

RESPONSE TO FEEDBACK RECEIVED – POLICY CONSULTATION ON REVIEW OF THE REGULATORY REGIME GOVERNING THE SALE AND MARKETING OF UNLISTED INVESTMENT PRODUCTS (PART I)

On 12 March 2009, MAS issued a policy consultation paper to propose enhancements to the regulatory framework for unlisted investment products. The proposals focused on promoting effective disclosure by improving the quality of information available to investors, strengthening fair dealing in the sale and advisory process and enhancing MAS' powers under the Financial Advisers Act ("**FAA**").

MAS has carefully reviewed and considered the feedback received. We will issue our response to the feedback received in two parts as some of the proposals require further study and consideration.

Part I of MAS' Response

This part of MAS' response addresses feedback on the proposals to:

- (a) promote more effective disclosure, including the introduction of a Product Highlights Sheet, new ongoing disclosure requirements, and restrictions on advertising and marketing materials;
- (b) strengthen fair dealing in the sale and advisory process, including enhanced requirements for the due diligence of new products and the advisory process, restrictions on sale without advice, and restrictions on bank teller activities;
- (c) introduce the concept of a complex investment product and enhanced competency requirements for representatives selling complex investment products; and
- (d) introduce a cooling off period of seven days for unlisted debentures.

Part II of MAS' Response

The second part of MAS' response will address feedback on the proposals:

- (a) on the definition of "complex investment products", risk rating of retail investment products, mandatory advice for the sale of complex investment products, and "health warnings" for complex investment products;
- (b) on remuneration structures for the sale of investment products;
- (c) to appoint an approved trustee for unlisted debentures; and

- (d) to strengthen MAS' powers to investigate and take regulatory actions.

We intend to publish Part II of MAS' response in 4Q 2009.

We thank all respondents for their feedback and comments. MAS will implement the proposals as soon as practicable. Annex 1 lists respondents to the consultation paper. Comments of wider interest and our responses are set out below.

SECTION 2: ENHANCED REGIME FOR INVESTMENT PRODUCTS

2.2 Scope of Review

The proposals in the consultation paper focused on enhancing the regulatory regime for unlisted investment products which are commonly sold to retail investors. Specifically, these are debentures (including structured notes), collective investment schemes ("**CIS**"), and life policies (including investment-linked life insurance policies¹ ("**ILPs**").

Some respondents sought clarification on the scope of the proposals in relation to contracts for difference ("**CFDs**").

MAS' Response

A CFD is a contract between two parties, a buyer and a seller, where the seller pays the buyer the difference between the current value of a share or index and its value at contract time. As such, CFDs exhibit characteristics similar to the underlying share or index through providing point for point price movement in line with the price movement of the underlying share or index. MAS will review whether we need to enhance the current regime governing the sale and marketing of CFDs to better achieve fair dealing outcomes for customers.

SECTION 3: PROPOSALS TO PROMOTE MORE EFFECTIVE DISCLOSURE

3.1: Product Highlights Sheet

MAS proposed that a Product Highlights Sheet disclosing key information about an investment product be given to investors in addition to the prospectus. The Product Highlights Sheet should be written in plain language in a "Question & Answer" format and be no longer than four pages.

Respondents were generally supportive of the proposal for a document that discloses features and risks of an investment product in a clear and concise

¹ Proposals in Section 3 and Section 5 of the consultation paper do not apply to life policies other than ILPs.

manner to assist investors in understanding the information in the prospectus. However, some respondents were concerned that the Product Highlights Sheet might give investors the false impression that it contains sufficient information for them to make an informed judgement. Investors would then disregard the disclosures in the prospectus.

MAS' Response

MAS notes the concern raised by respondents that the Product Highlights Sheet may cause investors to disregard the prospectus. We would like to clarify that the Product Highlights Sheet is intended to complement the prospectus by providing key features and risks of an investment product in a clear and concise manner and language to assist investors in understanding the information in the prospectus.

MAS has formed a workgroup comprising representatives from the financial services industry to develop the content and format of the Product Highlights Sheet. The objective of this workgroup is to formulate Product Highlights Sheets that are clear, concise and effective, and tailored for different types of unlisted investment products.

As part of this process, the sample Product Highlights Sheets will be consumer-tested to validate their effectiveness to assist investors in understanding the risks and features of the product. MAS intends for the completion of the workgroup's work and consumer testing by end-2009, following which we will consult on the details of the proposed format and content of the Product Highlights Sheet as soon as practicable. We will also consult on liability and transitional issues at the same time.

3.2: Timely and Meaningful Disclosure

Ongoing Disclosure Requirements

Investors in unlisted investment products should receive timely and meaningful ongoing disclosures on their investments. MAS proposed to require issuers of unlisted investment products to make available semi-annual and annual reports to update investors on their investments. MAS also proposed that issuers of unlisted investment products should report to investors material changes that may affect the risks and returns of their unlisted investment products.

A majority of respondents agreed that investors should be provided ongoing disclosures so that they may be apprised of the developments concerning their investments. A few respondents disagreed that additional requirements on ongoing disclosures should be imposed as fund managers already produce regular factsheets for dissemination to their investors. A number of respondents suggested that MAS provide guidance on what constitutes "material changes" and cited impracticalities in reporting all material

changes to investors. Some respondents also commented that for CIS and ILPs, projections on expected returns are either not allowed or not provided. Hence, the proposal that issuers explain any deviation from expected returns would not be applicable.

MAS also received comments that ongoing disclosure requirements should not be imposed for unlisted investment products with tenures of less than 12 months. In terms of the method for making disclosures to investors, many respondents suggested allowing ongoing disclosures to investors to be made online.

MAS' Response

Not all product issuers provide regular updates to investors on their investments. We consider it necessary to standardise the requirements for ongoing disclosures provided to investors. MAS will proceed with the proposal to impose ongoing disclosure obligations for unlisted investment products. Information that is likely to materially affect the price or value of an unlisted investment product would be considered "material changes". This is similar to the continuous disclosure obligations² applicable to listed investment products. MAS agrees that for CIS and ILPs, explaining deviations from expected returns may not be applicable. We will therefore restrict the requirement to explain deviations from expected returns to products with pre-determined payouts.

With regard to comments that ongoing disclosure requirements should not be imposed for unlisted investment products with tenures of less than 12 months, we agree that semi-annual and annual reports may not be as relevant for products with shorter tenures. Nevertheless, we consider the disclosure of material changes to investors to be relevant regardless of the tenure of the product. MAS will therefore impose requirements for semi-annual and annual reports on unlisted investment products with tenures of 12 months or longer, while the requirement for disclosure of material changes will apply to all unlisted investment products regardless of their tenure.

In terms of the method for disclosure, MAS agrees that as far as possible ongoing disclosures can be made online. This will be more convenient both for the issuer and the investor, and will allow for more timely disclosures. MAS will provide further details on the implementation requirements and mechanism for online disclosure.

Semi-annual and annual reports to be provided to investors do not refer to the issuer's financial statements. MAS will develop guidance on the format of the required semi-annual and annual reports and the information to be

² Rule 703 of the SGX Listing Manual requires listed companies to disclose information which would be likely to materially affect the price or value of its securities.

included in these reports. The guidance will be issued for consultation in 1Q 2010.

Requirement for Issuers to Make Available, Publicly and Regularly, Bid or Redemption Prices

MAS proposed to require issuers to make available, publicly and regularly, bid or redemption prices of each unlisted investment product. This would give investors an indication of the price at which they can exit from their investments.

Most respondents agreed that bid or redemption prices for unlisted investment products should be made available, publicly and regularly. This would assist investors who may want to exit from their investments, and promote better transparency on the value of an investment. Some respondents disagreed, raising the concern that investors may be misled into thinking that the indicative prices disclosed would be the actual prices at which they could exit from their investments. This may not be the case as the actual prices may differ depending on the volume of investments redeemed and the actual market conditions.

In terms of the method for disclosure of bid or redemption prices, many respondents suggested that the bid or redemption prices be allowed to be made available on the issuer's or distributor's website. A few respondents also sought clarification on whether requiring disclosure of regular bid prices meant that issuers were obliged to provide an exit mechanism for all unlisted investment products sold to investors.

MAS' Response

MAS will proceed with the proposal to require issuers to make available, publicly and regularly, bid or redemption prices of unlisted investment products. To address the concern that the indicative bid or redemption prices could be misleading to some investors, issuers and distributors should highlight to investors that the prices are indicative and may not be actual exit prices.

We agree with the suggestion that disclosures of the bid or redemption prices be made available on the issuer's or distributor's website. The issuer or distributor should clearly disclose to investors the address of the website. They should also disclose to investors the frequency that the bid or redemption prices are updated.

We wish to clarify that the requirement to disclose bid or redemption prices does not constitute an obligation on issuers to provide an exit mechanism for investors. If the issuer does not intend to provide an exit mechanism for investors, this should be clearly indicated in the prospectus and the Product Highlights Sheet so that investors are aware they can only get their

investments back at maturity or upon termination of the product. The risk that investors would not be able to exit from their investments during the tenure of the product should be clearly highlighted to investors prior to them making their investments.

The proper valuation of investments by issuers is important to ensure investor confidence, especially when market prices are unavailable. MAS considers that issuers should adopt the principle that their calculation of investment valuations should be independent, fair and proper, and put in place measures to align their interests with investors' interests. Issuers providing an exit mechanism to investors must be able to demonstrate that the bid or redemption prices are able to be determined in accordance with this principle. They should clearly document their methodology for calculating bid or redemption prices and establish proper controls over the calculation process. Issuers should disclose in the prospectus their methodology for calculating bid or redemption prices. MAS may require periodic audits to ensure that the prices are calculated in accordance with this principle.

3.3: Fair and Balanced Marketing and Advertising Materials

Fair and Balanced View of Products

Many investors had previously given feedback to MAS that advertisements tend to emphasise the benefits rather than the risks of investment products. To improve the presentation and content of marketing and advertising materials, MAS proposed to make it a statutory requirement that marketing and advertising materials for unlisted investment products give a fair and balanced view of the product.

The majority of respondents were supportive of this proposal. Some respondents were concerned that the requirement may be difficult to fulfil as the interpretation of what constitutes "fair and balanced" may be ambiguous and subjective.

MAS' Response

MAS will proceed with the proposal requiring marketing and advertising materials for unlisted investment products to give a fair and balanced view of the product.

In response to concerns regarding the interpretation of "fair and balanced", MAS will take into account the following factors in determining whether marketing and advertising materials are "fair and balanced". Marketing and advertising materials would be considered "fair and balanced" if they:

- (a) are clear and easily understood by the audience being addressed;

- (b) set out clearly both the potential upside and downside of the investment;
- (c) highlight prominently the risks of the product;
- (d) do not give the impression that an investor can profit without risk;
- (e) do not present information in footnotes if such presentation would cause difficulty to an investor in understanding the product; and
- (f) do not omit any material information if the omission would cause the marketing and advertising materials to be misleading.

MAS welcomes suggestions on other factors that should be taken into consideration.

Financial institutions should implement processes to ensure that their marketing and advertising materials are "fair and balanced". Where appropriate, they could consider using consumer testing or focus groups. Financial institutions are to submit to MAS marketing and advertising materials after they have been made public. MAS may object to these materials if they are found to be not "fair and balanced", and in doing so, may refer the matter to and take into account the opinion of consumer associations.

Restrictions on Marketing and Advertising Materials

Information in marketing and advertising materials needs to be legible. To ensure that statements on the downsides or risks of a product are legible and not downplayed, MAS proposed that information contained in advertisements appearing in any document, including any newspaper, periodical, magazine or letter, electronic mail or website, should be in a font size of at least 10-point Times New Roman. Where information is contained in a footnote, the footnote should also be in a font size which is at least half the font size of the word or statement which it relates to, subject to a minimum of 10-point Times New Roman.

In addition, MAS proposed that marketing and advertising materials should not suggest that:

- (a) the product is, or is comparable to, a bank deposit; or
- (b) there is no or little risk of the investor losing his principal or not achieving the stated or targeted rate of returns.

Marketing and advertising materials should also not contain words or graphics that could convey an impression that is inaccurate or inconsistent with the nature or the risks of the product.

MAS' Response

There were no objections to the proposed restrictions. We will proceed to impose these restrictions on marketing and advertising materials for unlisted investment products.

Use of the term "Capital/Principal Protected"

Some investors had previously raised concerns that they had difficulty understanding the term "capital/principal protected" and how this term is different from the term "capital/principal guaranteed". MAS put forward two alternative proposals:

- (a) to prohibit the use of the term "capital/principal protected"; or
- (b) for the industry to develop a standard definition for the term "capital/principal protected" for unlisted investment products.

MAS also asked for suggested translations of the terms "capital/principal protected" and "capital/principal guaranteed" in other languages.

Most respondents agreed with the proposal to prohibit the use of the term "capital/principal protected". They cited the reason that this term may have misled many investors into thinking that their principal invested was guaranteed as the distinction between "guaranteed" and "protected" is not easily understood.

Some respondents suggested that instead of prohibiting the use of the term "capital/principal protected", investors should have clear explanations as to the circumstances under which they would not receive their principal investment. There were also several suggested definitions for the term "capital/principal protected".

MAS' Response

The suggested definitions for the term "capital/principal protected" tended to be lengthy and not easily understandable by investors. Further, investors may not understand that a number of conditions need to be satisfied before they receive in full their principal at maturity. In view of the lack of an agreed definition of the term "capital/principal protected" that would be clear to and easily understood by investors, MAS will proceed to prohibit the use of the term "capital/principal protected" and any other derivative or form of this term in all disclosure documents, and marketing and advertising materials.

The prohibition is not intended to discourage the selling of products that are structured with the objective of returning full principal to investors at

maturity. Issuers and distributors should highlight to investors that these products do not unconditionally guarantee the return of their principal investments at maturity.

SECTION 4: PROPOSALS TO STRENGTHEN FAIR DEALING IN THE SALE AND ADVISORY PROCESS

4.1: Enhanced Due Diligence for New Products

MAS proposed to require distributors to put in place formal policies and procedures to assess the nature of a new investment product and assess its suitability for targeted customer segments. Almost all respondents supported having consistent principles for due diligence. They indicated that, in practice, distributors would conduct due diligence before offering any new investment product to their customers. A minority of respondents cautioned against taking such a prescriptive approach as it would limit distributors' flexibility.

We set out in the consultation paper the proposed questions that distributors should cover as part of their due diligence on new products they intend to distribute. One of the proposed questions was "Are there any additional legal, regulatory or tax considerations?". A number of respondents commented that the proposed due diligence questions should not cover the tax considerations for the investor. Respondents expressed the view that this would fall under the purview of a tax adviser and it was standard market practice for the issuer or distributor to state that it is the investor's responsibility to consult his own tax adviser.

MAS' Response

The proposed enhanced due diligence sets out the details of what distributors need to do in order to ensure that they only offer products that are suitable for their target customer segments³.

We note that the Association of Banks in Singapore ("**ABS**") had, in its press release of 7 July 2009, announced that its member banks have agreed to enhance their due diligence for new products. This is part of a series of measures that ABS member banks are putting in place to further protect the interests of consumers who buy investment products.

Given the broad support for the proposal, MAS will proceed to require distributors to put in place formal policies and procedures to assess the nature of each new investment product and its suitability for targeted customer segments before distributing the product. While we note respondents' views cautioning against instituting a prescriptive approach,

³ Outcome 2 of the Guidelines on Fair Dealing – Board and Senior Management Responsibilities for Delivering Fair Dealing Outcomes to Consumers [FAA-G04] ("**Fair Dealing Guidelines**") issued by MAS on 3 April 2009.

the questions that MAS has proposed are basic and by no means exhaustive. We consider that distributors should already be considering all these proposed questions as part of their product due diligence.

MAS agrees that the due diligence questions should not cover tax considerations for investors.

4.2: Advisory Process

Documentation of the Advisory Process

MAS proposed to enhance existing documentation requirements by requiring financial advisers (“**FAs**”) to set out in more detail the basis for their recommendations. The basis for a recommendation must at least state the customer’s objectives and needs, explain the reasons why the product is suitable for the customer having regard to the information obtained from the customer, and explain any possible disadvantages of the investment for the customer.

Almost all respondents were in favour of the proposal to enhance documentation. However, several respondents were concerned that the requirement to explain any possible disadvantages of the investment for the customer was too open-ended. They suggested that this requirement should be limited to information in the Product Highlights Sheet. Otherwise, compliance with this requirement would be difficult as the FA would then need to provide the customer with an exhaustive list of all the possible disadvantages. The alternative would be for the provision of possible disadvantages on a “best efforts basis”.

Some respondents sought clarification on whether this proposed documentation requirement would be needed for every transaction where an investment product is recommended. They commented that this requirement would not be practicable where a customer frequently makes investments in various products.

MAS’ Response

A FA’s recommendation must have regard to the customer’s investment objectives, financial situation and particular needs. The Product Highlights Sheet does not highlight disadvantages to individual customers as this would depend on the customer’s specific circumstance.

To address respondents’ concerns on the extent to which they would be required to explain any possible disadvantages of the investment for the customer, we will clarify that FAs are expected to make reasonable efforts to document and explain the disadvantages of the investment based on the specific circumstances of the customer.

The proposed enhanced documentation requirements would apply whenever a FA recommends an investment product to a customer. We do not consider the frequency of customer transactions as a sufficient reason for not requiring documentation of the basis of recommendation.

Enhance Quality of Information Collected by FAs

MAS proposed to enhance the quality of information collected by FAs by specifying additional key information to be collected from customers. The additional key information includes information on the source and extent of the customer's regular income and whether the amount to be invested is a substantial portion of the customer's assets. MAS also proposed that FAs make reasonable enquiries to obtain such key information from their customers. MAS further proposed to make it a specific legal obligation for FA companies to put in place effective systems and internal controls to ensure that their representatives fulfil these obligations.

Respondents agreed that FAs should make reasonable enquiries to obtain customer information. They pointed out that customers must be willing to divulge the required information. In cases where customers are unwilling to provide the required information, respondents felt that FAs should not be held accountable.

A few respondents requested that MAS stipulate a standard percentage threshold for what constitutes a "substantial portion of the customer's assets" for consistency in the industry. A respondent commented that what would be considered "substantial" would differ according to the risk appetite of customers.

There were no objections to the proposal to make it an obligation for FA companies to put in place effective systems and internal controls to ensure that their representatives fulfil the proposed obligations.

MAS' Response

The onus is on FAs to take reasonable steps to obtain the necessary information from the customer. FAs would be in breach of the requirement to make reasonable enquiries if they have policies and procedures that discourage customers from going through the fact-finding process. However, FAs will not be considered to have breached the requirement if they can show that the customer was unwilling to provide the required information even after they had made reasonable enquiries. FAs may rely on information previously obtained from the customer only if the customer confirms at the time of the transaction that there are no material changes to the information.

There are no internationally recognised norms on what would constitute a "substantial portion of the customer's assets". We consider it would be overly prescriptive for MAS to stipulate what is a "substantial portion of the

customer's assets". FA companies should have internal guidance on what would constitute a "substantial portion of customer's assets" as this would help guide their representatives' recommendations on specific products to individual customers. We also expect FAs to exercise professional judgment in ascertaining whether the investment forms a substantial portion of the customer's assets.

In the consultation paper, MAS proposed requiring distributors to put in place additional safeguards to ensure that representatives do not sell complex investment products to customers with limited knowledge of investment products⁴. We will address the suggestion to collect information on the customer's investment knowledge and experience with the feedback on this proposal in Part II of MAS' response.

4.3: Restrictions on Sale without Advice

MAS proposed that FAs may dispense with giving advice only when the customer contacts the FA on his own initiative to purchase the investment product. There were mixed views on the implications of the proposal for the "execution only" model where an FA does not offer advice concerning the investment product and merely takes instructions from the customer in executing a purchase. Several respondents asked to retain the "execution only" model as long as the FA expressly discloses to the customer that no advice will be offered. A respondent suggested that the regime for execution-related advice should have general application.

A few respondents felt that FAs should always offer the customer advice regardless of whether the customer had contacted the FA on his own initiative. These respondents felt it would be difficult to ascertain who initiated the contact and sought MAS' views on the situation where a customer approaches the FA in response to advertisements or marketing by the distributor or issuer.

Some respondents requested that FAs be permitted to dispense with advice when the customer:

- (a) having received advice from an FA, chooses to execute the transaction with a different FA, as long as the latter FA has verified and is satisfied that the customer has obtained advice from the former FA;
- (b) does not wish to receive advice or does not provide information on his situation and needs. In this case, the FA would not be in a position to offer meaningful advice to the customer.

As a safeguard where a customer purchases an investment product without receiving advice from the FA, MAS also proposed to require that the FA warn

⁴ Section 5.3 of consultation paper.

the customer in writing that he is waiving his right to receive advice as to whether a product is suitable for him under the FAA. A respondent suggested that MAS require the warning to be handwritten by the customer as this may be more effective in making the customer aware of the implications of purchasing investment products without advice. For telephone sales, a respondent suggested that records of verbal warnings given over the telephone by the FA be retained by the FA in accordance with record-keeping requirements.

MAS' Response

The general feedback supports MAS' proposals to impose restrictions on sale without advice. MAS is of the view that it is not appropriate to disallow all "execution only" sales.

We note respondents' feedback on difficulties in ascertaining whether the customer had initiated contact. We will consider giving guidance on what customer-initiated contact might mean.

The customer can always choose not to receive advice at the point of sale. Specifically in relation to scenarios (a) and (b) described above, FAs should warn the customer that he is waiving his right to rely on the provisions of the FAA.

We intend for FAs to obtain from customers a clear acknowledgement that the customer has received a warning that he is waiving his right to receive advice under the FAA. This acknowledgement should be done in a form and manner that makes the customer aware of the implications of purchasing an investment product without advice. FAs should consider the suggestion that the acknowledgement be handwritten by the customer. For telephone sales, we agree with the suggestion that FAs maintain audio recording of the customer's oral acknowledgement or obtain the customer's acknowledgment before conclusion of the contract.

If the FA had provided advice but nevertheless obtained the customer's acknowledgment that he had waived his rights, the acknowledgement would not undermine the customer's rights under the FAA. Where no advice is given, the FA should highlight to the customer in writing that it is not providing advice to the customer, and what the implications are.

4.4: Restrictions on Bank Tellers' Activities

Customers seeking to conduct traditional banking transactions at a bank's premises should not be targeted for referral to representatives to purchase investment products. MAS proposed to prohibit bank tellers from referring customers to representatives for the purchase of investment products.

Respondents broadly supported the proposed ban on referrals by bank tellers. A few respondents expressed concern about customer privacy as sales leads were based on bank tellers' access to customer deposit information. Several respondents suggested clearer separation between traditional banking and investment product activities, as well as banning of incentives for referral activities.

Some respondents were against a total ban on referrals on grounds it would disadvantage banks cross-selling insurance products. The respondents suggested that passive bank teller referrals should be allowed if initiated by a customer who indicates that he wants to receive information on products other than traditional bank deposits.

MAS' Response

MAS notes respondents' concerns about the need for a clearer segregation between traditional banking and investment product activities at both banks and finance companies. We will proceed to prohibit both bank and finance company tellers from referring customers to representatives for the purchase of investment products. This prohibition would help achieve such segregation. We note that in its press release of 7 July 2009, ABS announced that its member banks have agreed that they will prohibit bank tellers at bank branches from referring customers to representatives for the purchase of investment products.

We agree with the suggestion that passive teller referrals be allowed upon a customer's request for information. This is because it may not be practicable for tellers to not refer customers to representatives for the purchase of investment products upon request. We will allow for tellers to refer customers to representatives for the purchase of investment products only when the customer has approached the teller with an explicit request for information on investment products. We agree with the suggestion to ban incentives for tellers' referral activities. This way, tellers would not be induced to refer customers to representatives for the purchase of investment products.

As a general principle, MAS strongly discourages all financial institutions from actively promoting investment products to customers who visit their premises without the intention to purchase investment products.

SECTION 5: ADDITIONAL PROPOSALS FOR COMPLEX INVESTMENT PRODUCTS

MAS proposed to introduce the concept of a complex investment product and an enhanced regulatory regime for the sale and marketing of complex investment products. The proposed enhanced regulatory regime for complex investment products would enable investors to be more aware of the

implications of their investment decisions and to be able to make better investment choices.

Specifically, we proposed that distributors must ensure that complex investment products are only sold to investors with financial advice. Issuers are to also include a health warning in both the prospectus and the Product Highlights Sheet, and all marketing and advertising materials, that the product being offered is a complex investment product. Representatives intending to sell complex investment products must have undergone adequate training and have the competencies to sell complex investment products.

5.1: Definition of “Complex Investment Products”

Drawing reference from the European Union’s Markets in Financial Instruments Directive definition of “complex products”, we proposed a definition of “complex investment products” based on whether derivatives are embedded in the investment product.

MAS’ Response

While some respondents agreed with the proposal to define “complex investment products” based on derivatives, most respondents considered the proposed definition to be too broad. We received several suggestions on the definition of “complex investment products”. These suggestions include defining “complex investment products” as products in which the underlying payoff is not easily observable, products with multiple layers of underlying cash flows and to exclude plain vanilla products through an exclusion list.

We are reviewing these suggestions and will consult on a revised definition of “complex investment products” in 4Q 2009. We will also address the proposals requiring mandatory advice and health warnings for the sale of complex investment products in Part II of MAS’ response.

5.2: Risk Rating

In the consultation paper, MAS set out the potential issues with a risk rating system for investment products marketed to retail investors.

There were mixed views on having a risk rating system. A few respondents expressed support for the implementation of a risk rating system as a risk rating system would assist investors in making investment decisions. One respondent suggested that there should be clearly defined, universal risk ratings for investment products if a risk rating system is to be properly implemented. A majority of respondents did not support the implementation of a risk rating system for a variety of reasons. Some agreed with the potential issues raised by MAS in its consultation paper regarding a risk rating system. A few respondents also cited the difficulties associated with

implementing a risk rating system, such as the need to update ratings when market conditions change or the costs of obtaining risk ratings from rating agencies which may ultimately be borne by investors.

MAS' Response

MAS acknowledges the divergent views on the potential benefits to retail investors of a risk rating system. While MAS continues to have reservations on a risk rating system as outlined in the consultation paper, we have decided to undertake further analysis of the issues before forming a policy view.

5.5: Enhanced Competency Requirements for Representatives

MAS proposed to require distributors to ensure that representatives undergo training on the features and risk-reward characteristics of a new complex investment product before being allowed to sell that product. To further raise the overall competencies of representatives selling complex investment products, MAS also proposed to introduce a new Capital Markets and Financial Advisory Services ("**CMFAS**") module for product knowledge on complex investment products.

A majority of respondents agreed that representatives should undergo training on a new complex investment product before being allowed to sell the product.

There were mixed views on the proposal to introduce a new CMFAS module for product knowledge on complex investment products. While respondents generally agreed with the idea of enhancing representatives' competencies, a few respondents questioned the effectiveness of having a new CMFAS module for complex investment products. A key concern was whether the new CMFAS module would be able to keep up with innovation in the capital markets. A few respondents also suggested the alternative of broadening the content of existing CMFAS modules to cover complex investment products. Respondents also asked that MAS consider 'grandfathering' existing representatives from the new CMFAS module requirement.

MAS' Response

Our Fair Dealing Guidelines set out standards for financial institutions to have competent representatives who provide customers with quality advice and appropriate recommendations. The introduction of a new CMFAS module for complex investment products is an important step toward setting minimum competency standards for representatives who intend to sell complex investment products.

To move the industry onto this new minimum competency standard, we intend for both new and existing representatives to be required to pass the

new CMFAS module for complex investment products before they are allowed to sell complex investment products. While we acknowledge that there may be merit in broadening the content of existing CMFAS modules 6, 8 and 9 which cover various types of investment product knowledge, we consider that a stand-alone CMFAS module would be more effective in raising the minimum competency standards for representatives who intend to sell complex investment products. It would also be easier to administer and track representatives who are qualified to sell complex investment products.

Since the release of the consultation paper in March 2009, MAS has formed a taskforce comprising representatives from various industry associations and The Institute of Banking & Finance to develop a new CMFAS module for product knowledge on complex investment products. We will provide transitional arrangements for existing representatives when the new CMFAS module is implemented in 1H 2010.

SECTION 6: ADDITIONAL PROPOSALS FOR UNLISTED DEBENTURES

6.1: Cooling Off Period

A cooling off period of seven days was proposed for unlisted debentures. This would allow investors to exit the investment without having to incur sales charges or commissions.

While most respondents supported the proposal, some respondents proposed that the cooling off period should not apply to certain debentures. These include equity-linked notes, interest-rate linked notes and foreign exchange or treasury products with a short tenure and that are sold over-the-counter. They explained that these debentures typically have tenures as short as a few weeks and the changes in the value of the underlying asset within the proposed cooling off period are crucial in determining the payoff to the investor. The high volatility of the value of the underlying asset results in the impracticality of a cooling off period for such debentures.

MAS' Response

MAS will proceed with the proposal for a cooling off period of seven days for unlisted debentures.

MAS acknowledges the difficulty of applying a cooling off period to debentures with short tenure. We will limit our cooling off period requirement to unlisted debentures with tenures longer than three months.

Member banks of the ABS have announced that they will be putting in place a similar measure, by introducing a cooling off period of up to seven days

for structured products, with the exception of time-sensitive treasury or investment products⁵.

For all unlisted investment products, FAs should inform investors whether a cooling off period is available and if so, the length of the cooling off period.

MONETARY AUTHORITY OF SINGAPORE
8 SEPTEMBER 2009

⁵ As announced by ABS in its press release of 7 July 2009.

LIST OF RESPONDENTS TO POLICY CONSULTATION ON REVIEW OF THE REGULATORY REGIME

- Aberdeen Asset Management Asia Limited
- AL Wealth Partners Ptd Ltd
- Association of Financial Advisers (Singapore)
- Aviva Ltd
- Baker & McKenzie.Wong & Leow
- Barrie and Hibbert Asia Limited
- BNP Paribas
- Central Provident Fund Board
- CFA Institute and CFA Singapore
- City Index Asia Ptd Ltd
- Clifford Chance Wong Pte Ltd
- Consumers Association of Singapore (CASE)
- Daiwa Securities SMBC Singapore Limited
- DBS Asset Management Ltd
- FIL Investment Management (Singapore) Limited
- Financial Planning Association of Singapore
- Financial Services Consumer Association (FISCA)
- Five Pillars Pte Ltd
- Fortis Bank S.A/N.V.
- Friends Provident International Ltd (Singapore Branch)
- HSBC Institutional Trust Services (Singapore) Ltd
- ICICI Bank Ltd
- iFast Financial Pte Ltd – Fundsupermart.com
- International Swaps and Derivatives Association, Inc. (ISDA);
- Investment Management Association of Singapore (IMAS)
- IPAC Financial Planning Singapore Pte Ltd
- Life Insurance Association (Singapore)
- Lion Global Investors Limited
- Mercer (Singapore) Ptd Ltd
- National Australia Bank Ltd
- Navigator Investment Services Ltd
- Phillip Capital Management (S) Ltd
- RBS Coutts Bank Ltd
- Reaching Everyone for Active Citizenry@Home (REACH) Discussion Forum through the Ministry of Community Development, Youth and Sports (MCYS)
- RHB Bank Berhad
- S L Tan & Co Advocates & Solicitors
- Securities Association of Singapore (SAS)
- Securities Industry and Financial Markets Association (SIFMA)
- Shook Lin & Bok LLP
- Singapore Foreign Exchange Market Committee
- Singapore Investment Banking Association (SIBA)
- Singapore Polytechnic School of Business
- Societe Generale (Singapore Branch)
- Templeton Asset Management Ltd
- The Association of Banks in Singapore (ABS)
- The Hong Kong and Shanghai Banking Corporation Ltd
- United Overseas Bank Ltd

*This list includes only the names of organizations and bodies that responded and who did not request that their submissions be kept confidential.