



INTEGRUM

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CONSULTATION ON THE PROPOSAL TO MANDATE REFERENCE CHECKS

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INTRODUCTION

The Monetary Authority of Singapore (“**MAS**”) issued a consultation paper on 14 May 2021, “Proposal to Mandate Reference Checks” (the “**Paper**”). The Paper sets out MAS’ proposal to require Financial Institutions (“**FIs**”) to conduct reference checks and respond to reference check requests on employees, based on a set of minimum mandatory information within a specified period. The proposal seeks to reduce the risk of “rolling bad apples”, where individuals involved in misconduct at one company transition to another company without disclosing their prior wrongdoing to the potential employer. Following the consultation, on 12 December 2023, the MAS published its responses and clarifications on the topics discussed below in this update.

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APPLICABILITY

MAS has proposed that selected FIs¹ will be required to conduct reference checks and respond to reference check requests by other FIs. Please refer to Appendix A of this update for information on those entities selected for this proposed regulatory requirement.

OUTSOURCING TO SERVICE PROVIDERS

While MAS notes that FIs can outsource the reference checks to third-party providers, they will remain responsible for compliance with the requirements. Whether conducted internally or by a third party, any negative findings from reference checks must influence hirings decisions. If an FI proceeds with hiring despite adverse findings, additional supervisory safeguards are recommended. MAS, in its supervisory role, retains the authority to request documentation on how FIs assess individual's suitability, and FIs will be responsible for satisfying MAS that the individual meets the required fitness and propriety standards.

OUT-OF-SCOPE EMPLOYERS

FIs are expected to take reasonable steps to conduct reference checks on prospective employees from employers that are outside the scope of FIs listed in Appendix A ("**out-of-scope employers**") or FIs located outside Singapore ("**foreign FIs**"). FIs are urged to conduct comprehensive due diligence on potential hires by seeking references from employers not covered under regulatory scope. Similar scrutiny is expected when considering candidates previously employed by related foreign FIs, especially when the hiring FI lacks access to their records.

An FI can move forward with the hiring process if it has initiated reference checks and considers the prospective employee suitability based on other due diligence checks, despite not receiving a response to the reference check requests or obtaining insufficient information from the reference. This approach is consistent with the suggested procedure for representatives as well.

Out-of-scope employers may request references, allowing FIs to customize shared information based on its relevance. If an FI has access to records from a related FI for a potential employee, a formal reference check is not obligatory but the FI should use this data to assess the candidate's suitability (including the set of mandatory information set out in Appendix B of this update).

SCOPE OF EMPLOYEES

The MAS propose that the reference check rules should cover employees who have certain specific roles relating to handling funds, risk-taking, risk management and control, and critical system administration functions. These include Senior Managers ("**SMs**") and Material Risk Personnel ("**MRPs**") under a risk-based approach. Reference checks will be conducted for these individuals due to their significant responsibilities in FIs, aiming to prevent harm to both institutions and customers. MAS will guide FIs in determining functions under this scope.

While existing employees in the same role within a FI will not undergo checks, thorough due diligence is required before appointing new SMs and MRPs. MAS stresses fitness and propriety through its '[Guidelines on Individual Accountability and Conduct](#)'. New hires for these roles, regardless of previous positions, must undergo reference checks, including

¹ The proposal did not include foreign recognised market operators, foreign recognised clearing houses and licensed foreign trade repositories whose activities are primarily performed overseas, as well as money changers.

various employment terms. Third-party service provider employees managing these functions must adhere to FI hiring policies, with SM roles overseeing outsourced functions subject to checks. Additionally, in the general insurance sector, insurers must conduct reference checks for individual agents and nominee agents involved in selling insurance products to mitigate mis-selling risks.

LOOKBACK PERIOD

To ensure consistency and standardization of procedures within the financial sector, MAS proposes that the reference checks encompass specific mandatory information pertaining to the individual's record over the preceding **five years**. This aligns with the suggested requirement for reference checks concerning representatives². The five-year retrospective period commences from the date when the reference check is conducted.³

MINIMUM MANDATORY INFORMATION

MAS proposed to require FIs to conduct and respond to reference checks with the information on the individual's employment history, compliance records, balanced scorecard grades,⁴ and persistency ratio (where applicable) as set out in Appendix B of this update. MAS had also proposed for FIs to respond to reference check requests with this information no later than 21 calendar days from the date the FI receives the request.

FIs must disclose actions taken regarding discipline but not actions not executed. Ongoing investigations will be required only if the individual is the subject of the investigation and is aware that he/she is being investigated. MAS understands that incomplete investigations might lack individuals' defense opportunities, hindering a holistic assessment of potential disciplinary measure. Therefore, MAS will not mandate disclosing hypothetical disciplinary actions, leaving it to FIs discretion. Reference should be factual and fair, emphasizing FIs' need for fair internal investigative and disciplinary procedures.⁵

MAS acknowledges concerns regarding sharing information on ongoing investigations and the potential impact of excluding it. To address this, information about ongoing investigations will be mandatory only if the individual⁶ under scrutiny is aware of being investigated. Hiring FIs should consider increased oversight if they proceed with hiring such individuals.

FIs must comply with legal obligations and provide factual, objective information, sufficient for hiring FIs to assess the individual's fitness and propriety. Reports on full investigation or misconduct are not mandatory. It is crucial not to include irrelevant information about other individuals in the reference checks. Relevant data specific to roles may be requested or provided, like financial advisory service performance. FIs can request additional information for due diligence purposes.

² [Consultation Paper on Revisions to Misconduct Reporting Requirements and Proposals to Mandate Reference Checks for Representatives](#).

³ For example, when hiring FI performs reference checks on 1 Jan 2025, it should at least perform reference checks with employers that the individual was employed with from 1 Jan 2020 to 31 Dec 2024.

⁴ This refers to the balanced scorecard grades assigned to the representative by the FI under FAA-N20 Notice on Requirements for the Remuneration Framework for Representatives and Supervisors ("Balanced Scorecard Framework") and Independent Sales Audit Unit.

⁵ FIs may refer to the [Information Paper on Good Practices Relating to Disciplinary Action Framework in the Financial Advisory Industry](#) for details on some practices observed in the financial advisory industry.

⁶ FIs need not provide information on ongoing investigation if the individual is only assisting in investigation (e.g., as a witness).

RIGHT TO VIEW

Noting the complex legal implications that access could involve, MAS has decided that it should not be mandatory for the individual to be able to see what information was supplied to the requesting FI in connection with a reference check request. FIs are reminded to maintain factual and objective references. To ensure fairness, FIs may engage candidates to clarify adverse information if needed, aligning with the aim of fairness and objectivity in the hiring process.

RECORD KEEPING

MAS suggest retaining records of adverse information for all employees who fall within the scope with the exception of ancillary service personnel such as drivers, food and beverage personnel and clerical personnel, irrespective of their employment terms, for a minimum duration of **five years**. This requirement is essential because these employees might assume roles as SMs or MRPs in future positions, necessitating reference checks by prospective employers. For employees without adverse information, FIs are only obligated to maintain records related to their employment history.

IMPLEMENTATION AND TRANSITION PERIOD

The MAS will proceed to enforce reference check requirements for FIs through Notices, ensuring standardised information exchange and response protocol. Draft notices will undergo consultation before implementation. FIs must adhere to these requirements, and if the Notice of requirements surpass other legislative mandates⁷, the stricter criteria within the Notices take precedence. The reference check regulations align with the PDPA⁸. Considering feedback requesting more time to implement these requirements due to necessary updates in internal processes and systems, MAS will grant a transitional period of one year from the issuance of the Notices for compliance.

⁷ For example, if the Notice imposes a longer record keeping period than section 95 of the Employment Act read with regulation 5 of the Employment (Employment Records, Key Employment Terms and Pay Slips) Regulation 2016, FIs are to maintain the longer record keeping period required under the Notice. This will allow FIs to be compliant with both set of requirements.

⁸ For example, the First Schedule of the PDPA includes provisions that allow the collection, use and disclosure of personal data without consent for evaluative and employment purposes.

APPENDIX A

1. Any bank or merchant bank licensed under the Banking Act 1970 (“**BA**”);
2. Any person licensed under the BA to carry on the business of issuing credit cards or charge cards in Singapore;
3. Any finance company licensed under the Finance Companies Act 1967;
4. Any insurer licensed under the Insurance Act 1966 (“**IA**”);
5. Any foreign insurer operating in Singapore under a foreign insurer scheme established under the IA;
6. Any designated financial holding company approved under the Financial Holding Companies Act 2013;
7. Any holder of a capital markets services licence under the Securities and Futures Act 2001 (“**SFA**”);
8. Any financial adviser licensed under the Financial Advisers Act 2001;
9. Any person exempted from holding a financial adviser’s licence under regulation 27(1)(d) of the Financial Advisers Regulations;
10. Any registered insurance broker under the IA;
11. Any person exempted from the requirement to hold a capital markets services licence under paragraphs 3(1)(d), 3A(1)(d), 5(1)(i)⁹ and 7(1)(b) of the Second Schedule to the Securities and Futures (Licencing and Conduct of Business) Regulations;
12. Any trust company licensed under the Trust Companies Act 2005;
13. Any person approved under 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;
14. Any approved exchange or recognised market operator under the SFA that is incorporated in Singapore;
15. Any licensed trade repository under the SFA;
16. Any approved clearing house or recognised clearing house under the SFA that is incorporated in Singapore;
17. The “Depository” under the SFA;
18. Any approved holding company under the SFA;
19. Any authorised benchmark administrator or exempt benchmark administrator under the SFA;
20. Any authorised benchmark submitter or designated benchmark submitter under the SFA¹⁰;
21. Any operator of a designated payment system under the Payment Services Act 2019 (“**PS Act**”);
22. Any settlement institution of a designated payment system under the PS Act;
23. Any holder of a standard payment institution licence under the PS Act;
24. Any holder of a major payment institution licence under the PS Act; and
25. Any licensed credit bureau under the Credit Bureau Act 2016.

⁹ MAS has issued a Consultation Paper on Repeal of Regulatory Regime for Registered Fund Management Companies (“**RFMCs**”) on 24 October 2023.

¹⁰ Exempt benchmark submitters should refer to their existing regulatory status and licence with MAS (e.g., as a bank, recognised market operator, etc.) for the application of the proposed requirements.

APPENDIX B

- A. information pertaining to the individual's employment history with the FI, including:
 - i. the duration of employment;
 - ii. the roles and job functions of the individual (including last position held); and
 - iii. the reason for the cessation of employment, including but not limited to the following:
 - a. resignation;
 - b. resignation by paying compensation in lieu of notice prior to or during investigation;
 - c. termination;
 - d. dismissal; or
 - e. expiry of contract.
- B. compliance records relating to the individual's fitness and propriety, unless there is risk of tipping off the individual which may compromise the integrity of investigations, including but not limited to records concerning the following:
 - i. concluded investigations with reasonable grounds to believe that a wrongdoing has been committed and the extent of consumer detriment (where applicable) resulting from the wrongdoing;
 - ii. ongoing investigations and the extent of consumer detriment (required only if the individual is the subject of the investigation and is aware that he/she is being investigated) resulting from the wrongdoing if substantiated;
 - iii. incidents where the FI has knowledge of, or reasonable grounds to believe that the individual has or may have been in breach of legal or regulatory requirements administered by MAS or any other law, while performing his or her duties or responsibilities as an employee of the FI, and the extent of consumer detriment (where applicable) resulting from the incident;
 - iv. disciplinary actions taken against the individual; and
 - v. whether misconduct reports were filed with MAS against the individual and, if so, details on the nature of misconduct committed and the extent of consumer detriment (where applicable) resulting from the misconduct.
- C. last four balanced scorecard grades assigned to the individual (where applicable); and
- D. persistency ratio of insurance policies sold by the individual and the methodology used in computing the persistency ratio (where applicable and available).

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