

**No. S 000 -**

**BANKING ACT  
(CHAPTER 19)**

**BANKING (AMENDMENT) REGULATIONS 2007**

In exercise of the powers conferred by sections 4B(4)(b) and (4A), 5(2)(g), 29(1)(d), 55C(2)(d), 55F(2), 55J(2), 55M(2), 62(3)(b) and (ii), 69(3) and 78(1) of the Banking Act, the Monetary Authority of Singapore hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Banking (Amendment) Regulations 2007 and shall come into operation on 11<sup>th</sup> June 2007.

**New regulation 4A**

2. The Banking Regulations (Rg 5) are amended by inserting, immediately after regulation 4, the following regulation:

**“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 *B*.”.

**New regulation 5A**

3. The Banking Regulations are amended by inserting, immediately after regulation 5, the following regulation:

**“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.”.

**New Parts X, XI, XII and XIII**

**4.** The Banking Regulations are amended by inserting, immediately after regulation 23, the following Parts:

“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.

## 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.

## 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.

## 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).”.

### **Amendment of Third Schedule**

#### **5. The Third Schedule to the Banking Regulations is amended —**

- (a) by deleting item 8 in Part I and substituting the following item:

<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>
“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.	<ul style="list-style-type: none"> <li>(a) No deposit information shall be disclosed to the parent supervisory authority.</li> <li>(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.”;</li> </ul>

(b) by deleting item 1 in Part II and substituting the following item:

<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>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,</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>

<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>
	in the case of a foreign-owned merchant bank incorporated in Singapore, its parent bank, under a contract for service.	

- (c) by deleting the word “or” at the end of paragraph (a)(iii) in the second column of item 2 in Part II;
- (d) by inserting, immediately after the words “incorporated in Singapore” in paragraph (b) in the second column of item 2 in Part II, the words “, not being a foreign-owned merchant bank incorporated in Singapore”;
- (e) by deleting the full-stop at the end of paragraph (b)(ii) in the second column of item 2 in Part II and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:
- “(c) a foreign-owned merchant bank incorporated in Singapore —
- (i) the parent bank; or
- (ii) any related corporation of the merchant bank designated in writing by the parent bank.”;
- (f) by inserting, immediately after the definition of “credit bureau” in Part III, the following definition:
- ““foreign-owned merchant bank incorporated in Singapore” means a merchant bank incorporated in Singapore, the parent bank of which is incorporated outside Singapore.”;
- and
- (g) by deleting the definition of “parent supervisory authority” and substituting the following definition:

“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;”.

*[G.N. Nos. S 622/2005; S 170/2006; S 325/2006]*

Made this 4<sup>th</sup> day of June 2007.

HENG SWEE KEAT  
*Managing Director,  
Monetary Authority of  
Singapore.*

[PPD 09/2006; AG/LEG/SL/19/2003/1 Vol. 6]