

# CONSULTATION PAPER

P007-2021

June 2021

## Enhancing pre and post- transaction safeguards for retail clients

MAS

Monetary Authority of Singapore

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## 1 Preface

1.1 The Balanced Scorecard (“BSC”) Framework under the Financial Advisers Act was introduced on 1 January 2016<sup>1</sup>. As it has been several years since the BSC Framework came into effect, MAS has conducted a review of the effectiveness of the BSC Framework, which included seeking comments from the financial advisory (“FA”) industry and conducting inspections and surveys on the BSC practices of FA firms.

1.2 MAS recently released the findings from a mystery shopping exercise (“MSE”) conducted in 2018/2019 to assess the standards of FA representatives’ advisory and sales process<sup>2</sup>. While the findings disclosed that the proportion of suitable product recommendations had improved from an earlier MSE conducted in 2011, weaknesses were identified in the implementation of safeguards for Selected Clients (“SCs”)<sup>3</sup>. These weaknesses include lapses in identifying SCs and making adequate product disclosures to SCs.

1.3 Arising from the review of the effectiveness of the BSC Framework and findings from the MSE, MAS is proposing to: -

- (i) strengthen the requirement to identify SCs;
- (ii) require a Trusted Individual to be present when investment recommendations are made to SCs;
- (iii) reinforce the requirement to conduct supervisory call-backs<sup>4</sup>;
- (iv) require FA firms to audio record supervisory call-backs;

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<sup>1</sup> For details on the requirements under the BSC Framework, please refer to:

- Notice FAA-N20 - Requirements for the Remuneration Framework for Representatives and Supervisors (“BSC Framework”) and Independent Sales Audit Unit; and
- Guidelines FAA-G14 - Guidelines on the Remuneration Framework for Representatives and Supervisors (“BSC Framework”), Reference Checks and Pre-Transaction Checks.

<sup>2</sup> The MSE covered 500 representatives from six insurers and six licensed financial advisers.

<sup>3</sup> A “Selected Client” is a client who meets any two of the following criteria: -

- (a) Is 62 years of age or older;
- (b) Is not proficient in spoken or written English;
- (c) Has below GCE “O” or “N” level certifications, or equivalent academic qualifications,

other than a client who meets any two of the criteria and has been assessed by the financial adviser to possess adequate investment experience and knowledge to transact in the investment product recommended.

<sup>4</sup> This requirement is set out in paragraph 27(b) of the Guidelines on the Remuneration Framework for Representatives and Supervisors (“Balanced Scorecard Framework”), Reference Checks and Pre-Transaction Checks.

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(v) require the setting up of an independent panel to review all investment recommendations made to SCs; and

(vi) require the Independent Sales Audit Unit (“ISA Unit”) of the FA firm to sample and review transactions involving higher risk clients<sup>5</sup>.

1.4 In addition to the proposed regulatory safeguards outlined in paragraph 1.3, the Association of Banks in Singapore (“ABS”) and the Life Insurance Association (“LIA”) are jointly working to develop industry guidelines to improve protection for vulnerable consumers, which include SCs, in the provision of financial advisory services. Together, the enhanced safeguards and industry guidelines seek to raise industry standards and promote greater consumer trust, particularly amongst SCs, in the financial advisory industry in Singapore.

1.5 MAS invites comments from all financial institutions and other interested parties.

1.6 **Please note that all submissions received will be published and attributed to the respective respondents unless they expressly request MAS not to do so. As such, if respondents would like:**

- (i) their whole submission or part of it (but not their identity), or**
- (ii) their identity along with their whole submission,**

**to be kept confidential, please expressly state so in the submission to MAS. MAS will only publish non-anonymous submissions. In addition, MAS reserves the right not to publish any submission received where MAS considers it not in the public interest to do so, such as where the submission appears to be libellous or offensive.**

1.7 Please submit your comments to the consultation paper by 3 August 2021 at the following link -

<https://form.gov.sg/605c07075880a700129584fb>

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<sup>5</sup> These are clients who fall into at least one of the following criteria:

- 62 years of age or older;
- Not proficient in spoken or written English;
- Has below GCE “O” or “N” level certifications, or equivalent academic qualifications.

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Should you encounter any technical difficulties in your submission, you may submit your comments to –

Markets Policy and Infrastructure Department  
Monetary Authority of Singapore  
10 Shenton Way, MAS Building  
Singapore 079117  
Fax: (65) 62203973  
Email: [mas\\_mcp@mas.gov.sg](mailto:mas_mcp@mas.gov.sg)

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## 2 Introduction

2.1 Under the Guidelines on the Remuneration Framework for Representatives and Supervisors (“Balanced Scorecard Framework”), Reference Checks and Pre-Transaction Checks (“FAA-G14”), MAS expects FA firms to implement pre-transaction checks by requiring supervisors to review all documentation and the basis of every recommendation made or transaction handled by their representatives during the pre-transaction stage. In addition, FA firms are to perform a pre-transaction call-back to a client, if the client is an SC, or if the client purchases an investment product from a Selected Representative<sup>6</sup> (“SR”). The call-backs have to be conducted by either the representative’s supervisor or an independent party, and completed within the free-look period. Such call-backs help to ensure that SCs, or clients of SRs, have adequate understanding of the key features and risks of the investment product they are purchasing before the transaction is executed.

2.2 MAS expects FA firms to maintain records showing that the call-back has been carried out, and these records must be retained for a period of not less than 5 years. Currently, there is no requirement for FA firms to audio record the call-backs. MAS has also not specified the types of information to be documented in relation to the call-backs.

## 3 Enhanced requirements to check for and document whether a client is an SC

3.1 The definition of an SC is currently set out in FAA-G14. In order for SCs to receive the additional protection of the pre-transaction call-backs, FA firms are expected to ascertain whether a client is an SC as part of the Know Your Client (“KYC”) process. However, there continues to be complaints of representatives not properly checking for or documenting whether a client is an SC. This is corroborated by the recent MSE commissioned by MAS, which found that a large proportion of representatives did not check for and identify SCs, depriving SCs of the current safeguards available to them.

3.2 To prompt greater care from representatives dealing with SCs, we propose to require the following in the Notice on Recommendation of Investment Products (FAA-N16):

- (i) FA firms to determine whether a client is an SC as part of the KYC process. The requirement to identify whether a client is an SC is currently set out in FAA-G14. Moving this requirement from a guideline to FAA-N16, which is a Notice, means that a breach of this requirement will constitute an offence;
- (ii) representatives to declare, as part of the KYC process, that the assessment of whether a client is an SC has been duly performed.

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<sup>6</sup> “Selected Representative” is a representative who has been assigned a BSC grade B or worse for two consecutive calendar quarters immediately preceding the measurement quarter.

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**Question 1.** MAS seeks comments on moving the requirements for pre-transaction checks in FAA-G14 (paragraphs 25 to 33) to FAA-N16.

**Question 2.** MAS seeks comments on the proposed requirements for representatives to (i) check for and document a client's SC status; and (ii) make a formal declaration that the assessment of whether a client is an SC has been duly performed.

#### **4 Proposed requirement for a Trusted Individual to be present when investment recommendations are made to SCs**

4.1 We have observed from complaints involving SCs that SCs do not always fully understand the key features and risks of investment products. In some cases, SCs were not even aware that they had bought an investment product. As a good practice, there are firms that require the presence of a Trusted Individual ("TI") during the sales and advisory process with SCs, as part of their internal policies and procedures. The TI would be an adult, typically a family member, close friend or caregiver whom the SC trusts with his personal information. Having a TI involved in the sales and advisory process seeks to reduce the likelihood or prevent SCs from making ill-informed investment decisions. For example, the TI would be able to convey to the SC key information in a way or (vernacular) language that the SC is familiar with. Several jurisdictions, such as Hong Kong, Canada and USA, also encourage participation of TIs in the sales and advisory process involving vulnerable consumers.

4.2 We propose to require FA firms to ask the SC to have a TI present during the sales and advisory process. In the event that an SC does not identify a TI, or is unwilling to be accompanied by a TI during the sales and advisory process, FA firms may proceed to make investment recommendations to SCs only if they obtain the SCs' written acknowledgement that the SCs (i) do not want to have a TI present, and (ii) represent that they are fully able to make decisions on their own without a TI.

4.3 The TI should not be an SC. In terms of the criteria to qualify as a TI, we propose the following<sup>7</sup> –

- (i) At least aged 21;
- (ii) Possess at least GCE 'O' or 'N' level certifications or equivalent academic qualifications;
- (iii) Be proficient in spoken and written English; and

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<sup>7</sup> This is adapted from the definition of a TI in the LIA Direct Purchase Insurance Guidelines.

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- (iv) Be a person whom the SC trusts to be privy to the SC's personal information and be able to assist the SC in understanding the SC's financial decision. FA firms may wish to ascertain this by, for example, obtaining written acknowledgment from the SC that the SC agrees to the identified TI becoming aware of the SC's personal information during the course of the sales and advisory process.

**Question 3.** MAS seeks comments on requiring the presence of a TI for all investment recommendations made to SCs.

**Question 4.** MAS seeks comments on the proposed criteria for a TI.

## **5 Proposed requirements on pre-transaction client call-backs to be performed by FA firms**

5.1 Based on a survey of FA firms<sup>8</sup> conducted in January 2020, all the firms surveyed rely on their supervisors to perform pre-transaction client call-backs, and do not engage a third-party vendor to perform the call-backs. Nearly half of these FA firms require the call-backs to be performed via recorded telephone lines. By recording all call-backs, these FA firms were able to carry out more robust investigations into complaints and resolve client disputes. This is because the audio recordings allowed the FA firms to verify the representations made by the clients, representatives and supervisors, and what actually transpired during the call-back. The recorded call-backs also enabled FA firms to confirm whether (i) the call-back had indeed been made to the client; (ii) the call performed by the supervisor was in line with the standards expected of them; and (iii) the client understood the product that was recommended by the representative.

5.2 FA firms generally have policies and procedures in place on what should be covered during the pre-transaction call-backs. However, the exact content that is covered during the call-backs varies among FA firms. For instance, some FA firms only require their supervisors to confirm that the client understands the product he or she is purchasing. Some FA firms require their supervisors to go further by reiterating the key features and risks of the product during the call-backs.

5.3 In terms of documentation, FA firms are expected to keep records of their processes and methods undertaken, as well as every assessment made of the pre-transaction checks<sup>9</sup>. Some FA firms require their supervisors to document details of the call-backs performed, including any adverse findings from the call-backs.

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<sup>8</sup> A total of 18 firms comprising banks, insurers and licensed financial advisers were surveyed.

<sup>9</sup> This is set out in paragraph 33 of FAA-G14.



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### *Contents of Call-Back*

5.4 For client call-backs to be effective and to raise overall standards in the FA industry, MAS proposes that the client call-backs should minimally cover the following areas:

- (i) Basis of recommendation;
- (ii) Main features of the product being recommended (e.g. premium payment term, period and structure of payout, whether the product is capital guaranteed/non-guaranteed, etc);
- (iii) Key risks (e.g. market risk, capital risk, etc) and limitations of the product (e.g. early termination of certain policies may result in policyholders receiving a return that is less than the premiums paid);
- (iv) Existence of the free-look period; and
- (v) Whether the representative had been professional and ethical in his or her dealings with the client (e.g. offer of unauthorised gifts, premium financing, aggressive selling, etc.).

5.5 FA firms may incorporate additional areas in the call-backs to suit their business needs, products being recommended and client profile, and customise the questions based on trends identified from client feedback and complaints on their representatives.

### *Documentation and Quality Control on Call-Backs*

5.6 MAS will also require FA firms to document the concerns raised by clients during the call-backs, conduct regular checks on the quality of call-backs performed, and take appropriate action when the call-backs are not up to standard.

### *Audio Recording of Call-Backs*

#### SCs and Clients of SRs

5.7 Under the BSC Guidelines, FA firms are expected to conduct call-backs to SCs and clients of SR and such call-backs have to be conducted by either the representative's supervisor or an independent party, and completed within the free-look period. However, there is no requirement for the client call-backs to be audio recorded. In order for FA firms to have better oversight of how their supervisors conduct client call-backs and to enhance safeguards for higher risk clients, MAS proposes to require FA firms to audio record all call-backs performed on SCs and clients of SRs. The audio recordings should be maintained in a way which is retrievable for supervisory or investigation purposes, and made available to clients.

#### Other Retail Clients

5.8 Unlike SCs and clients of SRs, there is currently no expectation on FA firms to conduct client call-back to other retail clients (i.e. those who are not considered SC or clients of SRs). While SCs and clients of SRs are in need of greater protection, there are merits to extending the call-back requirements and proposal to audio record these calls to all other retail clients given that these are additional safeguards for clients, and FA firms would already have invested in the systems and infrastructure to conduct the audio recorded call-backs for SCs and clients of SRs. MAS is therefore considering whether to require call-backs and for such call-backs to be audio recorded for all other retail clients too. In recognition that the extent of protection for other retail clients can be calibrated differently from that for SCs and clients of SRs, MAS is prepared to allow call-backs for other retail clients to be performed by the representatives (instead of by the representatives' supervisors or an independent party for SCs and clients of SRs).

5.9 Further, MAS is considering that a recap of the sales and advisory process by representatives at the end of the meeting or discussion between the representative and his or her client could be an acceptable alternative to the call-back requirement for these other retail clients. The recap of the sales and advisory process should cover the contents in paragraph 5.4 (i) to (iv) and be audio recorded. For clarity, this alternative arrangement to the call-back and audio recording requirements is not proposed for SCs and clients of SRs.

5.10 Further, for the avoidance of doubt, the above proposals are in addition to the requirements stipulated under the BSC framework.

**Table 1:** Summary of Proposals relating to Call-Backs and Audio-Recording of Call-Backs

	SCs and Clients of SRs	Other Retail Clients
<b>Call-Back Requirements</b>		
Contents of Call-Back to client	Paragraph 5.4 (i) – (v) <i>(new requirement)</i>	Paragraph 5.4 (i) – (iv) <i>(new requirement)</i>
Call-Backs are to be performed by	(a) representative's supervisor; <b>or</b> (b) an independent party <i>(existing requirement)</i>	(a) representative; (b) representative's supervisor; <b>or</b> (c) an independent party <i>(new requirement)</i>
Audio Recording of Call-Backs	Required <i>(new requirement)</i>	Required <i>(new requirement)</i>
		<b>Alternative Safeguard to Call-Back and Audio-Recording Requirements</b> Representatives may provide a recap of the sales and advisory process at the end of their meetings or discussions

	SCs and Clients of SRs	Other Retail Clients
		<p>with clients, in place of the call-back requirement.</p> <p>The representative's recap of the sales and advisory process should cover the contents in paragraph 5.4 (i) to (iv) and be audio-recorded.</p> <p><i>(new requirement)</i></p>

**Question 5.** MAS seeks comments on the types of information that should be covered during the client call-backs and recap of the sales and advisory process, and any additional areas that should be included.

**Question 6.** MAS seeks comments on the proposal to require FA firms to audio record call-backs to SCs and clients of SRs.

**Question 7.** MAS seeks comments on whether to require call-backs and audio record of call-backs for all retail clients.

**Question 8.** MAS seeks comments on the proposal in paragraph 5.9, specifically on the alternative for representatives to provide a recap of the sales and advisory process at the end of the meeting/ discussion between the representative and the client, and to audio-record such a recap, in place of the proposed call-back and audio record requirement for retail clients who are not SCs and clients of SRs.

**Question 9.** MAS seeks views on whether FA firms should provide a copy of the audio recording to their clients and whether this should be proactively provided to clients or only on clients' request, and how this should be operationalised.

## 6 Proposed requirement to set up an independent panel to review all product recommendations made to SCs

6.1 Currently, under FAA-G14, FA firms are expected to require supervisors to review all documentation and basis of every recommendation made or transaction handled by their representatives during the pre-transaction stage<sup>10</sup>. For transactions involving SCs, the pre-transaction checks include conducting a call-back with the SC in respect of the recommendation. Notwithstanding this, there are complaints of unsuitable products

<sup>10</sup> Except for a recommendation in respect of or a transaction which is a rollover of any dual currency investment or structured note relating to equities or commodities, or such other product as MAS may approve on an exceptional basis.

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being recommended to SCs and these were sometimes not picked up through the FA firm's supervisory review process.

6.2 To act as an additional safeguard, and to enhance the objectivity of reviews conducted on transactions involving SCs, MAS proposes for FA firms to set up an independent panel to review all investment recommendations made to SCs. The independent panel should comprise persons independent of the financial advisory services unit of the FA firm. The variable remuneration of these persons should also not be directly linked to the financial performance of the representatives.

6.3 MAS is considering whether to require the independent panel to conduct its reviews on a pre- or post-transaction basis. A pre-transaction review approach would allow unsuitable transactions to be identified early on, prior to the investor completing his investment transaction and avoids the need to cancel or unwind transactions. Pre-transaction checks by the independent panel are intended to be an additional layer of checks. They are not meant to replace the pre-transaction checks that supervisors are currently required to conduct nor to absolve them from their supervisory responsibilities. Firms should also assess the appropriate action to take against representatives and their supervisors for proposed transactions that are found by the independent panel to be unsuitable for the SC.

6.4 A post-transaction review approach could avoid possible delays in the completion of transactions. However, if the recommended product is found to be inappropriate or unsuitable for the SC, the relevant transaction must be cancelled or unwound without detriment to the client. In the case of post-transaction reviews, it may be possible for the ISA Unit, which currently performs such reviews under the BSC framework, to assume the role of the independent panel.

**Question 10.** MAS seeks comments on the proposed requirement for an independent panel to review all product recommendations made to SCs, including the size of this panel and suitable person(s) to form this panel.

**Question 11.** MAS also seeks comments on whether this review by the independent panel should be conducted on a pre or post-transaction basis.

## **7 Proposed requirement for the ISA Unit to sample and review transactions involving higher risk clients**

7.1 In line with requirements under FAA-N20 and FAA-G14, every FA firm is required to establish an ISA Unit to conduct post-transaction checks on sampled transactions in order to review and assess the quality of financial advisory services provided by

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representatives. This could be done by reviewing call-logs of conversations<sup>11</sup> or by conducting documentation reviews and client surveys<sup>12</sup>.

7.2 To enhance safeguards for clients who may be more vulnerable and to uncover any lapses in the implementation of pre-transaction safeguards for SCs, in addition to the post-transaction checks mentioned in paragraph 7.1 above, we propose for the ISA Unit to sample and review a minimum of 10% of transactions involving clients who fall into **at least one**<sup>13</sup> of the following criteria:

- (i) 62 years of age or older;
- (ii) Not proficient in spoken or written English;
- (iii) Has below GCE “O” or “N” level certifications, or equivalent academic qualifications.

7.3 In relation to the proposals in section 6, MAS proposes that reviews of SC transactions by the independent panel, if performed on a post-transaction basis, may count towards meeting the 10% threshold<sup>14</sup>. This takes into account that SCs are a subset of clients who meet any of the criteria in paragraph 7.2, and that the ISA Unit may assume the role of the independent panel for post-transaction reviews. Any infraction noted from the post-transaction reviews, whether by the independent panel or the ISA Unit, will be subject to the BSC requirements.

<p><b>Question 12.</b> MAS seeks views on requiring the ISA Unit to perform additional sampling and review for transactions involving higher risk clients who meet one or more of the criteria set out in paragraph 7.2, and on the proposed 10% sampling level for transactions involving such clients.</p>
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## 8 Transitional period

8.1 MAS will consult on the proposed revisions to FAA-N16 after the proposals set out in this consultation paper have been finalised. We propose to grant FA firms a

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<sup>11</sup> For sampled transactions that are rollovers of dual currency investment or structured note relating to equities or commodities, or such other products that MAS may approve on an exceptional basis.

<sup>12</sup> For other sampled transactions not mentioned in footnote 11.

<sup>13</sup> Although SCs are defined as fulfilling any two of the criteria, we have proposed to sample transactions involving clients who fall into at least one of the criteria as there might be investors who have not been correctly identified or documented as SC, when in fact they meet two of the criteria.

<sup>14</sup> On the other hand, if the proposed approach is for the independent panel to perform pre-transaction reviews of SC transactions, the ISA Unit should still include such transactions as part of its post-transaction sampling checks. Such sample reviews by the ISA Unit may count towards the 10% threshold for review of transactions involving clients who meet any of the criteria in paragraph 7.2.

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transitional period of six months from the time the revised notice is published, for the revisions to take effect.

**Question 13.** MAS seeks comments on the transitional period of six months to implement the enhanced requirements proposed in this paper.

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## Annex A

### LIST OF QUESTIONS

**Question 1.** MAS seeks comments on moving the requirements for pre-transaction checks in FAA-G14 (paragraphs 25 to 33) to FAA-N16.

**Question 2.** MAS seeks comments on the proposed requirements for representatives to (i) check for and document a client's SC status; and (ii) make a formal declaration that the assessment of whether a client is an SC has been duly performed.

**Question 3.** MAS seeks comments on requiring the presence of a TI for all investment recommendations made to SCs.

**Question 4.** MAS seeks comments on the proposed criteria for a TI.

**Question 5.** MAS seeks comments on the types of information that should be covered during the client call-backs and recap of the sales and advisory process, and any additional areas that should be included.

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**Question 8.** MAS seeks comments on the proposal in paragraph 5.9, specifically on the alternative for representatives to provide a recap of the sales and advisory process at the end of the meeting/ discussion between the representative and the client, and to audio-record such a recap, in place of the proposed call-back and audio record requirement for retail clients who are not SCs and clients of SRs.

**Question 9.** MAS seeks views on whether FA firms should provide a copy of the audio recording to their clients and whether this should be proactively provided to clients or only on clients' request, and how this should be operationalised.

**Question 10.** MAS seeks comments on the proposed requirement for an independent panel to review all product recommendations made to SCs, including the size of this panel and suitable person(s) to form this panel.

**Question 11.** MAS also seeks comments on whether this review by the independent panel should be conducted on a pre or post-transaction basis.

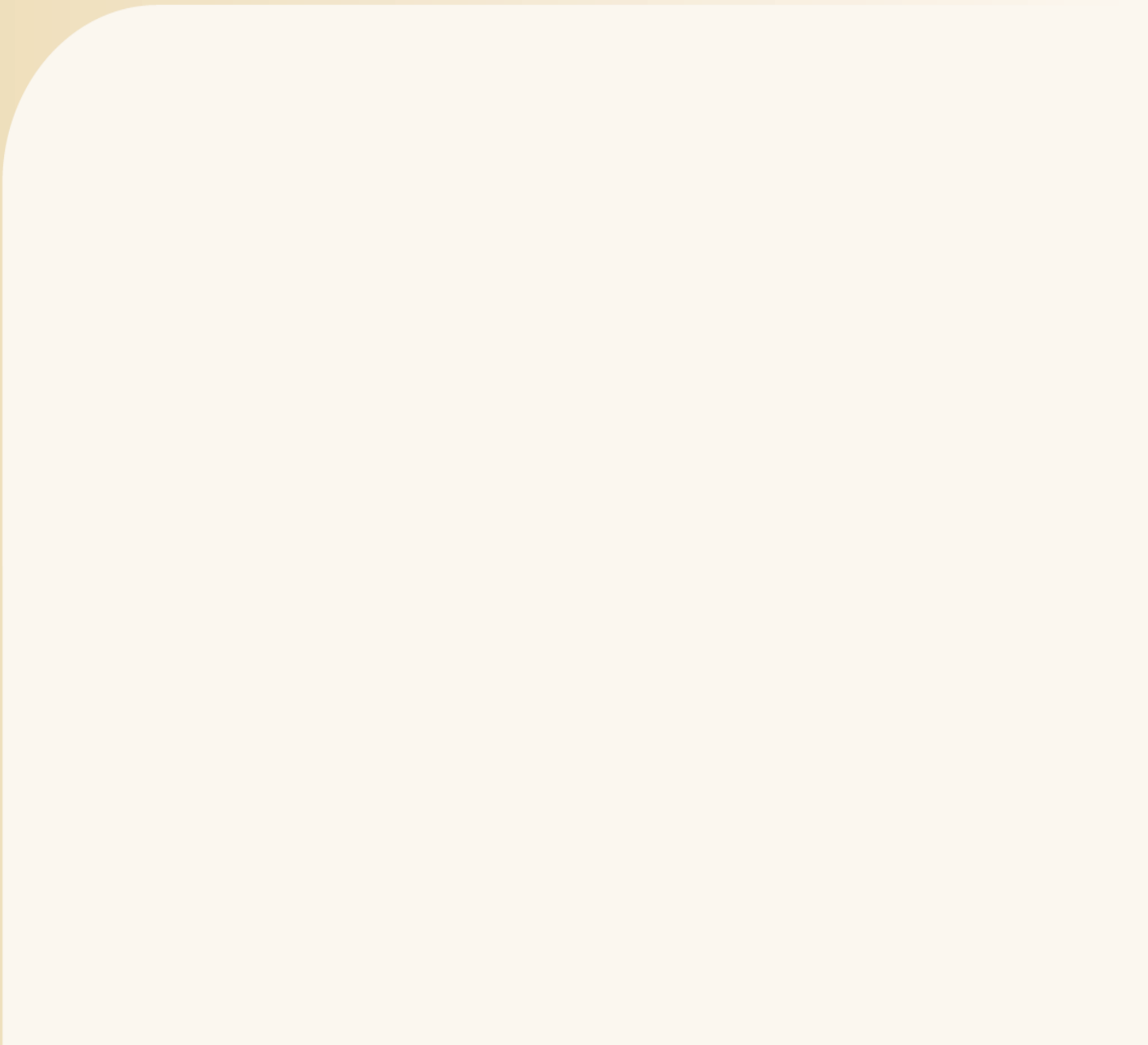
**Question 12.** MAS seeks views on requiring the ISA Unit to perform additional sampling and review for transactions involving higher risk clients who meet one or more of the

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criteria set out in paragraph 7.2, and on the proposed 10% sampling level for transactions involving such client.

**Question 13.** MAS seeks comments on the transitional period of six months to implement the enhanced requirements proposed in this paper.





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