Monetary Authority of Singapore

Guidelines

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Guidelines on Fair Dealing

Board and Senior Management Responsibilities for Delivering Fair Dealing Outcomes to Customers

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Guidelines on Fair Dealing — Board and Senior Management Responsibilities for Delivering Fair Dealing Outcomes to Customers

Introduction

1 Financial institutions should duly consider the needs and interests of customers, and act accordingly throughout every aspect of their business to achieve this, from product design and governance, to marketing and sales, and in the provision of after-sales services and complaints handling.

2 Board and Senior Management set the culture for their financial institutions, determine risk appetites, and put in place governance structures, policies and processes. They play a pivotal role in ensuring fair dealing outcomes for customers. The Guidelines on Fair Dealing — Board and Senior Management Responsibilities for Delivering Fair Dealing Outcomes to Customers ("the Guidelines") articulate the Monetary Authority of Singapore's (MAS) expectations on the role of Boards and Senior Management in this regard.

3 The Guidelines set out five fair dealing outcomes for financial institutions. These 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: Customers are served by competent representatives.

Outcome 4: Customers receive clear, relevant, and timely information that accurately represent the products and services offered and delivered.

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

4 The Guidelines are to be applied across all financial products and services. While they were written primarily from a retail customer lens, MAS expects financial institutions to apply the principles to

all customers. Each financial institution should consider how best to achieve the outcomes in a proportionate manner,[1] having considered its own business model, the nature of products and services offered, and potential harm to customers. The financial institution should consider the needs and interests of customers, especially those who are more vulnerable.

Definitions

5 For the purposes of these Guidelines,

"customer" refers to users and prospective users of financial products and/or services

"financial product/service" refers to any product/service that is provided by a financial institution; and

"representative" refers to any staff, employee or agent that is engaged by a financial institution.

6 The terms used in the Guidelines shall, except where expressly defined in the Guidelines or the context otherwise requires, have the same meanings as defined in the relevant Acts.

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[1] For example, the specific guidance set out in Outcome 2 would not apply to a financial institution offering basic financial products or services that are generally suitable for all customer segments (e.g., fixed deposits and money changing services). Nonetheless, the financial institution would be considered as having met Outcome 2 in respect of these basic financial products or services.

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 The way financial institutions manufacture, select, market and distribute financial products and services will affect customers' financial decisions. Financial institutions should therefore ensure that their business functions are cognisant of the influence on customers' decisions, and have a strong emphasis on fair dealing in their corporate culture. Customers are better able to trust and rely on FIs that consistently emphasise fair dealing in all aspects of their business.

1.1.2 The Board and Senior Management should lead the organisation to establish a culture that promotes fair dealing. Amongst other things, the Board and Senior Management should:

a) devise a clear organisational 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; and
d) monitor the effectiveness of the strategy and policies in achieving 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 demonstrate how a financial institution's strategy and implemented plans achieve the fair dealing outcomes. These plans should include:

a) allocation of executive responsibilities and accountability;
b) implementation of a set of measurable targets; and
c) development of a remuneration structure for senior executives that is linked to key performance indicators for achieving the fair dealing outcomes.

Good practice 1.1

The Board of a financial institution assigned its Chief Executive Officer to oversee a dedicated Fair Dealing team. The team was responsible for periodically reviewing the financial institution's processes to identify areas for improvement. Based on the findings, the team formulated a strategy, which included defining a set of principles to drive culture change, as well as training and supervising representatives on fair dealing. The Board endorsed the strategy, and its implementation progress was updated on a quarterly basis.

Supervisory expectations: The Board and Senior Management should assign responsibilities to specific and suitably senior executive(s) for carrying out initiatives to promote fair dealing practices within a financial institution. For example, assigning a specific and suitably senior executive or the formation of a team dedicated to achieving fair dealing outcomes, as well as overt support from Board and Senior Management for fair dealing initiatives, are some ways to demonstrate a financial institution's commitment to fair dealing.

1.3 Aligning Organisational Policies and Practices to the Fair Dealing Outcomes

1.3.1 The Board and Senior Management should ensure that a financial institution's policies, systems, processes and business practices foster fair dealing outcomes for customers. These include having:

a) With respect to the provision of financial products and services –
- Robust due diligence procedures to ensure that products and services designed, manufactured, selected, marketed, and distributed are suitable for its customers;
- Procedures to perform due diligence assessments and set out clear service standards for partnerships with other financial institutions or persons (e.g., introducers in its distribution business);
- Procedures to identify, mitigate, and disclose conflicts of interest; and
- Sound and objective processes to assess applications received for the purchase of financial products and services.

b) With respect to managing its representatives –
- Recruitment practices and training that ensure representatives are ethical, fit and proper;
- Effective systems and controls to supervise its representatives on an ongoing basis; and
- Performance evaluation and remuneration frameworks that incentivise behaviour to achieve the fair dealing outcomes.

c) With respect to managing service quality and customer feedback –
- Transparent pricing and fee structures;
- Clear service standards for processing key service deliverables to customers (e.g., processing of insurance claims);
- Procedures for whistle-blowers to report misconduct; and
- Frameworks and procedures to effectively process and resolve complaints in an independent and timely manner.

1.3.2 A financial institution should also identify and address any other issues that could potentially compromise the interests of customers.

Good practice 1.2

The Senior Management of a financial institution instituted a review of its policies and practices to ensure alignment with fair dealing outcomes. The Board instructed that special attention be paid to remuneration structures, disclosure standards and product selection process, as these areas have greater impact on customers' interests. Arising from the review, the financial institution established a formal process to gather customer feedback, and a regular forum to discuss market conduct related matters.

Quarterly customer forums were set up, with the objective of gathering customer feedback on the quality of marketing materials and financial advisory experience. A report summarising the findings and suggested corrective actions from each forum was discussed at quarterly Board meetings. All matters relating to market conduct (e.g., compliance records, non-sales related performance indicators) were also discussed.

Supervisory expectations: The Board and Senior Management should take customer feedback seriously and align its policies and practices (including those relating to remuneration) to achieve fair dealing outcomes.

1.3.3 For a financial institution that conducts both financial advisory and non-financial advisory businesses at the same physical location, it should ensure that its staff do not solicit financial advisory business from customers who approach the financial institution to conduct only 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 when they do not intend to risk any of their capital.

Good practice 1.3

A financial institution had a structured approval process to ensure that all marketing materials disseminated were fair and balanced. In addition, the financial institution had training and processes in place to monitor that its representatives were not applying pressure, inducement, or other inappropriate tactics to lure customers into taking ill-considered and uninformed decisions and actions. This consideration was also included in the design of its system user interface that directly marketed products to the end consumer. [2]

Supervisory expectations: The Board and Senior Management should ensure that all marketing materials provide customers with a fair and balanced description of the product or service offered. The Board and Senior Management should also ensure that there are no pressure, scare or other unethical sales tactics employed when dealing with customers. This is to enable customers to make informed decisions based on clearly disclosed facts.

1.3.4 When providing financial products and services, financial institutions should be able to justify differential treatment to any customer or groups of customers, on the basis of relevant and reliable information or data.[3] For avoidance of doubt, financial institutions may offer different products, pricing and fees to different customer segments based on commercial factors or market segmentation.

[2] For instance, a financial institution should avoid deploying a user interface that leverages on human biases to influence customers into choices that may not be in their best interests. An example is an extremely time limited website promotional offer, accompanied by language highlighting that the limited deal is running out, which could unduly encourage hasty purchases by customers without sufficient consideration of his/her needs or suitability.

[3] Where an application is rejected due to money laundering, terrorism financing or proliferation financing concerns, financial institutions should take steps to ensure that their communication with the customer does not constitute "tipping off" under section 57 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act. For instance, the specific source of concern or information on any ongoing or potential investigation should not be disclosed to the customer.

Good practice 1.4

An insurer applied a consistent risk assessment process to all insurance applications. In making the underwriting decision, the insurer considered information relevant to the risks presented by each applicant through its assessment framework to determine the appropriate underwriting outcome that reflected the risks of each applicant. Whether an application was accepted, declined, or subject to any loading or conditions was based on an objective assessment of relevant information or data.

Supervisory expectations: An insurer should carry out an objective assessment of every application based on the set of risks presented by the customer. An example of inappropriate differential treatment would be rejecting an application for insurance of a customer merely based on his/her declaration of autism, disability or mental health condition without having first performed an objective underwriting assessment.

The assessment should be properly substantiated by reliable information or data relevant to the risks being insured, such as medical reports, analysis of statistical/actuarial data, or clinical surveys/studies. In this assessment, an insurer may also factor in its underwriting expertise, risk appetite, and guidance from its reinsurer(s).

Where an application is rejected or accepted with additional conditions, an insurer should properly explain to the customer the basis for the underwriting decision with reference to the information or data relevant to the risks being insured. This will allow customers to better appreciate the rationale behind the underwriting decision.

1.4 Communicating the Fair Dealing Outcomes as a Priority for a Financial Institution

1.4.1 The Board and Senior Management should communicate a clear and consistent message to internal and external stakeholders, that delivering fair dealing outcomes to customers is an important organisational priority. This would involve the Board and Senior Management demonstrating how they uphold fair dealing principles through their personal conduct and management of representatives, ensuring the tone from the top is reflected at all levels of the organisation, and dealing robustly with managers who disregard the tone from the top or fail to take a strong stance against representatives who fall short of fair dealing expectations.

Good practice 1.5

To cultivate an organisation-wide fair dealing culture, the Senior Management of a financial institution actively and regularly conveyed its commitment and expectations through internal communication channels and training programmes. To measure effectiveness of the initiatives and as a guide to take follow-up actions, they monitored survey results from customers based on their experience of dealing with the financial institution and its representatives.

Supervisory expectations: Senior Management should demonstrate its commitment to embed a culture of fair dealing in its organisation and play an active role in communicating its expectations for representatives to consistently act in the customers' interests. They should also monitor customers' perception to assess whether these expectations are implemented at all levels of the organisation. Senior Management should take appropriate action where representatives fall short of fair dealing standards.

1.5 Monitoring Implementation of the Fair Dealing Strategy

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

a) monitoring complaints and misconduct trends;
b) surveying customers;
c) conducting mystery shopping exercises; and
d) conducting compliance reviews and audits.

Good practice 1.6

A financial institution prepared management information reports that covered compliance issues, complaints trends, customer feedback and other relevant indicators, using detailed data segmentised by customers, products, and representatives. These reports, which identified shortcomings and highlighted possible enhancements to policies and practices, were reviewed by management monthly. In addition, the financial institution conducted regular customer surveys and mystery shopping exercises to track effectiveness of initiatives in ensuring fair outcomes to customers.

Supervisory expectations: A good management information framework should include processes that assist management to collate and review relevant information as well as implement and monitor follow-up action. Financial institutions should use data that is sufficiently detailed to allow more targeted follow-up actions to be taken.

1.6 Key Questions for Self-Assessment

1.6.1 How do the Board and Senior Management lead the financial institution in delivering fair dealing outcomes to customers? How are remuneration structures developed to achieve fair dealing outcomes?

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

1.6.3 What safeguards have been implemented to assist and protect vulnerable customers, such as those with low financial literacy, physical disabilities or impaired mental capacities?

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

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

2 Fair Dealing Outcome Two

Financial institutions offer products and services that are suitable for their target customer segments.[4]

2.1 Rationale

2.1.1 Making financial decisions can be a complex process that often has significant impact on the livelihood of customers. Some customers find it difficult to make appropriate financial decisions when faced with a wide variety of financial products and services.

2.1.2 For customers with limited knowledge of financial products, they may be overly focussed on factors such as short-term or headline returns, while not fully understanding the suitability of the product over a long-term horizon. It is therefore important for financial institutions, when designing, developing, and marketing new products and services, to focus on the needs and interests of their target customer segments, and to pay special attention to those who have been identified as being more vulnerable.[5]

2.2 Design and Governance of Products and Services

2.2.1 When designing a product or service, a financial institution should assess its performance under different market conditions or scenarios and therefore its likely benefit or value to customers. For example, in the case of an investment-related product, a financial institution should consider whether the product contains features where the likely benefit is low relative to the associated costs or fees.

2.2.2 As far as possible, before a product is launched, a manufacturer should appropriately test if the product or service meets the needs, characteristics and financial objectives of the target customer segments. After launch, the manufacturer should monitor customers' feedback with a view to improve the design of the product. This may include establishing processes to obtain feedback from the product's distributors who have interacted directly with customers.

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[4] Trading in digital payment tokens (DPT) (commonly known as cryptocurrencies) is highly risky and not suitable for retail customers. Customers should carefully assess whether an DPT trading is suitable for their investment objectives and risk appetite.

[5] This would include, but are not limited to, selected clients as defined in the Guidelines on the Remuneration Framework for Representatives and Supervisors ("Balanced Scorecard Framework"), Reference Checks and Pre-Transaction Checks, as well as customers with physical disabilities or impaired mental capacities.

Good practice 2.1

Before an investment product was launched, a financial institution conducted testing to assess its performance under different market conditions or scenarios. The test results showed that, after considering all fees and costs, the customer would suffer losses under most market conditions or scenarios. Before proceeding with the launch, the financial institution adjusted the design of the product, including its fees and costs, to allow for better customer outcomes.

Supervisory expectations: A financial institution should test how a product performs under various market conditions or scenarios to form a balanced assessment of the value that the product ultimately offers customers. The assessment should include the impact of costs and fees.

2.3 Conducting Product Due Diligence

2.3.1 A financial institution should undertake formal due diligence on any financial product it intends to distribute, in order to:

a) fully understand and evaluate the features and characteristics of the product, and assess the implications on each customer segment; and
b) identify customer segments for which the product is suitable, and customer segments for which the product is clearly not suitable.

2.3.2 The product due diligence process should include a thorough review of the point-of-sale documents, including the following where applicable, to ensure that key information relating to the product is presented in a fair and balanced manner and easily understood:

- services and charges;
- terms and conditions;
- marketing materials;
- prospectus;
- pricing statement;
- product highlights sheet;
- fact sheet;
- application/proposal form;
- product summary;
- policy illustration;
- policy contract; and
- other representations from the product provider, as well as other materials used by representatives of the financial institution.

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

a) whether the target customers are able to understand the product, given its characteristics and level of complexity;
b) whether the product's objectives, characteristics and associated cost and fees are suitable for the target customers;
c) appropriateness of the proposed marketing channel(s) for the product, for example, whether through representatives, the internet or direct marketing;
d) competency of its representatives, and their ability to understand and adequately explain the product's features and characteristics to customers; 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.

2.3.4 A financial institution should only market and/or offer a financial product or service that it has assessed to be suitable for its target customers. In performing such product due diligence, a financial institution should involve legal, compliance and operational personnel, as well as financial advisory and supervisory staff familiar with the needs and profile of its customers. Financial institutions should not place sole reliance on the assessment of the product provider in determining suitability of a financial product or service for its customers.

2.3.5 The financial institution should maintain proper documentation of the due diligence performed. Formal management approval to distribute the financial 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.

Good practice 2.2

A financial institution was offered distribution rights for a complex investment product, which was 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 might not be easily understood by retail customers, which was the target segment of the product manufacturer. The financial institution decided not to take up the distribution rights for that product.

<u>Supervisory expectations</u>: In deciding whether to distribute a new financial product, a financial institution should conduct formal due diligence to assess the features and risk-reward characteristics of the product and determine if it is suitable for the customer segments being targeted. The financial institution should form an independent conclusion, and not rely solely on the assessment of the product provider. Although the financial institution may not have manufactured the product, it has the responsibility to ensure that it distributes products that are suitable for its customers.

2.4 Marketing to Target Customer Segments

2.4.1 A financial institution should provide materials (e.g., prospectus, pricing statement, product highlights sheet, or other marketing materials) that contain sufficient information for customers to make an informed decision about the financial product or service that is being marketed.

2.4.2 A financial institution should adjust its marketing approach to suit the profiles, financial objectives, and general financial literacy of its target customer segments. It should not assume that a financial product is suitable for all customers within a target customer segment, as there may be some customers (e.g., those who are less educated or more vulnerable) within the target customer segment for which the product is not suitable. 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 the inappropriate sale of the product to these customers.

2.4.3 A financial institution should pay special attention when marketing financial products to certain customer segments, such as persons who may have limited financial knowledge, or are more vulnerable. It should encourage such customers to obtain advice. The financial institution should also ensure that all customers are provided with timely and relevant information that is easily understood.

2.4.4 In marketing a complex investment product,[6] a financial institution should make clear to customers that the product cannot generally be sold to them without advice. When representatives sell complex investment products to customers who have limited knowledge of investment products, the financial institution should require its representatives to obtain higher level approval before the transaction can be executed.

2.4.5 When marketing products or services, a financial institution is encouraged to refer customers to the Basic Financial Planning Guide which outlines rules of thumb for individuals to address their savings, protection, investment, retirement and legacy planning needs at various life stages.

[6] All Specified Investment Products as defined in FAA-N16 Notice on Recommendations on Investment Products and SFA 04-N12 Notice on the Sale of Investment Products are considered complex investment products.

Good practice 2.3

At a training session before the launch of a regular-premium investment-linked policy, a financial institution communicated its marketing strategy to its representatives. The strategy identified the target customer segment to be young executives who had worked for at least a year, and who were in search of wealth accumulation opportunities. The financial institution further informed its representatives that while the broad target customer segment had been identified, they should note that the product was not suitable for customers who were seeking pure insurance protection, given the product's high investment element. The financial institution also instructed its Compliance Department to conduct post-sales sampling checks to ensure that the sales made were suitable for its customers.

Supervisory expectations: In identifying a target customer segment for the distribution of a financial product or service, a financial institution should be mindful that the product may not suit all customers even within the broad target customer segment. It should communicate this clearly to its representatives and put in place controls to ensure appropriate sales of the product to its customers.

2.5 Key Questions for Self-Assessment

2.5.1 How does the financial institution design products and services to address the needs and financial objectives of the target customer segment(s)?

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

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

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

2.5.5 How does the financial institution ensure that it has adequately considered the characteristics of its target customer segment (especially those who are vulnerable) when designing, developing, and issuing new products and services?

3 Fair Dealing Outcome Three

Customers are served by competent representatives.

3.1 Rationale

3.1.1 There is a wide variety of financial products that cater to customers' different financial needs, investment objectives, preferences and risk profiles. Customers often rely on representatives of financial institutions to explain and recommend products and services that are suitable for them. This requires properly trained and competent representatives. As 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 relevant minimum regulatory entry and examination requirements appropriate to the product or service marketed, a financial institution should equip all representatives with the knowledge and skills to provide appropriate advice or other services to customers. This can be done through structured continuous training programmes covering regulatory requirements, market developments, delivering fair dealing outcomes to customers, and other relevant topics.

Good practice 3.1

A financial institution required new financial advisory representatives to be placed under the guidance of supervisors. The supervisors would observe the representatives in the advisory and sales process to see how they conducted fact-finds, needs analyses and product recommendations. During the observation period, the supervisors identified areas of weakness and arranged for additional training and coaching for these representatives. The representatives were only allowed to serve customers independently when the supervisors were satisfied that they were competent, and ready to provide financial advisory services to customers that were in line with fair dealing outcomes.

Supervisory expectations: A financial institution should develop a robust training and competency programme to ensure that its financial advisory representatives are equipped with the necessary skills and knowledge to provide appropriate advice to consumers. A financial institution should not allow a representative to independently provide financial advisory services until he has demonstrated the competency to do so.

3.2.2 Before allowing a product or service to be marketed to customers, a financial institution should provide training for its representatives on the relevant features and risk-reward characteristics. It should also clearly communicate to its representatives the customer segments that the product or service is suitable for, and to take extra care and attention with vulnerable customers. The financial institution should educate its representatives to consider how a product may or may not be suitable for a customer, given his profile and overall portfolio.

Poor practice 3.2

A financial institution merely distributed the marketing brochures for a new investment product to its representatives and did not provide training to help them comprehend the product features, risks, benefits and limitations. As a result, the representatives were not properly trained, and were unable to adequately explain the features and risk-reward characteristics of the product to their customers, nor advise whether the product was suitable for them, to the detriment of customers' interests.

Supervisory expectations: A financial institution should ensure that its representatives are appropriately trained to advise on and sell any new investment product, and are able to properly explain the new product's features risks, benefits and limitations to customers. For training conducted by product providers or third-party trainers, a financial institution should review the training materials to ensure that they are adequate and fit for use.

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 responsibilities.

3.3 Providing Appropriate Advice and Recommendations

3.3.1 Understanding the needs of a customer is fundamental to making appropriate product recommendations. A financial institution should ensure that its fact-find form and risk profiling questionnaire adequately and accurately capture all relevant information about the customer. A financial institution should demonstrate that it has properly designed, tested and validated its scoring and risk profiling methodologies, whether they are performed in-house or through external expert review and evaluation.

3.3.2 A financial institution should clearly disclose the scope of financial products and services it provides to its customers. When investment products are sold, a financial institution should offer advice to customers as applicable. Where advice is not provided on any investment product offered by a financial institution, this should be highlighted to the customer in writing, and the customer should be made aware of the implications and risks of proceeding without advice.

3.3.3 Financial institutions should train its representatives to undertake a proper fact-find for the purpose of providing each customer with appropriate advice and recommendations. In particular, a financial institution should ensure that its representatives:

a) make reasonable enquiries and collect sufficient information to understand and analyse the customer's financial needs and objectives;

b) provide advice and present sufficient options that suit the customer’s financial objectives, risk tolerance and personal circumstances, taking into consideration factors such as:
    i) the financial product's investment objectives, characteristics (including any special or unusual features), liquidity, volatility, expected returns and likely performance in a variety of market and economic conditions;
    ii) the risks arising from the proposed transaction(s); and
    iii) where a series of transactions are recommended, the risks associated with the series of transactions are not excessive and the recommendation is in the customer's interest;

c) strongly encourage any customer with limited knowledge of financial products to opt for advice and go through full fact-find so that the customer’s investment objectives, financial situations, and particular needs are taken into consideration; and

d) fully document the basis of recommendation, by stating the customer's objectives and needs, explaining the product recommendation, and highlighting any possible risks.

Poor practice 3.3

A retiree, aged 67, with poor proficiency in English received a call from a bank representative that his fixed deposit was due for renewal and was invited to visit the bank. The bank representative recommended that he use the proceeds of his fixed deposit to purchase a single premium whole life policy that provided a regular fixed stream of income. The representative further recommended the retiree to take up a bank loan to finance a higher premium amount in order to receive a higher income stream. The representative explained that the income from the whole life policy, after accounting for the interest to be paid on the bank loan, would be higher than the interest he could earn from the fixed deposit. Less than a year later, against the backdrop of rising interest rates, the interest payable for the loan had escalated to an amount which he was not led to expect. The interest payments were now higher than the income stream he received from the life policy. The situation was unsustainable for him as he had retired and did not have any other active income stream.

Supervisory expectations: A financial institution should put in place safeguards (e.g., risk profiling, suitability assessment) such that risk appropriate products are recommended. For example, if a customer is seeking to renew or place a fixed deposit, the financial institution should not actively promote investment products to the customer. However, where the customer makes an explicit request for information on investment products, the financial institution can arrange for a representative to advise the customer on the products that are suitable for him.

A representative should not recommend that customers take up loans to finance the purchase of investment products unless the representative has conducted a holistic assessment of the customer's financial situation and his ability to service the loan repayments. For example, a representative should consider if loans are suitable for customers who have limited or irregular income (e.g., retirees, platform workers), and whether these customers are able to sustain the loan repayments if interest rates move adversely or if proceeds from the financed investment product are less than expected. The ease with which customers are able to exit the loan or investment product should also be considered (e.g., whether it is possible to exit the loan without exiting the investment product and vice versa). Risks associated with taking up the financing should be appropriately disclosed and explained, especially those that are associated with interest rates movements and poor performance of the product. The link between the loan and the product that is being financed for purchase should also be clearly explained (e.g., whether the product is used as collateral for the loan). Clear illustrations on the worst-case scenario should be provided.

In addition, where vulnerable customers are involved, a financial institution should put in place additional safeguards, such as conducting callbacks to ensure that they understand the implications of the purchase or transaction, or requiring trusted individuals to accompany and assist them in comprehending their purchase or transaction.

Poor practice 3.4

A customer sought advice from a representative to purchase an investment product with low risks. She communicated to the representative that she also wished to preserve her capital. Upon the representative's recommendation, she purchased a single premium investment-linked policy. She subsequently realised that the representative did not explain to her that under certain circumstances, she could lose a portion of, or the entire principal amount. The features of the product were not in line with her intent to preserve capital.

Supervisory expectations: When providing financial advisory services, a financial institution and its representatives should recommend products that are suitable for the customer. The financial institution and its representatives should also highlight all relevant product features and key risks to customers to enable them to make informed financial decisions.

3.3.4 Financial institutions should also comprehensively and robustly review sales conducted by the representatives by:

a) verifying that the recommendations meet the needs of customers;
b) ensuring that higher level approval is sought for sales of complex investment products to customers with limited knowledge of investment products;
c) monitoring sales activities to ensure they only conduct activities which they are qualified and authorised to perform; and
d) monitoring adherence to the financial institution's prescribed advisory and sales process, including proper collection of customer information and documentation of the basis of recommendation. The financial institution should take necessary disciplinary actions for failure to follow its prescribed advisory and sales process.

Poor practice 3.5

A representative advised a customer to switch his collective investment scheme (CIS) within a short period of the initial investment in order to lock in a gain. Even though the customer was entitled to a free switch to another CIS that was managed by the same fund house, the representative guided him toward another similar CIS with comparable performance characteristics that was managed by another fund house. This allowed the representative to earn extra commission, at the expense of the customer.

Supervisory expectations: A representative should not, out of personal gain, recommend customers to switch from one investment product to another, which may be detrimental to their interests due to the incurrence of additional sales charges or penalties for early termination, or to obtain lower benefits at a higher cost. To curb improper switching, a financial institution should have proper controls, processes and procedures in place to monitor switching practices as set out in MAS' Guidelines on Switching of Designated Investment Products. Where improper switches are detected, a financial institution should investigate and take appropriate disciplinary action against the errant representative and provide restitution to the affected customer.

3.3.5 The purchase of unsuitable products by customers can have a significant impact on their longer-term financial well-being. A financial institution should not use gifts or rebates to unduly influence the financial decisions of customers. The customer's primary attention should be placed on whether the product meets the customer's needs and not be overshadowed by the promise of a gift. A financial institution should also ensure that its representatives are not applying aggressive or pressure sales tactics, such as overly emphasising the time-limited nature of a given offer (e.g., "only for today"). It is important that a financial institution provide customers with sufficient time to understand the information provided, and consider the recommendations made by its representatives.

3.3.6 A financial institution should ensure that its representatives follow through on their commitment to perform periodic reviews of their customers' profiles and portfolios. When conducting such reviews, the representatives should consider any change in circumstances and financial objectives of the customers to provide them with updated analyses and recommendations.

3.3.7 A financial institution should perform regular compliance checks and review sales processes to determine the appropriateness of advice given and suitability of recommendations made. This should be performed by a function independent of the sales unit and may include the review of fact-find forms and sales documents.

Good practice 3.6

The Independent Sales Audit Unit of a financial institution carried out documentary checks under the Balanced Scorecard Framework on the Financial Needs Analysis forms to ensure that the recommendations made by its representatives met the needs of customers. For those representatives who did not make the mark, the compliance and training departments would follow up with them together with their supervisors to address their shortcomings and claw back commissions as appropriate.

Supervisory expectations: A financial institution should formulate oversight and monitoring mechanisms to ensure that recommended products are suited to customers' financial objectives and personal circumstances.

Good practice 3.7

A financial institution tasked its Compliance Department to conduct regular mystery shopping exercises to assess the competency of representatives when recommending investment products to customers. Results from the exercise were factored into the representatives' remuneration and training.

Supervisory expectations: Regular and independent review of the provision of financial advisory services helps uphold the professional standards of representatives, thereby safeguarding customers' interests. Besides desktop reviews of client surveys and documentation made during the advisory and sales process, a financial institution should conduct regular mystery shopping exercises to validate if its representatives are competent to provide appropriate advice and recommendations to customers. This should also be used to determine the training needs of the representatives.

3.4 Aligning Remuneration Structures with Customers' Interests

3.4.1 Poor remuneration structures can lead to bad 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 or services.

Poor practice 3.8

A customer had cash savings of $200,000 and sought advice from his representative on growing his wealth. The representative was primarily concerned with meeting the sales target for a new investment product that was being promoted by his financial institution. The product paid higher commission during the campaign period, which led the representative to convince the customer to purchase the new product without comparing it with other similar products that the customer should have considered.

Supervisory expectations: A representative should not skew his/her recommendations to investment products for which he/she would earn a higher fee or commission.

3.4.2 A financial institution should establish a remuneration structure that does not engender conflicts of interest that prejudice customer interests. One example would be a balanced scorecard approach that takes into account both conduct-related factors and financial targets. A financial institution that provides advisory services can also consider adopting a "fee for advice" instead of commission-based model, or pegging the remuneration of representatives to other objective indicators such as the medium-term performance of assets under advice.

Good practice 3.9

To align the interests of its representatives with customers, a financial institution designed a remuneration package for its representatives such that a representative's remuneration was based on a fixed salary and a variable component. The variable component was structured such that 40% was based on sales volume while the other 60% was based on factors such as client retention, assets under advice, complaints, compliance records, competency assessments, and customer satisfaction derived from customer surveys.

Supervisory expectations: A financial institution should incorporate indicators that support fair dealing objectives into the remuneration structure of its representatives. A financial institution should carefully re-consider if remuneration structures should rely primarily on commissions, as these may create impetus for product pushing and aggressive selling by representatives.

Good practice 3.10

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.

Supervisory expectations: Differentiating remuneration among different types of investment products may encourage representatives to recommend products without giving due consideration to the needs of customers. This leads to poor market conduct practices such as aggressive product pushing ahead of considering the suitability of the product for the customer. Instead, the financial institution should consider remunerating its representatives based on objective (e.g., the medium-term performance of assets under advice) and conduct indicators (e.g., adequacy of fact-find and reasonableness of advice, number of customer complaints and misconduct), in addition to sales targets.

3.5 Key Questions 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 appropriate advice and recommendations?

3.5.2 Has the financial institution implemented a robust supervisory framework for its representatives?

3.5.3 How does the financial institution ensure that its representatives competently and adequately explain to customers key information on financial products (such as the product features, fees and charges, benefits and risks) as well as important terms and conditions?

3.5.4 How does the financial institution ensure that its representatives conduct proper fact-finds and needs analyses to provide appropriate advice and recommendations to customers?

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

4 Fair Dealing Outcome Four

Customers receive clear, relevant and timely information to accurately represent the products and services offered and delivered.

4.1 Rationale

4.1.1 Clear, relevant and readily accessible information enables customers to make informed decisions and form realistic expectations. In addition, timely updates help customers maintain an accurate understanding of the product or service.

4.1.2 The extent to which a customer can understand the features of the financial product or service is influenced by experience, level of financial literacy, as well as the clarity of information provided. In developing its marketing and disclosure documents, financial institutions should ensure that the information presented in the documents is consistent with the information from the product or service provider.

4.1.3 A financial institution should provide customers with clear and relevant information that can be readily accessed and understood. Such information should be given before, during and after the sales process. This includes after-sales updates on product performance and/or any material developments relating to the financial product so that customers can take steps to protect their interests. This information, whether written or verbal, should be presented in a fair and balanced manner.

4.2 Providing Clear Information

4.2.1 A financial institution should accurately state what customers can expect of the products and services provided. Customers should not be led into having unrealistic expectations of the product or the level of service they will receive. Disclosures to customers should be:

a) readily accessible;[7]
b) written in plain language that avoids the use of technical jargon;
c) presented in a balanced format that highlights key features and risks without obscuring important terms and conditions; and
d) presented in a format that facilitates ease of reading and understanding.

[7] Financial institutions should take into consideration the needs of different customer segments (e.g., less technologically savvy) when designing how disclosures can be readily accessed by customers.

Poor practice 4.1

A financial institution launched an interest rate-linked structured deposit. The product disclosure document and marketing materials furnished to customers contained numerous technical terms such as "barrier spread", "first year no barrier" and "reference rate". There was no explanation nor glossary provided for these terms. As a result, many 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.

Supervisory expectations: Financial institutions should present information in plain language, minimising the use of technical terms to the extent possible. Where appropriate, tables, diagrams, graphics and examples should be used to explain a product's key features and risk-reward characteristics. Representatives should be able to explain the information contained in the disclosure documents and assess whether customers are able to understand the information. Where the use of technical terms is necessary, they should be clearly explained. If a customer is still unable to understand the product or service despite these explanations, the representative should not proceed with the transaction.

Poor practice 4.2

A financial institution published an advertisement for a structured deposit that quoted the "maximum potential percentage return" in its headline. Other pertinent information, such as the annual interest percentage payout and tenor were not featured with sufficient prominence. They were presented in the body of the advertisement in much smaller fonts. The "maximum potential percentage return" was in fact the cumulation of annual interest over the total multi-year tenor of the structured deposit. Some customers misunderstood the total return over several years to be the annual return of the structured deposit.

Supervisory expectations: A financial institution should not present information in a manner that may mislead or confuse customers. Potential returns should be presented in a form which is commonly understood. Information on potential returns should also be accompanied by disclosure on potential risks associated with achieving this return.

4.2.2 Where information is explained verbally by its representatives, a financial institution should ensure that all representations are consistent with the information provided in the disclosure documents. A financial institution should provide scripts to its representatives to ensure that statements they make are consistent with due diligence conducted on the product features and its risk-reward characteristics. A financial institution should train its representatives to avoid the use of terms or phrases that some customers may not understand, or convey a false sense of security (e.g., "capital protected" or "similar to

fixed deposits and bonds”), where these do not reflect the product’s actual features and risk-reward characteristics. A financial institution should have procedures to effectively monitor that its representatives keep proper records of any representations made or advice given to its customers.

4.2.3 When serving customers with limited knowledge or understanding of financial products and/or non-English speaking customers, a financial institution should put in place additional safeguards in its sales process, such as:

a) providing accurate and appropriate translations of the product disclosure documents to non-English speaking customers. Additional care should be taken when translating technical terms into other languages, to ensure that there is no change in meaning or loss of important nuances;
b) requiring the supervisor or an English-speaking relative to be present during the advisory or sales process; and
c) requiring the representative to clearly document the additional steps taken to ensure that the customer understands the financial product or service, and that the basis for recommending the product or service is properly recorded.

4.3 Providing Relevant Information

4.3.1 A financial institution should provide its customers with all relevant information before they make any financial decision. This includes disclosure documents prepared by the product or service provider (e.g., policy illustration, prospectus, pricing statement, Product Highlights Sheet, and factsheet).

4.3.2 The information that is given to consumers should give a fair and balanced representation of the features and risk-reward characteristics. It should highlight key risks of the financial product, the potential upsides and downsides of the product, all fees and charges,[8] important terms and conditions, rights and obligations of customers, and early withdrawal penalties. Information on any free-look, lock-in or cooling-off period, should be highlighted to customers.

[8] This includes remuneration disclosures (e.g., commission, fee and other benefits) that the financial institution or representative might earn in the recommendation or sale of the product or provision of service.

Poor practice 4.3

A financial institution claimed to charge zero commissions when advertising a product or service but did not prominently disclose the existence of other fees and charges. This gave customers the misleading impression that there were no fees or charges for the provision of the product or service.

Supervisory expectations: All advertisements on a financial institution's products and services should be clear, fair, balanced and not misleading. Advertisements should not give customers the impression that a service is completely free when there are other fees and charges involved. All fees and charges (including any subsequent changes) should be clearly disclosed and communicated to customers in a prominent manner. Advertisements should also be approved by its Senior Management (or appropriate designated authority).

Good practice 4.4

A fund manager provided information on the availability and purpose of swing pricing in the fund offering documents. To help customers understand the purpose, use and associated costs of swing pricing, the fund manager elaborated on the circumstances under which swing pricing would be triggered and how it would be implemented. It also included an illustrative example of potential financial impact. In addition, the fund manager provided answers to frequently asked questions on its website, which included the approval and review process to trigger swing pricing.

Supervisory expectations: A financial institution is expected to provide relevant information on all product features to its customers. This includes, as illustrated above, the existence, use and activation of liquidity risk management tools, such as swing pricing, and the potential impact to customers.

4.3.3 To facilitate customers to make decisions based on clear and accurate information, all advertising and marketing materials should:

a) clearly represent all key features and risks; and
b) exclude words or graphics that could mislead customers about the nature or risks, intended purposes, and performance of the product or service.

Poor practice 4.5

A customer sought advice from a financial institution's representative on maximising the interest rate on his savings account. Upon the representative's recommendation, he decided to purchase a financial product from the financial institution with a long premium payment term. However, the representative did not explain that the higher bonus interest on his savings account would be accorded only for the first 12 months. As a result, the customer did not realise that he would have to pay premiums for a longer duration than the period of bonus interest. This was not in line with his intent or understanding.

<u>Supervisory expectation</u>*: When making recommendations on financial products, a financial institution should ensure that its representatives highlight all key and relevant features of the financial products.*

4.3.4 Where the returns or costs of a product can vary over time, a financial institution should make clear to customers the range of possible outcomes for the financial product, including a worst-case scenario. For example, the possible impact of market movements on products that involve market risk, such as variable interest rates. For products where the customer risks losing a significant portion of or the entire principal amount in return for potentially higher returns, the risk should be clearly highlighted upfront to the customer. This is especially important when customers are opting for products perceived to be alternatives to traditional fixed income investments. For insurance products, information about exclusions should be carefully explained.

Poor practice 4.6

A customer purchased a health insurance policy for hospitalisation coverage. However, the representative did not inquire about the customer's existing medical conditions or go through the health declaration questions in detail. A few months later, the customer suffered a stroke. His claims for the associated medical expenses were rejected, as the customer did not disclose that he had hypertension at the point of application.

<u>Supervisory expectations</u>*: The principle of utmost good faith*[9] *applies to insurance contracts, and the onus is on customers to disclose all material facts at point of application. Failure to do so could result in claims being rejected or policies being voided. Given these potentially serious repercussions, the insurer and the representative have to remind customers to disclose material facts relevant in an insurance application, and highlight the consequences of not making a full disclosure.*

[9] As an insurance contract relates to a promise that hinges on the likelihood of an uncertain event occurring in the future, contracting parties (i.e., the insurer and the customer) rely on each other to produce all information that is relevant and material to the basis of the contract. Deviating from general insurance law in respect of "*caveat emptor*" (i.e., buyers beware), insurance contracts fall within a special class of contracts which are deemed *uberrima fides* (utmost good faith). Material non-disclosure by the customer can result in insurance contracts being voided.

Good practice 4.7

A customer obtained a three-month compounded SORA-pegged home loan package from a financial institution. When explaining the Residential Property Loans Fact Sheet to the customer prior to the issuance of a Letter of Offer, the representative ensured that the risks of the SORA-pegged loan, including how monthly instalments would vary with SORA rates, were sufficiently and clearly disclosed to and understood by the customer. The representative also explained the lock-in period, interest rates for the loan, repayment details and advance notice period for any changes to the loan.

Supervisory expectations: Before customers make any financial decision, a financial institution should provide them with all relevant information and explain to them the range of possible outcomes for the financial product. For example, if a loan is pegged against a variable rate, the customer should be made aware of the potential extent of rate increases to determine if he or she is able to bear the risk.

4.3.5 A financial institution should disclose all relevant information in a manner that is simple and easy to understand. For investment products, a financial institution should explain to customers how the fees would impact their returns, as well as the market conditions that affect the investment's performance. The financial institution should also explain how customers should monitor and track market conditions and their investment returns.

Good practice 4.8

A customer purchased an investment product, which had one-off fees that were to be paid upfront and when the product is sold (i.e., entry and exit fees). In addition, there were ongoing fees paid per annum through the investment product (e.g., platform fee, management fees).

The representative explained to the customer the types of fees that would be charged to the customer during the lifecycle of the investment, and how these fees would impact the value of the investment at the start; during the investment horizon for which it is held for; and at the point of exit.

Supervisory expectations: Before customers make any financial decision, a financial institution should clearly explain how the financial product or service is expected to work, the market circumstances that would impact the performance of the product, its related fees and expenses, and how these impact the value and returns of investment, over both the short and long term. This enables customers to assess if the product or service meets their financial objectives.

4.3.6 A financial institution should identify, mitigate and disclose to its customers any actual or potential conflicts of interests, as well as their implications. Examples of such conflicts include the following:

a) the financial institution or its representative involved in making the recommendation has a financial interest in the financial product recommended (e.g., the financial institution is a market maker of the recommended product or its underlying, or acted as an issue manager of the recommended security's public offering in the past 12 months);
b) the financial institution invests customers' monies into related corporations or other entities in which the financial institution's shareholders, directors or representatives hold existing business interests, such as directorships or shareholdings (i.e., other related entities); and
c) the financial institution procures services for customers from its related corporations or other related entities.

4.4 Providing Timely Information on an Ongoing Basis

4.4.1 A financial institution should provide customers with information and updates on product performance, and any material developments about their financial purchases, after the sale has been concluded.

4.4.2 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 updates to customers on an ongoing basis. 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.

Good practice 4.9

The product provider of an investment-linked policy appointed a new investment manager for a number of its sub-funds. It informed the financial institution which distributed the product about the change in investment manager, and clarified that there would be no change to the investment objectives of the sub-funds. The financial institution promptly issued a circular to all customers of the product to update them on the matter.

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

4.5 Revising Terms and Conditions

4.5.1 When revising the terms and conditions of existing products or services, a financial institution should consider the potential impact to customer interests, and whether any action taken is aligned with what customers had been led to expect. Where any pricing and fees are revised following the sale of the product or provision of service, such revisions should be clearly communicated to the customers with sufficient notice to allow them to consider other alternatives.

Poor practice 4.10

In line with a decline in the prevailing market rate of interest, a financial institution generally revised its fixed deposit rates downwards, except for certain tenors of fixed deposits to which mortgage interest rates were pegged. Customers who had taken such mortgages may have expected that fixed deposit rates would generally move in line with the market conditions and that the bank would not apply a more selective lens to adjusting the rates for particular tenors.

Supervisory expectations: When adjusting variable components of its products, a financial institution should do so in a way that considers the risk of being perceived to have misled the customer. In the above example, adjusting interest and mortgage rates in such a selective manner (i.e., revising the fixed deposit rates of all tenors except the tenor which mortgage rates are pegged to) may not be aligned with what customers had been led to expect when purchasing the product or service, and can therefore cause customers be perceive that they have been misled and treated unfairly.

Poor practice 4.11

A brokerage introduced a transaction fee for trading in shares, applied at a fixed rate per share without an overall price cap. As a result, some customers found themselves in situations where they were levied with fees that far exceeded the market value of the shares sold. The customers were also not provided with sufficient information on the fee change.

Supervisory expectations: A financial institution should have processes to review and approve changes to its fees, including evaluating that the revised fees are reasonable and not prohibitive. In general, where fees are changed or introduced in the context where customers have no choice but to incur the fees, the fees charged by a financial institution should not exceed the value of the transaction. Customers should also be provided with clear and sufficient information on any fee change and be given sufficient notice (e.g., minimum notice period of 30 days), to allow them to consider alternatives.

4.5.2 Some contracts include clauses that allow financial institutions to unilaterally revise the terms and conditions of a product or service (i.e., right of review, or "RoR"). A financial institution should clearly disclose this to customers during the sales process, and describe the circumstances[10] under which an RoR clause may be exercised, the prior notice that will be given[11], and customers' rights or available options when the clause is exercised.

4.5.3 Notwithstanding the disclosure, and even if a financial institution expects RoR clauses to be exercised over the normal course of the contractual arrangement,[12] they should not be exercised lightly. Financial institutions should institute a framework, involving representatives from a control unit independent from the relevant business line and approved by senior management, to govern the exercise of the RoR clause. This should include assessing how exercising the RoR clause may impact the rights, obligations or interests of the customer.

4.5.4 Where exercising an RoR clause that adversely or materially impacts the rights, obligations or interests of customers, the financial institution should:

a) exercise the RoR clause only after it has been approved by an appropriate management forum. The approving forum should explicitly consider whether fair dealing outcomes for customers are met, including whether there should be measures to mitigate potential detriment to customers. For instance, the financial institution can consider allowing customers to switch out of the product without financial penalty, or to subscribe to an alternative at no additional cost; and

b) provide early notice and in writing, the changes resulting from the exercise of the RoR clause. The written notice should explain the reasons for initiating the changes, impact on customers, and alternatives available to customers.

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[10] Minimally, the specific circumstances that a financial institution would exercise RoR clauses during the normal course of its business should be disclosed upfront to customers.

[11] Depending on the complexity of the changes and how easily customers can find alternative arrangements, financial institutions may take reference from relevant industry norms to guide its assessment on a suitable notice period. For example, the ABS Consumer Guide to Housing Loans and the LIA Code of Life Insurance Practice set out that customers can expect a minimum of 30 days of advance notice should there be changes to the terms and conditions of the agreement.

[12] Some examples include (i) a financial institution making revisions to a contractual arrangement or product features in response to events as defined in uncommitted credit facilities, contracts for structured products, or over-the-counter derivatives; and (ii) insurers revising the premiums or benefits of the product in response to circumstances such as material changes in medical inflation or medical advancements.

Poor practice 4.12

A financial institution had set a 0.1% floor rate on SORA for its SORA-pegged mortgages with a view to prevent a situation of the mortgage interest rate turning negative. However, a persistently low interest rate environment had impacted its mortgage portfolio profitability. It relied on an RoR clause in the mortgage contract to raise the floor rate from 0.1% to 1%. The RoR clause stated that the financial institution had the right to review and amend the interest rate, basis of calculation and terms of the mortgage interest rate by giving the customer one month's notice. The financial institution did not communicate nor state explicitly in its terms and conditions (T&Cs) that the RoR clause covered revisions to the floor rate. As such, customers did not expect the floor rate to change.

<u>Supervisory expectations:</u> A financial institution should perform its obligations in accordance with the T&Cs and as it has explained and led customers to expect. A financial institution should give due consideration to factors other than profitability in determining whether RoR clauses should be exercised. For instance, a financial institution should not exercise the RoR where it had under-priced a product and should have rightly factored relevant risk and pricing considerations into its initial product design. Where a financial institution has to revise the T&Cs following the inception of the product, it should assess the impact of the revisions to customers, consider appropriate mitigating measures (e.g., waiving fees if customers choose to exit from the mortgage), clearly communicate such revisions, and provide sufficient notice to customers.

4.6 Key Questions for Self-Assessment

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

4.6.2 How does the financial institution ensure that relevant information on financial 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 a decision to purchase the product?

4.6.3 How does the financial institution ensure that products sold are what customers expect to receive, and that the associated service is of an acceptable standard?

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

4.6.5 What has the financial institution done to ensure that any revisions to pricing and fees of products and services are clearly communicated to customers, with sufficient notice?

4.6.6 What policies and procedures has the financial institution put in place, to ensure a robust and independent governance process to approve, and review decisions related to the exercise of the RoR clause? Does the process for deciding to exercise the RoR clause explicitly consider fair dealing outcomes for customers, including the impact of the change on customers; whether exercising the RoR clause is in line with what the financial institution had led customers to expect; and whether measures or options to mitigate any potential detriment that customers may experience are made available to them?

5 Fair Dealing Outcome Five

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

5.1 Rationale

5.1.1 A financial institution's commitment to fair dealing is in part demonstrated in how it handles customers' concerns and feedback. The ability to handle customer complaints in an independent, effective, and prompt manner is essential for maintaining customers' trust.

5.1.2 Fair dealing by a financial institution to its customers should continue even after the sale of the product or provision of service. When customers raise concerns and provide feedback, a financial institution should look beyond the specific case to consider how improvements to the product or service can be made and processes strengthened.

5.2 Handling Complaints Independently and Effectively

5.2.1 Every customer has the right to be heard. A financial institution should set out clear information on the avenues and procedures for customers to submit feedback, inquiries, or complaints. This information should be easily accessible by the public and be available on the financial institution's website. A financial institution should also ensure that its feedback channels support all customer segments, with due consideration for those who are less technologically savvy.

5.2.2 While customers should first approach their financial institutions to resolve any disputes, they should be made aware of the option to go to the Financial Industry Disputes Resolution Centre Ltd (FIDReC). This can be part of the onboarding process for a new customer.

5.2.3 To facilitate prompt and effective resolution of complaints, a financial institution should implement a system for documenting, monitoring, and handling of complaints. It should also include an assessment of the merits of each complaint, escalation procedures, and institute a tracking mechanism to ensure that the complaints are satisfactorily resolved within a reasonable timeframe.[13]

5.2.4 In reviewing a complaint, a financial institution should assess the facts and circumstances of each case. The financial institution has the responsibility to resolve complaints fairly and consistently by setting

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[13] For example, the Financial Advisers (Complaints Handling and Resolution) Regulations set out that financial advisers must establish a unit to handle and resolve complaints, with a system that manages, tracks and records (for at least five years) complaints received.

clear assessment criteria. This includes, for instance, considering the sales processes and verbal representations made given the context of the customer's profile. The basis for each complaint and assessment of the outcome should be properly documented.

5.2.5 In communicating the review outcome of the complaint, it is important for a financial institution to be clear and transparent to the customer on the basis of its assessment. This allows the customer the opportunity to provide additional relevant information. Where applicable, a copy of the interview statements made by the customer should be furnished to him/her if requested. As customers providing feedback or lodging complaints may be under some measure of financial or emotional distress, financial institutions should take added care to deal with them empathetically and demonstrate compassion.

5.2.6 Senior Management should oversee the complaints handling process and ensure that representatives handling complaints are properly trained. Complaints should be assessed, and/or independently reviewed by persons who are not connected to, nor implicated in the complaint. There should be a process to escalate significant complaints to Board and Senior Management.

5.2.7 As complaints data and trends are a valuable indicator of potential conduct or systemic problems, financial institutions should perform trend analysis of complaints to seek out root causes and rectify them promptly. Areas of interest may include significant rise in complaints about a specific issue, product, representative, group of representatives or feedback from a particular customer segment. Financial institutions should incorporate lessons learned into their policies and practices.

Good practice 5.1

A financial institution set up a centralised unit to handle complaints and implemented an information system to document and manage all complaint cases. Its Compliance Department was tasked to independently review and investigate all complaints. All analyses of serious complaints were discussed at the monthly management meetings involving the Chief Executive Officer and relevant Heads of Department. The meeting discussed and decided on additional measures to be taken to rectify the conduct or systemic issues that were identified. To underscore the importance of fair dealing, the Chairman of the financial institution personally read all customer complaints addressed to him and monitored the progress of the rectification measures.

Supervisory expectations: A financial institution should appoint reviewers who are not involved in the provision of financial services to oversee the investigation and resolution of complaints. There should also be processes and guidelines on escalation of complaints to the Board and Senior Management. Board and Senior Management are expected to oversee the complaints handling processes of the financial institution, including oversight of complaints data and trends, and to act promptly on any issues identified.

5.3 Resolving Complaints Promptly

5.3.1 A financial institution is responsible for setting service standards for handling and resolving its complaints. This includes setting reasonable timeframes to acknowledge a customer's complaint, interview the customer and complete the review of the complaint. The financial institution should devote sufficient resources to attend to and resolve customer complaints within its stipulated turnaround times, without compromising the quality of review.

5.3.2 For complex complaints that may require more time to review, a financial institution should provide a written interim response, informing the customer of an indicative timeframe within which the customer may expect to receive a formal reply.

5.4 Key Questions 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 its stipulated timeframes?

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

5.4.4 How does the financial institution assess its complaint handling standards? How do the Board and Senior Management exercise oversight over the complaints handling process?