure that the statements in the PHS are not false and misleading, are consistent with the information in the Prospectus, and provide a fair and balanced view of the offering.

2.2.5 To provide issuers and their advisers with more flexibility in managing the use of words and diagrams in drafting the PHS, MAS will:

- (a) revise the page limits of the PHS for offers of Debt Securities, Hybrid Instruments, and Equity Securities where a prospectus is required to a flat limit of 12 pages, including diagrams and glossary; and
- (b) specify sections in the PHS templates where issuers are encouraged to illustrate information diagrams so that information could be more easily understood by investors.

2.2.6 For secondary offerings of Debt Securities and Hybrid Instruments by listed issuers (i.e. where an OIS is required), the applicable page limits will be modified as follows:

- (i) Debt Securities: A flat page limit of 8 pages, including diagrams and glossary shall apply. As listed issuers are subject to continuous disclosure obligations under the listing rules, investors would already have access to issuer-related information from these disclosures. Therefore, less issuer-related information would be expected to be disclosed in the PHS; and

- (ii) **Hybrid Instruments:** A flat page limit of 12 pages, including diagrams and glossary will apply. Hybrid Instruments could contain features which differ across different offers (such as features relating to coupon deferrals, cumulative-features, and convertibility). The longer page limit would allow such unique features to be explained clearly to investors. Further, unlike Debt Securities which provide investors with fixed, regular pay-outs, the returns to investors in Hybrid Instruments could be dependent on the performance of the issuers' business. In such cases, MAS would expect more information on the issuer's business to be disclosed to investors.

2.2.7 The revised page limits⁵ are summarised in the table below.

	Debt Securities PHS	Hybrid Instruments PHS	Equity Securities PHS
Where prospectus is required	12 pages	12 pages	12 pages
Where OIS is required⁶	8 pages		Not required

2.3 Information to be Disclosed in the PHS

2.3.1 In relation to the proposed information to be disclosed in the PHS for Debt Securities, Hybrid Instruments and Equity Securities, some respondents suggested the following changes:

- (a) For Equity Security PHS:
- (i) including disclosures for the different forms of fees payable to the trustee-managers of business trusts / managers of REITs;
- (b) For all PHS:
- (i) removing the "Trends and Prospects" or "Key Trends" section;
 - (ii) including a section on "Strengths of the Issuer"; and
 - (iii) including details on the offer-timetable.

⁵ Currently, the PHS for offers of asset backed securities, structured notes (including exchange-traded notes), unlisted collective investment schemes and exchange traded funds is subject to a page limit of 4 pages (or 8 pages including diagrams and glossary).

⁶ An offering made by a listed issuer.

- 2.3.2 In relation the “Trends and Prospects” or “Key Trends” section, one respondent commented that reading this section in isolation, without reading the remaining disclosures in the prospectus, may be misleading. Respondents also cited that in practice, some issuers may present information on trends and prospects in different parts of the prospectus (such as “Risk Factors”, “Industry Overview”, “Management Discussion & Analysis”). Hence, it could be challenging to adequately summarise the information in the PHS.

MAS’ Response

- 2.3.3 MAS has considered the suggestions and will modify the templates, as follows:
- (c) Replace the heading “Key Trends” with “Key trends, Uncertainties, Demands, Commitments or Material Events”. MAS does not propose to remove this section from the PHS as this could be important information for investors to evaluate an offer. In particular, this information provides a more complete view of an issuer’s financial performance against recent developments or circumstances which could have a material effect on an issuer’s financial performance or could cause financial information disclosed in the prospectus to be not necessarily indicative of the future operating results or financial condition of the issuer. This information is also required to be disclosed in prospectuses and OIS; and
 - (d) Introduce a new section to set out fees payable to managers of REITs, as well as trustee-managers of business trusts.
- 2.3.4 MAS will not be including a section on the “Strengths of the Issuer” in the PHS as this is not information which an issuer is currently required to disclose in the prospectus. Further, MAS will not include a section on offer time-table in the PHS as the intention is for the PHS to highlight key information to facilitate investors’ understanding of the offer or the business of the issuer.

2.4 Implementation through Guidelines

- 2.4.1 MAS recognises that market practitioners may need time to adopt the PHS proposals. MAS will introduce the PHS proposals in the form of guidelines first, to provide guidance to issuers and their professional advisers in preparing PHS. The Guidelines on the Product Highlights

Sheets for Offers of Debt Securities, Hybrid Instruments and Equity Securities dated 5 February 2015 are issued in conjunction with this consultation response (the “PHS Guidelines”).

- 2.4.2 The PHS Guidelines will apply to offers of Debt Securities, Hybrid Instruments and Equity Securities for which prospectuses or OIS (where applicable) are submitted or lodged with MAS on or after 1 July 2015. MAS will consider incorporating these proposals in legislation⁷ after the market becomes more accustomed to them.

3 INCORPORATION BY REFERENCE

- 3.1 MAS proposed to allow information located outside a prospectus to be incorporated into the prospectus by making reference to the information, subject to the following conditions:

- (a) information that may be incorporated by reference is limited to the following:
 - (i) the audit report in respect of historical financial information which is presented in the prospectus;
 - (ii) list of directorships held by directors of the issuer in other corporations in the last 5 years; and
 - (iii) valuation reports and industry overview reports which are prepared by experts who have given their consent pursuant to section 249 of the SFA;
- (b) any information that is required to be disclosed in a PHS shall not be incorporated by reference;
- (c) the prospectus contains sufficient information about the incorporated information (including a statement as to whether it is information which is primarily of interest to professional analysts, advisers or investors) to allow an investor to decide whether to obtain a copy of the incorporated information;
- (d) the prospectus contains a statement that the issuer will provide a copy of the incorporated information free of charge upon request; and
- (e) the information which is incorporated by reference is contained in a document lodged on the Offers and Prospectuses Electronic Repository and Access system (“OPERA”) (i.e. the full prospectus is lodged).

⁷ MAS will conduct a public consultation on the legislative amendments.

3.2 Respondents generally welcomed the proposal to allow incorporation of certain prospectus information by reference. Several respondents sought clarification and offered suggestions on the proposed conditions to be complied with.

3.3 Conditions for Incorporation by Reference

3.3.1 A number of respondents sought guidance on the meaning of “sufficient information”, in relation to the condition requiring the prospectus to contain sufficient information about the incorporated information to allow an investor to decide whether to obtain a copy of the incorporated information (paragraph 3.1(c) above).

3.3.2 Several respondents cited difficulties determining whether “the incorporated information is primarily of interest to professional analysts, advisers or investors”. Respondents commented that it is unlikely that this statement would be included by issuers due to the difficulty making such judgment and liabilities associated with it.

3.3.3 Some respondents also suggested expanding the scope of information that can be incorporated by reference to include:

- (a) all financial statements included in the offer document;
- (b) list of directorships held by executive officers in other corporations in the last five years;
- (c) all expert reports, e.g. qualified person reports for mineral, oil and gas companies, independent taxation reports and independent financial adviser reports;
- (d) summary of relevant laws;
- (e) constitution of the issuer;
- (f) material contracts; and
- (g) interested person transactions.

MAS' Response

3.3.4 Given the broad support from the respondents, MAS will proceed with the proposal to allow incorporation by reference. As this proposal requires legislative amendments to the SFA, MAS will consult on the legislative drafts prior to the implementation of the proposal.

- 3.3.5 In relation to the term “sufficient information”, MAS would like to clarify that issuers are expected to, at the minimum, provide investors with a description of the information which is incorporated by reference, and explain to investors the relevance of the information to the investor’s investment decision.
- 3.3.6 MAS notes from the feedback that it is difficult for issuers to judge whether the incorporated information is primarily of interest to professional analysts, advisers or investors. Considering that there must be “sufficient information” about the incorporated information to allow an investor to decide whether to obtain a copy of the incorporated information, it may not be necessary for the issuers to differentiate between information which could be of primary interest to professional analysts, advisers or investors. Hence, MAS will remove the requirement for such a statement.
- 3.3.7 MAS has reviewed the suggestions to expand the scope of information that can be incorporated by reference. MAS is of the view that the type of information that could be incorporated by reference should meet the following criteria:
- (a) information is comparatively less relevant to investors’ decision making;
 - (b) there is sufficient disclosure related to the information which is incorporated by reference in the main part of the prospectus;
 - (c) information is not complex or difficult to understand, and
 - (d) information is easily accessible to investors.
- 3.3.8 Considering these factors, MAS will expand the type of information that may be incorporated by reference to include the following, subject to the conditions set out in paragraph 3.1(b) to 3.1(e) above:
- (a) list of directorships held by executive officers in other corporations in the last five years;
 - (b) all reports issued by experts who have given their consent pursuant to section 249 of the SFA;
 - (c) information on relevant laws or regulations applicable to the issuer; and
 - (d) constituent documents of the issuer.

3.4 Additional Safeguards

- 3.4.1 One respondent suggested implementing additional safeguards, similar to what the United Kingdom and European Union have in place, to include the following:
- (a) the document incorporated by reference should not be a future document;
 - (b) the issuer should provide a cross-reference list to enable investors to identify easily specific items of incorporated information;
 - (c) where the information incorporated by reference contains information which has undergone material changes, the prospectus must state the same and give the updated information;
 - (d) the information incorporated in a prospectus may refer only to certain parts of a document, provided that it states that the non-incorporated parts are either not relevant for the investor or covered elsewhere in the prospectus; and
 - (e) where incorporating information by reference, the issuer should not disadvantage the investor by compromising on the comprehensibility and accessibility of the information.

MAS' Response

- 3.4.2 MAS is of the view that the suggested additional safeguards will not be necessary for the following reasons:
- (a) As information incorporated by reference would be required to be lodged on OPERA together with the prospectus, the risks relating to the incorporated information being a future document or undergoing material change vis-à-vis the prospectus, and the need for a cross-reference list, are not as relevant. Further, such information lodged on OPERA is accessible by investors;
 - (b) In addition, the proposed requirement that the prospectus must contain sufficient information about the incorporated information to allow an investor to decide whether to obtain a copy of the incorporated information, together with the limited type of information that may be incorporated, would address the need to adopt the suggestions in paragraphs 3.4.1(d) and (e).

4 GUIDELINES ON GOOD DRAFTING PRACTICES FOR PROSPECTUSES

- 4.1 Together with the release of this consultation response paper, MAS has also released the draft Guidelines on Good Drafting Practices for Prospectuses (the “Drafting Guidelines”) for public consultation. The Drafting Guidelines are intended to highlight common drafting problems and encourage good drafting practices for prospectuses. A copy of the consultation paper on the Drafting Guidelines can be found on the MAS website.

MONETARY AUTHORITY OF SINGAPORE
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ANNEX 1**LIST OF RESPONDENTS TO POLICY CONSULTATION ON PROPOSALS TO FACILITATE BETTER UNDERSTANDING OF PROSPECTUSES**

1. Bloomberg LP
2. China Construction Bank, Singapore Branch
3. Freshfields Bruckhaus Deringer
4. Phillip Securities Pte Ltd
5. RHTLaw Taylor Wessing LLP
6. WongPartnership LLP
7. Allen & Gledhill LLP

*This list includes only the names of respondents who did not request that their submissions be kept confidential.