CA | ComplianceAsia

CA Regulatory Update – MAS Reprimands AIA Financial Advisers, Prudential, and Two Aviva Entities (June 2021)

Introduction

On 15 June 2021, the Monetary Authority of Singapore ("MAS") announced that it has reprimanded AIA Financial Advisers Private Limited ("AIA"), Prudential Assurance Company Singapore Pte Limited ("Prudential"), Aviva Ltd ("Aviva") and Aviva Financial Advisers Pte Ltd. ("Aviva FA") for breaching risk management and supervisor remuneration requirements. On top of this, MAS also reprimanded two individuals, Mr. Peter Tan Shou Yi, a consultant engaged by Aviva, and Mr. Chee Boon Chai Lionel, Aviva FA's CEO and Director.

In this regulatory update we will outline the balanced scorecard framework ("BSC") and the spreading and capping of commissions ("SCC") requirements and how these firms and individuals were found to have breached the requirements detailed BSC and SCC. We draw attention to the MAS findings of failures by senior management to supervise.

Balanced Score Card Requirement

Financial advisory ("FA") firms must have in place a BSC framework for the remuneration of their representatives and supervisors. Representatives are assessed under the BSC framework on 4 non-sales key performance indicators ("KPI"). These are:

1) Their understanding of the client's needs;
2) The suitability of their product recommendations;
3) The adequacy of information disclosures; and
4) The standards of professionalism and ethical conduct in relation to the FA services provided.

Representatives will be assigned a BSC grading each quarter based on the number and severity of infractions uncovered from post-transaction sample checks by an Independent Sales Audit unit, mystery shopping survey and customer complaints. The grading determines the amount of variable remuneration that the advisor is entitled to for that quarter.

If a representative receives an A grade in a quarter, he / she is entitled to 100% of his / her remuneration for that quarter. However, if the representative receives an E grade, he / she will either not receive any remuneration or only entitled to <25% of their remuneration for the period. A supervisor's BSC grade and variable remuneration can be impacted due to the performance of the representatives under his / her supervision.

Spreading and Capping of Commissions

The SCC requirements directly apply to the sale of regular life policies to individuals. Insurers and FA Firms must cap the variable income payable in the first year to representatives and supervisors at 55% of the total variable income payable, with the remaining 45% to be spread over a pre-defined period.

The reason for this is that representatives who receive the vast majority of their variable income upfront may not be incentivised to provide quality after-sales services to clients. The SCC requirements are applicable to both the firms and the representatives and supervisors they employ.

ComplianceAsia Consulting Pte Ltd. 137 Telok Ayer Street #03-06, Singapore 068602
Tel: (65) 6533 8834 www.complianceasia.com

MAS Investigation

During its ongoing supervision of these firms the MAS identified numerous breaches of regulatory requirements in relation to remuneration practices. The MAS commenced an investigation and found various instances where remuneration was paid to supervisors directly contravening the requirements detailed above.

MAS Reprimands

AIA FA

MAS found that three AIA FA Managing Directors (“MDs”) had acted as supervisors of AIA FA. These individuals were responsible for supervising the performance of the representatives in their respective agency groups. This includes supervising the sales and compliance standards of the representatives.

AIA FA failed to (i) review and assess the MDs performances; (ii) assign them BSC grades; and (iii) determine and pay their remuneration in accordance with the BSC. In addition, AIA FA failed to cap and spread the MDs variable income in accordance with the SCC.

Aviva Entities, Mr. Tan & Mr. Chee

Aviva engaged Mr. Tan from July 2016 to March 2020 as a consultant to provide strategic advice on Aviva FA’s business. During this time, Mr. Tan was found to have acted as a supervisor to representatives of Aviva FA. This was evident by the fact that Mr. Tan was seen having discussions on various sales and compliance issues with representatives.

From July 2016 to April 2019, Aviva nor Aviva FA did not put in place compliance arrangements to monitor Mr. Tan’s activities in Aviva FA. By not implementing compliance arrangements to supervise Mr. Tan, Aviva and Aviva FA contravened both the Guidelines on Risk Management Practice – Internal Controls and the Financial Advisers Regulations.

Mr. Tan was clearly acting in the role of a supervisor of Aviva FA during his time at the firm but Aviva FA failed to review and assess his performance, assign him a BSC grade, and determine and pay his remuneration in accordance with the BSC. Aviva also failed to cap and spread his variable income in accordance with the SCC.

Mr. Chee, the CEO and Director of Aviva FA was also reprimanded by the MAS. Mr. Chee failed to discharge his duties by failing to ensure that Aviva FA put in place arrangements to monitor Mr. Tan’s activities. Mr. Chee did not address the issue of poor conduct of Aviva FA’s representatives, which included misrepresenting to customers the nature and features of certain insurance products. This was despite the MAS’ continued engagement with Aviva FA in which the MAS was pushing Aviva FA to improve the sales conduct of its representatives. The MAS subsequently directed Aviva FA to appoint an independent external party to conduct a holistic review of the company’s internal control process, and to complete call-backs to all customers before any sales were completed. These measures remain in place.

Prudential

Three individuals who the MAS referred to as the Master Group Agency Manager (“MGAM”) Leaders and a consultant appointed by Prudential were deemed to have acted in the capacity of supervisors of Prudential. Prudential failed to review and assess the performance of the leaders

ComplianceAsia Consulting Pte Ltd. 137 Telok Ayer Street #03-06, Singapore 068602
Tel: (65) 6533 8834 www.complianceasia.com

and consultant, assign a BSC grade, and determine their remuneration in accordance with the BSC requirements.

Conclusion

Financial institutions ("FIs") must ensure that they have in place robust arrangements that ensure representatives and their supervisors always place their customers interests first. The BSC and SCC requirements have been implemented by MAS to promote good sales conduct in the financial advisor space. The MAS has set the tone here by making it very clear that firms and individuals that breach these requirements will face serious consequences if they do not comply.

FIs must ensure that they have in place adequate compliance internal controls to protect them against any non-compliant acts and to provide staff members with guidance as to expected standards of conduct.

How we can help

ComplianceAsia's dedicated Internal Audit Team can undertake a full audit of your BSC and SCC systems to ensure that your firm is complying with the various requirements governing the remuneration of representatives and supervisors. In addition, we can assist with undertaking a full review of your compliance manuals including all internal controls policies and procedures to ensure they address the various rules and regulations as well as industry best practices expected of financial institutions licensed by MAS.

About ComplianceAsia

ComplianceAsia is the longest established compliance consulting firm in Asia Pacific established in 2003 with offices in Hong Kong, Shanghai, Singapore, Tokyo and London. We have an unmatched track record of completing complex compliance consulting projects for financial firms in the APAC region.

With over 70 staff, including compliance experts with experience in dealing with the SFC, HKMA, MAS, CSRC, JFSA and Asian exchanges, we provide independent, unbiased advice on Asian financial industry legislation and regulations. Our international client base consists of asset managers, hedge funds, private equity funds, family offices, broker-dealers, insurers, wealth managers and investment banks.

ComplianceAsia Consulting Pte Ltd. 137 Telok Ayer Street #03-06, Singapore 068602
Tel: (65) 6533 8834 www.complianceasia.com

CA | ComplianceAsia

Contact Us Today

SINGAPORE
137 Telok Ayer Street #03-06
Singapore
068602

T: +65 6533 8834

HONG KONG SAR
Suite 1102
ChinaChem Tower
34-37 Connaught Road
Central

T: +852 2868 9070

MAINLAND CHINA
Room 132, Unit 1301-1308
13/F, Shanghai Tower
No.479 Lujiazui Ring Road
Pudong New Area Shanghai

T: +86 147 1431 1859

JAPAN
Level 2
Marunouchi Nijubashi Building
3-2-2 Marunouchi Chiyoda-ku
Tokyo 100-0005

T: +81 3 6837 5483

UNITED KINGDOM
1 St. Andrew's Hill
London
EC4V 5BY

T: +44 (0) 20 7236 0921
M: +44 (0) 7310 972435

Philippa Allen
CEO
E: philippa.allen@complianceasia.com

Alex Duperouzel
Managing Director
E: alex.duperouzel@complianceasia.com

Lachlan Chubb
Regional Head of Regulatory Advisory and Projects
E: lachlan.chubb@complianceasia.com

Cherry Chan
Regional Head of Ongoing Support
E: cherry.chan@complianceasia.com

Robert Lind
Senior Representative, UK and Europe
E: robert.lind@complianceasia.com

Rachel Wu
Regional Business Development and Compliance Manager
E: rachel.wu@complianceasia.com

Tomio Tan
Head of Licensing, Singapore
E: tomio.tan@complianceasia.com

Hanae Kuroda
Compliance Consultant
E: hanae.kuroda@complianceasia.com

www.complianceasia.com
ComplianceAsia