

**EXPLANATORY NOTE ON
PROPOSED CONSUMER PROTECTION (FAIR TRADING)
(CANCELLATION OF CONTRACTS) (AMENDMENT) REGULATIONS**

1 General

1.1 These Regulations seek to implement the proposals of the CPFTA¹ Review Taskforce to extend the ambit of the Consumer Protection (Fair Trading) (Cancellation of Contracts) Regulations (referred to as the “Cancellation Regulations”) to apply to unsolicited visits that occur after an initial contact at a place other than the supplier’s permanent place of business or by a communication by telephone or other electronic means.

1.2 As the CPFTA is to be extended to cover financial products and financial services regulated by laws administered by the Monetary Authority of Singapore², a consequential amendment is proposed to exclude such financial products and services from the application of the Cancellation Regulations where those laws provide for a longer cancellation period than that currently provided in the CPFTA.

2 Wider meaning of “initial contact”

2.1 The Cancellation Regulations provide for a cancellation period in respect of certain contracts (namely, direct sales contracts and time share contracts). Direct sales contracts are essentially contracts entered into during an unsolicited visit. Currently, an “unsolicited visit”³ extends to a visit by a supplier (not expressly requested by the consumer) that takes place after the supplier telephones or visits the consumer indicating his willingness to visit the consumer.

2.2 There has been feedback that some direct sellers seek to circumvent the existing Cancellation Regulations by making their initial contact by other means. It is proposed to amend the Cancellation Regulations⁴ to make it clear

¹ Consumer Protection (Fair Trading) Act (Cap.52A).

² The First Schedule to the CPFTA currently excludes any transaction or activity that is regulated under the certain Acts from the meaning of the term “consumer transaction”, thus excluding the provisions of the CPFTA from applying to such transactions and activities. The proposed Consumer Protection (Fair Trading) (Regulated Financial Products and Services) Regulations 2007 will amend the First Schedule to the CPFTA so that transactions and activities regulated under the following Acts will no longer be so excluded: Banking Act (Cap.19), Commodity Trading Act (Cap.48A), Finance Companies Act (Cap.108), Financial Advisers Act (Cap.110), Insurance Act (Cap.142), section 28 of the Monetary Authority of Singapore Act (Cap.186), Money-changing and Remittance Businesses Act (Cap.187) and Securities and Futures Act (Cap.289).

³ The term “unsolicited visit” is currently defined as “a visit by a supplier, whether or not he is the supplier who supplies the goods or services, which does not take place at the express request of the consumer and includes a visit by a supplier which takes place (otherwise than at the consumer’s express request and with or without the consent of the consumer) after the supplier telephones or visits the consumer indicating expressly or by implication that the supplier is willing to visit the consumer”.

⁴ This definition of “unsolicited visit” has been slightly modified to refer to an initial contact, which in turn is defined as follows:

“initial contact” means —

that the provisions apply where the initial contact occurs at any place other than the supplier's permanent place of business or by telephone or any electronic means. This would include a meeting at the supplier's exhibition booth at a trade fair⁵ or communication via the supplier's website, where the supplier indicates his willingness to visit the consumer.

3 Longer cancellation periods under MAS provisions

3.1 Regulation 8 of the *Insurance (General Provisions) Regulations* (Cap.142, Rg 17) provides for a 14 day "free-look" period during which a policy owner may terminate the policy.⁶

3.2 The *Notice on Cancellation Period for Collective Investment Schemes Constituted as Investment Trusts* (SFA 04/13-NO1), issued pursuant to sections 101 and 293 of the Securities and Futures Act (Cap.289), gives an investor in a collective investment scheme a right to cancel the agreement within 7 calendar days from the date of signing.⁷

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- (a) any meeting of the supplier and the consumer at a place other than the supplier's permanent place of business; or
 - (b) any communication between the supplier and the consumer by telephone or any electronic means;"

New regulation 2(2A) clarifies that a consumer shall not be considered to have made an express request for a visit by reason only that the consumer consented to the visit. The words "with or without the consent of the consumer" have now been omitted from the definition of "unsolicited visit".

⁵ The "supplier's permanent place of business" does not include the supplier's temporary premises at a trade fair, exhibition or promotional event.

⁶ Free look for life policies and accident and health policies

8. —(1) No registered insurer shall, in the course of carrying on insurance business in Singapore, issue a life policy or an accident and health policy with a duration of one year or more without a clause providing that the policy owner —

- (a) shall have 14 days from the date of receipt of the policy to examine the terms and conditions of the policy; and
 - (b) may terminate the policy within the 14-day period referred to in sub-paragraph (a).
- (2) Where a policy is terminated pursuant to a clause referred to in paragraph (1)(b) —
- (a) any sum which the policy owner has paid in connection with the policy (whether by way of premium or otherwise and whether to the insurer or his agent for the purpose of receiving that sum) shall, subject to paragraph (3), be recoverable from the insurer by the policy owner; and
 - (b) any expense incurred by the insurer in underwriting the policy shall be recoverable by the insurer from the policy owner.

(3) For the purpose of paragraph (2)(a), in the case of an investment-linked policy, the insurer shall, in determining the amount that is payable to the policy owner, be entitled to make an adjustment to reflect the change in market value of the underlying assets.

⁷ The Notice is issued pursuant to sections 101 and 293 of the Securities and Futures Act (Cap.289). The investor has a right to cancel, exercisable within 7 calendar days from the date of signing the purchase agreement. In calculating the amount to be repaid to the investor, adjustment may be made to reflect the change in market value of the units held by the investor. Expenses reasonably related to the original purchase and subsequent cancellation of units by the investor, if disclosed in writing to the investor before the purchase agreement was concluded, may be recovered. Alternatively, the investor may choose to redeem his units as stated in the prospectus of the unit trust. Notice available at http://www.mas.gov.sg/legislation_guidelines/securities_futures/sub_legislation/SFA_Notices.html.

3.3 It is proposed that such contracts be excluded from the application of the Cancellation Regulations as the cancellation periods provided by those MAS regimes are longer than the cancellation period under the Cancellation Regulations (which is 3 days, excluding Saturdays, Sundays and public holidays).