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Proposed regulatory changes by Monetary Authority Singapore (MAS): an opportunity or a challenge?

Reflecting the current global financial crisis, in October 2008, MAS announced that they would undertake a review of the sales and marketing of structured products. Following on from this, they have recently issued a consultation paper which outlines proposed changes to the regulatory regime for unlisted products, which are commonly sold to retail investors. In doing so, they have clearly highlighted that increased consumer protection is central to their approach to regulation. Shane Tregillis, Deputy Managing Director of MAS stated:

"Only by dealing fairly with and providing real long-term value for their customers can financial institutions truly rebuild consumer confidence and trust"

Which firms should be concerned with MAS proposals?

If adopted, any firm involved in the manufacture and distribution of unlisted investment products aimed at retail investors, will need to be able to evidence adherence with regulations proposed by MAS. As such, these proposals should be regarded as a critical issue for banks, insurance companies, asset management companies, and a wide range of distributors.

As highlighted in both the consultation paper and associated press release, MAS have identified five key areas where they believe the regulatory framework needs to be enhanced, as follows:

1. Promote more effective disclosure. Issuers will need to prepare a short, user-friendly Product Highlights Sheet. Alongside this, requirements for ongoing disclosure and fair and balanced advertising will be strengthened.
2. Financial Institutions (FIs) will need to undertake an enhanced due diligence process before selling new investment products
3. Representatives will be required to enhance the quality of information obtained from customers. They will be required to provide customers with more details in their basis for recommendations and set out more clearly why products are suitable.
4. A new category of 'complex investment products' will be introduced and subject to enhanced regulatory requirements FIs will only be able to sell a complex investment product to customers when they give advice on whether it is suitable for them. The prospectus, Product Highlights, and all marketing and advertising materials of complex investment products will carry health warnings.
5. MAS will have strengthened power to investigate and take regulatory action through several measures, including the introduction of a civil penalty regime under the Financial Advisers Act (FAA).

Actions that can be taken to evidence proposed MAS requirements?

As highlighted by MAS, the proposals outlined above are intended to strengthen the fair dealing outcomes set out in the previously published *Fair Dealing Guidelines*. The five outcomes are:

1. Customers have confidence that they are dealing with financial institutions where fair dealing is central to the corporate culture
2. Financial institutions offer products and services that are suitable for the customer segment they are targeting
3. Financial institutions appoint competent representatives who provide customers with advice that meets their financial objectives and suits their personal circumstances
4. Customers receive clear, relevant and timely information to make informed financial decisions

Financial institutions handle customer complaints promptly and in a consistent manner.

It is clear that MAS will expect to see appropriate management information, process documentation and customer outcomes, which evidence that a firm has management and operational processes in place to deliver against both the proposed regulatory changes and the five Fair Dealing outcomes.

One of the key drivers across both the proposed regulatory changes and the fair dealing outcomes is how the risks in financial products are designed, communicated, sold and monitored. When considering how to address these key risks, firms will need to consider how they:

- Effectively stress test products
- Put systems and controls in place to manage and monitor risks imposed
- Identify appropriate target markets for particular products
- Clearly communicate the expectation of risk and returns to customers
- Provide evidence that customer expectations are being met
- Understand impact of economic environment on customer expectations
- Ensure appropriate ongoing monitoring and communication

Undertaking product analysis in a sophisticated stochastic modelling framework allows these issues and many others to be addressed. Through this process institutions will be able to better design products that meet customer needs whilst complying with evolving regulations.

An example case study of the analysis of the customer outcomes for a structured product highlights the benefits of this approach to product design can be found at: http://www.barrhibb.com/documents/downloads/Structured_Product_Case_Study_MAS_Linked_doc.pdf

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