



RESPONSE TO FEEDBACK RECEIVED – CONSULTATION ON PROPOSED REGULATIONS TO ALLOW BUSINESSES RELATED OR COMPLEMENTARY TO CORE FINANCIAL BUSINESS

1 Introduction

1.1 In March 2010, the Monetary Authority of Singapore (“MAS”) conducted a public consultation on proposed regulations to allow banks to carry on new businesses that are related or complementary to the bank’s core financial business without the need for prior prescription by class or specific case-by-case approval by MAS, subject to certain conditions, limits and requirements.

1.2 The consultation period closed on 19 April 2010. MAS would like to thank all respondents for their contributions. The respondents are listed in Annex 1.

1.3 We have carefully considered the feedback received and incorporated the relevant feedback in fine tuning the proposed regulations and attendant guidelines. Comments that are of general interest, together with MAS’ responses, are set out below.

Note: The regulations were previously referred to as regulations 7A and 23F, but the final regulations are regulations 7A and 23G.
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2 Existing Approved Businesses

2.1 Some respondents have sought clarification on the regulatory treatment of existing businesses previously approved under section 30 of the Banking Act with the implementation of proposed regulations.

MAS’ Response

2.2 Businesses which have been approved under section 30(1)(e) of the Banking Act will continue to be subject to the conditions for approval granted earlier. However, all new businesses carried on by the bank

under regulations 23G and 7A will be subject to the attendant regulatory and reporting requirements.

3 Scope of Businesses Allowed Under Proposed Regulations

Relation to Core Financial Business

3.1 Some respondents have asked for examples of businesses that will be permissible under the proposed regulations. A few have suggested that the scope of permissible businesses might be widened beyond those related to a bank's "core financial business" to include what a bank is licensed to carry on and businesses permitted to be carried on by the bank's "affiliated companies".

MAS' Response

3.2 MAS has been clarifying which businesses are not prohibited under section 30 by prescribing such businesses as a class of business which the bank may carry on, as well as approving such businesses on a case-by-case basis. The proposed regulatory framework sets out the conditions under which banks can assess if a new business may be related or complementary to their core financial business and hence qualify to be carried on under the proposed regulations, without seeking prior approval from MAS. Extending the scope of new businesses beyond the core financial business of a bank or businesses of its affiliates, particularly a non-bank affiliate, would erode the prudential basis for allowing the new business under the proposed framework.

Reference to Regulated Financial Institution In Regulation 23G(1)(b)

3.3 Some respondents have sought clarification on whether the requirements under regulation 23G(1)(b) would be fulfilled if the new business is carried out by a regulated bank in any jurisdiction, whether or not related to the bank in Singapore.

MAS' Response

3.4 The regulated financial institution referred to in regulation 23G(1)(b) need not be related to the bank in Singapore. Nevertheless, in the case of a foreign bank, the business must be permitted under the laws of the foreign bank's home jurisdiction and by its parent supervisory authority as required by regulation 23G(1)(c).

4 Permission from Parent Supervisory Authority

4.1 Regulation 23G(1)(c) in the consultation paper requires that the proposed business be permitted to be carried on by the bank “under the laws of the home jurisdiction” and “by the parent supervisory authority of the bank”. Some respondents have sought clarification as to whether it is necessary for the parent supervisory authority of a foreign bank operating in Singapore to expressly permit the bank to carry on the business in Singapore, or whether a general approval to the banking group would suffice.

MAS’ Response

4.2 Where the parent bank or head office has experience in carrying on the specified business, regulation 23G does not require the bank to obtain “express” permission from its parent supervisor to carry on the business in Singapore. However, the bank should maintain the relevant supporting documentation that its home jurisdiction permits the bank to carry on the business. Where the parent bank or head office does not have experience in carrying on the business, however, the bank is required to obtain prior written approval of its parent supervisory authority to carry on the business in Singapore.

5 Regulations 23G(1)(b) and 23G(1)(c)

5.1 One respondent commented that the requirements under regulations 23G(1)(b) and 23G(1)(c) were similar, and proposed that, depending on where the bank’s parent supervisory authority is located, compliance with either regulation 23G(1)(b) or 23G(1)(c) should be sufficient.

MAS’ Response

5.2 The intent of regulation 23G(1)(b) differs from that of regulation 23G(1)(c). Regulation 23G(1)(b) sets out that a proposed business must already be “carried on by a regulated financial institution in any jurisdiction”, while regulation 23G(1)(c) seeks to ensure that the bank is permitted to carry on the business under the laws of the bank’s home jurisdiction. As such, we have assessed that it is necessary for banks to comply with both these proposed regulations as this will ensure sufficient supervisory oversight and provide greater prudential comfort to the Authority.

6 Regulatory Limits

6.1 Businesses that are carried on under the proposed regulations are subject to limits, computed as a percentage of a bank's capital funds. One respondent has asked if businesses whose risks are not managed on the books of the bank in Singapore may be excluded when assessing its compliance with the regulatory limits.

MAS' Response

6.2 All businesses carried on under the proposed regulations must be included in the computation toward meeting of the regulatory limits. However, if the bank is able to demonstrate that it or its subsidiaries and downstream affiliates will not be liable for any losses arising from the business, an application to the Authority may be made for consideration under section 30(1)(e) of the Banking Act.

7 Regulation 7A Subsidiary

Holding Structure of Regulation 7A Subsidiary

7.1 The proposed regulation 7A excludes from the operation of section 32 of the Banking Act a wholly-owned subsidiary of the bank held mainly for the purpose of segregating risks arising from carrying on a business prescribed in regulation 23G(1). Respondents have enquired if the regulation 7A subsidiary may be indirectly held by the bank or through a joint venture.

MAS' Response

7.2 The intent of regulation 7A is for the bank to wholly own the subsidiary directly. The bank should seek prior approval from the Authority under section 32 of the Banking Act should the subsidiary not be held wholly and directly. In addition, the Authority will clarify in the regulations that, where it assesses there are prudential merits to so, it may require a bank to conduct prescribed businesses in a regulation 7A subsidiary rather than within the bank.

Capital Requirements for Subsidiary

7.3 One respondent has asked if specific capital requirements will be imposed on a regulation 7A subsidiary.

MAS' Response

7.4 Whilst there will be no specific capital requirements on a regulation 7A subsidiary, MAS expects a regulation 7A subsidiary to comply with all other supervisory conditions and requirements that may apply to a bank if the bank conducts the businesses itself.

Access to Information on Subsidiary

7.5 One respondent has commented that national regulations in certain jurisdictions could restrict access by MAS to information on the regulation 7A subsidiary located in that jurisdiction.

MAS' Response

7.6 The bank has to ensure that MAS or its appointee can be given full access to all relevant information on the regulation 7A subsidiary required under regulation 7A(2)(a) and (b). The regulation 7A subsidiary may therefore only be established or operate in an overseas jurisdiction where MAS or its appointee can be guaranteed full access to the relevant information as stated in regulation 7A(2)(a) and (b). Access to such information will also be necessary, as the information obligations and prudential requirements of a regulation 7A subsidiary will apply to its entire global business, and not only to the business undertaken in Singapore.

Personnel and Office Space at Subsidiary

7.7 One respondent has asked whether employees of the bank in Singapore or its overseas affiliates may perform the Singapore business of the regulation 7A subsidiary. The same respondent has also asked if the regulation 7A subsidiary may share office space with its bank.

MAS' Response

7.8 Officers from the bank in Singapore or its overseas affiliates may be employed to perform the Singapore business of the regulation 7A subsidiary but the Authority expects the bank in Singapore to maintain control and management oversight of the subsidiary's operations. The regulation 7A subsidiary may also share office space with its bank, subject to the appropriate policies for risk management being put in place.

8 Internal Approval Framework

8.1 The consultation paper has provided guidance to banks on the proposed regulations and supervisory expectations. This includes the requirement for a bank to establish a clear internal approval framework to be submitted to MAS for information prior to any use of regulation 23G. A respondent has asked whether its existing New Product Approval Process (“NPAP”) could serve as the required internal approval framework. The respondent sought further clarification on whether the approval framework had to be submitted for every new business or only in the event of changes to it.

MAS’ Response

8.2 Businesses conducted under regulation 23G may have risk factors that are not covered in a standard NPAP. Hence the bank may only submit its NPAP as the required internal approval framework where it has ascertained that the NPAP satisfies the requirements for such a framework as set out in the guidance notes and supervisory expectations. The internal approval framework should be submitted before the first use of regulation 23G but need not be resubmitted unless there are subsequent amendments to the framework.

9 Quarterly Reporting, Risk Metrics and Stress Tests

9.1 The proposed regulations require banks to submit quarterly reports on their regulation 23G businesses and set out the information that should be included in the quarterly reports. Some respondents have sought clarification on supervisory expectations regarding the frequency and granularity of reports to MAS, for example, whether internal and external audit (IA/EA) reports, as well as stress tests, have to be performed quarterly for reporting to MAS. Additionally, one respondent has asked whether specific risk metrics would be required for individual businesses under regulation 23G, where the new business is part of a larger existing business which already has a stress test.

MAS’ Response

9.2 The Authority expects information on balance sheet value, revenue and exposures under regulations 23G and 7A, utilisation of regulatory limits and internal risk metrics, to be updated and submitted quarterly. The internal audit of the regulation 23G business should be done within the first one year of commencement and then regularly thereafter;

external audits and stress tests should be performed at least annually. Findings from the internal and external audits and stress test results are to be included in the report submitted to MAS.

9.3 Given the potentially diverse nature of regulation 23G businesses, banks should apply risk metrics and stress tests specific and appropriate to the individual businesses, except where the bank assesses such businesses to be of a similar nature and where the risk profiles are similar.

MONETARY AUTHORITY OF SINGAPORE
11 FEBRUARY 2011

RESPONDENTS TO THE CONSULTATION ON PROPOSED REGULATIONS

- (1) Barclays Bank PLC
- (2) Citibank NA
- (3) DBS Bank Ltd
- (4) The Hongkong and Shanghai Banking Corporation Limited
- (5) Oversea-Chinese Banking Corporation Ltd
- (6) RHB Bank Berhad
- (7) Standard Chartered Bank
- (8) Sumitomo Mitsui Banking Corporation
- (9) United Overseas Bank Limited
- (10) Allen & Gledhill LLC