



Monetary Authority of Singapore

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# **FINANCIAL ADVISERS ACT (CAP. 110)**

**GUIDELINES ON FAIR DEALING –  
BOARD AND SENIOR MANAGEMENT  
RESPONSIBILITIES FOR DELIVERING FAIR DEALING  
OUTCOMES TO CUSTOMERS**

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BOARD AND SENIOR MANAGEMENT RESPONSIBILITIES FOR  
DELIVERING FAIR DEALING OUTCOMES TO CUSTOMERS**

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**INTRODUCTION**

1 The Monetary Authority of Singapore ["MAS"] has issued the *Guidelines on Fair Dealing - Board and Senior Management Responsibilities for Delivering Fair Dealing Outcomes to Customers* ["the Guidelines"] to promote fair dealing by financial institutions when they conduct business with their customers. The Guidelines incorporate public comments, lessons from the recent financial crisis and MAS' draft proposals from the *Consultation Paper on Review of the Regulatory Regime Governing the Sale and Marketing of Unlisted Investment Products* issued on 12 March 2009.

2 The Guidelines focus on Board and Senior Management responsibilities for delivering fair dealing outcomes to customers. The Guidelines apply to the selection, marketing and distribution of investment products and the provision of advice for these products. The Guidelines also cover responsibilities for after-sales services and complaints handling. While the Guidelines have been written with retail customers and investment products in mind, financial institutions are strongly encouraged to apply the principles in the Guidelines to other customers and products.

3 The Guidelines set out five fair dealing outcomes and explain why each outcome is important. They also list key issues, provide illustrations of good and poor practices, and set out self-assessment questions for the Board and Senior Management.

4 The five fair dealing outcomes are:

Outcome 1: Customers have confidence that they deal with financial institutions where fair dealing is central to the corporate culture.

Outcome 2: Financial institutions offer products and services that are suitable for their target customer segments.

Outcome 3: Financial institutions have competent representatives who provide customers with quality advice and appropriate recommendations.

Outcome 4: Customers receive clear, relevant and timely information to make informed financial decisions.

Outcome 5: Financial institutions handle customer complaints in an independent, effective and prompt manner.

5 The Board is responsible for charting the corporate policy and strategy to deliver the fair dealing outcomes to customers. The Board oversees Senior Management in implementing the corporate policy and strategy approved by the Board. The Board and Senior Management are accountable for setting the culture and direction of the financial institution to align business practices with the fair dealing outcomes. This involves influencing attitudes and behaviour of staff at all levels of the financial institution, and requires concerted and wide ranging measures, in particular:

- a) demonstrated commitment by the Board and Senior Management to the fair dealing outcomes;
- b) a management information framework to measure and monitor achievement of the fair dealing outcomes;
- c) training for staff and representatives so that they have the skills and competencies to deal with customers fairly; and
- d) a performance evaluation and remuneration system to incentivise fair dealing conduct.

6 The Board and Senior Management of a financial institution should review the overall business model of the financial institution to ensure that it is consistent with dealing fairly with its customers. In particular, the financial

institution should review any business model that relies primarily on commissions and short-term product sales targets. The Board and Senior Management should pay attention to potential conflicts between the interests of the financial institution and those of its customers, especially where the financial institution is engaged in multiple business activities.

7 The emphasis on outcomes is deliberate. Customers are concerned about their experiences when dealing with financial institutions, and whether the investment products and services they buy provide real value. The five outcomes provide clear benchmarks for MAS and the industry to assess the performance and success of financial institutions in promoting good market conduct practices.

8 The Guidelines should be read with the Financial Advisers Act, its subsidiary legislation, written directions, notices, codes and other guidelines. Each financial institution needs to consider how best to apply the Guidelines to suit its business model and customer base. The Board and Senior Management of each financial institution should be able to demonstrate that its strategy, policies, systems and processes support the fair dealing outcomes.

9 MAS will take into account a financial institution's ability or failure to observe the Guidelines in assessing whether it continues to be fit and proper to conduct regulated activities. Where the failings relate to obligations under the relevant legislation, MAS will take supervisory or enforcement action. MAS will use inspections and visits to financial institutions, interviews with the Board and Senior Management, surveys of financial institutions, customer surveys and mystery shopping exercises to assess whether financial institutions are observing the Guidelines.

10 Industry and consumer associations play a key role in promoting the fair dealing outcomes. They can do so in several ways, including:

- a) developing case studies and examples of best practices;
- b) conducting mystery shopping exercises, customer surveys and other studies to identify areas of market conduct practices for improvement;
- c) aligning their codes of practice with the fair dealing outcomes;
- d) conducting training for industry representatives; and
- e) educating consumers to help them understand the fair dealing initiative and what they can expect from financial institutions.

11 Consumers should also equip themselves to make informed financial decisions. MAS will continue to issue consumer guides and support activities under the MoneySENSE financial education programme.

12 MAS will update the Guidelines, where appropriate, to incorporate feedback and comments received on the *Consultation Paper on Review of the Regulatory Regime Governing the Sale and Marketing of Unlisted Investment Products*, as well as industry developments in Singapore and other jurisdictions.

## **1 FAIR DEALING OUTCOME ONE**

**Customers have confidence that they deal with financial institutions where fair dealing is central to the corporate culture.**

### **1.1 RATIONALE**

1.1.1 Financial institutions play an important role in influencing customers' financial decisions. Customers rely on financial institutions for relevant information, quality advice and appropriate recommendations.

1.1.2 As the Board and Senior Management provide leadership and set the culture of the financial institution, they should be the champions and stewards of an organisational culture of fair dealing.

1.1.3 To develop an organisational culture of fair dealing, the Board and Senior Management should address the following key areas:

- a) devise a clear strategy to achieve the fair dealing outcomes;
- b) align organisational policies and practices to the fair dealing outcomes;
- c) communicate to internal and external stakeholders that fair dealing is a priority for the financial institution; and
- d) monitor the effectiveness of the strategy and policies to achieve the fair dealing outcomes.

### **1.2 DEVISING A CLEAR STRATEGY TO ACHIEVE THE FAIR DEALING OUTCOMES**

1.2.1 The Board and Senior Management should be able to demonstrate that they have devised a strategy and implemented plans to achieve the fair dealing outcomes. These plans should include:

- a) allocation of executive responsibilities;
- b) implementation of a set of measurable targets; and

- c) development of a remuneration structure for senior executives which is linked to key performance indicators for achieving the fair dealing outcomes.

***Illustration 1.1***

*The Board of a financial institution assigns its Chief Executive Officer to spearhead a Fair Dealing Taskforce. The Taskforce is responsible for conducting a review of the financial institution's advisory and sales process to identify areas where it falls short. Based on the findings, the Taskforce formulates a strategy which includes defining a set of principles to drive cultural change, as well as training and supervising staff and representatives on dealing with customers fairly. This strategy is endorsed by the Board, which is updated on the progress of implementing the strategy on a quarterly basis.*

Comment: The Board and Senior Management should assign responsibilities to specific executives for carrying out initiatives to promote fair dealing practices within the financial institution. The formation of a taskforce dedicated to achieving the fair dealing outcomes, as well as support for the initiatives at the Board and Senior Management levels, are some ways to demonstrate the financial institution's commitment to dealing with customers fairly.

### **1.3 ALIGNING ORGANISATIONAL POLICIES AND PRACTICES TO THE FAIR DEALING OUTCOMES**

1.3.1 The Board and Senior Management should review the financial institution's policies, systems and processes to ensure that its market and business conduct practices achieve the fair dealing outcomes for customers. These include having:

- a) robust due diligence procedures for selecting investment products and services that are suitable for its customers;
  - b) formalised recruitment practices and training to ensure its staff and representatives are competent, fit and proper, and ethical;
  - c) strong and effective systems and controls to ensure proper ongoing supervision of its staff and representatives;
  - d) procedures for whistleblowers to report on misconduct;
  - e) effective performance evaluation and remuneration systems to encourage the right behaviour to achieve the fair dealing outcomes;
- and

- f) proper assessments and clear service standards for partnerships with other financial institutions or introducers in its distribution business.

1.3.2 The financial institution should address any issues that potentially compromise the interests of customers. The Board and Senior Management should design a remuneration structure for its staff and representatives that encourages the achievement of the fair dealing outcomes. The financial institution should not incentivise inappropriate practices such as product pushing or improper switching of investment products.

1.3.3 For a financial institution which conducts both financial advisory and non-financial advisory businesses at the same physical location, the financial institution should ensure that its staff do not solicit financial advisory business from customers of the non-financial advisory business. This is particularly relevant for banks and finance companies that accept deposits from customers. Such segregation will minimise the risk of customers confusing an investment product with a deposit.

**Illustration 1.2**

*The Board of a financial institution sets up a project team to align its policies and practices with the fair dealing outcomes. The Board instructs that special attention be paid to remuneration structures, disclosure standards and product selection process, as these areas have greater impact on customers. One of the initiatives by this project team is to establish formal customer feedback procedures, including quarterly customer forums. The objective of such forums is to gather customer feedback on their experiences when receiving financial advisory services, on the quality of marketing materials and on recent launches of investment products and services. Following each forum, the project team produces a report for discussion and endorsement at the quarterly Board meetings. This report summarises customer feedback and suggests corrective actions where weaknesses are identified.*

Comment: The Board and Senior Management should view customer feedback as essential to achieving the fair dealing outcomes. This enables the financial institution to take into account customer opinions when aligning its policies and practices of key business areas to the fair dealing outcomes for customers. This is a strong display of how the Board and Senior Management can integrate good market conduct practices into the financial institution's business strategy and conduct.

## **1.4 COMMUNICATING THE FAIR DEALING OUTCOMES AS A PRIORITY FOR THE FINANCIAL INSTITUTION**

1.4.1 The Board and Senior Management should communicate a clear and consistent message to internal and external stakeholders that delivering the fair dealing outcomes to customers is an important organisational priority.

### ***Illustration 1.3***

*To cultivate an organisation-wide fair dealing culture, a financial institution launches an online training module as part of an institution-wide communications plan. Senior Management show their commitment by being actively involved in the communications plan. In addition, they request that the Compliance Department surveys the staff and representatives to gauge the success of the plan.*

Comment: Developing a fair dealing culture requires a mindset change. Senior Management should play an active role in communicating the importance of this shift in mindset to reflect their commitment to the fair dealing initiative.

## **1.5 MONITORING IMPLEMENTATION OF THE FAIR DEALING STRATEGY**

1.5.1 The Board and Senior Management should ensure that the financial institution establishes a management information framework to measure and monitor achievement of the fair dealing outcomes. This could include:

- a) monitoring complaints trends;
- b) conducting customer surveys;
- c) conducting mystery shopping exercises; and
- d) preparing compliance reports.

***Illustration 1.4***

*A financial institution prepares quarterly management information reports which cover compliance issues, complaints trends, customer feedback and other relevant indicators. These reports are reviewed at the quarterly management meetings to identify shortcomings and possible enhancements to its fair dealing initiative. In addition, the financial institution conducts customer surveys and mystery shopping exercises on an annual basis to track the effectiveness and progress of its initiative.*

Comment: A good management information framework encompasses the collation of all relevant information and proper review of this information by appropriate levels of management.

## **1.6 KEY ISSUES FOR SELF-ASSESSMENT**

1.6.1 How do the Board and Senior Management lead the financial institution in delivering the fair dealing outcomes to its customers? Are executive responsibilities clearly assigned?

1.6.2 Have the Board and Senior Management reviewed the financial institution's business model to ensure that it supports fair dealing with its customers? How is the achievement of the fair dealing outcomes incorporated into the financial institution's policies and practices?

1.6.3 How do the Board and Senior Management clearly communicate to internal and external stakeholders the message that delivering the fair dealing outcomes is a priority for the financial institution?

1.6.4 How do the Board and Senior Management measure and monitor the achievement of the fair dealing outcomes? What measures have the Board and Senior Management drawn up to address areas where the financial institution has fallen short of delivering the fair dealing outcomes?

## 2 FAIR DEALING OUTCOME TWO

**Financial institutions offer products and services that are suitable for their target customer segments.**

### 2.1 RATIONALE

2.1.1 Financial institutions should carefully assess the suitability of every investment product before marketing the product to customers. Making financial decisions can be a complex process that has a significant impact on the livelihood of customers. Some customers find it difficult to make the most appropriate financial decision when faced with the wide variety of investment products available in the market. For customers with limited knowledge of investment products, they often focus too much on the short-term or headline returns, while not fully understanding the risk-reward characteristics of the product.

### 2.2 CONDUCTING PRODUCT DUE DILIGENCE

2.2.1 The financial institution should undertake formal due diligence on any investment product it intends to distribute, in order to:

- a) assess and fully understand the features and risk-reward characteristics of the product; and
- b) identify customer segments for which the product is suitable, and customer segments for which the product is clearly not suitable.

2.2.2 The product due diligence process should include a thorough review by the financial institution of the prospectus, pricing statement, Product Highlights Sheet<sup>1</sup>, factsheet, marketing materials and other representations from the product provider.

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<sup>1</sup> The Product Highlights Sheet is a separate simplified document to supplement the prospectus. It is proposed under the *Consultation Paper on Review of Regulatory Regime Governing the Sale and Marketing of Unlisted Investment Products* issued on 12 March 2009 that issuers are required to develop this document and it must be given together with the prospectus to customers before they make investment decisions.

2.2.3 In deciding whether to distribute a new investment product, the financial institution should consider, among other matters:

- a) whether the financial institution's target customer segments are able to understand the product, given its risk-reward characteristics and level of complexity;
- b) whether the product's investment objectives, risk-reward characteristics and associated cost and fees are suitable for the financial institution's target customer segments;
- c) the proposed marketing channel for the product, for example, through representatives, the internet or direct marketing;
- d) the competency of its representatives and their ability to understand the product features and risk-reward characteristics; and
- e) whether its systems and processes, including fact-find forms, risk profiling questionnaires and other documents, are able to support the sale of the product.

If the financial institution disagrees with the disclosures made or customer segments recommended by the product provider, the financial institution should not market and sell the product to these customers.

2.2.4 In performing product due diligence, the financial institution should involve legal, compliance and operational personnel, as well as financial advisory and frontline supervisory staff familiar with the needs and profile of its customers. The financial institution should maintain proper documentation of the due diligence performed. Formal management approval to distribute the investment product to target customer segments should be obtained and properly documented. The documentation should include determination of the product risk assessment and identified customer segments for which the product is or is not suitable.

***Illustration 2.1***

*A financial institution has recently been offered distribution rights for a complex investment product, which is recommended by the product provider as suitable for distribution to retail customers. Upon evaluation of the product's complexity and risks, the financial institution assessed that the product may not be easily understood by its target customer segments which are retail customers. The financial institution decided not to take up the distribution rights for that product.*

Comment: In deciding whether to distribute a new investment product, a financial institution should conduct proper due diligence to assess the features and risk-reward characteristics of the product, and determine if it is suitable for its target customer segments. The financial institution should form an independent conclusion, rather than rely solely on the assessment of the product provider. This will ensure that the financial institution only offers products that suit the profile of its target customer segments.

## **2.3 MARKETING TO TARGET CUSTOMER SEGMENTS**

2.3.1 The financial institution should tailor its marketing approach to the profiles, financial objectives, and general financial literacy of its target customer segments.

2.3.2 The financial institution should clearly communicate to its staff, especially its representatives, the target customer segments and key features and risk-reward characteristics of each investment product and service it offers. The financial institution should also educate representatives on how to classify the product, in particular, whether the product falls under a distinct asset class. This allows representatives to provide quality advice and make appropriate recommendations on products and asset allocation to customers.

2.3.3 The financial institution should pay special attention when marketing investment products to certain customer segments, in particular, those with limited knowledge of investment products. It should encourage such customers to opt for a full fact-find to ensure that the advice and recommendation made by representatives suit their financial objectives and personal circumstances. The financial institution should also ensure that these customers are provided with relevant information, in a manner easily understood by them.

2.3.4 In marketing a complex investment product, the financial institution should make clear to customers that the product cannot generally be sold to them without advice. In addition, the financial institution should ensure that its representatives are properly trained on the features and risk-reward characteristics of such products before they are allowed to market and advise on such products to customers. This includes passing any prescribed regulatory examinations. When representatives sell complex investment products to customers with limited knowledge of investment products, the financial institution should require its representatives to obtain higher level approval before the transaction can be executed.

2.3.5 The financial institution should not assume that an investment product is suitable for all customers within a target customer segment. The financial institution should take steps to identify any customer profiles and circumstances within the target customer segment for which the product is not suitable, and have robust controls to prevent inappropriate sales of the product to these customers.

Illustration 2.2

*At a training session before the launch of a regular premium investment-linked insurance plan, a financial institution communicated its marketing strategy to its representatives. The strategy identified the target customer segment as young executives who have worked for at least a year and who are in search of savings. The financial institution further informed its representatives that while the target customer segment has been identified, they should note that the product is not suitable for customers who are seeking pure insurance protection, given the product's high investment element.*

Comment: In identifying a target customer segment for distribution of an investment product, a financial institution should be mindful that the product may not suit all customers within the target customer segment and should put in place controls to ensure appropriate sales of the product to its customers.

## **2.4 KEY ISSUES FOR SELF-ASSESSMENT**

2.4.1 What policies and procedures has the financial institution put in place to conduct product due diligence before offering a new investment product to its customers?

2.4.2 How does the financial institution ensure that its products and services are only marketed to customer segments for which they are suitable?

2.4.3 What controls has the financial institution put in place to identify the customer profiles and circumstances within the target customer segment for which the investment product is not suitable?

### **3 FAIR DEALING OUTCOME THREE**

**Financial institutions have competent representatives who provide customers with quality advice and appropriate recommendations.**

#### **3.1 RATIONALE**

3.1.1 There is a wide variety of investment products that cater to customers' different investment preferences and risk profiles. Customers often rely on representatives of financial institutions to explain these products and recommend products that are suitable for them. This requires fully trained and competent representatives.

3.1.2 The conduct of representatives is influenced by pay, rewards and other incentives. Financial institutions should implement remuneration structures that align representatives' interests with those of their customers.

#### **3.2 ENSURING COMPETENCY OF REPRESENTATIVES**

3.2.1 Besides meeting the minimum entry and examination requirements under the Financial Advisers Act, the financial institution should ensure that all representatives have the knowledge and skills to provide quality advice to customers by:

- a) undergoing a structured training programme covering the advisory and sales process, regulatory requirements, market developments, and other relevant topics;
- b) receiving continuous professional training; and
- c) being fully trained on the features and risk-reward characteristics of any investment product distributed by the financial institution, and on the profile of the target customer segments of the product, before they are allowed to advise on and sell the product to customers.

3.2.2 The financial institution should provide quality, ongoing training to its representatives. Training programmes should be well structured and go beyond satisfying requirements on training hours. The financial institution should ensure that its training materials contain accurate and clear information on each investment product, consistent with the product due diligence performed by the financial institution and information furnished by the product provider. Where training is conducted by the product provider or any third party trainer, it is the responsibility of the financial institution to be satisfied that the training is adequate.

3.2.3 A financial institution should set limits on the supervisory span of control of its supervisors so that they can effectively coach, monitor and supervise the representatives under their charge. To underscore the importance of supervisory oversight, the financial institution should ensure that supervisors are primarily focused on performing supervisory duties and are not distracted by their own sales function.

3.2.4 Supervisors should conduct quality coaching sessions for their representatives. They should also thoroughly review the sales conducted by the representatives, including:

- a) verifying that the representatives' recommendations meet the needs of customers;
- b) ensuring that representatives seek higher level approval for sales of complex investment products to customers with limited knowledge of investment products;
- c) monitoring representatives' sales activities to ensure they only conduct activities which they are qualified and authorised to perform; and
- d) monitoring representatives to ensure that they follow the financial institution's prescribed advisory and sales process, including proper collection of information from customers and documentation of the basis of recommendation. The financial institution should have a zero tolerance policy for failures by representatives to follow its prescribed advisory and sales process.

**Illustration 3.1**

*A financial institution requires new representatives to be placed under the guidance of supervisors. The supervisor observes the representatives in the advisory and sales process to see how they conduct fact-finds, needs analysis and make recommendations. During the observation period, the supervisor identifies areas of weaknesses and arranges for additional training and coaching for these representatives. The representatives are only allowed to deal with customers independently when the supervisor is satisfied that they are competent and ready to provide financial advisory services to customers.*

Comment: A financial institution should develop a robust training and competency programme to ensure that its representatives are equipped with the necessary skills and knowledge to provide quality advice to customers. A supervisor should not allow representatives to perform financial advisory services independently unless he is satisfied that they are competent to do so.

**Illustration 3.2**

*A financial institution wants to offer a new investment product to its customers. The financial institution arranges for the product provider to explain the product to its representatives. However, the financial institution does not review the adequacy of the product provider's training materials. The financial institution allows its representatives to provide advice on the product even if they have not attended the product training or demonstrated an understanding of the product and its features. As a result, the representatives are not properly trained and are unable to explain the features and risk-reward characteristics of the product to their customers.*

Comment: A financial institution should not allow its representatives to advise on and sell a new investment product unless they are fully trained on its features and risk-reward characteristics and are able to properly explain the product to customers. For training conducted by product providers or third party trainers, the financial institution should not only rely on them but should satisfy itself that the training materials used by these product providers or third party trainers are adequate.

### **3.3 PROVIDING QUALITY ADVICE AND APPROPRIATE RECOMMENDATIONS**

3.3.1 The quality of fact-find affects the needs analysis of customers and recommendation of investment products to customers. The financial institution

should ensure that its fact-find form and risk profiling questionnaire adequately and correctly capture all important information about the customer. In addition, the financial institution should ensure that any scoring methodology used in the advisory and sales process is soundly designed and correctly applied. The financial institution should demonstrate that it has properly tested and validated its scoring and risk profiling methodologies, including the extent to which it has performed customer testing or obtained external expert review and evaluation.

3.3.2 The financial institution should make clear to its customers the scope of financial advisory services it provides. The financial institution should offer advice to customers for investment products that it distributes, except in very limited circumstances. These are either where the customer contacts the financial institution on his own initiative to purchase the product, for example, through internet portals, or in respect of the limited activities for which an "execution only" model is appropriate, such as active trading of securities quoted on an exchange, futures contracts or foreign exchange. A financial institution that provides "execution only" services must put in place appropriate systems, procedures and training to ensure that it does not provide advice to customers. If advice is in fact given to a customer notwithstanding the "execution only" model adopted by the financial institution, it will be deemed to be providing advice and will be subject to the provisions under the Financial Advisers Act. Where no advice is provided on any investment product by a financial institution, it should highlight to the customer in writing that it is not providing advice to the customer, and what the implications are. For complex investment products, the financial institution should make clear to customers that such products cannot generally be sold to them without advice.

3.3.3 The financial institution should train its representatives to undertake a proper fact-find and risk profiling analysis to provide each customer with quality advice and appropriate recommendations. In particular, the financial institution should ensure that its representatives:

- a) make reasonable enquiries and collect sufficient information to understand and analyse the customer's risk tolerance, financial situation, personal circumstances, investment experience, investment priorities and ability to bear potential losses arising from the proposed investment;

- b) present sufficient investment options to the customer, and provide advice that suits his financial objectives, risk tolerance and personal circumstances;
- c) strongly encourage any customer with limited knowledge of investment products to opt for a full fact-find so that the representatives can conduct meaningful needs analysis and make appropriate recommendations; and
- d) fully document the basis of recommendation, at a minimum, by stating the customer's objectives and needs, explaining why the investment product is recommended, and highlighting any possible risks of the product. Besides helping the customer to understand why the product is suitable for him and to make an informed decision, this documentation serves as an important record of the advisory and sales process.

3.3.4 The financial institution should not unduly influence the financial decisions of customers by offering gifts or rebates. The financial institution should also ensure that its representatives do not use aggressive sales tactics.

3.3.5 Where the financial institution has informed customers that it provides periodic review of their profiles and portfolios as part of its after-sales services, it should require its representatives to undertake such reviews. For such reviews, the representatives should consider any change in circumstances and financial objectives of the customers. They can then provide them with updated analysis and recommendations, which customers can use to modify their investment portfolios.

3.3.6 The financial institution should ensure that regular compliance checks and other reviews of the advisory and sales process are performed by a function which is not involved in the provision of financial advisory services. They include reviews of completed fact-find forms and sales documents to monitor the quality of advice and suitability of recommendations given by the representatives and adequacy of documentation of the advisory process. The financial institution should pay particular attention to ensure that any fact-find conducted by its representatives is not a mere form-filling exercise.

**Illustration 3.3**

*The Compliance Department of a financial institution carries out monthly compliance reviews of the Financial Needs Analysis forms to ensure that the recommendations made by its representatives meet the needs of customers. These forms are graded “pass”, “pass with improvements needed” and “unsatisfactory”. The Compliance and Training Departments follow up with representatives graded “pass with improvements needed” and “unsatisfactory” and their supervisors to address shortcomings and weaknesses.*

Comment: A financial institution should conduct regular and independent reviews of the quality of advice provided by its representatives to ensure that the investment products recommended meet customers’ financial objectives and personal circumstances. Such reviews are also useful in highlighting areas where representatives need further support and training.

**Illustration 3.4**

*A financial institution assigns its Compliance Department to conduct regular mystery shopping exercises to assess the competency of representatives in providing adequate disclosures and recommending suitable investment products according to the needs of customers. Results from the exercise are factored into their remuneration and training.*

Comment: Regular and independent reviews of the quality of financial advisory services help uphold the professional standards of representatives, thereby safeguarding customers’ interests. Besides desktop reviews of documentation made during the advisory and sales process, the financial institution should consider conducting mystery shopping exercises to validate if its representatives are competent to provide quality advice and appropriate recommendations to customers. Such reviews are also useful in highlighting areas where representatives need further training.

**Illustration 3.5**

*A representative advised his customers to switch their unit trusts within a short period of the initial investment to lock in gains. However, the representative failed to inform the customers that they were entitled to free switches to other unit trusts managed by the same fund house. This resulted in the representative pocketing extra commissions at the expense of his customers for every switch transaction. The financial institution which he represented detected the improper switches and refunded the customers all associated commissions and fees. In addition, the financial institution clawed back the commissions earned by the representative and took disciplinary action against him.*

Comment: Representatives should not recommend customers to switch from one investment product to another in a manner that would be detrimental to their interests. To curb improper switching, the financial institution should ensure that it has proper controls, processes and procedures in place to monitor switching practices, as spelt out in MAS' *Guidelines on Switching of Designated Investment Products*.

**Illustration 3.6**

*At a road show, a representative pressured a customer into buying an investment product. The representative emphasised that it was the last day of the promotion period and the customer would receive a free digital camera if he purchased the product on that day. The customer bought the product but realised later that it did not meet his needs.*

Comment: The financial institution should not unduly influence the financial decisions of customers by offering gifts or promotions, or by applying aggressive sales tactics. It is important that the financial institution gives customers sufficient time to understand the information provided and consider the recommendations made by its representatives. Most investment products require long term financial commitment and the purchase of unsuitable products by customers can be detrimental to their financial well-being.

### **3.4 ALIGNING REMUNERATION STRUCTURES WITH CUSTOMERS' INTEREST**

3.4.1 Remuneration structures that rely primarily on commissions or are biased towards rewarding representatives for recommending certain investment products may encourage poor market conduct practices such as product pushing

and improper switching. Examples of problematic remuneration structures include those with product quotas and highly differentiated commissions for the sale of different products. The financial institution should ensure that its remuneration structure encourages representatives to act in the best interests of customers in the course of providing financial advisory services. The financial institution can consider adopting a balanced scorecard approach, incorporating indicators such as number of full fact-finds conducted, compliance records and competency assessments in its remuneration structure for its representatives. Alternatively, the financial institution can consider adopting a “fee for advice” model or pegging the remuneration of representatives to other objective indicators such as the medium-term performance of assets under advice.

**Illustration 3.7**

*To align the interests of its representatives with customers, a financial institution designs a remuneration package for its representatives such that a representative’s remuneration is based on a fixed salary and a variable component. The variable component is structured such that 40% is based on sales volume while the other 60% is based on qualitative factors such as client retention, assets under advice, complaints, compliance records, proportion of full fact-finds conducted, competency assessments, and customer satisfaction derived from customer surveys.*

Comment: A remuneration structure for representatives that relies primarily on commissions may create risks of product pushing and aggressive selling. Hence, a financial institution should incorporate indicators which support fair dealing objectives into the remuneration structure of its representatives.

**Illustration 3.8**

*To discourage representatives from adopting a product-focused approach when recommending investment products to customers, a financial institution rejected the proposal from one of its business units to offer representatives higher remuneration for the sale of a new investment product.*

Comment: Differentiating remuneration among different types of investment products may encourage representatives to recommend products without due consideration for the needs of customers. This leads to poor market conduct practices such as product pushing. Instead, the financial institution should consider remunerating its representatives based on objective indicators such as the medium-term performance of assets under advice.

**Illustration 3.9**

*A customer had cash of \$200,000. He sought a representative's advice on the best way to make the most of this money, in particular whether to invest the money or use it to repay his mortgage. The representative was primarily concerned about meeting the sales target for a new investment product that the financial institution was promoting. The representative convinced the customer to purchase the new product without considering whether the potential return from the investment outweighs the mortgage interest on the housing loan. Subsequently, the customer found out that the return from his investment in the product was not sufficient to cover the mortgage interest on his housing loan.*

Comment: Representatives should not limit their recommendations to investment options for which they would earn a higher fee or commission. Representatives should ensure that the fact-find process is thorough and consider all information provided by customers when providing advice.

### **3.5 KEY ISSUES FOR SELF-ASSESSMENT**

3.5.1 How does the financial institution ensure that its training and competency programmes identify and address gaps in the knowledge and skills of its representatives so that they are competent to provide quality advice and appropriate recommendations to its customers?

3.5.2 What has the financial institution done to put in place a robust supervisory framework for its representatives?

3.5.3 How does the financial institution ensure that all its representatives conduct proper fact-finds and needs analyses and provide quality advice that takes into account the financial objectives, risk tolerance and personal circumstances of customers?

3.5.4 How does the financial institution ensure that its remuneration structure incentivises representatives to provide quality advice and appropriate recommendations to its customers?

## **4 FAIR DEALING OUTCOME FOUR**

**Customers receive clear, relevant and timely information to make informed financial decisions.**

### **4.1 RATIONALE**

4.1.1 Financial institutions should provide customers with clear and relevant information to enable them to make informed financial decisions. Such information should be given before, during and after the advisory and sales process. This includes after-sales updates on product performance and any material developments relating to the investments so that customers can take steps to protect their interests. This information, whether written or verbal, should be presented in a fair and balanced fashion.

### **4.2 PROVIDING CLEAR INFORMATION**

4.2.1 The extent to which customers are able to understand a particular investment product depends on their investment experience and level of financial literacy as well as clarity of the information provided by the financial institution. The financial institution should ensure that disclosures to customers are:

- a) in plain language and avoid the use of technical terms; and
- b) presented in a format that is simple to read and easy to understand.

4.2.2 In developing its marketing and disclosure documents, a financial institution must ensure that information presented in the documents is consistent with the information from the product provider. The financial institution should present key information clearly and in a simple format. Important features and risks of the investment product should not be in fine print.

4.2.3 Where information is explained verbally by representatives, the financial institution must ensure that any representations are consistent with the written information provided in the product disclosure documents. The financial institution should provide scripts for its representatives to ensure that any statements they make are consistent with due diligence conducted on the features and risk-reward characteristics of the investment product and on

customer suitability. The financial institution should train its representatives to avoid the use of terms or phrases which some customers may not understand or convey a false sense of security, for example "capital protected", or "similar to fixed deposits and bonds". The financial institution should have procedures to effectively monitor that its representatives keep proper records of any representations made and advice given to its customers.

4.2.4 When dealing with customers with limited knowledge or understanding of investment products, the financial institution should put in place additional safeguards during the advisory and sales process, including:

- a) providing appropriate translations of the product disclosure documents to non-English speaking customers. Particular care should be taken when translating technical terms into other languages so as not to change their meaning or lose important nuances;
- b) requiring the representative's supervisor or an English speaking relative to be present during the advisory process; and
- c) requiring the representative to clearly document the additional steps taken to ensure that the customer fully understands the investment product, and the basis for recommending the product to the customer.

***Illustration 4.1***

*A financial institution recently launched an interest rate-linked structured deposit. The product disclosure documents and marketing materials furnished to customers contain numerous technical terms such as “barrier spread”, “first year no barrier” and “reference rate”. There was no explanation or glossary provided for these terms. As a result, many of its customers were unable to understand the product. The representatives also failed to explain the technical terms to the customers during the advisory and sales process.*

Comment: A financial institution should not provide customers with disclosures containing information which they cannot understand. Such information should be presented in plain language, and avoid use of technical terms, where possible. The financial institution should consider providing tables, diagrams, graphics or simple examples to aid customers in understanding the key features and risk-reward characteristics of the investment product. Representatives should ensure that customers understand the information disclosed to them. Where technical terms are used in the product disclosure documents and marketing materials furnished to customers, representatives should ensure that these terms are clearly explained to customers. If, despite these explanations, a customer is still unable to fully understand the product, the representative should not proceed with the transaction.

### **4.3 PROVIDING RELEVANT INFORMATION**

4.3.1 Before customers make any financial decisions, the financial institution should provide them with all relevant information. The financial institution should provide product disclosure documents, including those prepared by the product provider such as the prospectus, pricing statement, Product Highlights Sheet, factsheet and marketing materials, to a customer before he makes a financial decision.

4.3.2 The financial institution should present the information in a fair and balanced manner. It should highlight all key risks of the investment product, the potential upside and downside of the investment, fees and charges, important terms and conditions, rights and obligations of customers, and early withdrawal penalties. Information on the free-look or cooling off period of the product, where applicable, must be highlighted to customers.

4.3.3 The financial institution should ensure that all marketing and advertising materials, in particular those for unlisted investment products, give a fair and balanced representation of the features and risk-reward characteristics of the products. The financial institution should be mindful that such advertising and marketing materials:

- a) do not misrepresent or omit key product features and risks;
- b) do not contain words or graphics that could convey an impression that is inaccurate or inconsistent with the nature or risks of the products;
- c) do not give the impression that a customer can make a profit without bearing any risk. For unlisted investment products, the financial institution should ensure that these materials do not suggest that the products are, or are comparable to, bank deposits, or there is little or no risk of the customer losing his principal or not achieving the stated or targeted rate of returns; and
- d) do not mislead customers about the possible performance of the products.

4.3.4 The financial institution should explain to customers the range of possible outcomes for the investment product, including the worst case scenario. For example, for products that involve market risk, the possible impact of market movements should be made clear. For products where there is a risk of the customer losing a portion of or the entire principal amount in return for higher interest, this risk should be highlighted to the customer. This is especially important when customers are opting for such products as an alternative to traditional fixed income investments. For life insurance products, information about exclusions and the likelihood of not being able to make a claim should be carefully explained.

4.3.5 The financial institution should inform customers how they can provide feedback or lodge complaints about the financial institution or its representatives. This information should be provided to customers at the start of their relationship with the financial institution, and should include information on the scope of complaints that can be heard at the Financial Industry Disputes Resolution Centre Ltd [“FIDReC”].

**Illustration 4.2**

*A customer sought advice from a representative on the purchase of an investment product with high potential returns. She communicated that her primary objective was preservation of capital. Upon the representative's recommendation, she purchased a single premium investment-linked insurance plan. She later realised that the representative did not explain to her that under certain circumstances, she could lose a portion of or the entire principal amount.*

Comment: A financial institution should not withhold relevant information from customers when providing financial advisory services. When making recommendations on investment products, the financial institution should ensure that its representatives highlight all key risks to customers so that they can make informed financial decisions.

**Illustration 4.3**

*At the account opening stage, a financial institution provides a brochure to all its customers on the procedures for lodging feedback, queries or complaints, as well as the contact details of the independent dispute resolution centre, FIDReC.*

Comment: A financial institution should inform customers of its after-sales services, customer support facilities as well as the avenues for dispute resolution at the start of the relationship. This is so that customers know who to approach and how to go about resolving a dispute with the financial institution or its representatives should the need arise.

## **4.4 PROVIDING TIMELY INFORMATION**

4.4.1 The financial institution should set out the scope of its services, and what customers can expect on the services provided by the financial institution at the start of the relationship with its customers. For example, the financial institution should clarify whether its after-sales services include periodic reviews of customers' profiles and portfolios.

4.4.2 The financial institution should provide customers with information and updates about their investments, both during the advisory and sales process and after the sale has been concluded.

4.4.3 When product providers provide ongoing disclosures on investment products, such as semi-annual and annual reports or updates on material developments affecting the investments, the financial institution should, in turn,

provide such after-sales updates to customers. This ensures that customers are kept abreast of the investment performance and any material developments affecting their investments. The financial institution should provide information on where customers can access information about the product, such as the bid or redemption prices.

**Illustration 4.4**

*The product provider of an investment-linked insurance plan has appointed a new investment manager for a number of its sub-funds. It informs the financial institution which distributes the product about the change in investment manager, and clarifies that there will be no change to the investment objectives of the sub-funds. The financial institution promptly issues a circular to all customers of the product to update them on the matter.*

Comment: A financial institution should ensure that customers are given relevant information in a timely manner as part of its after-sales services. This would enable customers to make changes or adjustments to their investment portfolios, where necessary.

## **4.5 KEY ISSUES FOR SELF-ASSESSMENT**

4.5.1 How does the financial institution ensure that customers with limited knowledge of investment products or who are non-English speaking understand the information that is disclosed to them?

4.5.2 How does the financial institution ensure that relevant information on investment products, such as the product features, fees and charges, benefits and risks, as well as important terms and conditions, are properly explained and highlighted to customers before they make any decision to purchase the product?

4.5.3 What does the financial institution do to ensure that customers are provided with timely updates on their investments?

## **5 FAIR DEALING OUTCOME FIVE**

**Financial institutions handle customer complaints in an independent, effective and prompt manner.**

### **5.1 RATIONALE**

5.1.1 Financial institutions should establish a robust process to resolve customer grievances independently, effectively and promptly. This is key to providing assurance to customers that their concerns and feedback are dealt with fairly and professionally. Financial institutions should regard complaints as potential indicators of areas for improvement.

### **5.2 HANDLING COMPLAINTS INDEPENDENTLY AND EFFECTIVELY**

5.2.1 Each financial institution must have a formalised complaints handling process to ensure that complaints are handled independently and effectively. Every complainant must be afforded full opportunity to state his complaint. The financial institution should work with the complainant to identify all facts required for a fair assessment of the complaint. The complaint should be properly documented and a copy of the interview statements made by the complainant should be furnished to him.

5.2.2 The financial institution should resolve complaints fairly and consistently. In reviewing a complaint, the financial institution should look at the facts and circumstances of each case. The financial institution should consider relevant factors, such as its internal processes for the sale of the investment product; the customer's profile; and how the sale was conducted, including any verbal representations or promises made by the representative to the customer during the advisory and sales process.

5.2.3 Staff handling complaints should be properly trained. Complaints must be assessed by reviewers who are not involved in the provision of financial advisory services. The financial institution should set clear criteria for assessing the merits of each complaint. The assessment outcome for each complaint

should be properly documented. Where appropriate, complaints should be escalated to the Board and Senior Management.

5.2.4 Complaints can be a valuable indicator of potential problems which need to be addressed. Where the financial institution receives a significant number of complaints about a specific issue or investment product, it should conduct investigations to identify the cause of the problems. The same applies if there are multiple complaints relating to a specific representative, group of representatives, representatives based at a specific location, or from customers of a specific profile. The financial institution should take steps to rectify any problems immediately.

***Illustration 5.1***

*A financial institution sets up a centralised unit to handle complaints and implements an information system to document all complaint cases. It assigns the Compliance Department to independently review and investigate all complaints. All serious complaint cases are discussed at the monthly management meetings involving the Chief Executive Officer and all Heads of Department. To underscore the importance of dealing fairly with customers, the Chairman of the financial institution reads all customer complaints addressed to him.*

Comment: To ensure that complaints are handled independently and effectively, the financial institution should appoint reviewers who are not involved in the provision of financial advisory services to oversee the investigation and resolution of complaints. There should be guidelines on when to escalate complaints to the Board and Senior Management.

### **5.3 RESOLVING COMPLAINTS PROMPTLY**

5.3.1 The financial institution should set service standards for its complaints handling and resolution, including reasonable timeframes to acknowledge a customer's complaint, interview the customer and complete the review of the complaint. The financial institution must devote sufficient resources to attend to and resolve customer complaints within the stipulated turnaround times, without compromising the quality of review.

## **5.4 KEY ISSUES FOR SELF-ASSESSMENT**

5.4.1 How does the financial institution ensure that all complaints are handled independently, effectively and promptly?

5.4.2 How does the financial institution ensure that it has adequate resources to resolve all complaints within the stipulated timeframes?

5.4.3 What controls, processes and procedures does the financial institution have to deal with recurring complaints?