



Monetary Authority of Singapore

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**GUIDELINES ON DEFINITION OF A “DEPOSIT”**

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## **Guidelines on definition of a “Deposit” (“these Guidelines”)**

These Guidelines set out the factors that the Authority would consider in determining whether a financial product satisfies the definition of a “deposit” under the Banking Act.

### **Definitions**

2 The expressions used in these Guidelines shall, except where expressly defined in these Guidelines or where the context otherwise requires, have the same respective meanings as in the Banking Act.

3 Section 4B of the Banking Act defines a “deposit” as a sum of money paid on terms –

- (a) under which it will be repaid, with or without interest or a premium, or with any consideration in money or money’s worth, either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it; and
- (b) which are not referable to the provision of property or services or to the giving of security.

### **Characteristics of a deposit**

4 In determining whether a product is a “deposit”, the Authority would consider whether:

- (i) the principal amount invested in a product is repaid in full i.e. the person issuing the product (“the issuer”) is under an obligation to return to the investor the full value of the principal at maturity;

[Amended on 2 December 2005]

- (ii) the repayment of the principal amount is in cash. Payment of the interest portion may either be in cash or any other asset class. However, a product would not be considered a “deposit” where the repayment of the principal amount is in any other asset class, such as shares or bonds; and
- (iii) the product is repaid in full if held to maturity. In this regard, the Authority recognises that a product may still be considered a “deposit” despite the fact that an early withdrawal by the investor may result in the investor recovering a sum that is less than the full principal value. However, where a product is terminated early by the issuer due to the exercise of any rights of the issuer under any agreement with the investor, or any other circumstances within the issuer’s control, the product would not be considered a deposit unless the investor recovers, at the minimum, the full value of the principal.

### **Products which are not deposits**

5 Every merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186) should take note that a product that does not satisfy the characteristics of a deposit as set out in paragraph 4 above:

- a. should not be represented or referred to as such in any offer, invitation or advertisement issued in relation to the product;
- b. may be a capital markets product as defined under section 2 of the Securities and Futures Act (Cap.289) [“SFA”] and hence a merchant bank may be subject to all the relevant provisions under the SFA relating to capital markets products including prospectus requirements under Part XIII;

- c. may be an investment product as defined under section 2 of the Financial Advisers Act (Cap. 110) [“FAA”] and hence a merchant bank may be subject to all the relevant provisions under the FAA relating to investment products.

### **Transitional arrangements for banks in Singapore**

6 For the purposes of these Guidelines —

‘existing product’ means any product offered before the issuance of these Guidelines, that has been classified by any merchant bank as a deposit, but which does not fall within the definition of “deposit” in section 4B of the Banking Act;

‘new product’ means any product issued after the issuance of these Guidelines, that has been classified by any merchant bank as a deposit, but which does not fall within the definition of “deposit” in section 4B of the Banking Act.

7 The Authority is prepared to grant an exemption to all merchant banks which do not comply with the requirements in the FAA and the SFA in respect of any existing product, from the date the existing product is offered to the date the product matures.

8 The Authority is also prepared to grant an exemption to all merchant banks which do not comply with the requirements in the FAA and the SFA in respect of any new product where the maturity date of the product does not exceed 1 June 2005, from the date of issuance of these Guidelines until 1 June 2005, subject to the condition that the merchant bank does not represent or refer to the new product as a deposit in any offer, invitation or advertisement issued in relation to the product.

9 Every merchant bank should take immediate steps to ensure that its products are classified correctly for the purposes of ensuring compliance with all relevant legislation.

10 These Guidelines take immediate effect.

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