

What Are The
Proposed
Changes And
How Will They
Affect You?



**eeCheck Whitepaper:
The Monetary Authority of Singapore (MAS) Mandate
Reference Checks Scheme**



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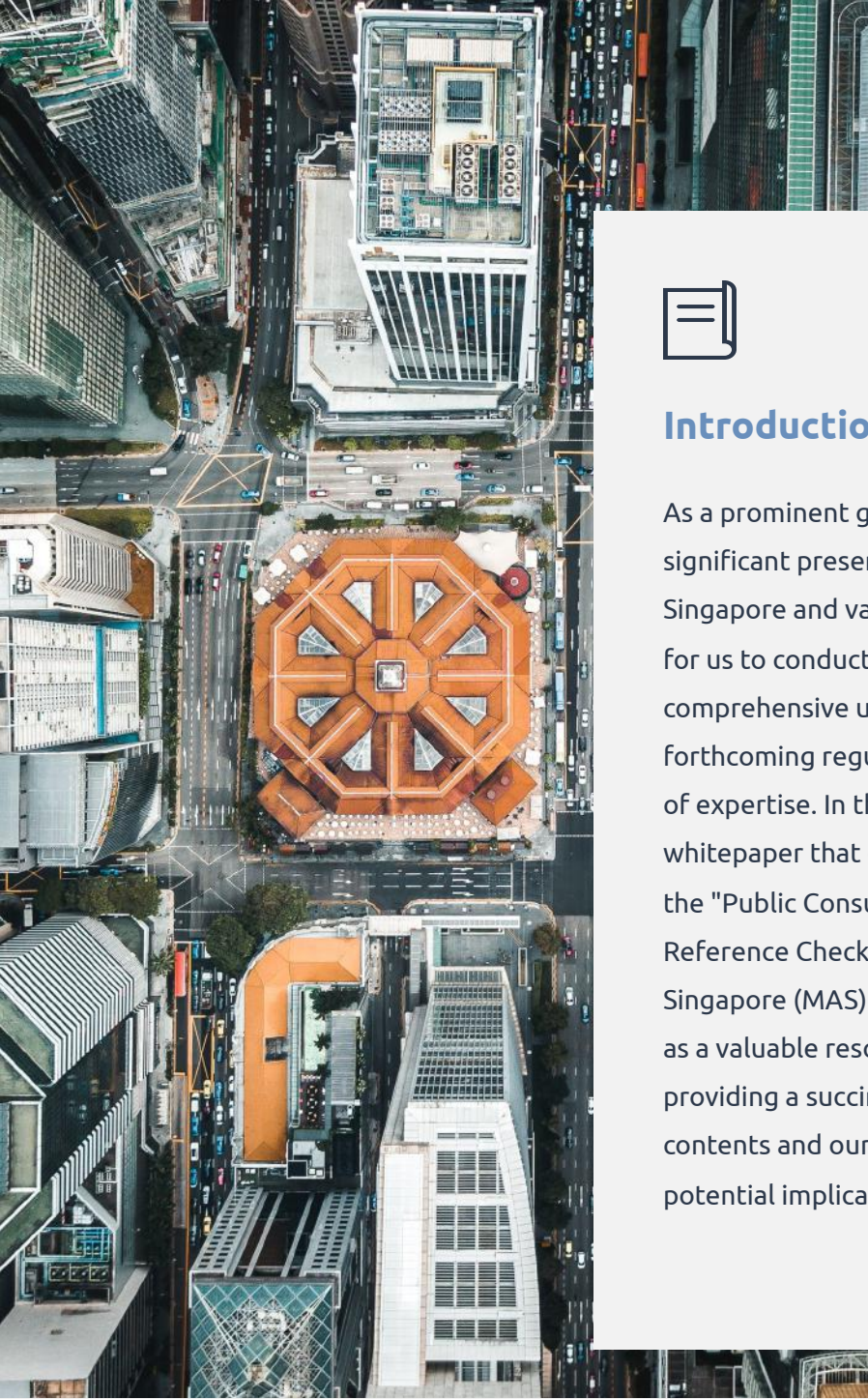
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Introduction

As a prominent global employment screening firm with a significant presence and diverse client base across Singapore and various countries in Asia, it is imperative for us to conduct in-depth research and gain a comprehensive understanding of the latest and forthcoming regulatory obligations pertinent to our field of expertise. In this regard, we are pleased to present a whitepaper that outlines information and our insights on the "Public Consultation on Proposals to Mandate Reference Checks" issued by the Monetary Authority of Singapore (MAS) on May 14, 2021. This whitepaper serves as a valuable resource for our clients and stakeholders, providing a succinct summary of the consultation's contents and our professional perspectives on its potential implications for our industry.

The Monetary Authority of Singapore (MAS) is taking a proactive stance in mitigating the risks of potential misconduct within the financial industry. To ensure adequate due diligence and to prevent the movement of "rolling bad apples", MAS is proposing mandatory reference checks for prospective representatives, and is considering extending this requirement to other employees in the industry. This is in line with the international focus on preventing the movement of bad apples", as outlined in

the toolkit published by the Financial Stability Board Working Group on Governance Frameworks. While the practice of conducting reference checks is not new in Singapore, differing standards have been observed. To ensure consistency and meaningful information exchange, MAS is proposing minimum mandatory information to be provided within a specified period of time. This proposal is intended to be applied on a prospective basis.

Summary Chart



FI Coverage:

A wide range of financial institutions (see corresponding section)



Scope of Employees:

Proposed to expand more than representatives to senior managers who may negatively impact a financial institution (see corresponding section).



Lookback Period:

5 Years



Response Time for MRC:

21 Calendar Days



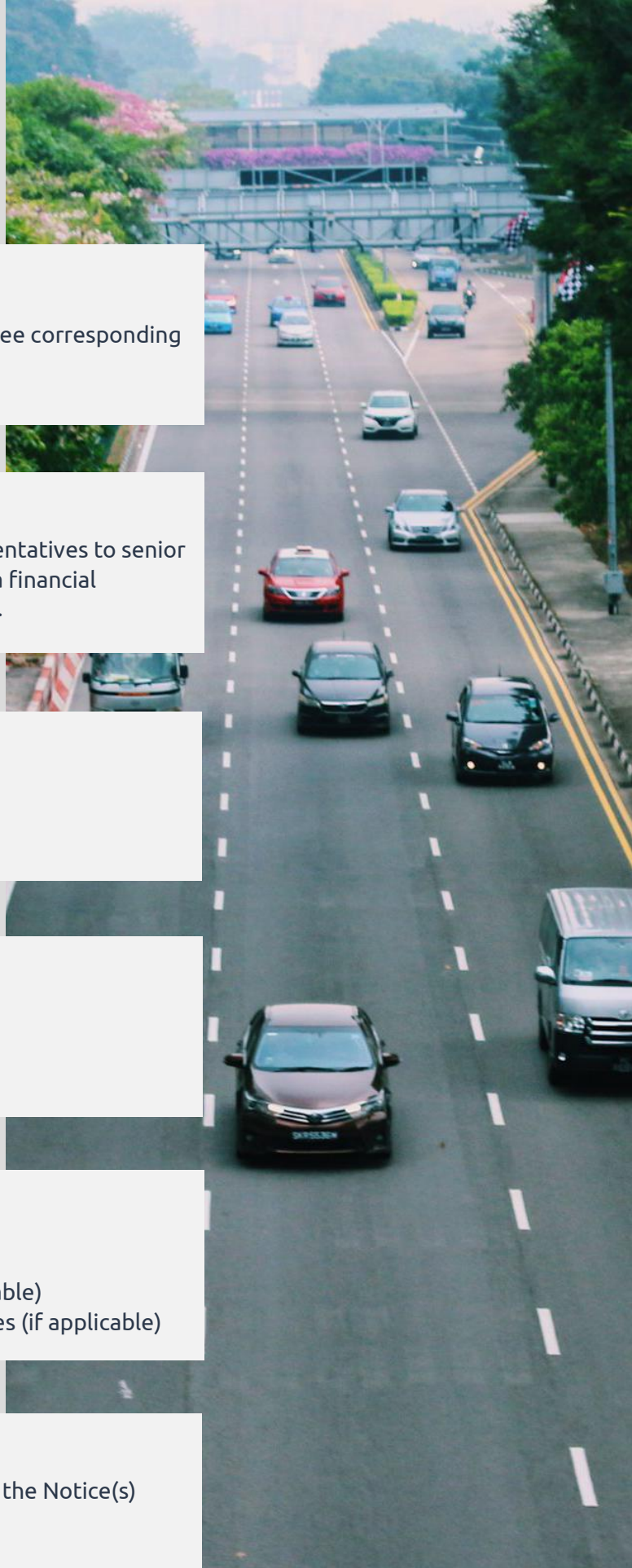
Information Coverage:

- Employment History
- Compliance Record
- Balanced Scorecard Rating (if applicable)
- Persistency Ratio of Insurance Policies (if applicable)



Timeline:

A transitional period of 6 months after the Notice(s) issued



Scope of FIs

Because individuals who engage in misconduct can move between different sectors of the financial industry, it is necessary for all financial institutions to work together to prevent this risk. To address this issue, MAS is proposing that reference checks and responses to reference check requests be mandatory for a wide range of financial institutions.

- “(i) Any bank licensed under the Banking Act (Cap. 19) (“BA”);
- (ii) Any person licensed under the BA to carry on the business of issuing credit cards or charge cards in Singapore;
- (iii) Any merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186) (“MAS Act”)⁸;
- (iv) Any finance company licensed under the Finance Companies Act (Cap. 108);
- (v) Any insurer licensed under the Insurance Act (Cap. 142) (“IA”);
- (vi) Any foreign insurer operating in Singapore under a foreign insurer scheme established under the IA;
- (vii) Any designated financial holding company approved under section 28 of the MAS Act⁹;
- (viii) Any holder of a capital markets services license under the Securities and Futures Act (Cap. 289) (“SFA”);
- (ix) Any financial adviser licensed under the Financial Advisers Act (Cap. 110);
- (x) Any person exempted from holding a financial adviser’s license under regulation 27(1)(d) of the Financial Advisers Regulations;
- (xi) Any registered insurance broker under the IA;
- (xii) Any person exempted from the requirement to hold a capital markets services license under paragraphs 3(1)(d), 3A(1)(d), 5(1)(i) and 7(1)(b) of the Second Schedule to the Securities and Futures (Licencing and Conduct of Business) Regulations;
- (xiii) Any trust company licensed under the Trust Companies Act (Cap. 336);
- (xiv) Any person approved under the SFA to act as a trustee of a collective investment scheme which is authorized under section 286 of the SFA and constituted as a unit trust;
- (xv) Any approved exchange or recognized market operator under the SFA that is incorporated in Singapore;
- (xvi) Any licensed trade repository under the SFA;

Scope of FIs

- (xvii) Any approved clearing house or recognized clearing house under the SFA that is incorporated in Singapore;
- (xviii) The “Depository” under the SFA;
- (xix) Any approved holding company under the SFA;
- (xx) Any authorized benchmark administrator or exempt benchmark administrator under the SFA;
- (xxi) Any authorized benchmark submitter or designated benchmark submitter under the SFA10;
- (xxii) Any operator of a designated payment system under the Payment Services Act 2019 (“PS Act”);
- (xxiii) Any settlement institution of a designated payment system under the PS Act;
- (xxiv) Any holder of a standard payment institution license under the PS Act;
- (xxv) Any holder of a major payment institution license under the PS Act; and
- (xxvi) Any licensed credit bureau under the Credit Bureau Act 201611.



Scope of Employees



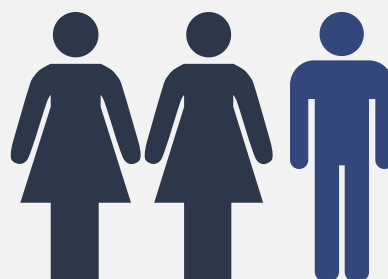
In summary, the requirements for financial institutions (FIs) to conduct reference checks and respond to reference check requests on their representatives are discussed in the Consultation Paper on “Revisions to Misconduct Reporting Requirements and Proposals to mandate Reference Checks for Representatives” issued in July 2018. The paper also identifies senior managers as individuals whose misconduct can negatively impact an FI’s soundness, reputation, customers’ interests, or public confidence. Furthermore, MAS is considering two options for expanding the scope of employees that FIs need to perform reference checks and respond to reference check requests:

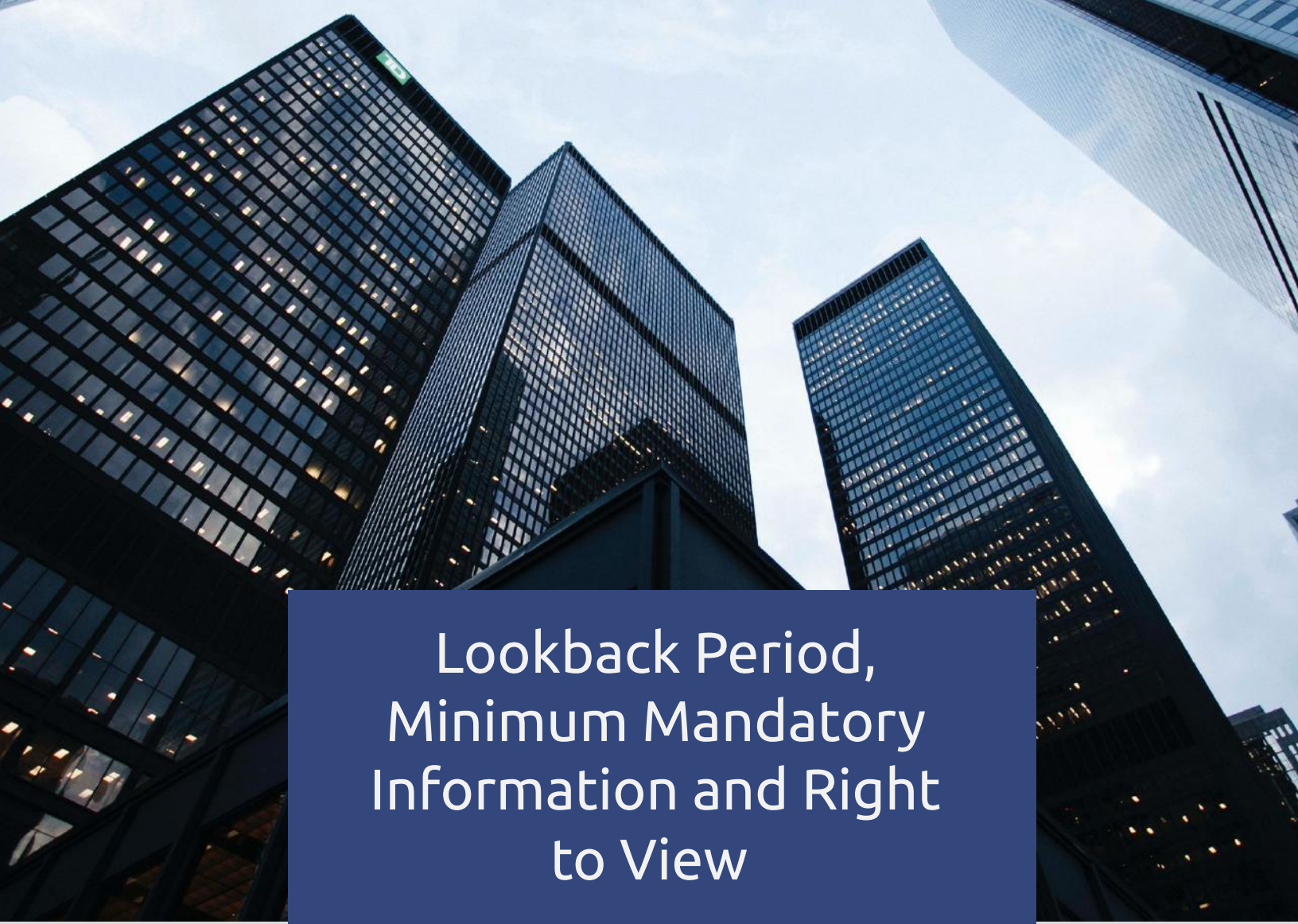
Option 1:

FIs must perform reference checks on individuals in risk-taking functions, risk management and control functions, critical system administration, and those who can authorize or approve payments. Option 1 aligns with the scope of functions under the proposed Harmonized and Expanded Power to issue Prohibition Orders (POs).

Option 2:

It is narrower, focusing only on functions that can cause or result in financial risks to FIs or customers, and excludes individuals responsible for operational risk, technology risk, legal risk, regulatory risk, or reputational risk.





Lookback Period, Minimum Mandatory Information and Right to View

The Monetary Authority of Singapore (MAS) proposes that reference checks for assessing the fitness and propriety of prospective employees in the financial sector should cover mandatory information related to the individual's records for the past five calendar years.

The lookback period is not based on years of employment but on calendar years. Employers are not required to extend the lookback period for gaps in employment history. If an individual requests confidentiality of the job-seeking process from their current employer, reference checks can be conducted after their employment has ceased.

However, if an unsatisfactory reference check response is received, the employer can take appropriate action, including withdrawing the employment offer.

Mandatory information to be provided for reference checks by Financial Institutions

Employment History

Information related to the individual's employment history with the Financial Institution:

- i. the duration of employment.
- ii. the roles and job functions of the individual (including last position held); and
- iii. the reason for the cessation of employment, including but not limited to the following:
 - resignation.
 - resignation by paying compensation in lieu of notice prior to or during investigation
 - termination.
 - dismissal; or
 - expiry of contract. needs to be ensured.



Mandatory information to be provided for reference checks by Financial Institutions

Compliance Record

The Financial Institution should obtain compliance records related to the individual's fitness and propriety, unless doing so could risk tipping off the individual and compromising the integrity of ongoing investigations. These records should include information on:

- i. Investigations that have concluded with reasonable grounds to believe that a wrongdoing has been committed, as well as the extent of consumer harm resulting from the wrongdoing (if applicable).
- ii. Ongoing investigations and the extent of consumer harm resulting from substantiated wrongdoing.
- iii. Instances where the Financial Institution has knowledge of, or reasonable grounds to believe that the individual has or may have breached legal or regulatory requirements while performing their duties as an employee of the Financial Institution, and the extent of consumer harm resulting from the incident.
- iv. Disciplinary actions taken against the individual, or that would have been taken against them if they were still employed by the Financial Institution (if applicable).
- v. Whether misconduct reports were filed against the individual with MAS, and if so, details on the nature of the misconduct committed and the extent of consumer harm resulting from the misconduct.

Balanced Scorecard Rating

The FI should provide information on the individual's most recent four balanced scorecard ratings, if applicable.

Persistency Ratio of Insurance Policies

If available and applicable, the FI should provide information on the persistency ratio of any insurance policies sold by the individual, as well as the method used to calculate the ratio.

Response Time, Information and Arrangement

MAS proposes that FIs must provide the mandatory information specified in paragraph 5.3 within 21 calendar days of receiving a reference check request. The information should be accurate, objective, clear, balanced, and based on verifiable facts. The individual should be given the right to view the references prepared, and FIs should make arrangements to allow individuals to make requests and share the references prepared. These requirements are similar to those proposed for representatives and have been formulated based on feedback received on the Consultation Paper on "Revisions to Misconduct Reporting Requirements and Proposals to Mandate Reference Checks for Representatives."



Cross-sector and Cross-border Application

FIs may face difficulties when performing reference checks on prospective employees who are from companies outside Singapore, non-financial sectors, or FIs outside the scope of FIs described in this initiative's scope. MAS expects FIs to take reasonable steps to request relevant information and satisfy themselves of the fitness and propriety of the prospective employees. If an FI has requested for reference checks and deemed the prospective employee suitable for the position based on other due diligence checks, it can proceed with recruitment despite the absence of a response to the reference check requests or reference checks containing insufficient information. This approach is aligned with the proposal for representatives.

Record Keeping

MAS proposes that FIs should maintain records of information specified for all employees except for ancillary service personnel, for a minimum of five years once the reference check requirements take effect. This is to facilitate the implementation of the proposed reference check requirements and to ensure that records are maintained for a larger population of employees. The record keeping requirements will similarly apply to representatives, and MAS will take into consideration feedback received from this consultation when implementing the reference check requirements for representatives.

Investigation and Disciplinary Process

MAS expects FIs to establish policies and procedures for investigating and disciplining employees who breach internal policies, procedures, or laws and regulations applicable to the FI or individuals in relation to their duties and responsibilities in the FI. These policies should be communicated to employees upon employment and accessible on an ongoing basis. FIs should conduct fair and objective internal investigations and disciplinary proceedings in a prompt manner and document them properly. Employees should also be given the opportunity to explain or defend themselves against the allegations during the process. These expectations are in line with MAS' Guidelines on Risk Management Practices - Internal Controls and are also aligned with the proposed reference check requirements for representatives.



Key Implications



Prepare for the transition period:

To comply with the upcoming mandatory reference check requirements, financial institutions must take action now. This includes reviewing existing HR policies and procedures, and making any necessary changes to ensure compliance with the new regulations within the required timeframe.



Establish protocols for requesting information:

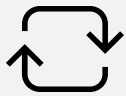
Financial institutions should consider establishing protocols for requesting the necessary information from previous employers. This includes identifying which employees require reference checks, ensuring that all necessary information is available to make these requests, revising the reference check questionnaire to comply with MAS' requirements.



Establish protocols for releasing information:

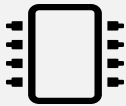
In addition to requesting information, financial institutions must also establish protocols for releasing information as previous employers. This includes implementing record-keeping and data release policies to ensure that only relevant and accurate information is shared, the process is smooth enough to be released according to the 21 calendar day requirement, and that all data protection and privacy regulations are followed.

Key Implications



Stay up-to-date with MAS requirements:

To ensure compliance with the latest regulations, financial institutions must stay informed about any new guidance or directives from MAS. This includes the mentality for the corresponding teams to make necessary changes to policies and procedures in accordance with any updates.



Integrate the new process with the existing employment screening process:

The new mandatory reference check requirements should be integrated with the overall employment screening process. This means identifying how the new reference check processes fit into the screening process and ensuring that all relevant employees are involved in the process.



Consider a professional employment background check vendor:

Financial institutions may benefit from engaging a professional employment background check vendor such as eeVoices to help navigate the new requirements. We can help to provide valuable insights into best practices, streamline the process, and ensure compliance with the regulations.



HELPING ORGANIZATIONS TAKE THE RISK OUT OF PEOPLE DECISIONS" IS OUR VISION AND, AT ITS MOST BASIC, IT IS WHAT WE DO FOR OUR CUSTOMERS - IT IS OUR MISSION.

