

Singapore: Requirement for financial institutions to conduct and respond to mandatory reference checks

In brief

On 12 December 2023, the Monetary Authority of Singapore (MAS) announced in the Response to Feedback Received on Proposals to Mandate Reference Checks that it will proceed with the proposal to require financial institutions (FIs) to conduct and respond to reference checks. The reference check requirements have been introduced following the [MAS' June 2021 public consultation on proposals to mandate reference checks](#). In this regard, the MAS set out:

- a. The scope of application
- b. The extent of the requirement to conduct and respond to reference checks
- c. Record keeping requirements
- d. The implementation and transitional period

An overview of the requirement to conduct and respond to reference checks is as follows:

In this issue

Scope of Application

The Extent of the Requirement to Conduct and Respond to Reference Checks

Record Keeping

Implementation and Transitional Period

Scope of Application

Scope of FIs

The following FIs are required to conduct and respond to reference checks (**Relevant FIs**):

- (a) Any bank or merchant bank licensed under the Banking Act 1970 (BA).
- (b) Any person licensed under the BA to carry on the business of issuing credit cards or charge cards in Singapore.
- (c) Any finance company licensed under the Finance Companies Act 1967.
- (d) Any insurer licensed under the Insurance Act 1966 (IA).
- (e) Any foreign insurer operating in Singapore under a foreign insurer scheme established under the IA.
- (f) Any designated financial holding company approved under the Financial Holding Companies Act 2013.
- (g) Any holder of a capital markets services licence under the Securities and Futures Act 2001 (SFA).
- (h) Any financial adviser licensed under the Financial Advisers Act 2001 (FAA).
- (i) Any person exempted from holding a financial adviser's licence under regulation 27(1)(d) of the Financial Advisers Regulations.
- (j) Any registered insurance broker under the IA.
- (k) Any person exempted from the requirement to hold a capital markets services licence under paragraphs 3(1)(d), 3A(1)(d), 5(1)(i) and 7(1)(b) of the Second Schedule to the Securities and Futures (Licencing and Conduct of Business) Regulations.
- (l) Any trust company licensed under the Trust Companies Act 2005.
- (m) Any person approved under the SFA to act as a trustee of a collective investment scheme which is authorised under section 286 of the SFA and constituted as a unit trust.
- (n) Any approved exchange or recognised market operator under the SFA that is incorporated in Singapore.
- (o) Any licensed trade repository under the SFA.
- (p) Any approved clearing house or recognised clearing house under the SFA that is incorporated in Singapore.
- (q) The "Depository" under the SFA.
- (r) Any approved holding company under the SFA.
- (s) Any authorised benchmark administrator or exempt benchmark administrator under the SFA.
- (t) Any authorised benchmark submitter or designated benchmark submitter under the SFA.

	<p>(u) Any operator of a designated payment system under the Payment Services Act 2019 ("PS Act").</p> <p>(v) Any settlement institution of a designated payment system under the PS Act.</p> <p>(w) Any holder of a standard payment institution licence under the PS Act.</p> <p>(x) Any holder of a major payment institution licence under the PS Act.</p> <p>(y) Any licensed credit bureau under the Credit Bureau Act 2016.</p>
Scope of Employees	<p>Types of employees</p> <ul style="list-style-type: none"> Quite apart from representatives and broking staff (in relation to whom FIs are to conduct reference checks and respond to reference checks in the manner set out in the MAS' Response to Feedback Received on Revisions to Misconduct Reporting Requirements and Proposals to Mandate Reference Checks), senior managers (SMs) and material risks personnel (MRPs) performing relevant functions under section 6 of the FSMA (collectively, "Relevant Employees"). Relevant functions refer to: <ol style="list-style-type: none"> The handling of funds or assets Risk-taking Risk management and control Critical system administration Any other function critical to the integrity or functioning of FIs which the MAS may prescribe for the purpose of protecting trust or deterring misconduct in the financial industry (collectively, "Relevant Functions"). Where a Relevant FI hires a new Relevant Employee, the Relevant FI will be required to perform reference checks regardless of whether the individual was from an in-scope position in the previous FI. The reference check requirements will also apply regardless of the employment terms, i.e., including permanent, contract or other temporary employment relationships. <p>Employees who move around or are promoted within the same FI</p> <ul style="list-style-type: none"> Reference checks will not apply to employees who move or are promoted within the same Relevant FI. That being said, Relevant FIs should conduct proper due diligence before appointing Relevant Employees. This is set out in MAS' Guidelines on Individual Accountability and Conduct, where SMs and MRPs are expected to be fit and proper. <p>Employees of third-party service providers performing any Relevant Function outsourced by Relevant FIs</p> <ul style="list-style-type: none"> Relevant FIs should ensure that such employees meet the Relevant FI's hiring policies for the role they are performing, based on criteria that would be applicable to the Relevant FI's own Relevant Employees, if the function had been performed within the Relevant FI. Within the Relevant FI, SM roles that oversee such outsourced functions will be subject to reference checks. <p>Individual general insurance agents (Individual Agents) and nominees acting for general insurance agents (Nominee Agents), who arrange and sell general insurance products to customers on behalf of insurers</p> <ul style="list-style-type: none"> Insurers will be required to apply the reference check requirements when appointing Individual Agents and Nominee Agents.

The Extent of the Requirement to Conduct and Respond to Reference Checks

Lookback Period	<p>Conducting reference checks</p> <ul style="list-style-type: none"> MAS will proceed with the proposal for Relevant FIs to cover a lookback period of five years, starting from the date of the reference check being performed (e.g., when the Relevant FI performs reference checks on 1 January 2025, it should at least perform reference checks with employers that the individual was employed with from 1 January 2020 to 31 December 2024). If the information received in references is incomplete, the Relevant FI should nonetheless take necessary steps to satisfy itself of the fitness and propriety of the prospective Relevant Employee. <p>Responding to reference checks</p> <ul style="list-style-type: none"> MAS acknowledges that there may be Relevant FIs that had not maintained records for five years prior to when the reference check requirements come into effect. In such cases, the Relevant FI may state so to the requesting Relevant FI. Relevant FIs are to put in place revised processes as soon as practicable, including keeping records for at least five years (see the Record Keeping Requirement below) to respond to reference check requests effectively.
Minimum Mandatory Information	<p>When hiring new Relevant Employees, Relevant FIs are to conduct reference checks by requesting for the following mandatory information from the previous employer(s). Previous employers who are Relevant FIs will be required to respond to the request:</p> <p>Mandatory information to be collected or provided (as applicable):</p> <ul style="list-style-type: none"> Information pertaining to the individual's employment history with the Relevant FI, including:

	<ul style="list-style-type: none"> (a) The duration of employment. (b) The roles and job functions of the individual (including last position held). (c) The reason for the cessation of employment, including but not limited to the following: <ul style="list-style-type: none"> (i) Resignation (ii) Resignation by paying compensation in lieu of notice prior to or during investigation (iii) Termination (iv) Dismissal (v) Expiry of contract • Compliance records relating to the individual’s fitness and propriety, unless there is risk of tipping off the individual which may compromise the integrity of investigations, including but not limited to records concerning the following: <ul style="list-style-type: none"> (a) Concluded investigations with reasonable grounds to believe that a wrongdoing has been committed and the extent of consumer detriment (where applicable) resulting from the wrongdoing. (b) Ongoing investigations and the extent of consumer detriment (where applicable) resulting from the wrongdoing if substantiated, but only if the individual is aware that he/she is being investigated. Where there are such ongoing investigations, requesting Relevant FIs should assess whether additional oversight of the individual is warranted should they decide to proceed with the hiring. (c) Incidents where the Relevant FI has knowledge of, or reasonable grounds to believe that the individual has or may have been in breach of legal or regulatory requirements administered by MAS or any other law, while performing his or her duties or responsibilities as an employee of the Relevant FI, and the extent of consumer detriment (where applicable) resulting from the incident. (d) Whether misconduct reports were filed with MAS against the individual and, if so, details on the nature of misconduct committed and the extent of consumer detriment (where applicable) resulting from the misconduct • Last four balanced scorecard grades assigned to the individual (where applicable). • Persistency ratio of insurance policies sold by the individual and the methodology used in computing the persistency ratio (where applicable and available) (collectively, "Minimum Mandatory Information"). <p>Apart from the Minimum Mandatory Information:</p> <ul style="list-style-type: none"> • Relevant FIs responding to reference check requests may consider providing information on the disciplinary actions that would have been taken against the individual at their discretion. • Requesting Relevant FIs may request additional information if assessed to be necessary as part of their due diligence. <p>When providing information during reference checks, Relevant FIs should ensure that:</p> <ul style="list-style-type: none"> • They are in compliance with other legal or statutory obligations applicable to them, and disclosure may be withheld to the extent necessary for such compliance. • Information provided should be factually objective, with sufficient information for the requesting Relevant FIs to make an assessment on the fitness and propriety of the individual. • The Relevant FI does not include information on other individuals, who are not subject to the reference check. Relevant FIs are also not required to provide their full investigation or misconduct reports in reference checks.
<p>Timeline to Respond to Reference Checks</p>	<p>MAS will proceed to require Relevant FIs to respond to reference check requests no later than 21 calendar days from their receipt. This is aligned to the proposed response timeline in the reference check requirements for representatives.</p>
<p>Where previous employers are not Relevant FIs</p>	<ul style="list-style-type: none"> • Relevant FIs are expected to take reasonable steps to conduct reference checks on prospective Relevant Employees from employers that are not Relevant FIs ("Out-of-Scope Employers") or FIs located outside Singapore ("Foreign FIs"). • MAS sets out further clarification on the reasonableness of efforts to conduct reference checks on prospective Relevant Employees from Out-of-Scope Employers or Foreign FIs as follows: <ul style="list-style-type: none"> (a) In general, Relevant FIs should seek references from Out-of-Scope Employers as part of its due diligence checks on prospective Relevant Employees. (b) Relevant FIs should also be able to demonstrate efforts in following up on such requests when there is no response or insufficient information. (c) The due diligence in sub-paragraphs (a) and (b) is similarly expected of a Relevant FI where its prospective Relevant Employee was previously employed by a Foreign FI that is within the same organisational group, if employee records of that Foreign FI are not accessible by the Relevant FI. Where, on the other hand, the Relevant FI has access to the records of its prospective Relevant Employee who is currently or was previously employed by its related FI (e.g., subsidiary), the Relevant FI need not conduct a formal reference check with its related FI. However, the Relevant FI should use information in the records (including the Minimum Mandatory Information set out above) in its assessment of the fitness and propriety of the prospective Relevant Employee.

	<ul style="list-style-type: none"> In the absence of a response or insufficient information in reference checks, a Relevant FI can still proceed with the recruitment if it has sought references and has deemed the prospective Relevant Employee to be suitable for the position based on its other due diligence checks.
Review by the Relevant Employee	<p>MAS has decided not to mandate the right to view references at this point in time.</p> <p>In line with the intent to accord fairness and objectivity, Relevant FIs may consider engaging the candidates to seek clarifications on adverse information, if necessary.</p>
Consideration of Reference Check Responses	<p>The Relevant FI should consider any adverse information from the reference check responses in its assessment of the prospective Relevant Employee, and where necessary, put in place additional supervisory safeguards if the Relevant FI proceeds to recruit the individual.</p> <p>The Relevant FI must establish to the satisfaction of the MAS that the individual is fit and proper.</p>
Outsourcing of reference checks	<p>While Relevant FIs may outsource reference checks to third-party service providers, Relevant FIs remain accountable for the compliance of the above requirements (e.g., ensuring that reference checks sought include all the mandatory information stipulated).</p>

Record Keeping

Relevant FIs are required to keep records of adverse information with respect to the Minimum Mandatory Information set out above of all employees, regardless of employment terms, in Relevant Functions for a minimum period of five years ("**Record Keeping Requirement**"). This is necessary as such employees may be appointed as Relevant Employees in their subsequent employment positions, and the Relevant FIs would need to perform reference checks on them.

For employees with no adverse information, Relevant FIs will only need to maintain records on employment history.

Implementation and Transitional Period

MAS will proceed to impose the requirements via Notices and will be consulting on the draft Notices in due course. Relevant FIs are to meet all the requirements applicable to them. Where the proposed requirements to be set out in the Notices are stricter than the requirements imposed under other legislative requirements, the stricter requirements in the Notices shall apply. The reference check requirements are consistent with the PDPA provisions (e.g., the First Schedule of the PDPA includes provisions that allow the collection, use and disclosure of personal data without consent for evaluative and employment purposes).

MAS will provide a transitional period of one year from the issuance of the Notices.

The above is not intended to be exhaustive or to constitute legal advice.

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