

CONSULTATION PAPER

P002 - 2019

February 2019

Outsourcing by Banks and Merchant Banks

MAS

Monetary Authority of Singapore

Contents

1	Preface	3
2	Introduction	5
3	Powers to strengthen MAS' oversight of outsourcing arrangements of banks and merchant banks	6
4	Outsourcing arrangements involving disclosure of customer information to service providers	6
5	Transition period	8

1 Preface

1.1 In September 2014, MAS consulted on a proposed Outsourcing Notice that sets out minimum standards for financial institutions' (FIs) management of outsourcing arrangements. The proposed requirements were in line with MAS' expectation that an FI is to manage outsourcing arrangements as if the services were conducted by the FI.

1.2 Taking into consideration feedback received, MAS will revise the approach to implementing the proposed Outsourcing Notice. Given the variation in scale and nature of how outsourcing is utilised by different classes of FIs, MAS intends to adopt a more targeted approach by issuing requirements for each class of FIs within MAS' regulatory purview.

1.3 This consultation paper seeks feedback on proposed revisions to the regime governing banks' and merchant banks' outsourcing arrangements, including proposed amendments to the Banking Act. MAS proposes to issue an Outsourcing Notice for Banks and an Outsourcing Notice for Merchant Banks (collectively "Outsourcing Notices") that will set out identical requirements for banks and merchant banks in respect of outsourcing arrangements which are material ("material outsourcing arrangements"). MAS intends to seek feedback on the requirements which will apply to other classes of FIs in due course. In the meantime, MAS expects such other classes of FIs to continue to observe the Guidelines on Outsourcing issued by MAS in July 2016.

1.4 MAS invites comments from banks, merchant banks, and other interested parties.

Please note that all submissions received will be published and attributed to the respective respondents unless they expressly request MAS not to do so. As such, if respondents would like:

- (i) their whole submission or part of it (but not their identity), or**
- (ii) their identity along with their whole submission,**

to be kept confidential, please expressly state so in the submission to MAS. MAS will only publish non-anonymous submissions. In addition, MAS reserves the right not to publish any submission received where MAS considers it not in the public interest to do so, such as where the submission appears to be libellous or offensive.

1.5 Please submit written comments by 8 March 2019 to –

Outsourcing Workgroup
Monetary Authority of Singapore
10 Shenton Way, MAS Building
Singapore 079117
Fax: (65) 62203973
Email: outsourcing@mas.gov.sg

1.6 Electronic submission is encouraged. We would appreciate that you use this suggested format [Template for Response to Consultation Paper on Outsourcing by Banks and Merchant Banks](#) for your submission to ease our collation efforts.

2 Introduction

2.1 In September 2014, MAS consulted on a proposed Outsourcing Notice that sets out minimum standards for FI's management of outsourcing arrangements. Please refer to Annex B for the proposed Outsourcing Notice in the previous consultation.

2.2 Currently, MAS Notice 634 and MAS Notice 1108 impose requirements on banks and merchant banks respectively in relation to outsourcing arrangements where any outsourced function is to be performed outside Singapore.

2.3 MAS intends to enhance the regime governing banks' and merchant banks' outsourcing arrangements by:

- (a) introducing a new section in the Banking Act¹ to empower MAS to impose requirements relating to banks' outsourcing arrangements;
- (b) introducing powers identical to (a) to impose requirements relating to merchant banks' outsourcing arrangements;
- (c) issuing an Outsourcing Notice for Banks and an Outsourcing Notice for Merchant Banks for material outsourcing arrangements; and
- (d) repealing MAS Notice 634 and MAS Notice 1108 after incorporating their requirements into the proposed Outsourcing Notices.

2.4 The proposed Outsourcing Notices will set out legally binding requirements for banks and merchant banks in relation to their material outsourcing arrangements in the areas of (i) management of such arrangements, (ii) assessment of service providers, (iii) access to information by MAS and the bank or merchant bank, (iv) protection of customer information, (v) audit, and (vi) termination of such arrangements.

2.5 The next sections will set out the proposals on which MAS is seeking feedback.

¹ The full set of proposed amendments are set out in the consultation paper titled "Proposed Amendments to the Banking Act" dated, 7 February 2019, at this [link](#).

3 Powers to strengthen MAS' oversight of outsourcing arrangements of banks and merchant banks

3.1 The proposed new section in the Banking Act will empower MAS to direct banks to comply with requirements in respect of their outsourcing arrangements. The proposed amendments are set out in Annex C.

3.2 Examples of requirements which MAS may direct a bank to comply with are to:

- (a) include in its outsourcing agreement for an outsourcing arrangement, terms relating to the protection of confidentiality of customer information, the right of MAS to inspect or audit the service provider and its sub-contractors, and termination of the outsourcing agreement under specified circumstances;
- (b) conduct due diligence checks on the service provider before the bank enters into an outsourcing arrangement with the service provider;
- (c) establish and maintain measures to minimise disruption to the operations of the bank in the event that the service provider is unable to provide the service to the bank;
- (d) provide such record, document, information or report to MAS concerning the outsourcing arrangement; and
- (e) terminate the outsourcing agreement under specified circumstances.

3.3 MAS proposes to similarly strengthen MAS' oversight of the outsourcing arrangements of merchant banks.

Question 1. MAS seeks comments on the proposed amendment to the Banking Act to strengthen MAS' oversight of outsourcing arrangements of banks.

Question 2. MAS seeks comments on the proposal to similarly strengthen MAS' oversight of outsourcing arrangements of merchant banks.

4 Outsourcing arrangements involving disclosure of customer information to service providers

4.1 Currently, banks and merchant banks which rely on an exception provided in item 3 of Part II of the Third Schedule of the Banking Act or the Banking Regulations respectively ("Third Schedule exception") to disclose customer information to service providers are

required to comply with requirements under MAS Notice 634 and MAS Notice 1108 respectively if any outsourced function is to be performed outside Singapore.

4.2 The proposed Outsourcing Notices will incorporate existing requirements under MAS Notice 634 and MAS Notice 1108, and impose minimum requirements on management of material outsourcing arrangements, assessment of service providers, and additional requirements on audit. To not subject banks and merchant banks to two sets of overlapping requirements on outsourcing arrangements, MAS intends to repeal MAS Notice 634 and MAS Notice 1108 after the Outsourcing Notices take effect. Banks and merchant banks will be required to comply with the respective Outsourcing Notices before they can rely on the Third Schedule exception to disclose customer information to their service provider. Proposed amendments to the Third Schedule of the Banking Act is set out in Annex D and similar amendments will be made in respect of merchant banks.

4.3 While MAS Notice 634 and MAS Notice 1108 apply only where there is disclosure of customer information in connection with the performance of an outsourced function outside Singapore, MAS proposes that the proposed Outsourcing Notices apply to any outsourcing arrangement involving the disclosure of customer information regardless of where the outsourced function is to be performed. This reflects MAS' intent for banks and merchant banks to pay due care to any outsourcing arrangement that involves the disclosure of customer information whether such disclosure is in connection with the performance of an outsourced function in or outside Singapore.

4.4 To effect the above proposal, MAS proposes to revise:

- (a) the definition of "outsourcing arrangement" to include (i) outsourcing arrangements that a bank is not dependent on an ongoing basis and (ii) outsourcing arrangements entered into by a related entity of the bank to provide a service to the bank, and incorporate the definition in the Banking Act; and
- (b) the types of outsourcing arrangements to be considered a "material outsourcing arrangement" and covered by the proposed Outsourcing Notices to include all outsourcing arrangements where customer information is disclosed, or where the service provider or sub-contractor has access to, possesses or collects, customer information.

4.5 A key implication of the revisions is that all outsourcing arrangements involving disclosure of customer information will be considered material outsourcing arrangements, regardless of the tenure of the arrangements and the impact of

unauthorised access or disclosure, loss or theft of such customer information. MAS is of the view that this reflects the high standard of care expected of banks and merchant banks when customer information is disclosed. Accordingly, all outsourcing arrangements involving the disclosure of customer information, even where written customer consent for onward disclosure of such information has been obtained, will be considered material outsourcing arrangements and be subject to the requirements in the proposed Outsourcing Notices.

4.6 MAS intends for these revisions to similarly apply to merchant banks.

4.7 Banks and merchant banks are currently required under MAS Notice 634 and MAS Notice 1108 respectively to notify MAS of all outsourcing arrangements involving the disclosure of customer information in connection with the performance of an outsourced function outside Singapore, upon entering into the outsourcing agreement for such an arrangement. MAS intends to preserve this requirement in the proposed Outsourcing Notices.

Question 3. MAS seeks comments on the proposed repeal of MAS Notice 634 and MAS Notice 1108, and the proposed requirement that banks and merchant banks must comply with the relevant Outsourcing Notice before they may disclose customer information to their service provider.

Question 4. MAS seeks comments on the proposed revision to the definition of “outsourcing arrangement” and the types of outsourcing arrangements to be considered a “material outsourcing arrangement”.

5 Transition period

5.1 MAS proposes that the proposed Outsourcing Notices take effect 12 months from the date of issuance so as to provide a transition period for banks and merchant banks to make the necessary arrangements to comply with the proposed Outsourcing Notices.

Question 5. MAS seeks comments on the proposed transition period of 12 months.

Annex A

LIST OF QUESTIONS

- Question 1.** MAS seeks comments on the proposed amendment to the Banking Act to strengthen MAS’ oversight of outsourcing arrangements of banks.6
- Question 2.** MAS seeks comments on the proposal to similarly strengthen MAS’ oversight of outsourcing arrangements of merchant banks.6
- Question 3.** MAS seeks comments on the proposed repeal of MAS Notice 634 and MAS Notice 1108, and the proposed requirement that banks and merchant banks must comply with the relevant Outsourcing Notice before they may disclose customer information to their service provider.8
- Question 4.** MAS seeks comments on the proposed revision to the definition of “outsourcing arrangement” and the types of outsourcing arrangements to be considered a “material outsourcing arrangement”.8
- Question 5.** MAS seeks comments on the proposed transition period of 12 months.....8

