

MAS' latest updates on "Guidelines on Individual Accountability and Conduct"

June 2019

Since the release of the consultation paper on Proposed Guidelines on Individual Accountability and Conduct ("IAC Guidelines") on 26 April 2018, the MAS has **issued its response to the industry on 6 June 2019 together with a further consultation paper** ("CP") to extend the scope of the IAC Guidelines to apply to all financial institutions it regulates other than those explicitly exempted.

We have summarised the key clarifications and revisions provided by the MAS in this document.

In a nutshell

	Key Clarifications / Revisions	What this means for you?
1	MAS will implement the IAC Guidelines with a one year transitional period after the Guidelines are published.	If you have not already done so, you should consider performing a gap assessment as soon as possible to identify any gaps and subsequently plan for implementation to meet the one year transitional period.
2	MAS has provided clarification regarding group application for locally incorporated FIs whereby downstream local FIs should continue to apply the IAC Guidelines at the entity level.	Locally incorporated FIs should consider the clarifications provided by MAS on the implications of the group applications of the IAC Guidelines. This includes consideration of the application of the SM's responsibilities in respect to both the operations of the parent and the group as well as a range of metrics in identifying significant downstream entities.
3	MAS has provided clarification of the interpretation of the "Board" to address the appropriateness of the governing body for foreign FIs.	Foreign FIs should consider the interpretation of the "Board" and ensure the appropriateness of the governing body that is charged with oversight and supervision responsibilities for the FI's operations in Singapore.
4	MAS has provided further clarification and guidance and additional examples on the definition and identification of senior managers, CMFs & material risk personnel .	FIs who have not already considered the criteria for the identification of SMs and MRPs should refer to the initial consultation paper as well as the latest updates for further guidance. This should also be considered for FIs who have already defined the criteria to reassess for potential enhancement.
5	MAS expects the Board and senior management to identify appropriate quantitative and qualitative metrics for monitoring conduct .	FIs should assess and identify appropriate qualitative and quantitative indicators for monitoring conduct and establish effective monitoring, management and reporting of conduct risks.



What are the Key Highlights?

Scope of Application & Implementation Approach

Applicability of the Guidelines	<p>The MAS now proposes to expand the application of the IAC Guidelines to include a wider scope of Financial Institutions (FIs) regulated by the MAS. Annex A of the CP¹ includes functions relevant to the additional FIs which the MAS proposes to be included in scope.</p> <p>The MAS does not consider it necessary to subject certain entities to the IAC Guidelines as (a) the scope of activities are limited, and these entities are subject to minimal business conduct and financial requirements; or (b) these entities have minimal presence in Singapore or are primarily regulated by a foreign regulator.</p> <p>The MAS proposes a proportionate application for smaller firms (e.g. those with a headcount of less than 20) to adopt the specific guidance under any of the five Outcomes of the IAC Guidelines as necessary, after taking into account factors such as the nature and complexity of the FI's operations.</p>
Proportionality & the MAS' Supervisory & Enforcement Approach	<p>The MAS clarified that it will take a proportionate approach in engaging FIs on their implementation of the IAC Guidelines, and FIs should likewise be able to demonstrate the same – without taking a mechanistic or check-list approach towards implementation.</p> <p>On the issue of professional indemnity insurance, the MAS commented that FIs should, in general, avoid arrangements that undermine the accountability of SMs, such as insurance or other agreements that have the effect of indemnifying SMs against financial penalties for misconduct or other offences.</p>
Group Application for Local Banks and Insurance Companies	<p>Addressing the implications of group application of the IAC Guidelines to the locally-incorporated bank or insurer as well as providing additional guidance on the identification of material subsidiaries and branches, the MAS explained that:</p> <ul style="list-style-type: none"> ▪ Specification of SMs' responsibilities should include their responsibilities in respect of both the operations of parent bank or insurer, and where relevant to the operations of the group; ▪ Significant downstream subsidiaries or other entities (located in Singapore or overseas) of the group should be considered a "material business function" of the parent bank or insurer group. Therefore, the CEO or equivalent of that identified should be identified a SM as per the definition of "Head of Business Function". <p>The MAS further clarified that the application of the IAC Guidelines on a group basis to the parent bank or insurer does not negate the application of the IAC Guidelines to the downstream FIs of the group operating in Singapore and for these FIs, the Guidelines should continue to apply at the entity level.</p>
Exemption from the IAC Guidelines	<p>The MAS clarified that it does not consider it necessary to exempt FIs which are subject to similar requirements in other jurisdictions or deem such FIs as compliant with the IAC Guidelines.</p>
Role of the Board in Overseeing FI's implementation	<p>The MAS clarified the definition of Board as (i) Board of Directors for Singapore incorporated FIs; and (ii) governing body or committee beyond local management for FIs incorporated outside of Singapore. The MAS will adopt this definition in the final IAC Guidelines.</p>

Promoting Individual Accountability of Senior Managers

Definition & Decision-Making of SMs	<p>The MAS clarified that FIs should identify SMs who are principally responsible for managing FI's day-to-day operations in Singapore, regardless of their title or physical location. The MAS will refine the definition of senior managers to better encapsulate these guiding principles.²</p>
Reporting Lines & Seniority of SMs	<p>In response to industry comments regarding SMs, particularly those based in the Regional or Head Offices overseas, who may not have a reporting line to the CEO, the MAS clarified that the IAC Guidelines do not mandate any particular reporting structure for all FIs. The MAS further clarified that the IAC Guidelines are only meant to provide general guidance for FIs to consider criteria such as seniority and reporting relationships to the CEO and/or Board for SM identification.</p>

¹CP refers to the document '[Guidelines on Individual Accountability and Conduct – Proposed Scope of Application](#)'

² For refined definition of SM, please refer to Section 3.5 of the document '[Response to Feedback Received - Proposed Guidelines on Individual Accountability & Conduct](#)' ("MAS Response Paper")

Promoting Individual Accountability of Senior Managers

Clarification on Core Management Functions (CMFs)	<p>List of CMFs – The MAS clarified that the list of CMFs is not meant to be exhaustive nor prescribe a particular governance for all FIs. FIs should determine the CMFs, as well as any other material function(s) that are relevant to them.</p> <p>Responsibility of Multiple CMFs & Shared Responsibility Structures – For SMs who are responsible for more than one CMF, the MAS highlighted that SM responsibilities for each of these CMFs are clearly specified, and there is no conflict of interest inherent in, or arising from, simultaneously performing these CMFs.</p> <p>The MAS has also clarified that where more than one SM shares responsibility for a function, there should be no dilution of responsibilities or accountability for that function.</p> <p>Head of Business Function – The MAS recognises that business functions could be segmented by market, product, etc. and hence clarified that the most senior individual with principal responsibility for the business function should be identified as a SM.</p> <p>Head of Human Resources, Chief Data Officer and Chief Information Officer CMFs – The MAS highlighted the importance for these roles to be included as CMFs.</p> <p>Head of Compliance CMF – The MAS clarified that the responsibility of the Head of Compliance and compliance function do not in any way diminish or replace the responsibility of the business functions, which are the first line of defence. The MAS will refine the definition of the Head of Compliance for greater clarity.</p> <p>Head of Legal and Non-Executive Directors as Additional CMFs – The MAS confirmed that it does not intend to include Head of Legal as a CMF, given that the role is meant to provide advice on legal matters to Board and senior management, and is generally not involved in day-day-operations of FI. MAS has also clarified that it does not intend to include roles and responsibilities of non-executive directors within the list of CMFs.</p>
Responsibility for the Management of Outsourced Core Functions	The MAS has leveraged on the “Guidelines on Outsourcing” and clarified that while an FI may delegate day-to-day operational duties to a service provider, the responsibilities for maintaining effective oversight and governance of outsourcing arrangements , continue to rest with the FI, its Board and senior management.
Responsibility for Cross-Boarder Trades or Transactions	The MAS clarified that senior management’s responsibility for an FI’s day-to-day operations in Singapore should include any part of a trade or transaction that took place in Singapore.
Assessment of SMs’ Fitness and Propriety	The MAS explained that FIs in their assessment may apply the guiding criteria set out in the MAS “Guidelines on Fit and Proper Criteria”. ³ It further added that it is for FIs to determine the appropriate frequency and approach for its on-going assessment (including conducting appropriate screening and due-diligence checks) and, as a general guide, such reviews should minimally be conducted annually, or as and when matters arise.
Specification and Acknowledgement of Responsibilities & Reporting Lines	The MAS confirmed that it does not intend to prescribe regulatory templates nor require submissions from FIs on SMs’ roles & responsibilities and FIs’ overall management structure.
Approval of SMs’ Responsibilities & FIs’ Overall Management Structure	The MAS is of the view that it is appropriate for the Board to approve the specified responsibilities of SMs and an FI’s overall management structure as it is consistent with the Board’s oversight role. The Board may delegate the approving authority, but bears the ultimate responsibility .
Compensation Framework & Performance Criteria for SMs	<p>With regards to the clarification around incentives framework, the MAS elaborated that determination of compensation should be based on a range of factors, including non-financial KPIs and, where appropriate, the risk management or other key criteria and conduct matters relating to the function under his or her purview.</p> <p>The MAS has also highlighted that FIs may take reference, where appropriate, from the best practices outlined in the March 2019 “Information Paper on Incentive Structures in the Banking Industry – Fostering Sound Behaviour and Conduct”.⁴</p>

³ Please refer to the document [‘Guidelines on Fit and Proper Criteria’](#)

⁴ Please refer to the document [‘Incentive Structures in the Banking Industry – Fostering Sound Behaviour and Conduct.’](#)

Promoting Individual Accountability of Senior Managers

Succession Planning & Handover Procedures	The MAS elaborated the importance of having an effective succession plan and stated that it is the responsibility of the Board to institute a succession planning process that best meets the FI's circumstances and needs. With regards to handover procedures, the MAS does not intend to prescribe specific handover documents .
Regulatory Approval & Notification Requirements for SM Appointments	The MAS clarified that it does not intend to introduce new approval, notification, or registration requirements under the IAC Guidelines for senior manager appointments.
Establishment of Management Committees	The MAS confirmed that it does not intend to prescribe specific management committees that FIs are required to set up and that FIs have flexibility to establish management committees as appropriate to them.
Delegation of Responsibilities	The MAS clarified that SMs may delegate some of their responsibilities to other personnel or committees, but their accountability cannot be delegated .
SM's Accountability	The MAS agreed that SMs should not be held to a presumption of accountability for actions of their predecessors . It further provided guidance on the circumstances for which a SM could be accountable for actions and decisions of their predecessors.

Strengthening Oversight of Material Risk Personnel

Identification & Expectation of Material Risk Personnel (MRPs)	<p>The MAS will adopt the revised terminology of 'Material Risk Function' to 'Material Risk Personnel' as it is the individual, rather than functional units that will form the basis for identifying personnel in material risk functions.</p> <p>The MAS has provided additional guidance and clarity on the definition and criteria for identifying MRPs. It further clarified that MRPs are individuals who are not senior managers, but by virtue of their delegated authority or mandates are nevertheless able to take actions or make decisions that may potentially have significant impact on the FIs' safety and soundness, or cause harm to a significant segment of the FIs' customers and other stakeholders.</p> <p>The MAS also reiterated that the IAC Guidelines are not meant to affect existing regulatory requirements, including those that apply to representatives regulated under SFA and FAA. There is a possibility by the virtue of their decision-making authority that those representatives may be considered MRPs and therefore should be subject to specific guidance for MRPs.</p> <p>With regards to MRPs in risk management and control functions, MAS is of the view that the Board and senior management should ensure that the MRPs are accorded with necessary stature and authority. In addition, these MRPs should be independent from the business functions to ensure proper checks and balances.</p>
Register of MRPs	The MAS confirmed that it does not intend to introduce additional registration or notification requirements on MRPs. Nevertheless, the MAS is of the view that FIs should maintain information on their respective MRPs to facilitate oversight of their activities.

Embedding Standards of Conduct among Employees

Conduct Framework	With regards to the monitoring of conduct, the MAS highlighted that the Board and senior management should identify appropriate quantitative and qualitative metrics for monitoring conduct across the organisation. The MAS has also commented that the Board and senior management should regularly review the adequacy and effectiveness of the FI's conduct framework taking into account any gaps between observed behaviours and the desired standards of conduct.
Whistleblowing Programme	The MAS expects FIs to have a formal whistleblowing policy that sets out the availability of whistleblowing channel(s) and has a process and procedure in place for raising concerns and handling complaints. To provide greater clarity, the MAS will refine the guidance ⁵ on whistleblowing programme.
Notifying MAS of Material Adverse Developments	The MAS has provided additional guidance on the matters that would be considered as 'Material adverse developments' and provided a list of non-exhaustive factors that FIs could consider.

Other Matters

Reference Check Requirements	The MAS issued a consultation paper ⁶ on proposals to mandate reference checks for representatives in July 2018. Given that employees who are not representatives may also commit various forms of misconduct, the MAS is considering extending this reference check requirement to a broader segment of the financial industry beyond representatives and will conduct a separate public consultation on this proposal in due course.
Implementation Timeline	The MAS stated it will provide a transitional period of 1 year for the implementation of the IAC Guidelines and that it will adopt a consultative approach to assessing FIs' compliance with the IAC Guidelines in the initial phase of implementation.



How PwC can help?

Although a transitional period now applies, given our experience in supporting our clients in addressing the IAC Guidelines, it is recommended that FIs take steps to assess their readiness for implementation. Our dedicated team has assisted a number of institutions in assessing their current governance arrangement in light of the proposed IAC Guidelines as well provide end-to-end implementation support.

We have helped institutions in Singapore:

- Review the maturity and operation of existing governance arrangements related to the elements covered by the IAC Guidelines
- Design and facilitate workshops to bring stakeholders across the FI up-to-speed on the potential implications of the IAC Guidelines
- Define what good looks like and how it can be measured depending on an organisation's context
- Identify the likely gaps to the new guidelines and prioritised activity to prepare for the new IAC Guidelines

In addition, we bring to you deep industry expertise, data analytics solutions, experience in advising Boards and senior management on corporate governance matters as well as overall experience helping our clients navigate large scale regulatory change initiatives.

If you would like further information on issues outlined above, please call your usual PwC contact or any of the individuals listed:

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⁵ Please refer to section 5.13 of the MAS Response Paper

⁶ Please refer to document '[Public Consultation on Revisions to Misconduct Reporting Requirements and Proposals to Mandate Reference Checks for Representatives](#)'