

# CONSULTATION PAPER

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## Enhancing Safeguards for Proper Conduct of Digital Prospecting and Marketing Activities

MAS

Monetary Authority of Singapore

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## 1 Preface

1.1 This consultation paper sets out proposals to enhance safeguards for proper conduct of digital prospecting and marketing activities. The proposals seek to address conduct risks and issues associated with these activities.

1.2 Alongside this consultation paper, MAS has also published a consultation paper on proposals to enhance safeguards for proper conduct of prospecting activities at public places and telemarketing.

1.3 MAS invites comments from financial institutions, consumers, and other interested parties.

**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:**

- (a) their whole submission or part of it (but not their identity), or**
- (b) 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.**

1.4 Please submit your comments by 30 June 2023 using the following link – <https://go.gov.sg/MAS-Digital-Marketing>

1.5 Should you encounter any technical difficulties in your submission, please send your enquiry to [Digital\\_Marketing@mas.gov.sg](mailto:Digital_Marketing@mas.gov.sg).

## 2 Introduction

2.1 Financial institutions (“FIs”) and their representatives<sup>1</sup> are increasingly using social media and other digital media for prospecting and marketing activities. While the use of social media platforms can increase reach, it also means that misleading advertisements posted on these platforms can propagate more widely and rapidly.

2.2 Advertisements of financial products and services are subject to requirements set out in the Financial Advisers Regulations (“FAR”) and Securities and Futures (Licensing and Conduct of Business) Regulations (“SF(LCB)R”)<sup>2</sup>. Regulations 22 to 22D of the FAR, and regulations 46 and 46AA to 46AD of the SF(LCB)R (“the advertisement regulations”) require FIs and their representatives to ensure, inter alia, that advertisements are not false and misleading, and provide a fair and balanced view of the product to which the advertisement relates. Product advertisements are subject to approval by the FI’s senior management, or persons appointed by senior management to grant approval on their behalf prior to dissemination<sup>3</sup>. Sponsored content promoting financial products or services which are disseminated by third parties (e.g. social media influencers) engaged by financial institutions, are advertisements and are subject to these requirements (e.g. must not be misleading, must be approved by the FI), and FIs will be held accountable and responsible for such sponsored content. Examples of advertisements which would not meet these requirements are set out in the Sixth Schedule of the FAR and the Fourth Schedule of the SF(LCB)R, such as advertisements which present only benefits but not risks, and advertisements which present historical performance but do not state that past performance is not indicative of future performance<sup>4</sup>. MAS has also published the Frequently Asked Questions on Fair and Balanced Advertising and Other Advertising Restrictions.

2.3 While these regulations apply to advertisements disseminated via traditional media (e.g. print media) as well as digital media (e.g. websites, social media platforms), MAS has observed issues with advertisements posted on digital media. Certain specificities of digital media pose heightened risks compared to traditional media, and conduct issues may arise, if these risks are not properly managed. For example, social

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<sup>1</sup> “Representatives” refers to employees, agents and any other persons who act on behalf of FIs, including but not limited to representatives appointed by FIs to conduct regulated activities under the Financial Advisers Act 2001 (“FAA”) and Securities and Futures Act 2001 (“SFA”).

<sup>2</sup> The FAR covers investment products such as capital market products and life policies, and activities regulated under the FAA such as providing financial advisory services. The SF(LCB)R covers capital market products and activities regulated under the SFA such as conducting fund management and dealing.

<sup>3</sup> Refer to regulations 22(2)(g) and 22A of the FAR, and regulations 46(2)(g) and 46AA of the SF(LCB)R.

<sup>4</sup> Similar requirements are set out in the Securities and Futures (Offers of Investments) (Collective Investment Schemes) Regulations 2005 and its Ninth Schedule, Securities and Futures (Offers of Investments) (Securities and Securities-based Derivatives Contracts) Regulations 2018 and its Twenty First Schedule.

media platforms typically have format constraints such as word or character limits, and advertisements on social media tend to truncate or omit key information on product features and risks, or terms and conditions, which could result in such advertisements presenting a misleading or an unbalanced view of financial products.

2.4 MAS has also come across misleading advertisements, which advertise financial services, by highlighting unsubstantiated high returns without mentioning any specific products. The high returns are usually presented without highlighting how they can be achieved and do not include a description of the key risks or other important caveats.

2.5 There were also instances of advertisements posted anonymously by representatives on websites and social media platforms using pseudonyms. Consumers would not know the identity of the person who posted the advertisement, and whether the person is regulated by MAS or not. MAS has continuously warned consumers against dealing with unregulated persons.

2.6 Other issues of concern include representatives' inappropriate use of digital platforms for prospecting (e.g. soliciting leads through online dating applications), and representatives' use of third-party tools or service providers for generating leads online ("lead generation firms") without their FIs' authorisation.

2.7 The various conduct risks and issues set out above highlight the need for FIs to exercise stronger governance and closer oversight of digital prospecting and marketing activities, including activities conducted by their representatives and third-party service providers. MAS has also been engaging FIs to tighten practices and controls.

2.8 Section 3 of this paper sets out our proposal to issue guidelines to formalise MAS' supervisory expectations on FIs to put in place safeguards to ensure proper conduct of digital prospecting and marketing activities.

2.9 Section 4 sets out our proposal to enhance the requirements in the advertisement regulations, to address risks posed by misleading non-product advertisements and anonymous advertisements.

2.10 Section 5 sets out our proposal to enhance safeguards in relation to FIs' use of lead generation firms. Lead generation constitutes introducing activity as defined in the FAR. Where FIs use the services of lead generation firms, they must comply with existing requirements regarding the appointment and use of introducers.

2.11 Section 6 sets out the proposed implementation timeline, and seeks feedback on other possible measures to ensure that FIs and their representatives conduct digital prospecting and marketing activities in a responsible and professional manner.

### **3 Issuance of Guidelines on Standards of Conduct for Digital Prospecting and Marketing Activities**

3.1 MAS proposes to issue Guidelines on Standards of Conduct for Digital Prospecting and Marketing Activities (“the proposed Guidelines”), to formalise MAS’ supervisory expectations on FIs to put in place safeguards for proper conduct of digital prospecting and marketing activities<sup>5</sup>. The safeguards set out in the proposed Guidelines are aimed at addressing conduct risks and issues relating to the use of digital media, especially social media, and are meant to complement the advertisement regulations.

3.2 The proposed Guidelines set out MAS’ expectations that the Board and Senior Management of FIs are accountable and responsible for ensuring that proper controls are in place for their FI’s digital prospecting and marketing activities, and ensuring that these activities are conducted in a responsible and professional manner. The safeguards cover the following areas:

- (a) Selecting appropriate digital media for prospecting and marketing financial products and services;
- (b) Assessing specificities and limitations of digital media, and addressing risks associated with its use, including by providing important and prominent disclosures;
- (c) Providing clear guidance and proper training to representatives on appropriate digital prospecting and marketing practices;
- (d) Monitoring digital prospecting and marketing activities conducted by representatives and third-party service providers; and
- (e) Taking appropriate disciplinary actions against representatives and their supervisors for malpractices, and deterring errant conduct relating to digital prospecting and marketing.

3.3 As the safeguards are not product-specific, FIs are expected to apply the proposed Guidelines to digital prospecting and marketing of all financial products and related services. The proposed Guidelines are set out in Annex A.

**Question 1.** MAS seeks comments on the proposed Guidelines set out in Annex A.

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<sup>5</sup> Other major jurisdictions such as the United Kingdom have also issued guidelines relating to FIs’ use of social media for marketing of financial products and services.

## 4 Enhancements to Advertisement Regulations

4.1 MAS proposes to introduce additional requirements in the advertisement regulations, to address risks posed by misleading non-product advertisements and anonymous advertisements.

### Addressing risks posed by misleading non-product advertisements

4.2 Besides misleading product advertisements, MAS has also observed misleading non-product advertisements. These typically advertise financial services, by touting high returns without mentioning specific financial products. The high returns are typically presented without substantiation and are not accompanied by a description of risks or other caveats.

4.3 Such advertisements tend to be posted by FIs' representatives, rather than the FIs themselves. As the regulatory requirement for FIs' approval is applied on product advertisements<sup>6</sup>, FIs' own policies and procedures might only require their representatives to obtain approval for posting product advertisements, but not non-product advertisements. Where representatives' non-product advertisements are not approved or vetted by FIs, there is heightened risk of such advertisements being misleading.

4.4 To strengthen FIs' oversight of non-product advertisements and ensure that such advertisements are not misleading, MAS proposes to extend the application of the regulatory requirement for FIs' approval to non-product advertisements. This will subject non-product advertisements, such as those advertising financial services, to similar approval processes and vetting controls as product advertisements<sup>7</sup>.

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<sup>6</sup> Refer to regulations 22(2)(g) and 22A of the FAR, and regulations 46(2)(g) and 46AA of the SF(LCB)R. Paragraph 23 of MAS Notice 120 on Sales Disclosure and Advisory Process Requirements for Accident and Health Insurance Products also requires marketing materials with respect to integrated shield plans and accident and health policies to be approved by FIs.

<sup>7</sup> The proposed Guidelines also set out useful practices which some FIs have implemented to increase process efficiency while ensuring that advertisements are not misleading, e.g. FIs' provision of pre-approved advertisement templates and marketing materials for representatives' use. Refer to Safeguard 3 of the proposed Guidelines.

### Addressing risks posed by anonymous advertisements

4.5 Anonymous advertisements pose risks to consumers, as they would not know the identity of the person who posted the advertisement and whether the person is regulated by MAS or unregulated. There have also been instances of representatives posting advertisements anonymously on websites and social media using pseudonyms, which were uncovered via online mystery shopping exercises<sup>8</sup>.

4.6 To ensure that the identities of the persons posting the advertisement are clear to consumers, MAS proposes to require FIs and their representatives to state their identities in advertisements<sup>9</sup>. The FI's name as set out in the Financial Institutions Directory, and the representative's name and number as set out in the Register of Representatives, should be disclosed in the advertisements.

4.7 Consumers should check the identities of persons stated in advertisements against the information published in the Financial Institutions Directory and Register of Representatives on MAS' website<sup>10</sup>. They should also steer clear of all anonymous advertisements and avoid dealing with unregulated persons.

4.8 Even with this requirement in place, consumers are advised to remain vigilant against scams where malicious persons attempt to impersonate FIs and their representatives. Consumers are advised to exercise caution and contact FIs directly to clarify any doubt about the authenticity of advertisements or personas encountered online.

### Other amendments

4.9 MAS also proposes other technical amendments to the advertisement regulations, such as applying similar requirements on clarity and legibility of product advertisements to non-product advertisements. The proposed amendments to the advertisement regulations are set out in Annex B and Annex C.

**Question 2.** MAS seeks comments on the proposed amendments to the advertising regulations set out in Annex B and Annex C.

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<sup>8</sup> Accordingly, the proposed Guidelines require FIs to monitor content posted on digital media, including conducting surveillance using methods such as web crawls and online mystery shopping exercises, and take disciplinary actions against representatives for malpractices. Refer to Safeguard 4 and Safeguard 5 of the proposed Guidelines.

<sup>9</sup> Other major jurisdictions such as the European Union and Hong Kong have similar rules in place.

<sup>10</sup> The Financial Institutions Directory is accessible at <https://eservices.mas.gov.sg/fid>. The Register of Representatives is accessible at <https://eservices.mas.gov.sg/rr>.



## 5 Enhancements to Notice FAA-N02 on Appointment and Use of Introducers

5.1 FIs and their representatives are increasingly using third-party service providers and tools for generating leads online. Such digital lead generation activities typically comprise disseminating an advertisement to market financial products or services, coupled with a form to collect prospective customers' particulars and contact information. These activities are subject to the following –

- (a) Advertisement regulations: As these activities involve advertisements, FIs and their representatives must adhere to the requirements in the advertisement regulations, including ensuring that the advertisements have been approved by the FI and are not misleading.
- (b) Notice FAA-N02 on Appointment and Use of Introducers by Financial Advisers: Digital lead generation constitutes introducing activity as defined in the FAR<sup>11</sup>, and lead generation firms are introducers as set out in FAA-N02<sup>12</sup>. Where FIs use lead generation firms, FIs must adhere to FAA-N02 which sets out the requirements in relation to the appointment and use of introducers. FIs and their representatives are also reminded that FAA-N02 prohibits the unauthorised use of lead generation firms by representatives<sup>13</sup>.
- (c) Personal Data Protection Act (“PDPA”): As these activities also involve customers' personal information, FIs and their third-party service providers must adhere to the requirements in the PDPA, which applies to organisations that collect, use or disclose personal data.

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<sup>11</sup> Refer to the definition of “introducing activity” set out in regulation 31 of the FAR.

<sup>12</sup> Under FAA-N02, “introducer” means any person who is appointed by a financial adviser to perform introducing activities on behalf of the financial adviser.

<sup>13</sup> Paragraph 6 of FAA-N02 states that a financial adviser shall ensure that none of its employees or representatives enters into any arrangement with an introducer to carry out introducing activities other than on behalf of the financial adviser. This provision prohibits representatives from engaging the services of lead generation firms and other introducers without their FI's knowledge and approval.

Enhancing safeguards for proper conduct of digital lead generation

5.2 MAS proposes to refine the requirements in FAA-N02, to strengthen FIs' oversight and control of activities conducted by lead generation firms, and enhance safeguards for proper handling of customers' data.

5.3 In this regard, MAS has proposed amendments to FAA-N02, to require FIs to monitor the activities and conduct of lead generation firms. As customers' data must be handled with proper care, the proposed amendments also require FIs to ensure that the manner in which lead generation firms collect, use or disclose data, is in line with the FI's own data management policies and applicable laws such as the PDPA.

5.4 As the relevance of these measures is not limited to the context of lead generation firms, the measures will apply to all introducers. These measures will help to align and raise the level of oversight and control applied by FIs to prospecting and marketing activities conducted by third-party lead generation firms and other introducers on their behalf, to the level of oversight and control that FIs are applying to similar activities conducted by themselves and their representatives.

Other amendments

5.5 MAS also proposes to refine certain provisions in FAA-N02, for better application to the context of digital lead generation. First, FAA-N02 requires FIs to provide a script to introducers for their use when prospecting customers. The script sets out key information to be conveyed to customers. For digital lead generation, this requirement will be adapted into a requirement on FIs to provide key information to lead generation firms for disclosure to customers. Second, FAA-N02 prohibits FIs from appointing persons as introducers, if introducing activities are their sole business activity or full-time occupation. This helps to mitigate risks of aggressive prospecting. As digital lead generation does not involve physical interactions, there might not be a need to apply this measure. MAS would like to seek views on whether this prohibition could be removed in the context of digital lead generation. The proposed amendments to FAA-N02 are set out in Annex D.

**Question 3.** MAS seeks comments on the proposed amendments to FAA-N02 set out in Annex D.

## 6 Implementation Timeline and Other Feedback

### Other possible measures

6.1 The proposals set out in this consultation paper will enhance safeguards to ensure proper conduct of digital prospecting and marketing activities. MAS may consider imposing additional or stricter measures to address conduct risks and issues, especially if these persist.

6.2 One possible measure is to limit representatives to only re-posting their FI's advertisements. This is already the practice at some FIs. For example, banks limit their representatives to only re-posting the bank's advertisements, and do not allow representatives to post their own advertisements. A more restrictive option is to prohibit representatives from posting advertisements altogether, i.e. only FIs are allowed to post advertisements.

### Implementation timeline

6.3 MAS is considering to provide a transition period of six to nine months for FIs to comply with the new Guidelines, updated Regulations and Notice, i.e. the effective date of these instruments would be six to nine months from their issuance date.

6.4 All advertisements, including pre-existing advertisements that remain posted on digital media on or after the effective date of the new Guidelines, updated Regulations and Notice, will have to be compliant with the updated requirements, as allowing advertisements of differing standards to be disseminated would confuse consumers and result in varying levels of safeguards. The transition period is intended to provide FIs with sufficient time to remove or make the necessary adjustments to pre-existing advertisements to ensure compliance with the updated requirements (e.g. modify the advertisement to state the identity of the FI and the representative).

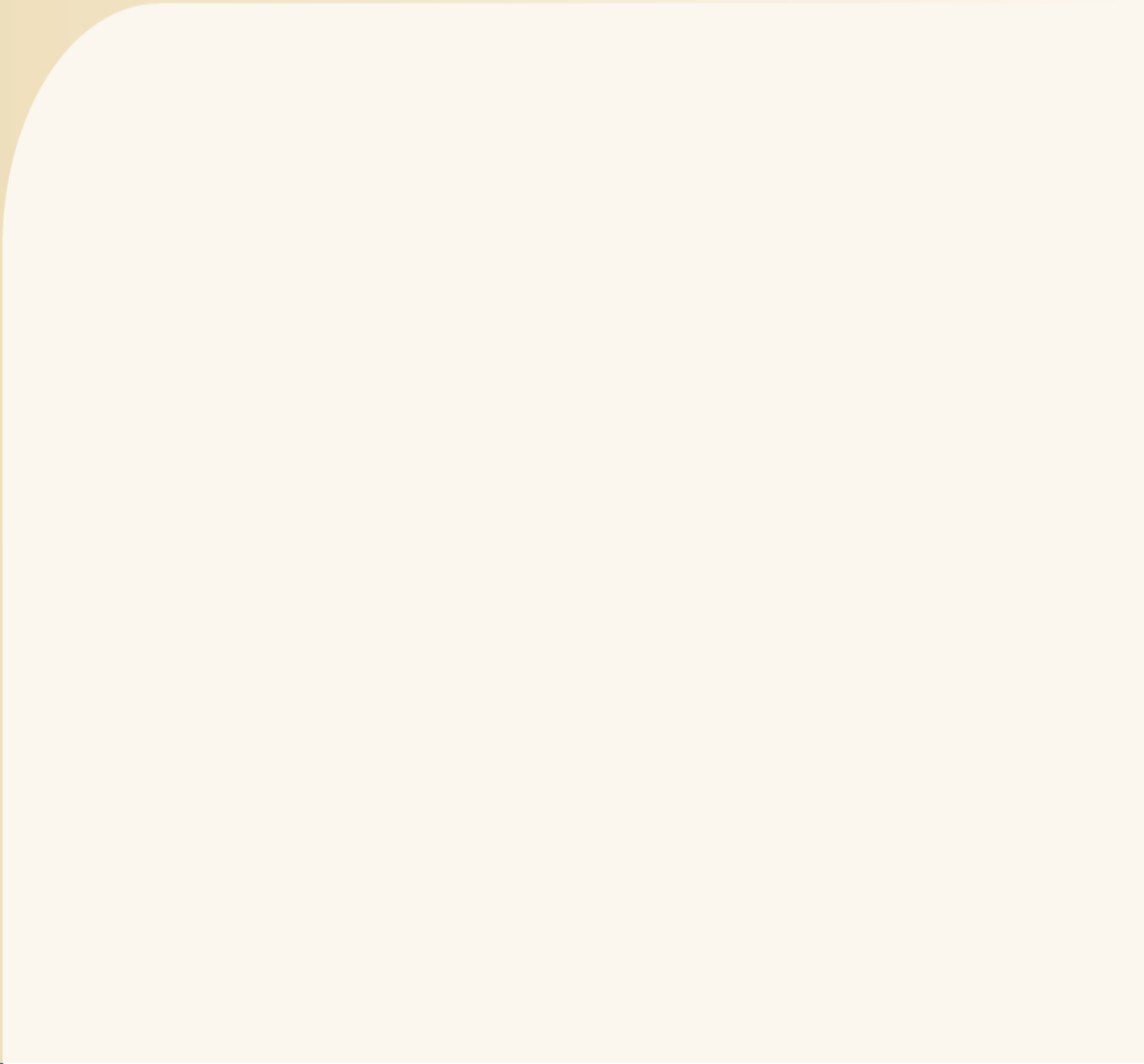
**Question 4.** MAS seeks comments on other possible measures which could be introduced to ensure responsible and professional conduct of digital prospecting and marketing activities.

**Question 5.** MAS seeks comments on the proposed transition period of six to nine months.

## LIST OF QUESTIONS

- Question 1.** MAS seeks comments on the proposed Guidelines set out in Annex A. ....6
- Question 2.** MAS seeks comments on the proposed amendments to the advertising regulations set out in Annex B and Annex C.....8
- Question 3.** MAS seeks comments on the proposed amendments to FAA-N02 set out in Annex D. ....10
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- Question 5.** MAS seeks comments on the proposed transition period of six to nine months. ....11

Note: Where implementation challenges are foreseen in relation to any of the proposals in this consultation paper, please provide details on the challenges as well as suggestions to address them, and/or alternative options to address the conduct risks and issues.



Monetary Authority of Singapore