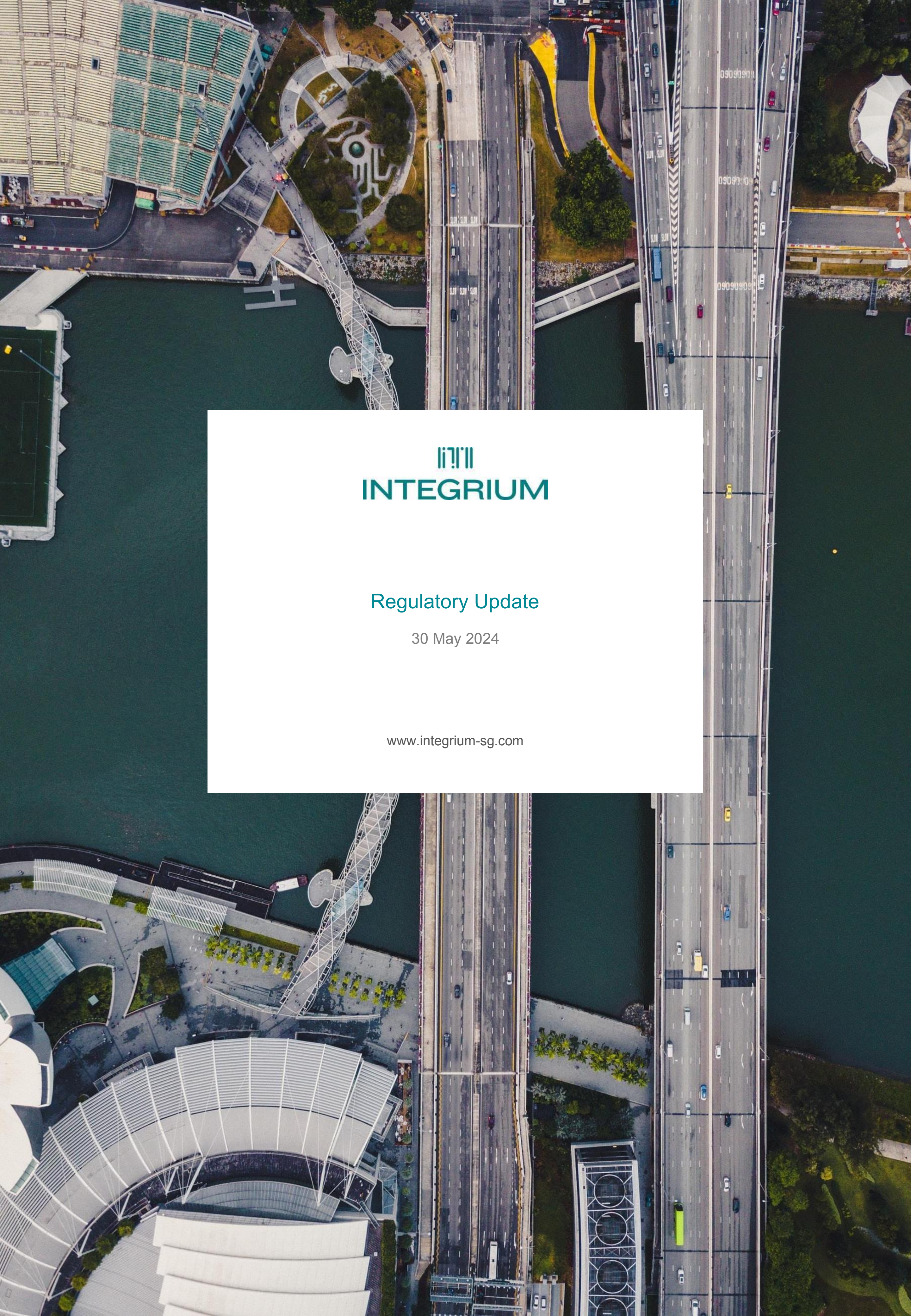

INTEGRIUM

Regulatory Update

30 May 2024

www.integrium-sg.com

GUIDELINES ON FAIR DEALING

30 May 2024

INTRODUCTION

The Monetary Authority of Singapore ("**MAS**") issued revised Guidelines on Fair Dealing [FSG-G04] (the "**Guidelines**") aiming to enhance fair dealing standards and improve customer experiences with Financial Institutions ("**FIs**"). The Guidelines apply to all FIs and set out the responsibilities of the Board and Senior Management in delivering five fair dealing outcomes to customers, key principles of fair dealing at various stages of a product's life cycle or in the services rendered, and good and poor practices for each outcome.

FIs are expected to implement the Guidelines in a manner that is proportionate to their business models, the nature of their products and services, and the potential risk of customer harm, all while maintaining fair dealing principles. This regulatory update discusses the five outcomes and highlights MAS expectations concerning fair dealing.

WHAT TO EXPECT

All FIs must now adhere to the revised fair-dealing Guidelines established by the MAS for their products and services. Initially introduced in 2009 under the Financial Advisers Act ("**FAA**"), these guidelines covered the selection, marketing, and distribution of investment products, as well as the provision of advice and post-sale services. With the recent update, all FIs are required to integrate key principles of fair dealing throughout the entire product or service lifecycle, according to MAS. The revised Guidelines are a part of an ongoing trend towards balancing the rights and interests of FIs and their customers.

With the updated Guidelines, customers can now expect:

- products suited to the needs of the target market segment;
- advice with suitable product recommendations, accurate representation of information and extra consideration for those who are more vulnerable.
- clear explanations on a product and its terms and conditions; and
- independent and responsive handling of feedback.

FIs are now obligated to provide appropriate product recommendations and accurate information. They must also give special consideration to more vulnerable consumers.

APPLICABILITY

With regards to exemptions available to FIs advising Accredited Investors ("**AIs**"') under the 'Notice FAA-N16 Recommendations on Investment Products' and exemptions available to FIs advising Institutional Investors ("**IIs**") and their related corporations under 'Financial Advisers Regulations 32A', MAS clarified that in instances where regulations or requirements overlap with the expectations outlined in the Guidelines, FIs should adhere to the more stringent standards. As such, the Guidelines will now be applicable to all the retail and non-retail customers of FIs.

However, while applying the Guidelines, FIs should calibrate the Guidelines in the manner proportionate to its business model, the types of products and services it provides, and the potential harm to customers. Factors to consider in this calibration could include customers' needs and interests, as well as the circumstances of those who may be more vulnerable. For instance, if an FI deals exclusively with IIs for certain products and services, a suitability test (identifying target customer segments and assessing products and services) could be calibrated appropriately, as these investors would not be generally considered vulnerable. Nonetheless, other aspects of the Guidelines may still apply and should be evaluated by the FI (for instance, identifying the customer segments for which the products are not suitable).

When providing financial products and services, FIs should be able to justify differential treatment to any customer or groups of customers, on the basis of relevant and reliable information or data (e.g. application rejected due to money laundering, terrorism financing or proliferation financing concerns in which case FIs should take steps to ensure that their communication with the customer does not constitute "tipping off").

For Foreign offices ("**FOs**") and Foreign Related Corporations ("**FRCs**"), the principles and outcomes outlined in the revised Guidelines are applicable unless they are specifically exempted from certain conduct requirements under the Exemption Frameworks for Cross-Border Business Arrangements.

OUTCOME 1

CUSTOMERS HAVE CONFIDENCE THAT THEY DEAL WITH FIS WHERE FAIR DEALING IS CENTRAL TO THE CORPORATE CULTURE

FIs should prioritise fair dealing in their corporate culture and business practices to positively influence customers' decisions, fostering trust and reliability. The Board and Senior Management should spearhead a fair dealing culture within the organisation.

A. Devising a Clear Strategy to Achieve the Fair Dealing Outcomes

The Board and Senior Management should illustrate how the FIs strategy and plans contribute to fair dealing outcomes, incorporating executive responsibilities and accountability, measurable targets, and a remuneration structure for senior executives that is linked to key performance indicators for achieving fair dealing.

B. Aligning Organisational Policies and Practices to the Fair Dealing Outcomes

The Board and Senior Management must guarantee that the FIs policies, systems, processes, and business practices support fair dealing outcomes for customers. FI must conduct thorough due diligence to ensure products and services are suitable for customers, establish transparent partnerships, identify and mitigate conflict of interest, and maintain objective assessment processes. FI should adopt ethical recruitment and training, ensure effective supervision, and establish fair performance evaluations and pay. They should maintain transparent pricing, set clear service standards, offer misconduct reporting channels, and provide independent, timely complaint resolution.

C. Communicating the Fair Dealing Outcomes as a Priority

The Board and Senior Management must show dedication to imparting a culture of fair dealing within organisation, actively communicating their expectations for representatives to consistently prioritise customers' interests. They should observe customer perceptions to assess the implementation of these expectations across all levels of the organisation and take appropriate action if representatives fail to meet fair dealing standards.

D. Monitoring Implementation of the Fair Dealing Strategy

The Boad and Senior Management should have the responsibility of establishing management information framework in FI to measure to effectively gauge fair dealing outcomes. This framework encompasses monitoring trends in complaints and misconduct, surveying customers, conducting mystery shopping exercises, and undertaking compliance reviews and audits.

OUTCOME 2

FIS OFFER PRODUCTS AND SERVICES THAT ARE SUITABLE FOR THEIR TARGET CUSTOMER SEGMENTS

FIs should give precedence to the needs and interest of their customers segments, especially paying attention to those identified as more vulnerable.

A. Design and Governance of Products and Services

During the development of a product and service, FIs should evaluate its performance across various market conditions or scenarios to determine its potential benefit and value to customers. Prior to launch, thorough testing should be conducted to ensure alignment with the needs, characteristics, and financial objectives of the target customer. Post-launch, the manufacturer should actively monitor customer feedback, which may involve establishing processes to gather information from distributors who have direct interactions with customers.

B. Conducting Product Due Diligence

FIs should carry out formal due diligence to evaluate the features and risk-reward profile of a product, determining its suitability for the targeted customer segments before deciding on its distribution. When conducting product due diligence, FIs should engage legal, compliance, and operational teams, along with financial advisory and supervisory staff familiar with customer needs. Proper documentation of the due diligence conducted should be maintained by the FIs.

C. Marketing to Target Customer Segments

FIs must provide materials containing sufficient information to enable customers to make informed decisions about the financial product or service being advertised. When determining a target customer segment for distributing these products or services, FIs should recognise that not every customer within that segment may deem the product suitable. Clear communication of this to representatives is crucial, as is the implementation of controls to ensure appropriate sales to customers.

OUTCOME 3

CUSTOMERS ARE SERVED BY COMPETENT REPRESENTATIVES

FIs should establish a comprehensive training and competency program to ensure that its financial advisory representatives have the necessary skills and knowledge to provide suitable advice to customers.

A. Ensuring Competency of Representatives

FIs must ensure that all representatives possess the necessary knowledge and skills to offer suitable advice and service to customers. FIs should conduct training sessions with their representatives, focusing on essential features, risk-reward aspects, regulatory compliance, market updates, customer fairness, and other pertinent subjects, through ongoing structured training programs.

B. Providing Appropriate Advice and Recommendations

It is essential to comprehend a customer's requirements to provide suitable product recommendations. Ensuring that its fact-finding and risk profiling questionnaire thoroughly and accurately gathers all pertinent information is essential for FIs to deliver suitable advice and recommendations to its customer.

C. Aligning Renumeration Structures with Customers' Interests

FIs need to create renumeration models that avoid conflicts of interest that could harm customers' interests. Relying heavily on commission for compensation might incentivise representatives to aggressively promote products, potentially overlooking customer need. FIs should explore compensating its representatives based on impartial criteria such a medium-term performance of assets under advice and conduct indicators like the reasonableness of advice, and the frequency of customer complaints and misconduct. This strategy should complement conventional sales objectives in upholding fair and ethical standards.

OUTCOME 4

CUSTOMERS RECEIVE CLEAR, RELEVANT, AND TIMELY INFORMATION THAT ACCURATELY REPRESENT THE PRODUCTS AND SERVICES OFFERED AND DELIVERED

A customer's capacity to grasp the characteristics of a financial product or service depends on their experience, financial literacy, and the clarity of the information provided. FIs should furnish customers with clear and pertinent information that is easily accessible and comprehensible, enabling them to make informed decisions and set realistic expectations.

A. Providing Clear Information

FIs should provide clear and accurate information to customers about the products and services offered, ensuring that expectations are realistic and not exaggerated. Customer disclosures should be easily accessible, written in clear language, presented in a balanced manner that emphasises key features and risks while ensuring important terms and conditions are not obscured, and formatted for easy comprehension.

B. Providing Relevant Information

FIs should furnish customers with comprehensive information prior to any financial commitment. This includes various disclosures provided by the product and services provider, such as policy illustrations, prospectus, pricing statement, product highlights sheet, and factsheets. Key aspects to be highlighted include the risks associated with the financial product, its potential benefits and drawbacks, all applicable fees and charges, significant terms and conditions, customer rights and obligations, and early withdrawals penalties. Customers should also be clearly informed about any free-look periods, lock-ins, or cooling-off periods.

C. Providing Timely Information on an Ongoing Basis

FIs should keep customers informed about their purchased products, after completing a financial transaction. Any significant developments related to these financial transactions should be promptly communicated to the customers.

D. Revising Terms and Conditions

When FIs revise the terms and conditions of existing products or services, they must carefully assess the potential impact on customer interest and ensure alignment with customers' expectations. If there are revisions to pricing and fees after the sale or provision of service, these modifications should be communicated clearly to customers with ample notice, enabling them to explore alternative options. Certain agreements may contain provisions enabling FIs to unilaterally amend the terms and conditions of a product and service, known as the Right of Review ("**RoR**"). It is imperative for FIs to transparently inform customers about this during sales process.

OUTCOME 5

FIS HANDLE CUSTOMER COMPLAINTS IN AN INDEPENDENT, EFFECTIVE, AND PROMPT MANNER

FIs' dedication to fair dealing is reflected in its approach to handling of customer concerns and feedback. Prompt and impartial management of complaints is crucial for fostering customer trust, extending fair treatment beyond the initial sale and service provision. When addressing complaints and feedback, FIs should prioritise independence, effectiveness, and timeliness. It should also assess broader improvements to products, services, and process based on customer input.

A. *Handling Complaints Independently and Effectively*

FIs must provide easily accessible information on how customers can submit feedback, inquiries, or complaints which should be prominently displayed on its website. FI should offer diverse feedback channels to accommodate all customers, including those with limited technological proficiency.

B. *Resolving Complaints Promptly*

FIs are accountable for establishing service standards for addressing and resolving complaints that involves defining reasonable timeframe for acknowledging complaints, conducting customer interviews, and completing complaints reviews. Adequate resources should be allocated to handle complaints within specified turnaround times while ensuring thorough reviews. In cases of complex complaints needing additional review time, FIs should issue a written interim response, indicating an estimated timeframe for providing a formal response.

Contacts

Mark Jacobsen
Founder
Integrium

E mark@integrium-sg.com

Dewansh Raheja
Manager
Integrium

E dewansh.raheja@integrium-sg.com

Integrium Pte. Ltd.
63 Chulia Street
#15-01
Singapore 049514
www.integrium-sg.com