

BANKING ACT

(CHAPTER 19, SECTIONS 4A, 4B, 30 (1) (d), 32 (5), 33 (2) (d), 35 (1) AND (2) (e), 47 (10) AND 78 (1) AND (3))

BANKING REGULATIONS

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Citation

1. These Regulations may be cited as the Banking Regulations.

Definitions

2. In these Regulations, unless the context otherwise requires —

"Accounting Standards" has the same meaning as in section 4 (1) of the Companies Act (Cap. 50);

[S 170/2006, wef 24/03/2006](#)

"accredited investor" means —

(a) an individual, a trustee or a person within the meaning of section 4A (1) (a) (i), (iii) or (iv), respectively, of the Securities and Futures Act (Cap. 289);

(b) a corporation with net assets or net group assets exceeding \$10 million in value (or its equivalent in a foreign currency) or such other amount as the Authority may prescribe under section 4A (1) (a) (ii) of the Securities and Futures Act in place of the first amount, as determined by —

(i) the most recent audited balance-sheet of the corporation (whether on an individual or on a group basis); or

(ii) where the corporation is not required to prepare audited accounts regularly under the Companies Act (Cap. 50), a balance-sheet of the corporation (whether on an individual or on a group basis) certified by the corporation as giving a true and fair view of the state of affairs of the corporation and its group (where applicable) as of the date of the balance-sheet, which date shall be within the preceding 12 months; or

(c) a corporation which acts as a trustee for the customers of a person carrying on the business of fund management with total assets under management exceeding \$10 million in value (or its equivalent in a foreign currency);

[S 170/2006, wef 24/03/2006](#)

"credit derivative" means any swap, option or other financial derivative the purpose of which is to secure a profit or avoid a loss by reference to the performance by a third party of certain specified obligations or to the change in creditworthiness of the third party;

"customer" , in relation to a merchant bank, includes the Authority or any monetary authority or central bank of any other country or territory, but does not include any company which carries on merchant banking business, investment banking business or banking business, or such other financial institution as may be designated by the Authority by notice in writing;

"customer information" , in relation to a merchant bank, means —

(a) any information relating to, or any particulars of, an account of a customer of the merchant bank, whether the account is in respect of a loan, investment or any other type of transaction, but does not include any information that is not referable to any named customer or group of named customers; or

(b) deposit information;

"deposit information" , in relation to a merchant bank, means any information relating to —

- (a) any deposit of a customer of the merchant bank;
- (b) funds of a customer under management by the merchant bank; or
- (c) any safe deposit box maintained by, or any safe custody arrangements made by, a customer with the merchant bank,

but does not include any information that is not referable to any named person or group of named persons;

"fund management" has the same meaning as in Part II of the Second Schedule to the Securities and Futures Act (Cap. 289);

[S 170/2006, wef 24/03/2006](#)

"funds of a customer under management" means any funds or assets of a customer (whether of the merchant bank or any financial institution) placed with that merchant bank for the purpose of management or investment;

"group" , in relation to a corporation, means a group within the meaning of the Accounting Standards, of which the corporation is a part;

[S 170/2006, wef 24/03/2006](#)

"liabilities" , in relation to the policies of an insurance fund maintained by an insurer, means such liabilities and expenses of the insurer as are attributable to the business to which the insurance fund relates, but excludes any levy payable by that insurer under section 46 of the Insurance Act (Cap. 142);

"market day" , in relation to a share traded on a securities exchange, means any day which the securities exchange is open for trading of shares;

"merchant bank" means a merchant bank approved as a financial institution under section 28 of the Monetary Authority of Singapore Act (Cap. 186);

"NCD" means negotiable certificate of deposit;

"overseas bank" means a company incorporated, formed or established outside Singapore which carries on banking business only outside Singapore and is not licensed under the Act;

"place of booking" , in relation to a bond or an NCD issue, means the jurisdiction in which the branch or office of the issuer which is issuing the bond or NCD, as the case may be, is located;

"prohibited business" has the same meaning as in section 32 (7) of the Act;

"property corporation" means any body corporate where —

(a) more than 50% of the total turnover of the body corporate is derived from property-related activities; or

(b) more than 50% of the total assets of the body corporate comprises interests in or rights over immovable property situate in Singapore, other than such immovable property or any part thereof which is used —

(i) as premises for the conduct of any business carried on by the body corporate;

(ii) for the business of a hotel or hostel; or

(iii) for community, charity or educational purposes;

"property-related activities" means —

(a) the construction of or the causing of the construction of any building on, over or under land in Singapore for the purpose of sale by the person carrying out or causing such construction, of any right or interest in the land which would be appurtenant to such building, other than a building or part thereof constructed for use —

(i) for the business of a hotel or hostel; or

(ii) for community, charity or educational purposes;

(b) the acquisition or holding of any interest in or right over immovable property situate in Singapore for the purposes of rental, or for the purposes of securing a profit from its sale, other than such immovable property or part thereof —

(i) used or to be used by the person acquiring or holding the immovable property for occupation by himself or members of his family or as premises for any business carried on by him;

(ii) used or to be used for the business of a hotel or hostel; or

(iii) used or to be used for community, charity or educational purposes;

(c) the financing of any activity referred to in paragraph (a) or (b);

(d) the making of loans to any property corporation;

(e) the acquisition or holding as beneficial owner of shares or debentures issued by any property corporation; and

(f) the acquisition or holding as beneficial owner of debentures the payment of principal or interest on which is contingent, directly or indirectly, on the turnover, profits or cashflow from any activity under paragraph (a), (b), (c), (d) or (e);

"property sector exposure" , in relation to a bank in Singapore, means the aggregate of —

(a) amounts outstanding to the bank under credit facilities granted to any property corporation or to any related corporation of a property corporation for use by the property corporation;

(b) amounts outstanding to the bank under credit facilities granted to any person other than a property corporation —

(i) in the case where such person is a corporation, for the purpose of financing or facilitating the property-related activities of that person or its related corporations; and

(ii) in any other case, for the purpose of financing or facilitating the property-related activities of that person;

(c) amounts of debentures beneficially held by the bank and issued by any property corporation;

(d) amounts of debentures beneficially held by the bank and issued by any person other than a property corporation, where the payment of principal or interest is contingent, whether in whole or in part, on the turnover, profits or cashflow from any property-related activity;

(e) amounts paid by the bank for securities transferred to it pursuant to a repurchase transaction between the bank and a property corporation, on terms that require the future transfer of equivalent securities by the bank to the property corporation;

(f) amounts of contingent liabilities incurred by the bank —

(i) in respect of any obligation of a property corporation; or

(ii) in respect of any obligation of any other person, where such obligation is undertaken in connection with property-related activities;

(g) where the bank has entered into any agreement (including a credit derivative agreement) with any other party under which the other party would secure a benefit or avoid a loss where there is —

(i) a failure by a property corporation to perform its obligations;

(ii) a decline in the creditworthiness of a property corporation; or

(iii) a failure by any person other than a property corporation to perform its obligations where such obligations are undertaken in connection with property-related activities,

the highest amount of such benefit or loss as may be secured or avoided, as the case may be, except to the extent that such amount constitutes part of any amounts under paragraph (f); and

(h) amounts payable to the bank by any property corporation under a bill of exchange or promissory note,

but does not include any amounts in respect of —

(A) credit facilities granted to the Government or to any statutory board;

(B) Singapore Government Securities or bonds issued by any statutory board;

(C) debentures held pursuant to an agreement entered into by the bank for the underwriting of an issue of such debentures, for a period not exceeding 8 weeks from the date of the launch of the issue;

(D) loans, debentures or other assets forming the subject matter of a securitisation transaction where the criteria determined by the Authority for effecting a clean sale of assets by the bank have been complied with; or

(E) any instrument or transaction described in paragraphs (a) to (h) to the extent that the bank would be indemnified or otherwise protected from losses that may be incurred by it under that instrument or transaction pursuant to a guarantee issued by any other bank or any credit derivative entered into by the bank with any person other than a property corporation;

"Singapore Government Securities" means securities issued by the Government under any written law;

"subsidiary" has the same meaning as in section 5 of the Companies Act (Cap. 50);

"total eligible assets" , in relation to a bank in Singapore, means the aggregate of —

(a) amounts outstanding to the bank under credit facilities granted to any person other than a bank or an overseas bank;

(b) amounts of debentures beneficially held by the bank and issued by any other person who is not a bank or an overseas bank;

(c) amounts paid by the bank for securities transferred to it pursuant to a repurchase transaction between the bank and any other party who is not a bank or an overseas bank, on terms that require the future transfer of equivalent securities by the bank to the other party;

(d) amounts of contingent liabilities incurred by the bank —

(i) in respect of any obligation of a property corporation; or

(ii) in respect of any obligation of any other person, where such obligation is undertaken in connection with property-related activities;

(e) where the bank has entered into any agreement (including a credit derivative agreement) with any other party under which the other party would secure a benefit or avoid a loss where there is —

(i) a failure by a property corporation to perform its obligations;

(ii) a decline in the creditworthiness of a property corporation; or

(iii) a failure by any person other than a property corporation to perform its obligations where such obligations are undertaken in connection with property-related activities,

the highest amount of such benefit or loss as may be secured or avoided, as the case may be, except to the extent that such amount constitutes part of any amounts under paragraph (d); and

(f) amounts payable to the bank by any person, other than a bank or an overseas bank, under a bill of exchange or promissory note,

but does not include any amounts in respect of —

(A) in the case of a bank incorporated in Singapore, any instrument or transaction described in paragraphs (a) to (f) not forming part of the bank's business in Singapore, except to the extent that such instrument or transaction forms part of the property sector exposure of the bank; or

(B) in the case of a bank incorporated outside Singapore, any instrument or transaction described in paragraphs (a) to (f) not forming part of the bank's business in Singapore.

PART II

CONTROL OF DEPOSIT-TAKING ACTIVITIES

Exemption from section 4A (1) of Act

3.S ection 4A (1) of the Act shall not apply to —

(a) any holder of a capital markets services licence under the Securities and Futures Act (Cap. 289) if, and only if, the acceptance of the deposit is solely incidental to the carrying on of the business for which the licence was granted;

(b) any advocate and solicitor, foreign lawyer who is registered under the Legal Profession Act (Cap. 161), law corporation or Joint Law Venture which is approved under that Act, if, and only if, the acceptance of the deposit is solely incidental to the practice of his or its legal practice; and

(c) any insurer registered under the Insurance Act (Cap. 142) if, and only if, the acceptance of the deposit is solely incidental to the carrying on of the business for which the insurer was registered.

Exemption from section 4A(1) and (2) of Act

3A.—(1) Subject to paragraph (3), section 4A (1) of the Act shall not apply to any foreign entity in respect of any deposit accepted in Singapore, on behalf of the foreign entity by its agent bank, from any accredited investor in Singapore.

(2) Subject to paragraph (3), section 4A (2) of the Act shall not apply to any agent bank of a foreign entity in respect of —

(a) any offer or invitation to make any deposit, or to enter or offer to enter into any agreement to make any deposit, with the foreign entity; or

(b) any advertisement containing such offer or invitation,

where such offer, invitation or advertisement is made or issued to accredited investors in Singapore by the agent bank on behalf of the foreign entity.

(3) An agent bank which accepts or solicits deposits from an accredited investor on behalf of a foreign entity in the circumstances specified in paragraph (1) or (2) shall provide the following information to the accredited investor, in writing, when soliciting or accepting any deposit from the accredited investor:

(a) the name of the foreign entity;

(b) the jurisdiction where the deposit account would be opened;

(c) the class of licence or registration, or the type of approval or other instrument of regulation, that the foreign entity holds or has obtained in the jurisdiction where the deposit account would be opened;

(d) a statement to the effect that the class of licence or registration, or the type of approval or other instrument of regulation, permits the foreign entity to accept deposits in the jurisdiction where the deposit account would be opened; and

(e) a statement to the effect that the deposit account would not be subject to the supervisory oversight of the Authority but that of the relevant supervisory authority in the jurisdiction where the deposit account would be opened and maintained.

(4) In this regulation, unless the context otherwise requires —

"agent bank" , in relation to a foreign entity, means a bank in Singapore or merchant bank which is a branch or subsidiary of the foreign entity;

"foreign entity" means any corporation established or incorporated outside Singapore that is licensed, registered, approved or otherwise regulated to carry on banking business under the laws of the jurisdiction in which it is established or incorporated.

[S 170/2006, wef 24/03/2006](#)

Application of section 4A (2) of Act

4. For the purposes of section 4A (2) of the Act, in determining whether an offer, invitation or advertisement is made or issued to the public or any section of the public in Singapore, regard shall be had to the following considerations:

(a) whether the offer, invitation or advertisement contains any information specifically relevant to Singapore;

(b) whether the offer, invitation or advertisement is published in any newspaper, magazine, journal or other periodical publication, or in any broadcast media, which is principally for circulation or reception in Singapore;

(c) whether the offer, invitation or advertisement contains a prominent notice that no deposit shall be accepted from persons in Singapore, and whether such notice is viewed with or before the advertisement;

(d) whether reasonable steps are taken to guard against acceptance of deposits from persons in Singapore; or

(e) whether the offer, invitation or advertisement, directly or indirectly, states that deposits in Singapore currency shall be accepted.

Prescribed deposit

4A. For the purposes of section 4B (4) (b) of the Act, a sum of money paid by a person ("A") to another person ("B") or any other person as an agent of A is prescribed as a deposit made by A with B, if it is paid for the purpose of making funds of A available to B and under the following arrangement:

(a) the payment is made to enable B or the agent to purchase an asset on behalf of A, being an asset that exists at the time of the purchase;

(b) B purchases the asset from A at a price (the marked-up price) that is greater than the sum of money paid by A, and sells the asset;

(c) A and B, respectively, do not derive any gain or suffer any loss from any movement in the market value of the asset other than the difference between the marked-up price and the sum of money paid by A (which represents the return to A for making funds available to B); and

(d) no part of the marked-up price is required to be paid by B to A until after the date of sale of the asset by the B.

[S 238/2007, wef 11/06/2007](#)

Application of section 4B (6) (e) of Act

5. Subject to regulation 6, for the purposes of section 4B (4) of the Act, "deposit" does not include —

(a) a sum paid by or on behalf of any person in consideration for the issue to him by the recipient of —

- (i) bonds or NCDs denominated in any foreign currency;
 - (ii) bonds or NCDs denominated in Singapore dollars with an original maturity period of not less than 12 months; or
 - (iii) bonds or NCDs denominated in Singapore dollars with an original maturity period of less than 12 months and issued with a denomination of not less than \$200,000;
- (b) a sum paid by or on behalf of any person whose total net personal assets exceed \$2 million or its equivalent in foreign currency at the time of the payment, or whose income in the preceding 12 months is not less than \$300,000 or its equivalent in foreign currency at the time of the payment, in consideration for the issue to him by the recipient of bonds or NCDs denominated in Singapore dollars with an original maturity period of less than 12 months;
- (c) a sum paid by or on behalf of a company whose total net assets exceed \$10 million in value or its equivalent in foreign currency as determined by the last audited balance-sheet of the company in consideration for the issue to the company, by the recipient, of bonds or NCDs denominated in Singapore dollars with an original maturity period of less than 12 months;
- (d) a sum paid by or on behalf of an officer of the recipient, a close relative of an officer of the recipient or a close relative of the recipient (if the recipient is a natural person), in consideration for the issue to the payer by the recipient, of bonds or NCDs denominated in Singapore dollars with an original maturity of less than 12 months;
- (e) a sum paid by or on behalf of any person in consideration of the issue to him of Singapore Government Securities; or
- (f) a sum paid by or on behalf of any person in consideration of the issue to him of bonds issued by any statutory board.

Prescribed international financial institution

5A. The following institutions are prescribed as international financial institutions for the purposes of section 5 (2) (g) of the Act:

- (a) African Development Bank;
- (b) Asian Development Bank;
- (c) Bank for International Settlements;
- (d) Caribbean Development Bank;
- (e) Council of Europe Development Bank;
- (f) European Bank for Reconstruction and Development;
- (g) European Central Bank;
- (h) European Investment Bank;
- (i) Inter-American Development Bank;
- (j) Islamic Development Bank;
- (k) Nordic Investment Bank; and

(l) World Bank Group.

[S 238/2007, wef 11/06/2007](#)

Additional disclosure requirements for exemption under regulation 5

6.—(1) Without prejudice to any disclosure requirements under any other written law, for the purposes of qualifying for the exemption under regulation 5, bonds or NCDs denominated in Singapore dollars which are issued with a denomination of less than \$200,000, shall have contained —

(a) in any prospectus and any profile statement in respect of its issue; or

(b) where such documents are not required in respect of its issue, in an information memorandum to be issued, circulated or distributed in respect of its issue,

the additional information set out in paragraph (2).

(2) The additional information required to be disclosed under paragraph (1) are —

(a) a statement of the place of booking of the issue;

(b) where the name of the issuer contains the word “bank”, “finance” or any of its derivatives in any language and —

(i) the place of booking of the issue is not Singapore; or

(ii) the issuer is not regulated or authorised by the Authority under any written law,

a statement that the branch or office of the issuer at which the issue is booked is not subject to regulation or supervision in Singapore;

(c) where repayment under the bond or NCD is secured (whether by mortgage, charge, guarantee or other means), a statement of the nature of the security, the name of the mortgagor, chargor or guarantor, as the case may be, and whether such person is regulated or authorised by the Authority under any written law; and

(d) where repayment under the bond or NCD is not secured (whether by mortgage, charge, guarantee or other means), a statement that repayment is not secured by any means.

PART IIA

MINIMUM CAPITAL REQUIREMENTS

Minimum capital requirements for wholesale banks

6A.—(1) For the purposes of section 9(1)(a) of the Act, the paid-up capital of a bank holding a wholesale banking licence which is incorporated in Singapore shall be not less than \$100 million.

(2) In this regulation, “wholesale banking licence” means a licence to transact banking business, the conditions of which require the holder of that licence to comply with such guidelines as may be issued by the Authority in relation to the operation of wholesale banks; and includes a “restricted banking licence” granted by the Authority before 29th June 2001.

[S 360/2009, wef 03/08/2009](#)

PART IIB

EXCLUSION OF LIMITS ON EQUITY INVESTMENTS

Exclusion from operation of section 31 of Act for stabilising action during offer

6B.—(1) Section 31 of the Act shall not apply, during the specified period, in respect of any equity investment in a single company acquired or held by any bank in Singapore when acting as a stabilising bank in relation to an offer of securities issued by the company, where —

[S 360/2009, wef 03/08/2009](#)

(a) an over-allotment option has been made giving the bank the right to purchase a number of securities equivalent to the number of securities over-allotted —

(i) in a case where more than one tranche of securities is offered at different prices, at or below the issue price for each tranche; or

(ii) in any other case, at or below the issue price; and

(b) the total number of securities subscribed for or purchased by the bank as a result of its stabilising action does not exceed the number of securities over-allotted.

(2) In this regulation, unless the context otherwise requires —

"closing date" has the same meaning as in regulation 2 of the Securities and Futures (Market Conduct) (Exemptions) Regulations 2006 (G.N. No. S 148/2006);

"dealer" means a person who is the holder of a capital markets services licence under the Securities and Futures Act (Cap. 289) to deal in securities, and includes a person who is licensed, approved, authorised or otherwise regulated under the laws, codes or other requirements of any foreign jurisdiction in respect of dealing in securities;

"issue price" , in relation to securities being offered under an offer, means the price at which the securities are being offered for subscription or purchase;

"issuer" has the same meaning as in regulation 2 of the Securities and Futures (Market Conduct) (Exemptions) Regulations 2006;

"offer" has the same meaning as in regulation 2 of the Securities and Futures (Market Conduct) (Exemptions) Regulations 2006;

"over-allotment" has the same meaning as in regulation 2 of the Securities and Futures (Market Conduct) (Exemptions) Regulations 2006;

"overseas securities exchange" has the same meaning as in section 2 of the Securities and Futures Act;

"relevant securities" has the same meaning as in regulation 2 of the Securities and Futures (Market Conduct) (Exemptions) Regulations 2006;

"securities" and "securities exchange" have the same meanings as in section 2 of the Securities and Futures Act;

"specified period" means a period of 30 calendar days —

(a) from the date of commencement of dealing in the stabilised securities on a securities exchange; or

(b) where the stabilised securities are listed on both a securities exchange and an overseas securities exchange, from the earlier of the dates of commencement of dealing in the stabilised securities on these exchanges;

"stabilised securities" , in relation to any stabilising action, means the securities in respect of which the stabilising action has been, is being or will be taken, as the case may be;

"stabilising action" , in relation to an offer, means the action taken in Singapore or elsewhere by a stabilising bank, or by a dealer on behalf of the stabilising bank, to buy, or to offer or agree to buy, any relevant securities on the securities market, in order to stabilise or maintain the market price of such securities in Singapore or elsewhere;

"stabilising bank" , in relation to an offer, means a bank in Singapore —

(a) which is appointed in writing by the issuer of an offer to take any stabilising action in respect of the offer; and

(b) whose appointment under paragraph (a) is notified to the securities exchange on which the relevant securities are or are intended to be listed before the closing date of the offer.

[S 401/2008, wef 11/08/2008](#)

PART III

EXCLUSION OF CERTAIN INVESTMENTS AND WHOLLY-OWNED SUBSIDIARIES

[S 56/2011, wef 14/02/2011](#)

Exclusion of certain companies from operation of section 32 of Act

7.—(1) The Authority hereby excludes from the operation of section 32 of the Act —

(a) any company which carries on a prohibited business (whether as its principal business or otherwise) if, and only if, it has potential for high growth from the exploitation of high technology, emerging technology or new business models;

(b) any company which carries on a prohibited business (whether as its principal business or otherwise) if, and only if, it has potential for high growth, and the company is, at the time of the acquisition of a major stake by the bank, undergoing a reorganisation of its management or a restructuring of its business directions or operations; or

(c) any company whose principal business is that of investing in any company described in sub-paragraph (a) or (b).

[S 370/2010, wef 05/07/2010](#)

(2) The exclusion in paragraph (1) shall not apply to a company which is —

(a) not carrying on any substantial business or not in operation;

(b) carrying on the business of engaging in property-related activities;

(c) carrying on the business of factoring, leasing equipment or otherwise purchasing debt obligations from others; or

(d) a company or within a class of companies, specified by the Authority by notice in writing by reference to a bank or a class of banks.

Exclusion of wholly-owned subsidiaries of bank held primarily for segregating risks arising from carrying on business prescribed in regulation 23G

7A.—(1) Subject to paragraph (2), the Authority hereby excludes from the operation of section 32 of the Act any wholly-owned subsidiary of a bank in Singapore acquired or held primarily for the purpose of segregating risks that arises from the carrying on of any business prescribed in regulation 23G(1) so as to prevent such risks from affecting the financial soundness and stability of the bank.

(2) The exclusion under paragraph (1) of any wholly-owned subsidiary of a bank in Singapore from the operation of section 32 of the Act applies if, and only if —

(a) the bank has an agreement with the wholly-owned subsidiary to allow the Authority and any person appointed by the Authority, at any time, to obtain any information from the wholly-owned subsidiary and to inspect the books of the wholly-owned subsidiary;

(b) where the wholly-owned subsidiary is a financial institution regulated by an overseas regulatory authority, the bank is satisfied, from its own due diligence or from having taken professional advice, that the Authority and any person appointed by the Authority are not prohibited from obtaining any information from, or inspecting the books of, the wholly-owned subsidiary; and

(c) the bank ensures that the wholly-owned subsidiary of the bank carries on its business in a manner that satisfies such conditions relating to the operations or activities of the wholly-owned subsidiary as the Authority may impose, from time to time, by notice in writing.

(3) For the purpose of this regulation, a company is a wholly-owned subsidiary of a bank if none of the members of the company, or none of the persons holding any ownership interest in the company, is a person other than the bank.

[S 56/2011, wef 14/02/2011](#)

PART IV

PROPERTY SECTOR EXPOSURE

Property sector exposure limit

8.—(1) The property sector exposure of a bank in Singapore shall not exceed 35% of the total eligible assets of that bank.

(2) Notwithstanding paragraph (1), the Authority may, if it considers appropriate in the particular circumstances of a bank in Singapore, require the property sector exposure of that bank not to exceed such other percentage as it may determine, for such period and subject to such conditions as it may determine.

(3) Any bank which contravenes this regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine of \$10,000 for every day or part thereof during which the offence continues after conviction.

Submission of returns

9. Every bank in Singapore shall, within 10 days from 31st March, 30th June, 30th September

and 31st December of each year, submit a return to the Authority on its property sector exposure in the form set out in the First Schedule.

PART V

APPLICATION OF SECRECY PROVISIONS TO MERCHANT BANKS

Application of section 47 of, and Third Schedule to, Act to merchant banks

10. The provisions of section 47 of the Act and the Third Schedule to the Act as modified and set out in the Second and Third Schedules to these Regulations respectively, shall apply to every merchant bank.

PART VI

EXCLUSION OF NON-BENEFICIAL INTERESTS IN OR RIGHTS OVER IMMOVABLE PROPERTY

Exclusion of non-beneficial interests in or rights over immovable property from section 33 of Act

11. For the purposes of determining the aggregate value of the interest in or right over immovable property referred to in section 33 (1) of the Act, there shall be excluded such portion of the value of any interest in or right over immovable property or any part thereof held for the benefit of persons other than the bank pursuant to an obligation imposed under any written law, rule of law, contract or order of court.

PART VII

COMPUTATION OF MAJOR STAKES

Meaning of "affiliated entity"

12.—(1) In this Part and Part VIII, "affiliated entity", in relation to a bank, means —

- (a) any subsidiary of the bank;
- (b) any company in which the bank and its subsidiaries hold in the aggregate a beneficial interest in not less than 20% of the share capital;
- (c) any company in which the bank and its subsidiaries control in the aggregate not less than 20% of the voting power;
- (d) any other company where the directors of the company are accustomed or under an obligation, whether formal or informal, to act in accordance with the bank's directions, instructions or wishes, or where the bank is in a position to determine the policy of the company; or
- (e) any subsidiary of a company referred to in sub-paragraph (b), (c) or (d).

(2) Notwithstanding paragraph (1) (a), (b), (c) or (e), any beneficial interest in the share capital of, or control of voting power in, a company that is —

(a) acquired by a bank or any entity referred to in paragraph (1) (referred to in this paragraph as the relevant entity) pursuant to an arrangement with a person who has a trading account with the relevant entity, and transferred to the trading account of that person within 2 market days from the date of acquisition; or

(b) acquired or held by the relevant entity in the course of satisfaction of debts due to it and disposed of at the earliest suitable opportunity,

shall be excluded for the purpose of determining whether the company is an affiliated entity of the bank.

(3) Notwithstanding paragraph (1) (c), any control of voting power in a company that is held by the bank or its subsidiary —

(a) for the benefit of any person other than the bank or its subsidiary, or any other affiliated entity of the bank (referred to in this paragraph as the beneficiary) pursuant to an obligation imposed under any written law, rule of law, contract or order of court; and

(b) used or exercised by the bank or its subsidiary primarily for the benefit of the beneficiary,

shall be excluded for the purpose of determining whether the company is an affiliated entity of the bank, unless —

(i) the control of voting power in the company is held by a bank's subsidiary that is an insurer registered under the Insurance Act (Cap. 142), through —

(A) any insurance fund established and maintained under the Insurance Act for its general business;

(B) any insurance fund established and maintained under the Insurance Act (Cap. 142) for its non- participating policies;

(C) any insurance fund established and maintained under the Insurance Act for its participating policies, and which relates to assets held other than for the purpose of meeting the liabilities in respect of the policies of the insurance fund; or

(D) any insurance fund established and maintained under the Insurance Act for its investment-linked policies, and which relates to assets held other than for the purpose of meeting those liabilities in respect of the policies of the insurance fund, the values of which are dependent on the value of the underlying assets; or

(ii) the Authority (having regard to the specific circumstances of the case including whether the bank or its subsidiaries has investment and voting policies that comply with guidelines issued by the Authority) is of the opinion that the control of voting power in the company is in fact not being used or exercised primarily for the benefit of the beneficiary, and the Authority issues a declaration by notice in writing to the bank that such control of voting power in the company shall, with effect from the date of the declaration, be included for the purpose of determining whether that company is an affiliated entity of the bank.

(4) Notwithstanding paragraph (1) (e), where a company referred to in paragraph (1) (b) or (c) is not an affiliated entity of the bank by virtue of paragraph (2) or (3), its subsidiary shall correspondingly not be regarded as an affiliated entity of the bank.

Holding by affiliated entity deemed to be holding by bank

13.—(1) In determining whether a bank holds a major stake in a company as defined in section 32 (7) of the Act —

(a) any beneficial interest in the share capital of a company held by an affiliated entity of the bank shall be deemed to be a beneficial interest in that share capital held by that bank;

(b) any control of voting power in a company held by an affiliated entity of the bank shall be deemed to be a control of such voting power held by that bank; and

(c) any interest in a company (where the directors of the company are accustomed or under an obligation, whether formal or informal, to act in accordance with the bank's directions, instructions or wishes, or where the bank is in a position to determine the policy of the company) held by an affiliated entity of the bank shall be deemed to be an interest held by that bank.

(2) Paragraph (1) shall not apply to any beneficial interest in the share capital of, control of voting power or interest in, a company that is acquired or held by an affiliated entity and transferred or disposed of by the affiliated entity in the manner referred to in regulation 12 (2) (a) or (b).

(3) Paragraph (1) (b) or (c) shall not apply to any control of voting power or interest in a company that is held by an affiliated entity of a bank —

(a) for the benefit of any person other than the affiliated entity, the bank or any other affiliated entity of the bank (referred to in this paragraph as the beneficiary), pursuant to an obligation imposed under any written law, rule of law, contract or order of court; and

(b) used or exercised by that affiliated entity primarily for the benefit of the beneficiary,

unless —

(i) that affiliated entity is an insurer registered under the Insurance Act (Cap. 142), and it holds the control of voting power or interest in the company through any of the insurance funds specified in regulation 12 (3) (i) (A) to (D); or

(ii) the Authority (having regard to the specific circumstances of the case including whether the affiliated entity has investment and voting policies that comply with guidelines issued by the Authority) is of the opinion that the control of voting power or interest in the company is in fact not being used or exercised primarily for the benefit of the beneficiary, and the Authority issues a declaration by notice in writing to the bank that paragraph (1) (b) or (c), as the case may be, shall, with effect from the date of the declaration apply to the control of voting power or interest in the company held by that affiliated entity.

Affiliated entity over which the bank has no effective control

14.—(1) Where a company falls within the definition of "affiliated entity" under regulation 12 (1) (a), (b), (c) or (e), but not regulation 12 (1) (d), and the Authority is satisfied that —

(a) the affiliated entity is not under the effective control of the bank; and

(b) the bank is not exposed to any material risk by virtue of that affiliated entity's beneficial interest in the share capital of, control of voting power or interest in, other companies,

the Authority may, by notice in writing to the bank, declare that regulation 13 (1) shall not apply to any beneficial interest in the share capital of, control of voting power in or interest in,

any company held by that affiliated entity, and in such event, regulation 13 (1) shall not apply accordingly with effect from the date specified in the declaration, until such time as the declaration is revoked.

(2) The Authority may upon making a declaration under paragraph (1) and from time to time, impose such conditions as the Authority considers appropriate and if any of the conditions are not complied with at any time, the Authority may revoke the declaration by notice in writing to the bank.

(3) Without prejudice to paragraph (2), the Authority may, by notice in writing to a bank, revoke a declaration made under paragraph (1) if the Authority is satisfied that —

(a) the affiliated entity has come under the effective control of the bank; or

(b) the bank has become exposed to material risk by virtue of that affiliated entity's beneficial interest in the share capital of, control of voting power or interest in, other companies,

and in such event, regulation 13 (1) shall apply to that affiliated entity accordingly with effect from the date specified in the notice of revocation.

(4) Without prejudice to paragraph (3), a declaration under paragraph (1) shall automatically be revoked if and when the affiliated entity falls within the definition of "affiliated entity" under regulation 12 (1) (d), whether or not that affiliated entity continues to fall within the definition of "affiliated entity" under regulation 12 (1) (a), (b), (c) or (e).

PART VIII

LIMITATION OF MUTUAL SHAREHOLDINGS

Definitions of this Part

15.In this Part —

"holding company" has the same meaning as in section 5 of the Companies Act (Cap. 50);

"qualified major stake company" , in relation to a bank, means an affiliated entity of the bank in which the bank is deemed, by virtue of section 32 (7) of the Act and Part VII of these Regulations, to hold a major stake;

"share" , in relation to a bank or the financial holding company of a bank, means a share in the share capital of the bank or the financial holding company of the bank, as the case may be, and includes an interest in such a share.

Limitation of mutual shareholdings

16.—(1) No qualified major stake company of a bank incorporated in Singapore shall acquire or hold shares in the bank which has the effect of enabling it, whether alone or jointly with other qualified major stake companies of the bank, to control more than 2% of the voting power in the bank.

(2) No qualified major stake company of a bank incorporated in Singapore shall acquire or hold shares in any holding company of the bank which has the effect of enabling it, whether alone or jointly with other qualified major stake companies of the bank, to control more than 2% of the voting power in the holding company.

(3) No qualified major stake company of a bank incorporated in Singapore shall acquire or hold shares in the bank and any of the holding companies of the bank which has the effect of

enabling it, whether alone or jointly with other qualified major stake companies of the bank, to control —

(a) any percentage of the voting power in the bank; and

(b) any percentage of the voting power in any of the holding companies of the bank,

such that the sum total of the percentages referred to in sub-paragraphs (a) and (b) (notwithstanding that they are percentages of voting powers in different companies) exceeds 2.

(4) No bank incorporated in Singapore shall cause or knowingly permit any of its qualified major stake companies to acquire or hold shares in the bank or any holding company of the bank in contravention of paragraphs (1), (2) or (3).

(5) For the purposes of determining whether there is a contravention of paragraph (1), (2), (3) or (4), any control of voting power in a bank or any holding company of the bank that is held by a qualified major stake company of that bank —

(a) for the benefit of any person other than the qualified major stake company or any other qualified major stake company of that bank (referred to in this paragraph as the beneficiary), pursuant to an obligation imposed under any written law, rule of law, contract or order of court; and

(b) used or exercised by the qualified major stake company for the benefit of the beneficiary,

shall be disregarded, unless —

(i) the qualified major stake company is an insurer registered under the Insurance Act (Cap. 142), and the control of voting power is held by it through any of the insurance funds specified in regulation 12 (3) (i) (A) to (D); or

(ii) the Authority (having regard to the specific circumstances of the case including whether the qualified major stake company has investment and voting policies that comply with guidelines issued by the Authority) is of the opinion that the control of voting power in the bank or holding company of the bank is in fact not being used or exercised primarily for the benefit of the beneficiary, and the Authority issues a declaration by notice in writing to the qualified major stake company that such control of voting power in the bank or holding company of the bank shall, with effect from the date of the declaration, be included for the purpose of determining whether there is a contravention of paragraph (1), (2), (3) or (4).

Qualified major stake company over which the bank has no effective control

17.—(1) Where a qualified major stake company falls within the definition of “affiliated entity” of a bank under regulation 12 (1) (a), (b), (c) or (e) but not regulation 12 (1) (d), and the Authority is satisfied that —

(a) the company is not under the effective control of the bank; and

(b) the bank is not exposed to any material risk by virtue of that company’s beneficial interest in the share capital of, control of voting power or interest in, other companies,

the Authority may, by notice in writing to the bank, declare that any shares held by that company in the bank or any holding company of the bank, shall be excluded for the purpose of determining whether there is a contravention of regulation 16 (1), (2), (3) or (4) and in such event, the exclusion shall take effect from the date specified in the declaration until such time as the declaration is revoked.

(2) The Authority may upon making a declaration under paragraph (1) and from time to time, impose such conditions as the Authority considers appropriate and if any of the conditions are not complied with at any time, the Authority may revoke the declaration by notice in writing to the bank.

(3) Without prejudice to paragraph (2), the Authority may, by notice in writing to a bank, revoke a declaration made under paragraph (1) if the Authority is satisfied that —

(a) the company has come under the effective control of the bank; or

(b) the bank has become exposed to material risk by virtue of that company's beneficial interest in the share capital of, control of voting power or interest in other companies,

and in such event, any shares held by that company in the bank or any holding company of the bank shall, with effect from the date specified in the notice of revocation, be included for the purpose of determining whether there is a contravention of regulation 16 (1), (2), (3) or (4).

(4) Without prejudice to paragraph (3), a declaration under paragraph (1) shall automatically be revoked if and when the company falls within the definition of "affiliated entity" under regulation 12 (1) (d), whether or not the company continues to fall within the definition of "affiliated entity" under regulation 12 (1) (a), (b), (c) or (e).

Offences, penalties and defences

18.—(1) Any person who contravenes regulation 16 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 and, in the case of a continuing offence, to a further fine of \$2,500 for every day or part thereof during which the offence continues after conviction.

(2) A qualified major stake company of a bank shall not be guilty of an offence in respect of a contravention of regulation 16 (1), (2) or (3) if the qualified major stake company proves that —

(a) it became a qualified major stake company of the bank by virtue of, or the contravention resulted from, circumstances beyond its control; or

(b) it had, at the time of its acquisition or holding of shares in the bank or any holding company of the bank, reasonable grounds for believing that such acquisition or holding would not result in a contravention of regulation 16 (1), (2) or (3), as the case may be,

and it had, within 14 days of becoming aware of the contravention, notified the Authority in writing of the contravention and taken such action as directed by the Authority within such time as may be determined by the Authority.

(3) A bank shall not be guilty of an offence in respect of a contravention of regulation 16 (4) if the bank proves that —

(a) the contravention resulted from circumstances beyond its control; or

(b) it did not know and had no reason to suspect that there was an acquisition or holding of shares in itself or any of its holding companies by its qualified major stake company or companies which would result in it being in contravention of regulation 16 (4),

and it had, within 14 days of becoming aware of the contravention, notified the Authority in writing of that contravention, and taken such action as directed by the Authority within such time as may be determined by the Authority.

(4) Except as provided in paragraphs (2) and (3), it shall not be a defence for a person charged with an offence in respect of a contravention of regulation 16 to prove that the person did not intend to or did not knowingly contravene regulation 16.

Grace period for mutual shareholdings

19.—(1) Where a qualified major stake company of a bank would, but for this paragraph, be guilty of an offence under regulation 18 (1) by virtue of its shareholding in the bank or any of the bank's holding companies immediately before 5th May 2004, it shall not be so liable under that regulation until 17th July 2006 provided that it does not do any act that causes an increase in such shareholding.

(2) Where a bank would, but for this paragraph, be guilty of an offence under regulation 18 (1) by virtue of its qualified major stake company's shareholding in itself or any of its holding companies immediately before 5th May 2004, it shall not be so liable under that regulation until 17th July 2006 provided that it does not cause or permit its qualified major stake company to do any act that causes an increase in such shareholding.

PART IX

PRESCRIBED BUSINESSES

[S 622/2005, wef 29/09/2005](#)

Definitions of this Part

20.In this Part —

"asset" includes any commodity as defined in section 2 of the Commodity Trading Act (Cap. 48A);

[S 622/2005, wef 29/09/2005](#)

"building" means any immovable property that has undergone development as defined in section 3 of the Planning Act (Cap. 232);

"foreclosed property" , in relation to a bank in Singapore or major stake company, means the whole or any part of any residential, commercial or industrial land or building that has been acquired by the bank or company, as the case may be, acting in its capacity as the mortgagee of the whole or that part of the land or building, as the case may be, pursuant to an action for foreclosure;

"investment property" , in relation to a bank in Singapore or major stake company, means the whole or any part of any residential, commercial or industrial land or building that has been acquired or is held by the bank or company, as the case may be, as an investment;

"land" means any immovable property that has not undergone development as defined in section 3 of the Planning Act (Cap. 232);

"major stake company" , in relation to a bank in Singapore, means a company in which the bank has acquired or holds a major stake with the prior approval of the Authority under section 32 (1) of the Act;

"property enhancement" means —

(a) in relation to a building, the carrying out of any works for the refurbishment, improvement or alteration of, or addition to, the building which —

(i) do not amount to demolition or reconstruction of the building; and

(ii) do not vary the gross floor area of the building by more than 20%;
and

(b) in relation to any part of a building, the carrying out of any works for the refurbishment, improvement or alteration of, or addition to, that part of the building which —

(i) do not amount to demolition or reconstruction of that part of the building; and

(ii) do not vary the gross floor area of that part of the building by more than 20%;

"property management" , in relation to the whole or any part of any land or building, means the maintenance and management of the whole or that part of the land or building, as the case may be, and includes the procurement of security services and lease and tenancy administration in relation to the whole or that part of the land or building, as the case may be, but does not include property enhancement.

Prescribed property-related businesses

21.For the purposes of section 30 (1) (d) of the Act, the Authority hereby prescribes the following property-related businesses as businesses that any bank in Singapore may carry on, or enter into any partnership, joint venture or other arrangement with any person to carry on:

(a) the business of providing property management services in relation to —

(i) any investment property that has been acquired or is held by the bank or any major stake company of the bank;

(ii) any foreclosed property that has been acquired by the bank or any major stake company of the bank; or

(iii) the whole or any part of any building that is occupied and used —
(A) by the bank for the carrying on of any business or class of business referred to in section 30 (1) of the Act; or

(B) by any major stake company of the bank for the carrying on of that company's business;

(b) the business of managing and coordinating property enhancement works in relation to —

(i) any property referred to in paragraph (a) (i) or (ii) that is a building; or

(ii) any building referred to in paragraph (a) (iii).

Prescribed alternative financing business

22.—(1) For the purposes of section 30 (1) (d) of the Act, and subject to paragraph (2), the business of purchasing and selling assets is prescribed as a business that any bank in Singapore may carry on, or enter into any partnership, joint venture or other arrangement with any person to carry on, if such business is carried on under the following arrangement:

[*S 325/2006, wef 12/06/2006*](#)

(a) the bank, at the request of and for the purpose of financing the purchase of each of those assets by a customer, purchases the asset from the seller in circumstances where the asset is existing at the time of the purchase;

(b) the bank sells the asset to the customer;

- (c) the customer is under a legal obligation to the bank to take delivery of the asset;
- (d) the amount payable by the customer for the asset (the marked-up price) is greater than the amount paid by the bank for the asset (the original price), and the difference between the marked-up price and original price is the profit or return to the bank for providing such financing to the customer;
- (e) the bank does not derive any gain or suffer any loss from any movement in the market value of the asset other than as part of the profit or return referred to in subparagraph (d); and
- (f) the marked-up price or any part thereof is not required to be paid until after the date of the sale.

(2) The bank shall notify the Authority of its —

- (a) intention to commence the business referred to in paragraph (1); or
- (b) commencement of such business within 14 days after the commencement of such business.

[S 622/2005, wef 29/09/2005](#)

Prescribed purchase and sale business

23.—(1) For the purposes of section 30 (1) (d) of the Act, and subject to paragraph (2), the business of purchasing and selling assets is prescribed as a business that any bank in Singapore may carry on, or enter into any partnership, joint venture or other arrangement with any person to carry on, if such business is carried on under the following arrangement:

- (a) for the purpose of making funds of a customer available to a bank, the customer appoints the bank or any other person as agent, to purchase on his behalf, an asset for an amount of money (the original price), in circumstances where the asset is existing at the time of the purchase;

[S 18/2009, wef 19/01/2009](#)

(b) Deleted by S 18/2009, wef 19/01/2009

- (c) the bank purchases the asset from the customer at a price (the marked-up price) that is greater than the original price, and sells the asset or appoints the customer, or any other person as an agent of the bank, to sell the asset on its behalf;

[S 18/2009, wef 19/01/2009](#)

- (d) the bank and customer, respectively, do not derive any gain or suffer any loss from any movement in the market value of the asset other than the difference between the marked-up price and the original price (which represents the profit or return to the customer for making funds available to the bank); and

- (e) the marked-up price or any part thereof is not required to be paid by the bank to the customer until after the date of sale of the asset by the bank.

(2) The bank shall notify the Authority of its —

- (a) intention to commence the business referred to in paragraph (1); or
- (b) commencement of such business within 14 days after the commencement of such business.

[S 325/2006, wef 12/06/2006](#)

Prescribed inter-bank purchase and sale business

23A.—(1) For the purposes of section 30(1)(d) of the Act, and subject to paragraph (3), the

business of purchasing and selling assets is prescribed as a business that any bank in Singapore may carry on, or enter into any partnership, joint venture or other arrangement with any person to carry on, if such business is carried on under the following arrangement:

- (a) for the purpose of making funds of the bank ("A") available to another bank or merchant bank ("B"), A purchases, or appoints B or any other person as an agent of A to purchase on its behalf, an asset for an amount of money (the original price), in circumstances where the asset is existing at the time of the purchase;
- (b) B purchases the asset from A at a price (the marked-up price) that is greater than the original price, and sells the asset, or appoints A, or any other person as an agent of B, to sell the asset on its behalf;
- (c) A and B, respectively, do not derive any gain or suffer any loss from any movement in the market value of the asset other than the difference between the marked-up price and the original price (which represents the profit or return to A for making funds available to B); and
- (d) the marked-up price or any part thereof is not required to be paid by B to A until after the date of sale of the asset by B.

(2) For the purposes of section 30(1)(d) of the Act, and subject to paragraph (3), the arrangement set out in paragraph (1), in circumstances where the roles of A and B are reversed, is prescribed as a business that any bank in Singapore may carry on or enter into any partnership, joint venture or other arrangement with any person to carry on.

(3) The bank shall notify the Authority of its —

- (a) intention to commence the business referred to in paragraph (1); or
- (b) commencement of such business within 14 days after the commencement of such business.

[S 18/2009, wef 19/01/2009](#)

Prescribed leasing business

23B.—(1) For the purposes of section 30(1)(d) of the Act, and subject to paragraph (2), the business of leasing assets (whether in the form of movable or immovable property) is prescribed as a business that any bank in Singapore may carry on, or enter into any partnership, joint venture or other arrangement with any person to carry on, if such business is carried on under the following arrangement:

- (a) the bank, or the bank's agent, purchases an asset at the request of a customer for an amount of money (the original price) for the purposes of financing the use or purchase, or both, of the asset by the customer;
- (b) the bank, or the bank's agent, leases the asset to the customer;
- (c) in a case where the asset is not in existence at the time the bank, or the bank's agent, leases the asset to the customer, an amount of money (the advance payment) may be paid by the customer to the bank, or the bank's agent, for the subsequent use of the asset;
- (d) an amount of money (the rental) is paid by the customer to the bank, or the bank's agent, for the lease of the asset;
- (e) the bank, or the bank's agent, appoints the customer, or a third party, to take on the obligations in connection with the use of the asset, including its maintenance and insurance;

(f) in the event of an early termination of the lease, the customer, or a third party, shall purchase the asset from the bank, or the bank's agent, at a price determined at the start of the lease (the early termination price);

(g) upon expiry of the lease —

(i) where the aggregate of all rental and advance payments made under the lease is greater than the original price, the bank, or the bank's agent, shall, whether with or without consideration, transfer the ownership of the asset to the customer or a third party;

(ii) where the aggregate of all rental and advance payments made under the lease is equal to or less than the original price, the customer or a third party shall purchase the asset from the bank, or the bank's agent, at a sale price determined at the start of the lease (the sale price), which amount shall be consideration for the transfer of the asset;

(h) the total amount payable by the customer and such third party referred to in either sub-paragraph (f) or (g), if any, for the asset comprising —

(i) the advance payment;

(ii) the rental; and

(iii) the sale price or early termination price,

is greater than the original price, and the difference between the total amount payable and original price is the profit or return to the bank for providing such financing to the customer;

(i) the bank, or the bank's agent, does not derive any gain or suffer any loss from any movement in the market value of the asset, including total loss of the asset, other than as part of the profit or return referred to in sub-paragraph (h).

(2) The bank shall notify the Authority of its —

(a) intention to commence the business referred to in paragraph (1); or

(b) commencement of such business within 14 days after the commencement of such business.

[S 18/2009, wef 19/01/2009](#)

Prescribed joint purchase and periodic sale business

23C.—(1) For the purposes of section 30(1)(d) of the Act, and subject to paragraph (2), the business of jointly purchasing and selling (on a periodic basis) assets (whether in the form of movable or immovable property) is prescribed as a business that any bank in Singapore may carry on, or enter into any partnership, joint venture or other arrangement with any person, if such business is carried on under the following arrangement:

(a) the bank, or the bank's agent, jointly purchases an asset with the customer at the request of the customer and contributes an amount of money towards the purchase price (the contribution) for the purposes of financing the use or purchase, or both, of the asset by the customer;

(b) the bank, or the bank's agent —

(i) sells a portion of its share of the asset on a periodic basis to the customer for an amount of money determined at the start of the arrangement (the redemption); and

- (ii) leases the unsold portion of its share of the asset to the customer for an amount of money determined at the start of the arrangement (the rental);
- (c) in a case where the asset is not in existence at the time of the joint purchase and the bank, or the bank's agent, leases the unsold portion of its share of the asset to the customer, an amount of money (the advance payment) may be paid by the customer to the bank, or the bank's agent, for the subsequent use of that portion of the asset;
- (d) the bank, or the bank's agent, appoints the customer, or a third party, to take on the obligations in connection with the use of the asset, including its maintenance and insurance;
- (e) in the event of an early termination of the arrangement, the customer shall purchase from the bank, or the bank's agent, the remainder of the unsold portion of the bank's, or the bank's agent's, share of the asset at a price determined at the start of the arrangement (the early termination price);
- (f) upon expiry of the arrangement, the customer shall have purchased from the bank, or the bank's agent, the whole of the bank's, or the bank's agent's, share of the asset and obtained full ownership of the asset;
- (g) the total amount payable by the customer for the asset comprising —
 - (i) the advance payment;
 - (ii) the redemption;
 - (iii) the rental; and
 - (iv) the early termination price,is greater than the contribution, and the difference between the total amount payable and the contribution is the profit or return to the bank for providing such financing to the customer;
- (h) the bank, or the bank's agent, does not derive any gain or suffer any loss from any movement in the market value of the asset, including total loss of the asset, other than as part of the profit or return referred to in sub-paragraph (g), except in circumstances provided in sub-paragraph (i); and
- (i) in a case where the customer is unable to pay the bank, or the bank's agent, the early termination price, the bank, or the bank's agent, may sell the asset to a third party at a price lower than the outstanding amount payable by the customer.

(2) The bank shall notify the Authority of its —

- (a) intention to commence the business referred to in paragraph (1); or
- (b) commencement of such business within 14 days after the commencement of such arrangement.

[S 203/2009, wef 07/05/2009](#)

Prescribed purchase and sale business at spot price

23D.—(1) For the purposes of section 30(1)(d) of the Act, and subject to paragraph (2), the business of purchasing and selling assets at spot price is prescribed as a business that any bank in Singapore may carry on, or enter into any partnership, joint venture or other arrangement with any person to carry on, if such business is carried on under the following arrangement:

(a) for the purposes of effecting payment resulting from the carrying on of any business by the bank under section 30(1)(a), (b) or (c) of the Act —

(i) the bank undertakes to purchase an asset from a customer (bank purchase undertaking);

(ii) the customer undertakes to purchase an asset from the bank (customer purchase undertaking);

(iii) the bank undertakes to sell an asset to a customer (bank sale undertaking); or

(iv) the customer undertakes to sell an asset to the bank (customer sale undertaking),

for an amount of money determined at the time the undertaking is given by the bank or the customer, as the case may be (the agreed price);

(b) where the bank purchase undertaking is exercised by the customer, or the customer sale undertaking is exercised by the bank, the bank will purchase the asset from the customer at the agreed price in circumstances where the asset is existing at the time of the purchase, and immediately sells the asset to a third party at spot price;

(c) where the customer purchase undertaking is exercised by the bank, or the bank sale undertaking is exercised by the customer, the bank will purchase the asset from a third party at spot price in circumstances where the asset is existing at the time of the purchase, and immediately sells the asset to the customer at the agreed price;

(d) the bank does not take physical delivery of the asset; and

(e) the bank does not derive any gain or suffer any loss from any movement in the market value of the asset other than the difference between the spot price and the agreed price.

(2) The bank shall notify the Authority of its —

(a) intention to commence the business referred to in paragraph (1); or

(b) commencement of such business within 14 days after the commencement of such business.

[S 203/2009, wef 07/05/2009](#)

Prescribed procurement business

23E.—(1) For the purposes of section 30(1)(d) of the Act, and subject to paragraph (2), the business of procuring and selling assets (whether in the form of movable or immovable property) is prescribed as a business that any bank in Singapore may carry on, or enter into any partnership, joint venture or other arrangement with any person to carry on, if such business is carried on under the following arrangement:

(a) the bank, or the bank's agent, at the request of the customer and for the purposes of financing the procurement and the use or purchase, or both, of an asset by the customer, commissions the customer to construct the asset in accordance with the customer's specifications for an amount of money (the purchase price);

(b) contemporaneously with the commissioning referred to in sub-paragraph (a) —

(i) the bank, or the bank's agent, and the customer enter into an arrangement prescribed under regulation 23B where the asset is not in

existence at the time the asset is leased to the customer (the lease arrangement); or

(ii) the customer gives an undertaking to the bank, or the bank's agent, to purchase the asset from the bank, or the bank's agent, immediately after the transfer of the ownership of the asset to the bank, or the bank's agent, by the customer under sub-paragraph (e)(i) (the purchase undertaking);

(c) the customer procures the construction of the asset by a third party;

(d) the bank, or the bank's agent, makes payment of the purchase price to the customer on a periodic basis (the progress payment);

(e) one of the following takes place:

(i) the customer transfers the ownership of the asset to the bank, or the bank's agent, on a mutually agreed date on or after the completion of the construction of the asset by the third party;

(ii) the customer refunds all progress payments to the bank, or the bank's agent, and the lease arrangement or the purchase undertaking, as the case may be, is cancelled; or

(iii) the bank, or the bank's agent, agrees to the substitution of the asset that is the subject of the lease arrangement or the purchase undertaking with a comparable asset, and the customer transfers the ownership of the comparable asset to the bank, or the bank's agent, on a mutually agreed date;

(f) the bank, or the bank's agent, does not take physical delivery of the asset or the comparable asset;

(g) at the end of the arrangement, the bank, or the bank's agent, transfers ownership of the asset, or of the comparable asset, to the customer pursuant to the lease arrangement or the purchase undertaking, except in the circumstances referred to in sub-paragraph (e)(ii);

(h) the amount payable by the customer for the asset, or the comparable asset, is greater than the purchase price, and the difference between the total amount payable and the purchase price is the profit or return to the bank for providing such financing to the customer; and

(i) the bank, or the bank's agent, does not derive any gain or suffer any loss from any movement in the market value of the asset, including from the total loss of the asset, other than the profit or return referred to in sub-paragraph (h).

(2) The bank shall notify the Authority of its —

(a) intention to commence the business referred to in paragraph (1); or

(b) commencement of such business within 14 days after the commencement of such business.

[S 214/2010, wef 13/04/2010](#)

Prescribed private equity or venture capital business

23F.—(1) For the purposes of section 30(1)(d) of the Act and subject to paragraphs (3) and (4), a business (not being a business referred to in section 30(1)(a), (b) or (c) of the Act) which —

(a) is carried on by a company or the trustee of a trust; and

(b) satisfies the requirement in paragraph (2),

is prescribed as a business that any bank in Singapore may carry on, or with whom a bank in Singapore may enter into any partnership, joint venture or any other arrangement to carry on, whether in Singapore or elsewhere.

(2) The business referred to in paragraph (1) is one which the bank in Singapore has determined to have potential for high growth or value creation.

(3) The reference to a company or trustee of a trust in paragraph (1) excludes a company or trustee which —

(a) is not carrying on any substantial business or not in operation;

(b) is carrying on the business of engaging in property-related activities; or

(c) is carrying on the business of factoring, leasing equipment or otherwise purchasing debt obligations from others.

(4) Subject to paragraph (5), the bank in Singapore shall, when carrying on a business prescribed in paragraph (1), limit its total net book value of all such businesses —

(a) where the bank is incorporated in Singapore, to —

(i) 10% of its capital funds or such other percentage as the Authority may approve in any particular case; and

(ii) 10% of the capital funds of its banking group or such other percentage as the Authority may approve in any particular case (where applicable); and

(b) where the bank is incorporated outside Singapore, to 10% of its capital funds or such other percentage as the Authority may approve in any particular case.

(5) The limits prescribed in paragraph (4)(b) shall not apply to any business prescribed in paragraph (1) and carried on in the operation of an Asian Currency Unit by a bank incorporated outside Singapore.

(6) In this regulation, unless the context otherwise requires —

"Asian Currency Unit" has the same meaning as in section 77(5) of the Act;

"banking group" , in relation to a bank incorporated in Singapore, means the bank incorporated in Singapore, its subsidiaries, and all other entities treated as part of the bank's group of companies for accounting purposes according to Accounting Standards;

"capital funds" —

(a) in relation to a bank incorporated in Singapore, means the capital of the bank that is used for the purposes of calculating the bank's capital adequacy ratio under section 10 of the Act;

(b) in relation to the banking group of a bank incorporated in Singapore, means the capital of the banking group that is used for the purposes of calculating the banking group's capital adequacy ratio under section 10 of the Act; or

(c) in relation to a bank incorporated outside Singapore, means such net head office funds and such other liabilities as the Authority may, by notice in writing, specify.

[S 370/2010, wef 05/07/2010](#)

Prescribed related or complementary business

23G.—(1) For the purposes of section 30(1)(d) of the Act and subject to paragraphs (2) to (8), a business which fulfils the following criteria is prescribed as a business that any bank in Singapore may carry on, or enter into any partnership, joint venture or any other arrangement with any person to carry on:

- (a) the business is related or complementary to any of the core financial business which is carried on by the bank;
 - (b) the business is being carried on by a regulated financial institution in any jurisdiction and is permitted —
 - (i) under the laws of that jurisdiction; and
 - (ii) by the supervisory authority of that regulated financial institution;
 - (c) the business is permitted to be carried on by the bank —
 - (i) under the laws of the home jurisdiction of the bank; and
 - (ii) by the parent supervisory authority of the bank;
 - (d) the business is not any other business prescribed for the purposes of section 30(1)(d) of the Act or approved under section 30(1)(e) of the Act; and
 - (e) the business is not any of the following types of business:
 - (i) property development, not including the property-related businesses prescribed in regulation 21;
 - (ii) manufacturing or selling of consumer goods;
 - (iii) provision of hotel and resort facilities;
 - (iv) property management of properties not held by the bank or any of its major stake companies;
 - (v) owning, operating or investing in facilities for the extraction, transportation, storage or distribution of commodities; and
 - (vi) owning, operating or investing in facilities for processing, refining or otherwise altering commodities.
- (2) A bank in Singapore may carry on any business prescribed in paragraph (1) if, and only if —
- (a) the bank has appropriate policies and procedures, including well-defined risk management policies on financial and non-financial exposures and risk concentrations, and staff with the expertise to manage the business;
 - (b) where the bank is a bank incorporated outside Singapore or is a foreign-owned bank incorporated in Singapore with no experience in carrying on the business in its head office or parent bank, it has obtained the prior written approval of its head office or parent bank (as the case may be), and its parent supervisory authority, to carry on the business; and

(c) any equity investment in a company acquired or held by the bank arising from the business —

(i) is not intended to be held by the bank for more than 7 years; or

(ii) is not intended to be held by the bank for the purpose of allowing the bank to participate in or make any management decisions for the company,

unless the company is a wholly-owned subsidiary of the bank acquired or held primarily for the purpose of segregating risks that arises from the carrying on of the business so as to prevent such risks from affecting the financial soundness and stability of the bank.

(3) A bank in Singapore shall, when carrying on any business prescribed in paragraph (1), limit the Aggregate Size of all such businesses —

(a) where the bank is incorporated in Singapore, to —

(i) 15% of its capital funds or such other percentage as the Authority may approve in any particular case (where applicable); and

(ii) 15% of the capital funds of its banking group or such other percentage as the Authority may approve in any particular case (where applicable); and

(b) where the bank is incorporated outside Singapore, to 15% of its capital funds or such other percentage as the Authority may approve in any particular case (where applicable).

(4) A bank in Singapore shall, when carrying on any business prescribed in paragraph (1) as well as any business prescribed in regulation 23F(1), limit the Aggregate Size of all such businesses —

(a) where the bank is incorporated in Singapore, to —

(i) 20% of its capital funds or such other percentage as the Authority may approve in any particular case (where applicable); and

(ii) 20% of the capital funds of its banking group or such other percentage as the Authority may approve in any particular case (where applicable); and

(b) where the bank is incorporated outside Singapore, to 20% of its capital funds or such other percentage as the Authority may approve in any particular case (where applicable).

(5) A bank in Singapore shall provide reports to the Authority in accordance with the requirements specified in the Fourth Schedule, and provide such other information as the Authority may require in relation to any business prescribed in paragraph (1) that is carried on by the bank.

(6) A bank in Singapore that carries on any business prescribed in paragraph (1) shall comply with such other conditions or restrictions that the Authority may impose, from time to time, by notice in writing in relation to its carrying on of such business.

(7) If the Authority, having regard to the specific circumstances of a bank in Singapore (including whether the internal controls of the bank are sufficiently robust to effectively monitor and manage the risks of the bank), or in the event that any of the conditions or requirements in paragraphs (1) to (6) are not satisfied by the bank at any point in time, issues to the bank a written declaration that paragraph (1) shall no longer apply to the bank in

relation to any business specified in the declaration from a specified date, then paragraph (1) shall not apply to the bank from the specified date with respect to that specified business.

(8) The Authority may, at any time where it considers it to be necessary in the circumstances, by notice in writing require a bank in Singapore to carry on any business prescribed in paragraph (1) in a wholly-owned subsidiary of the bank.

(9) In this regulation, unless the context otherwise requires —

"Aggregate Size" means the total balance sheet asset value, total revenue or total exposures (whichever is the highest of the 3) or such other measure of the size of the businesses as the Authority may specify by notice in writing;

"banking group" , in relation to a bank incorporated in Singapore, means the bank incorporated in Singapore, its subsidiaries, and all other entities treated as part of the bank's group of companies for accounting purposes according to Accounting Standards;

"capital funds" —

(a) in relation to a bank incorporated in Singapore, means the capital of the bank that is used for the purposes of calculating its capital adequacy ratio under section 10 of the Act;

(b) in relation to the banking group of a bank incorporated in Singapore, means the capital of the banking group that is used for the purposes of calculating the banking group's capital adequacy ratio under section 10 of the Act; or

(c) in relation to a bank incorporated outside Singapore, means such net head office funds and such other liabilities as the Authority may, by notice in writing, specify.

"core financial business" , in relation to a bank, means the core business activities that the bank carries out based on its particular business model which are either —

(a) businesses referred to in section 30(1)(a), (b) and (c) of the Act; or

(b) businesses prescribed under section 30(1)(d) of the Act which are similar to the businesses referred to in section 30(1)(a), (b) and (c) of the Act in terms of economic substance and risks;

"equity investment" has the same meaning as in section 31(5) of the Act;

"holding company" has the same meaning as in section 5 of the Companies Act (Cap. 50);

"home jurisdiction" , in relation to a bank, means the jurisdiction under the laws of which the parent supervisory authority of the bank is responsible for supervising the bank, or has consolidated supervision authority over the bank, as the case may be;

"regulated financial institution" , in relation to any jurisdiction, means a financial institution that is licensed, registered, approved or otherwise regulated in that jurisdiction;

"supervisory authority" —

(a) in relation to a financial institution, the ultimate holding financial institution of which is a financial institution incorporated, formed or established in Singapore, means the Authority; or

(b) in relation to a financial institution, the ultimate holding financial institution of which is a financial institution incorporated, formed or established in a jurisdiction outside Singapore, means the supervisory authority which is responsible, under the laws of that jurisdiction, for supervising the ultimate holding financial institution;

"ultimate holding financial institution" , in relation to a financial institution, means —

(a) if the ultimate holding company of the financial institution is a financial institution, the ultimate holding company; or

(b) in any other case, a holding company of the financial institution that is a financial institution and that is not itself a subsidiary of any other financial institution.

[S 56/2011, wef 14/02/2011](#)

PART X

EXPOSURES AND CREDIT FACILITIES

Prescribed persons

24.—(1) For the purposes of section 29 (1) (d) of the Act, the Authority may, by notice in writing to a bank or a class of banks, impose requirements for the purpose of limiting the exposure of the bank or the class of banks to the following:

(a) any officer (other than a director) or employee of the bank or other person who receives remuneration from the bank other than for services rendered to the bank or any company connected with the bank; and

(b) a group of persons —

(i) who are financially dependent on one another; or

(ii) where one person (referred to in this regulation as the controlling person) controls every other person in that group,

and where at least one of the persons is a counterparty to the bank.

(2) For the purposes of paragraph (1) (a), a company is connected with a bank if —

(a) it is treated as part of the bank's group of companies for accounting purposes according to Accounting Standards; and

(b) in the case of a bank incorporated outside Singapore, it is also reflected as an investment in the books of the bank in Singapore in relation to its operations in Singapore.

(3) For the purposes of paragraph (1) (b) (i), a person A is financially dependent on another person B if by virtue of a contractual or other relationship between them, A will or is likely to be unable to meet A's financial obligations if B is unable to meet B's financial obligations.

(4) For the purposes of paragraph (1) (b) (ii), a person is controlled by the controlling person if the person is —

(a) a person in which the controlling person holds more than half of the total number of issued shares, whether legally or beneficially;

(b) a person in which the controlling person controls more than half of the voting power;

(c) a person in which the controlling person controls the composition of the board of directors;

(d) a subsidiary of a person described in sub-paragraph (a), (b) or (c); or

(e) a person the policies of which the controlling person is in a position to determine.

(5) Any reference in this regulation to the controlling person shall, if he is an individual, include a reference to his family member.

Valuation of equity investments

24A. For the purposes of section 31 of the Act in relation to a bank incorporated in Singapore, the valuation of any equity investment in a single company shall be —

(a) in the case where revaluation gains with respect to the equity investment are permitted by the Authority to be included in the computation of the bank's capital funds, the sum of the cost of the equity investment and 45% of revaluation gains with respect to the equity investment; and

(b) in any other case, the cost of the equity investment less revaluation losses and diminution in value with respect to the equity investment, if any.

[S 370/2010, wef 05/07/2010](#)

Valuation of immovable property

24B. For the purposes of section 33 of the Act in relation to a bank incorporated in Singapore, the valuation of immovable property shall be —

(a) in the case where revaluation gains with respect to immovable property are permitted by the Authority to be included in the computation of the bank's capital funds, the sum of the cost of the immovable property and 45% of revaluation gains with respect to the immovable property; and

(b) in any other case, the cost of the immovable property less revaluation losses and diminution in value with respect to the immovable property, if any.

[S 370/2010, wef 05/07/2010](#)

[S 238/2007, wef 11/06/2007](#)

PART XI

TRANSFER OF BUSINESS AND SHARES AND RESTRUCTURING OF BANK

Particulars to be published

25. For the purposes of section 55C (2) (d) of the Act, the transferor shall publish the following particulars:

(a) the names of the transferor and the transferee;

(b) a summary of the transfer, including a description of the nature and the effect of the transfer; and

(c) the addresses of the respective offices of the transferor and transferee at which, and the period during which, the report referred to in section 55C (2) (a) of the Act would be kept for inspection by any person who may be affected by the transfer.

Information to be specified in certificate of transfer of business

26. For the purposes of section 55F (2) of the Act, the certificate of transfer shall specify the following information:

(a) the names of the transferor and transferee;

(b) whether the transfer is of the whole or part of the business of the transferor, and if it is part of the business, a description of the part of the business to be transferred; and

(c) details of the determination made by the Authority for the transfer.

Information to be specified in certificate of transfer of shares

27. For the purposes of section 55J (2) of the Act, the certificate of transfer shall specify the following information:

(a) the names of the transferor and transferee;

(b) the class and number of shares to be transferred; and

(c) details of the determination made by the Authority for the transfer.

Information to be specified in certificate of restructuring

28. For the purposes of section 55M (2) of the Act, the certificate of transfer shall specify the following information:

(a) the amount by which the share capital of the bank is to be reduced and the number of shares that are to be cancelled, or the names of the subscribers (if any) and the number of shares to be issued to each of them, or both, as the case may be; and

(b) details of the determination made by the Authority for the restructuring.

[S 238/2007, wef 11/06/2007](#)

PART XII

DEPOSIT LIABILITIES OF BANK

Liabilities which are included in deposit liabilities of bank

29. For the purposes of section 62 (3) (b) of the Act, "deposit liabilities of a bank" include the liabilities of a bank to a person under the following arrangement:

(a) the person pays a sum of money to his agent or the bank for the purpose of making his funds available to the bank and to enable his agent or the bank to purchase an asset on his behalf, being an asset that exists at the time of the purchase;

(b) the bank purchases the asset from the person at a price (the marked-up price) that is greater than the sum of money paid by the person, and sells the asset;

(c) the person and the bank, respectively, do not derive any gain or suffer any loss from any movement in the market value of the asset other than the difference between the marked-up price and the sum of money paid by the person (which represents the return to the person for making his funds available to the bank); and

(d) no part of the marked-up price is required to be paid by the bank to the person until after the date of sale of the asset by the bank.

Liabilities which are not included in deposit liabilities of bank

30. For the purposes of section 62 (3) (ii) of the Act, "deposit liabilities of a bank" do not include the liabilities of a bank in respect of a sum of money paid to the bank by or on behalf of any person in consideration for the issue to him by the bank of bonds or NCDs.

[S 238/2007, wef 11/06/2007](#)

PART XIII

COMPOUNDABLE OFFENCES

Compoundable offences

31. The following offences may be compounded by the Authority in accordance with section 69 of the Act:

(a) any offence under the Act or any regulations made thereunder which is punishable with a fine only;

(b) any offence under section 4 (2), 4A (4), 5 (3), 17 (2), 18 (3) (a), 28 (7), 50 (7) or (8), 52 (2) (a), 54A (9) (a), 55N (2) (a) or 57 (7) of the Act; and

(c) any offence under subsection (1) of section 66 of the Act, where the non-compliance by the bank referred to in that subsection constitutes a compoundable offence under paragraph (a) or (b).

[S 238/2007, wef 11/06/2007](#)

FIRST SCHEDULE

Regulation 9

QUARTERLY REPORTING FOR SECTION 35, BANKING ACT

Name of Bank: -----

Section 35 Limit (DBU + ACU) as at ----- (month and year)

All figures to nearest
S\$'000

Item	Section 35 Numerator
1.	Loans to Property Corporations
2.	Section 35 Loans to Non Property-related Corporations

3. Section 35 Loans to Individuals
4. Property Related Debt Instruments
5. Guarantees to Borrower of Section 35 Loans
6. Performance Bonds and Qualifying Certificate Guarantees
7. Other Property Related Contingent Liabilities

Total of Section 35 Numerator (A)

Section 35 Denominator

8. Total Non-bank Loans
9. Total Non-bank Debt Instruments
10. Total Contingent Liabilities (items 5 +6 +7)

Total of Section 35 Denominator (B)

Section 35 Ratio i.e. (A)/(B) %

Other Figures

11. Owner-Occupied Housing Loans

SECOND SCHEDULE

Regulation 10

SECURITY PROVISIONS APPLICABLE TO MERCHANT BANKS

1.Customer information shall not, in any way, be disclosed by a merchant bank in Singapore or any of its officers to any other person except as expressly provided in this Schedule or the Third Schedule.

2.A merchant bank in Singapore or any of its officers may, for such purpose as may be specified in the first column of the Third Schedule, disclose customer information to such persons or class of persons as may be specified in the second column of that Schedule, and in compliance with such conditions as may be specified in the third column of that Schedule.

3.Where customer information is likely to be disclosed in any proceedings referred to in item 3 or 4 of Part I of the Third Schedule, the court may, either of its own motion, or on the application of any party to the proceedings or the customer to which the customer information relates —

(a) direct that the proceedings be held in camera; and

(b) make such further orders as the court may consider necessary to ensure the confidentiality of the customer information.

4.Where an order has been made by a court under paragraph 3, any person who, contrary to such an order, publishes any information that is likely to lead to the identification of any party to the proceedings shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000.

5. Any person (including, where the person is a body corporate, an officer of the body corporate) who receives customer information referred to in Part II of the Third Schedule shall not, at any time, disclose the customer information or any part thereof to any other person, except as authorised under that Schedule or if required to do so by an order of court.

6. Any person who contravenes paragraph 1 or 5 shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in any other case, to a fine not exceeding \$250,000.

7. In this Schedule and in the Third Schedule, unless the context otherwise requires —

(a) where disclosure of customer information is authorised under the Third Schedule to be made to any person which is a body corporate, customer information may be disclosed to such officers of the body corporate as may be necessary for the purpose for which the disclosure is authorised under that Schedule; and

(b) the obligation of any officer or other person who receives customer information referred to in Part II of the Third Schedule shall continue after the termination or cessation of his appointment, employment, engagement or other capacity or office in which he had received customer information.

8. For the avoidance of doubt, nothing in this Schedule or the Third Schedule shall be construed to prevent a merchant bank from entering into an express agreement with a customer of that merchant bank for a higher degree of confidentiality than that prescribed in this Schedule or the Third Schedule.

9. Where, in the course of an inspection or an investigation or the carrying out of the Authority's function of supervising the financial condition of any merchant bank, the Authority incidentally obtains customer information and such information is not necessary for the supervision or regulation of the bank by the Authority, then, such information shall be treated as secret by the Authority.

THIRD SCHEDULE

Regulation 10 and Second Schedule

EXCEPTIONS TO SECRECY OBLIGATION OF MERCHANT BANKS

PART I

FURTHER DISCLOSURE NOT PROHIBITED

<i>First column</i>	<i>Second column</i>	<i>Third column</i>
<i>Purpose for which customer information may be disclosed</i>	<i>Persons to whom information may be disclosed</i>	<i>Conditions</i>
1. Disclosure is permitted in writing by the customer or, if	Any person as permitted by the customer or, if he is	

he is deceased, his appointed personal representative.

deceased, his appointed personal representative.

2. Disclosure is solely in connection with an application for a grant of probate or letters of administration in respect of a deceased customer's estate.

Any person whom the merchant bank in good faith believes is entitled to the grant of probate or letters of administration.

3. Disclosure is solely in connection with —
(a) where the customer is an individual, the bankruptcy of the customer; or
(b) where the customer is a body corporate, the winding up of the customer.

All persons to whom the disclosure is necessary for the purpose specified in the first column.

Note: Court may order the proceedings to be held in camera [see paragraphs 3 and 4 of the Second Schedule].

4. Disclosure is solely with a view to the institution of, or solely in connection with, the conduct of proceedings —
(a) between the merchant bank and the customer or his surety relating to the transaction of the customer;
(b) between the merchant bank and 2 or more parties making adverse claims to money in an account of the customer where the merchant bank seeks relief by way of interpleader; or
(c) between the merchant bank and one or more parties in respect of property, whether movable or immovable, in or over which some right or interest has been conferred or alleged to have been conferred on the merchant bank by the customer or his surety.

All persons to whom the disclosure is necessary for the purpose specified in the first column.

Note: Court may order the proceedings to be held in camera [see paragraphs 3 and 4 of the Second Schedule].

5. Disclosure is necessary for —

Any police officer or public officer duly authorised under the specified written law to carry out the investigation or

prosecution or to receive the complaint or report, or any court.

(a) compliance with an order or a request made under any specified written law to furnish information, for the purposes of an investigation or a prosecution, of an offence alleged or suspected to have been committed under any written law; or

(b) the making of a complaint or report under any specified written law for an offence alleged or suspected to have been committed under any written law.

6. Disclosure is necessary for compliance with a garnishee order served on the merchant bank attaching moneys in the account of the customer.

All persons to whom the disclosure is required to be made under the garnishee order.

7. Disclosure is necessary for compliance with an order of the Supreme Court or a Judge thereof pursuant to the powers conferred under Part IV of the Evidence Act (Cap. 97).

All persons to whom the disclosure is required to be made under the court order.

8. Where the merchant bank is a merchant bank incorporated outside Singapore or a foreign-owned merchant bank incorporated in Singapore, the disclosure is strictly necessary for compliance with a request made by its parent supervisory authority.

The parent supervisory authority of the merchant bank incorporated outside Singapore or the foreign-owned merchant bank incorporated in Singapore, as the case may be.

(a) No deposit information shall be disclosed to the parent supervisory authority.

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(b) The parent supervisory authority is prohibited by the laws applicable to it from disclosing the customer information obtained by it to any person unless compelled to

do so by the laws or courts of the country or territory where it is established.

[S 238/2007, wef 11/06/2007](#)

9. Disclosure is in compliance with any notice or directive issued by the Authority to merchant banks under section 28 of the Monetary Authority of Singapore Act (Cap. 186).

The Authority or any person authorised or appointed by the Authority.

PART II

FURTHER DISCLOSURE PROHIBITED

<i>First column</i>	<i>Second column</i>	<i>Third column</i>
<i>Purpose for which customer information may be disclosed</i>	<i>Persons to whom information may be disclosed</i>	<i>Conditions</i>
<p>1. Disclosure is solely in connection with the performance of duties as an officer or a professional adviser of the merchant bank.</p> <p>S 238/2007, wef 11/06/2007</p> <p>S 238/2007, wef 11/06/2007</p> <p>S 238/2007, wef 11/06/2007</p> <p>S 238/2007, wef 11/06/2007</p> <p>S 238/2007, wef 11/06/2007</p>	<p>Any —</p> <p>(a) officer of the merchant bank in Singapore;</p> <p>(b) officer designated in writing by the head office of the merchant bank in Singapore, or in the case of a foreign-owned merchant bank incorporated in Singapore, its parent bank;</p> <p>(c) lawyer, consultant or other professional adviser appointed or engaged by the merchant bank in Singapore under a contract for service;</p> <p>(d) auditor appointed or engaged by the merchant bank in Singapore, the head office of the merchant bank in Singapore or, in the case of a foreign-owned merchant bank incorporated in Singapore, its parent bank, under a contract for service.</p>	<p>No disclosure shall be made to any auditor referred to in paragraph (d), other than an auditor appointed or engaged by the merchant bank in Singapore, unless the auditor has given to the merchant bank a written undertaking that he will not disclose any customer information obtained by him in the course of the performance of audit to any person except the head office of the merchant bank in Singapore or, in the case of a foreign-owned merchant bank incorporated in Singapore, its parent bank.</p>

2. Disclosure is solely in connection with the conduct of internal audit of the merchant bank or the performance of risk management.

In the case of —

(a) a merchant bank incorporated outside Singapore —

(i) the head office or parent bank of the merchant bank;

(ii) any branch of the merchant bank outside Singapore designated in writing by the head office of the merchant bank; or

(iii) any related corporation of the merchant bank designated in writing by the head office of the merchant bank;

[S 238/2007, wef 11/06/2007](#)

(b) a merchant bank incorporated in Singapore, not being a foreign-owned merchant bank incorporated in Singapore —

[S 238/2007, wef 11/06/2007](#)

(i) the parent bank; or

(ii) any related corporation of the merchant bank designated in writing by the head office of the merchant bank; or

[S 238/2007, wef 11/06/2007](#)

(c) a foreign-owned merchant bank incorporated in Singapore —

[S 238/2007, wef 11/06/2007](#)

(i) the parent bank; or

[S 238/2007, wef 11/06/2007](#)

(ii) any related corporation of the merchant bank designated in writing by the parent bank.

[S 238/2007, wef 11/06/2007](#)

3. Disclosure is solely in connection with the performance of operational functions of the merchant bank where such operational functions have been out-

Any person including the head office of the merchant bank or any branch thereof outside Singapore which is engaged by the merchant bank to perform the out-sourced functions.

If any out-sourced function is to be performed outside Singapore, the disclosure shall be subject to such conditions as may be

sourced.

specified in a notice issued by the Authority or otherwise imposed by the Authority.

4. Disclosure is solely in connection with —

Any person participating or otherwise involved in the merger, acquisition or issue, or proposed merger, acquisition or issue, including any of his lawyers or other professional advisers (whether or not the merger or acquisition is subsequently entered into or completed).

(a) the merger or proposed merger of the merchant bank with another company; or

(b) any acquisition or issue, or proposed acquisition or issue, of any part of the share capital of the merchant bank,

whether or not the merger or acquisition is subsequently entered into or completed.

5. Disclosure is solely in connection with the restructure, transfer or sale, or proposed restructure, transfer or sale, of credit facilities (whether or not the restructure, transfer or sale is subsequently entered into or completed).

Any transferee, purchaser or any other person participating or otherwise involved in the restructure, transfer or sale, or proposed restructure, transfer or sale, including any of his lawyers or other professional advisers (whether or not the restructure, transfer or sale is subsequently entered into or completed).

No customer information, other than information relating to the relevant credit facilities, shall be disclosed.

6. Disclosure is strictly necessary —

Any —

(a) for the collation, synthesis or processing of customer information by the credit bureau for the purposes of the assessment of the credit-worthiness of the customers of merchant banks; or

(a) credit bureau of which the merchant bank is a member;

(a) No deposit information shall be disclosed.

(b) for the assessment, by other members of the credit bureau specified in the second column, of the credit-

(b) other member of the credit bureau that is —

(b) The disclosure by any credit bureau to any person referred to in paragraph (b) of the

worthiness of the customers of merchant banks.

second column shall be subject to such conditions as may be specified in a notice issued by the Authority or otherwise imposed by the Authority.

(i) a bank or merchant bank; or

(ii) a person, or a person belonging to a class of persons, recognised by the Authority, by notification in the Gazette, as authorised to receive the information,

where that member receives such information from the credit bureau.

7. Disclosure is strictly necessary for the assessment of the creditworthiness of the customer in connection with or relating to a bona fide commercial transaction or a prospective commercial transaction.

Any bank or other merchant bank in Singapore.

No customer information, other than information of a general nature and not related to the details of the customer's account with the merchant bank, shall be disclosed.

8. Disclosure is solely in connection with the promotion, to customers of the merchant bank in Singapore, of financial products and services made available in Singapore by any financial institution specified in the second column.

Any financial institution in Singapore which is licensed or otherwise regulated by the Authority.

No customer information, other than the customer's name, identity, address, and contact number shall be disclosed.

PART III

DEFINITIONS

In this Schedule, unless the context otherwise requires —

"appointed personal representative" , in relation to a deceased person, means a person appointed as executor or administrator of the estate of the deceased person;

"credit bureau" means a credit bureau recognised as such by the Authority by notification in the *Gazette* for the purposes of this Schedule;

"foreign-owned merchant bank incorporated in Singapore" means a merchant bank incorporated in Singapore, the parent bank of which is incorporated outside Singapore; [S 238/2007, wef 11/06/2007](#)

"lawyer" means an advocate and solicitor of the Supreme Court of Singapore, or any person who is duly authorised or registered to practise law in a country or territory other than Singapore by a foreign authority having the function conferred by law of authorising or registering persons to practise law in that country or territory;

"parent bank" , in relation to a merchant bank, means a financial institution which is able to exercise a significant influence over the direction and management of the merchant bank or which has a controlling interest in the merchant bank;

"parent supervisory authority" means —

(a) in relation to a merchant bank incorporated outside Singapore, the supervisory authority which is responsible, under the laws of the country or territory where the merchant bank or its parent bank is incorporated, formed or established, for supervising the merchant bank or its parent bank, as the case may be; or

(b) in relation to a foreign-owned merchant bank incorporated in Singapore, the supervisory authority which has consolidated supervision authority over the merchant bank;

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"public officer" includes any officer of any statutory board;

"specified written law" means the Companies Act (Cap. 50), the Criminal Procedure Code (Cap. 68), the Goods and Services Tax Act (Cap. 117A), the Income Tax Act (Cap. 134), the Internal Security Act (Cap. 143), the Kidnapping Act (Cap. 151) and the Prevention of Corruption Act (Cap. 241);

"surety" , in relation to a customer of a merchant bank, includes any person who has given the merchant bank security for the liability of the customer by way of a mortgage or a charge.

[G.N. Nos. S 347/2001;S 256/2004]

FOURTH SCHEDULE

Regulation 23G(5)

REQUIREMENTS FOR REPORTS TO BE SUBMITTED TO AUTHORITY

1. A bank in Singapore shall submit, no later than the last day of the month immediately following the end of each quarter of a year, the following information in relation to that quarter:

(a) balance sheet value, revenue numbers, and exposures of all businesses prescribed in regulation 23G(1) carried on by the bank;

(b) utilisation of the regulatory limits prescribed in regulation 23G(3) and (4);

(c) key internal risk metrics, in addition to the regulatory limits prescribed in regulation 23G(3) and (4); and

(d) the business activities of every wholly-owned subsidiary of the bank excluded from the operation of section 32 of the Act under regulation 7A.

2. A bank in Singapore shall submit, no later than the last day of the month immediately following the end of each of its financial year, and at such other times as the bank considers necessary, the following information:

(a) external audit reports on the businesses prescribed in regulation 23G(1) carried on by the bank and the risk management of such businesses; and

(b) stress test results of such businesses.

3. A bank in Singapore shall submit, no later than the last day of the month immediately following the end of each quarter of a year, the following in relation to that quarter, where applicable:

(a) for every new business prescribed in regulation 23G(1) carried on by the bank, an assessment of the impact of the new business on the risk profile of the bank, and key risk mitigation and contingency plans;

(b) changes in the corporate governance structure and business activities of any of the wholly-owned subsidiaries of the bank excluded from the operation of section 32 of the Act under regulation 7A;

(c) provision by the bank of any guarantee or letter of comfort to any of the wholly-owned subsidiaries of the bank excluded from the operation of section 32 of the Act under regulation 7A;

(d) changes in the bank's investment in, and exposure to, any of the wholly-owned subsidiaries of the bank excluded from the operation of section 32 of the Act under regulation 7A; and

(e) any supervisory, legal, reputational or other significant matters relating to any of the wholly-owned subsidiaries of the bank excluded from the operation of section 32 of the Act under regulation 7A.

4. A bank in Singapore shall submit an internal audit report on every business prescribed in regulation 23G(1) carried on by the bank, and on the risk management of such business —

(a) no later than the last day of the month immediately following the end of its first year carrying on such business; and

(b) no later than the last day of the month immediately following the end of each quarter of every subsequent year, where such report has been prepared.

[S 56/2011, wef 14/02/2011](#)