

CONSULTATION PAPER

P001 - 2019

February 2019

Proposed Amendments to the Banking Act

MAS

Monetary Authority of Singapore

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1 Preface

1.1 In August 2015, MAS consulted on legislative amendments relating to the removal of the divide between the Domestic Banking Unit (DBU) and the Asian Currency Unit (ACU). MAS responded to feedback received in February 2017. The removal of the DBU-ACU divide and related legislative changes will take effect on 1 October 2020. MAS communicated this timeline to banks and merchant banks when we issued the revised Notice 610/1003 reporting template on 29 March 2018.

1.2 In addition to the DBU-ACU related amendments, MAS proposes to amend the Banking Act on a few other areas. These amendments are mainly aimed at strengthening the licensing and regulation of banks and credit card or charge card licensees, formalising existing supervisory requirements and clarifying other technical and administrative issues.

1.3 MAS invites interested parties to provide their views and comments on the proposals and draft amendments in this paper.

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.

1.4 Please submit written comments by 8 March 2019 to –

Prudential Policy Department
Monetary Authority of Singapore
10 Shenton Way, MAS Building
Singapore 079117
Fax: (65) 62203973
Email: Prudential_Policy_Dept@mas.gov.sg

1.5 Electronic submission is encouraged. We would appreciate that you use this suggested format [\[link to consultation feedback submission document\]](#) for your submission to ease our collation efforts.

2 Proposed Amendments to the Banking Act

Expansion of grounds for revocation of bank licences

2.1 MAS may revoke a bank's licence on various grounds specified in section 20 of the Banking Act. These grounds include: where the licensee has ceased to transact banking business in Singapore, is carrying on its business in a manner likely to be detrimental to the interests of the depositors of the bank or has insufficient assets to cover its liabilities to its depositors or the public, or is contravening the provisions of the Banking Act, or in the case of a foreign bank branch, has had its licence in its home jurisdiction withdrawn by its parent supervisory authority.

2.2 Over time, some important bank regulations have been introduced in the Monetary Authority of Singapore Act (MAS Act) – for instance, anti-money laundering requirements. Additionally, several foreign bank branches have incorporated all or part of their business in Singapore. However, MAS has no express power currently to revoke a bank's licence for breaches of the MAS Act or if the parent bank of a Singapore-incorporated foreign bank has had its licence withdrawn.

2.3 To enhance MAS' enforcement powers over banks and provide clarity on circumstances under which MAS may revoke a bank licence, MAS proposes to expand the grounds set out in section 20 to include:

- (a) contraventions of provisions of the MAS Act, which contains requirements such as those relating to anti-money laundering;
- (b) for a foreign-owned bank incorporated in Singapore, when the parent bank's licence is withdrawn, in line with MAS' powers over foreign bank branches in Singapore; and
- (c) when it appears to MAS that it is in the public interest to do so, which is a ground that is currently available for cancellation, revocation, or withdrawal of licences, approvals, or recognition in respect of most other financial institutions.

Question 1. MAS seeks comments on the proposed expansion of grounds for revocation of bank licences.

Powers for MAS to approve 20% controllers and key appointment holders, and to remove key appointment holders, of credit card or charge card licensees

2.4 MAS currently requires credit card or charge card licensees, through licence conditions, to notify MAS of changes to its controllers, directors and prescribed executive officers. In order to enhance MAS' ability to ensure the fitness and propriety of controllers

and key appointment holders of credit card or charge card licensees, MAS intends to introduce these requirements in the Banking Act.

2.5 Locally incorporated credit card or charge card licensees will require MAS' approval for:

- (a) 20% controllers; and
- (b) appointments of:
 - (i) directors;
 - (ii) the chairman of the board of directors;
 - (iii) the chief executive officer;
 - (iv) deputy chief executive officer; and
 - (v) any other prescribed person.

2.6 A foreign incorporated credit card or charge card licensee will require MAS' approval for the Singapore chief executive officer, deputy chief executive officer and any other prescribed person.

2.7 MAS also proposes to have the power to remove a director, chairman of the board of directors, chief executive officer, deputy chief executive officer and any other prescribed person of a credit card or charge card licensee where the person no longer fulfils the fit and proper criteria. This is aligned with the removal powers MAS has in respect of most other regulated financial institutions.

Question 2. MAS seeks comments on the powers for MAS to approve 20% controllers and certain key appointment holders, and to remove certain key appointment holders, of credit card or charge card licensees.

Revision to requirement for auditors to report material adverse developments affecting banks' financial soundness to MAS

2.8 Auditors are currently required to report to MAS when the auditor is satisfied that a bank has incurred losses that reduce that bank's capital funds by 50%. With the removal of the DBU-ACU divide, the definition of capital funds for bank branches will be deleted. As such, MAS proposes to require auditors to report material adverse developments relating to banks' financial soundness. This is similar to the requirement for banks to report material adverse developments which was introduced in the Banking Act in 2016. Material adverse developments include, but are not limited to, developments that affect banks' statement of financial position and their continued operations or viability, such as material losses, and material uncertainty related to asset valuations, asset recoverability, or funding adequacy.

2.9 For banks incorporated in Singapore, in addition to the requirement for auditors to report material adverse developments relating to such banks' financial soundness, MAS will retain the requirement for auditors to report losses where those losses reduce such banks' capital funds by 50% or more.

Question 3. MAS seeks comments on the proposed revision to the requirement for auditors to report material adverse developments affecting the banks' financial soundness to MAS.

Revision to requirement for banks to publish audited accounts

2.10 Under section 25(2) of the Banking Act, banks are required to publish their latest audited annual balance-sheet, profit and loss account and other information (Accounts) in newspapers. In recognition of the high Internet penetration in Singapore, MAS has reviewed the requirement of newspaper publication and proposes to allow banks the alternative of publishing their Accounts on their Internet websites. MAS will continue to prescribe in the Banking (Publication of Accounts) Regulations the manner in which banks may publish their Accounts.

2.11 For banks that choose to publish their Accounts on their Internet websites, MAS proposes to require that they publish a notification statement in at least four local daily newspapers for full banks (*i.e.* one each published in the Malay, Chinese, Tamil and English language) and in at least one local English language daily newspaper for any other bank. This would allow members of the public who rely on newspapers as a primary source of information to be notified of the publication of the bank's Accounts. The notification statement shall include the following:

- (a) a statement that the published information is now available on the bank's Internet website, and the link to its website; and
- (b) a statement that the published information is available to any person upon request.

Question 4. MAS seeks comments on the proposal that banks publish a notification statement in the local newspapers with contents as proposed in paragraph 2.11(a) to (b) above, if they opt to publish their Accounts on their Internet websites.

Powers to strengthen MAS' oversight of outsourcing arrangements of banks

2.12 MAS proposes to introduce powers in the Banking Act to strengthen MAS' oversight of banks' outsourcing arrangements. This will empower MAS to direct banks to comply with requirements in respect of their outsourcing arrangements. MAS intends to issue an Outsourcing Notice that sets out these requirements. Details of this proposal can

be found in the [Consultation Paper on Outsourcing by Banks and Merchant Banks](#) issued on 7 February 2019 (Outsourcing Consultation Paper), and any feedback should be given in response to that consultation paper.

Streamline outsourcing requirements

2.13 Currently, item 3 of Part II of the Third Schedule of the Banking Act allows a bank to disclose customer information to its service providers if the disclosure is solely in connection with the performance of its outsourced operational functions. Where the bank is disclosing such information to a service provider which is performing the outsourced function outside Singapore, it is required to comply with the conditions set out in MAS Notice 634.

2.14 The proposed Outsourcing Notice for banks (referred to in paragraph 2.12) will incorporate existing requirements under MAS Notice 634. In order not to subject banks to two sets of overlapping requirements on outsourcing arrangements, MAS intends to repeal MAS Notice 634 when the Outsourcing Notice for banks takes effect. In this connection, MAS also proposes to amend item 3 of Part II of the Third Schedule of the Banking Act to require banks to be in compliance with the proposed Outsourcing Notice for banks before they may disclose any customer information to their service provider, regardless of the location of the service provider. This reflects MAS' intent for banks to pay due care to any outsourcing arrangement that involves the disclosure of customer information, regardless of the location where the outsourced function is performed. MAS proposes to make similar amendments in respect of merchant banks. Details of this proposal can be found in the Outsourcing Consultation Paper, and any feedback should be given in response to that consultation paper.

Other amendments

2.15 Other amendments are set out in rows 7 to 12 of [Annex B](#).

Question 5. MAS seeks comments on the other amendments listed in rows 7 to 12 of [Annex B](#).

2.16 MAS also invites views and comments on the draft legislative amendments set out in [Annex C](#). The proposed amendments are reflected in red text.

Question 6. MAS seeks comments on the draft legislative amendments set out in [Annex C](#).

Annex A**LIST OF QUESTIONS**

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Annex B**LIST OF PROPOSED AMENDMENTS TO THE BANKING ACT (BA)**

S/N	Amendment	Sections of BA	Reference in Consultation Paper
1.	Expansion of grounds for revocation of bank licences	20(1)	Pages 12 to 13
2.	Powers for MAS to approve 20% controllers and key appointment holders, and to remove key appointment holders, of credit card or charge card licensees	57FA (new), 57FB (new), 57H (new), 57I (new), 57J (new)	Pages 14 to 20
3.	Revision to requirement for auditors to report material adverse developments affecting banks' financial soundness to MAS	58(8)	Pages 21 to 23
4.	Revision to requirement for banks to publish audited accounts	25 ¹	Pages 24 to 27
5.	Powers to strengthen MAS' oversight of outsourcing arrangements of banks	58A (new)	Annex C of the Outsourcing Consultation Paper
6.	Streamline outsourcing requirements	Item 3, Third Schedule Part II	Annex D of the Outsourcing Consultation Paper
7.	Allow employees of the Accounting and Corporate Regulatory Authority (ACRA) to obtain complete bank audit work papers for the sole purpose of allowing them to perform their duties in inspecting external auditors of banks External auditors play a critical role in providing assurance about a bank's financial statements and financial disclosures, and external auditors are subject	Item 1, Third Schedule Part II ²	Pages 28 to 31

¹ There are also proposed amendments to Banking (Publication of Accounts) Regulations and MAS Notice 607.

² A new Notice is proposed to be issued pursuant to paragraph (b) of the Third Column, item 1 of Part II of the Third Schedule, which will set out conditions governing the disclosure.

S/N	Amendment	Sections of BA	Reference in Consultation Paper
	to inspections under Part V of the Accountants Act to ensure audit quality. To enable employees of ACRA to effectively review the auditors' work during their inspections, ACRA employees need to have access to complete bank audit work papers. MAS proposes to allow external auditors to avail such employees of the complete bank audit work papers, which may contain customer information. Only ACRA employees involved in the review will be allowed access to the customer information received, and these employees are prohibited from further disclosing such information. The disclosure to ACRA employees by the external auditors will also be subject to conditions specified in a notice (at pages 30 and 31). Similar amendments to the Banking Regulations are proposed to facilitate ACRA's inspections of merchant banks' external auditors.		
8.	Power for MAS to impose funding requirements MAS currently imposes the Net Stable Funding requirements (NSFR) requirement via MAS Notice 652 issued pursuant to section 55 of the BA. MAS proposes to formalise its current power to impose such funding requirements on banks by inserting a new provision into the BA to ensure that a bank has a stable and sustainable funding structure for its activities. Consequently, MAS can require the manner of compliance with these requirements to be publicly disclosed (under section 10B of the BA), and MAS will have the power to secure the banks' compliance with this new provision (under section 65 of the BA).	38A (new), 10B(2), 65	Pages 32 to 35
9.	Power for MAS to impose requirements on related party transactions (RPT) MAS issued Notice 643 to all banks in Singapore in November 2016 pursuant to section 55(1) of the BA, to set out requirements relating to transactions between the bank or entities in its bank group with the bank's related parties. MAS Notice 643 will take effect on 1 July 2019. MAS proposes to formalise its power to impose RPT requirements by notice in writing to any bank or class	27, 29, Fifth Schedule	Pages 36 to 47

S/N	Amendment	Sections of BA	Reference in Consultation Paper
	of banks, in its own express section within the BA (i.e. section 27). At the same time, MAS will consolidate in the BA the list of persons who are subject to MAS' RPT and reporting requirements across the Banking Regulations and Notices so as to facilitate banks' compliance with these requirements. MAS will also replace the term "financial group" with "major stake entity group" in sections 27, 29 and the Fifth Schedule.		
10.	Specifying persons or class of persons subject to large exposures limits by Notice MAS proposes to be able to prescribe or specify by notice any person or class of persons that is subject to the large exposures limits. This will provide flexibility to set out detailed requirements by notice.	29	Pages 40 to 41
11.	Imposing additional leverage ratio requirements within the same Notice MAS proposes to impose additional leverage ratio requirements within the same Notice setting out the leverage ratio requirement, rather than in a separate Notice. Having all requirements related to the leverage ratio in one Notice will facilitate banks' compliance with the requirements.	10A	Pages 48 to 49
12.	Other technical and administrative amendments	4B(7), 55	Pages 50 to 51

Annex C**Amendment 1: Expansion of grounds for revocation of bank licences****Amendments to section 20(1) of the Banking Act****Revocation of licence**

20.—(1) The Authority may by order revoke a licence issued under this Act —

- (a) if the Authority is satisfied that the bank holding that licence —
 - (i) has ceased to transact banking business in Singapore;
 - (ii) has furnished information or documents to the Authority in connection with its application for a licence which is or are false or misleading in a material particular;
 - (iii) if it is a bank incorporated outside Singapore, has had its licence or authority to operate withdrawn by the supervisory authority which is responsible, under the laws of the country or territory where the bank is incorporated, formed or established, for supervising the bank;
 - (iv) proposes to make, or has made, any composition or arrangement with its creditors or has gone into liquidation or has been wound up or otherwise dissolved;
 - (v) is carrying on its business in a manner likely to be detrimental to the interests of the depositors of the bank or has insufficient assets to cover its liabilities to its depositors or the public;
 - (vi) **has contravened or** is contravening ~~the any provisions~~ of this Act;
 - (vii) has been convicted of any offence under this Act or any of its directors or officers holding a managerial or executive position has been convicted of any offence under this Act; ~~or~~
 - (viii) has contravened **or is contravening** any provision of the Deposit Insurance and Policy Owners' Protection Schemes Act 2011 or any Rules issued by the deposit insurance and policy owners' protection fund agency under the Deposit Insurance and Policy Owners' Protection Schemes Act 2011; or
 - (ix) **has contravened or is contravening any direction issued by the Authority under the Monetary Authority of Singapore Act (Cap. 186) or any provision of that Act; or**
- (b) if, upon the Authority exercising any power under section 49(2) or the Minister exercising any power under Division 2, 3, 4 or 4A of Part IVB of the Monetary Authority of Singapore Act (Cap. 186) in relation to

the bank, the Authority considers that it is in the public interest to revoke the licence;

- (c) if it is a foreign-owned bank incorporated in Singapore, its parent bank has had its licence or authority to operate withdrawn by the supervisory authority; or
- (d) if the Authority considers it in the public interest to do so.

(2) The Authority shall before revoking any licence under subsection (1) —

- (a) cause to be given to the bank concerned notice in writing of its intention to do so, specifying a date, not less than 21 days after the date of the notice, upon which the revocation will take effect; and
- (b) call upon the bank to show cause to the Authority why the licence should not be revoked.

(3) When the Authority has revoked a licence under subsection (1), the Authority shall immediately inform the bank of the revocation.

(4) Any bank whose licence has been revoked under this section shall have a right of appeal to the High Court against the order of revocation.

(5) An order of revocation made by the Authority shall not take effect until the expiration of a period of 21 days after the Authority has informed the bank of the order.

(6) If within that period the bank concerned gives due notice of appeal to the High Court, the order shall not take effect unless the order is confirmed by the Court or the appeal is for any reason dismissed by that Court.

(7) The making of an appeal by a bank under this section shall in no way affect the exercise of any power by the Authority under section 49, 50, 51, 52 or 53, or the exercise of any power by the Minister under Division 2, 3, 4 or 4A of Part IVB of the Monetary Authority of Singapore Act (Cap. 186), in relation to the bank.

Amendment 2: Powers for MAS to approve 20% controllers and key appointment holders, and to remove key appointment holders, of credit card or charge card licensees**New sections 57FA and 57FB of the Banking Act****Appointment of chief executive and other persons**

57FA.—(1) A licensee incorporated in Singapore must obtain the prior approval of the Authority for the appointment of any of the following:

- (a) all directors;
- (b) the chairman of the board of directors;
- (c) the chief executive officer and the deputy chief executive officer;
- (d) a person holding such appointment in the licensee as may be prescribed.

(2) A licensee incorporated outside Singapore must obtain the prior approval of the Authority for the appointment of the following persons for its branches in Singapore:

- (a) the chief executive officer and the deputy chief executive officer;
- (b) a person holding such appointment in the branch as may be prescribed.

(3) Without prejudice to any other matter that the Authority may consider relevant, the Authority, in determining whether to grant its approval under subsection (1) or (2), must have regard to whether the person is a fit and proper person to hold the office or appointment in accordance with the Guidelines on Fit and Proper Criteria.

(4) The Authority may —

- (a) grant its approval under subsection (1) or (2), with or without conditions; and
- (b) at any time vary or revoke any existing condition or impose conditions or additional conditions.

(5) Without limiting the generality of section 78, the Authority may prescribe —

- (a) the duties of a person appointed under subsection (1) or (2); and

- (b) the maximum term for which a person appointed under subsection (1) or (2) may hold such office or appointment.

(6) A licensee incorporated in Singapore must immediately inform the Authority after the licensee becomes aware that a person who holds an office or appointment referred to in subsection (1) is, in accordance with the Guidelines on Fit and Proper Criteria, no longer a fit and proper person to hold that office or appointment.

(7) A licensee incorporated outside Singapore must immediately inform the Authority after the licensee becomes aware that a person who holds an office or appointment referred to in subsection (2) is, in accordance with the Guidelines on Fit and Proper Criteria, no longer a fit and proper person to hold that office or appointment.

(8) Any licensee which contravenes subsection (1) or (2), or fails to comply with any condition imposed by the Authority under subsection (4) 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 not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

(9) Any licensee which contravenes subsection (6) or (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000.

Disqualification or removal of director or executive officer

57FB.—(1) Notwithstanding the provisions of any other written law—

- (a) a licensee incorporated outside Singapore shall not, without the prior written consent of the Authority, permit a person to act as its executive officer of its branch in Singapore; and
- (b) a licensee incorporated in Singapore shall not, without the prior written consent of the Authority, permit a person to act as its executive officer or director,
 - if the person —
 - (i) has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 2(e) of the Financial Institutions (Miscellaneous Amendments) Act 2013, being an offence —

-
- (A) involving fraud or dishonesty;
 - (B) the conviction for which involved a finding that he had acted fraudulently or dishonestly; or
 - (C) that is specified in the Third Schedule to the Registration of Criminals Act (Cap. 268);
- (ii) is an undischarged bankrupt, whether in Singapore or elsewhere;
 - (iii) has had execution against him in respect of a judgment debt returned unsatisfied in whole or in part;
 - (iv) has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation;
 - (v) has had a prohibition order under section 59 of the Financial Advisers Act (Cap. 110), section 35V of the Insurance Act (Cap. 142) or section 101A of the Securities and Futures Act (Cap. 289) made against him that remains in force; or
 - (vi) has been a director of, or directly concerned in the management of, a regulated financial institution, whether in Singapore or elsewhere —
 - (A) which is being or has been wound up by a court; or
 - (B) the approval, authorisation, designation, recognition, registration or licence of which has been withdrawn, cancelled or revoked by the Authority or, in the case of a regulated financial institution in a foreign country or territory, by the regulatory authority in that foreign country or territory.
- (2) Despite the provisions of any other written law, where the Authority is satisfied that —
- (a) a director of a licensee incorporated in Singapore; or
 - (b) an executive officer of a licensee,
- is not a fit and proper person to be a director or an executive officer (as the case may be), the Authority may, by notice in writing to the licensee, direct the licensee to remove the director or executive officer from his office or employment within such

period as may be specified by the Authority in the notice, and the licensee must comply with the notice.

(3) In assessing whether to direct a licensee to remove a director or an executive officer from his office or employment under subsection (2), the Authority may consider any matter which it considers relevant, including (but not limited to) whether —

- (a) he has wilfully contravened or wilfully caused the licensee to contravene any provision of this Act;
- (b) he has, without reasonable excuse, failed to secure the compliance of the licensee with this Act, the Monetary Authority of Singapore Act (Cap. 186) or any of the written laws set out in the Schedule to that Act;
- (c) he has failed to discharge any of the duties of his office or employment; or
- (d) his removal is necessary in the public interest or for the protection customers of the licensee.

(4) Before directing a licensee to remove a person from his office or employment under subsection (2), the Authority shall —

- (a) give the licensee and the person notice in writing of its intention to do so; and
- (b) in the notice referred to in paragraph (a), call upon the licensee and the person to show cause, within such time as may be specified in the notice, why the person should not be removed.

(5) If the licensee and the person referred to in subsection (4) —

- (a) fail to show cause within the time specified under subsection (4)(b) or within such extended period of time as the Authority may allow; or
- (b) fail to show sufficient cause,

the Authority may direct the licensee to remove the person under subsection (2).

(6) Any licensee which, or any director or executive officer of a licensee who, is aggrieved by a direction of the Authority under subsection (2) may, within 30 days after receiving the direction, appeal in writing to the Minister, whose decision shall be final.

(7) Any licensee which contravenes subsection (1) or fails to comply with a notice issued under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

(8) No criminal or civil liability shall be incurred by a licensee, or any person acting on behalf of the licensee, in respect of anything done or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of the obligations of the licensee under this section.

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

“regulated financial institution” means a person who carries on a business, the conduct of which is regulated or authorised by the Authority or, if it is carried on in Singapore, would be regulated or authorised by the Authority;

“regulatory authority”, in relation to a foreign country or territory, means an authority of the foreign country or territory exercising any function that corresponds to a regulatory function of the Authority under this Act, the Monetary Authority of Singapore Act or any of the written laws set out in the Schedule to that Act.

New Division in Part VIII of the Banking Act

Application and interpretation of this Division

57H.—(1) This Division shall apply to, and in relation to, all individuals whether resident in Singapore or not and whether citizens of Singapore or not, and to all bodies corporate or unincorporate, whether incorporated or carrying on business in Singapore or not.

(2) In this Division, unless the context otherwise requires, any reference to a licensee is a reference to a licensee incorporated in Singapore.

Control of shareholdings and voting power in licensee

57I.—(1) No person shall, on or after [date] become a 20% controller of a licensee without obtaining the approval of the Authority.

(2) Subject to section 57J(4), no person who, immediately before [date], is a 20% controller of a licensee shall continue to be such a controller unless he has, within 6 months after [date] or such longer period as the Authority may allow, applied to the Authority for approval to continue to be such a controller.

(3) In this section, “20% controller” means a person who, alone or together with his associates —

- (a) holds not less than 20% of the total number of issued shares in the licensee; or
- (b) is in a position to control voting power of not less than 20% in the licensee.

(4) For the purposes of subsection (3) —

- (a) a person holds a share if —
 - (i) he is deemed to have an interest in that share under section 7 of the Companies Act (Cap. 50); or
 - (ii) he otherwise has a legal or an equitable interest in that share except for such interest as is to be disregarded under section 7 of the Companies Act;
- (b) a reference to the control of a percentage of the voting power in a licensee is a reference to the control, whether direct or indirect, of that percentage of the total number of votes that might be cast in a general meeting of the licensee; and
- (c) a person, *A*, is an associate of another person, *B*, if —
 - (i) *A* is the spouse or a parent, remoter lineal ancestor or step-parent or a son, daughter, remoter issue, step-son or step-daughter or a brother or sister, of *B*;
 - (ii) *A* is a body corporate that is, or a majority of the directors of which are, accustomed or under an obligation whether formal or informal to act in accordance with the directions, instructions or wishes of *B*;
 - (iii) *A* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*;
 - (iv) *A* is a subsidiary of *B*;
 - (v) *A* is a body corporate in which *B*, alone or together with other associates of *B* as described in paragraphs (ii), (iv) and (v), is in a position to control not less than 20% of the voting power in *A*; or
 - (vi) *A* is a person with whom *B* has an agreement or arrangement, whether oral or in writing and whether express or implied, to

act together with respect to the acquisition, holding or disposal of shares or other interests in, or with respect to the exercise of their voting power in relation to, the licensee.

Approval of applications

57J.—(1) The Authority may approve an application made by any person under section 57I if —

- (a) the Authority is satisfied that —
 - (i) the person is a fit and proper person; and
 - (ii) having regard to the likely influence of the person, the licensee will or will continue to conduct its business prudently and comply with the provisions of this Act; and
- (b) the Authority is satisfied that it is in the public interest to do so.

(2) Any approval under this section may be granted to any person subject to such conditions as the Authority may determine, including but not limited to any condition —

- (a) restricting the person's disposal or further acquisition of shares or voting power in the licensee; or
- (b) restricting the person's exercise of voting power in the licensee.

(2A) The Authority may at any time add to, vary or revoke any condition imposed under subsection (2).

(3) Any condition imposed under subsection (2) shall have effect notwithstanding any of the provisions of the Companies Act (Cap. 50) or anything contained in the memorandum or articles of association of the licensee.

(4) Where the Authority disapproves an application made by any person under section 57I(2), the person shall, within such time as the Authority may specify, take such steps as are necessary to cease to be a 20% controller.

Amendment 3: Revision to requirement for auditors to report material adverse developments affecting banks' financial soundness to MAS**Amendments to section 58(8) of the Banking Act****Auditing**

58.—(1) Despite the provisions of the Companies Act (Cap. 50), every bank must —

- (a) on an annual basis, appoint an auditor and obtain the approval of the Authority to such appointment; and
- (b) where, for any reason, the auditor ceases to act for the bank, as soon as practicable thereafter, appoint another auditor and obtain the approval of the Authority to such appointment.

(2) An auditor shall not be approved by the Authority as an auditor for a bank unless the auditor is able to comply with such conditions in relation to the discharge of his duties as may be determined by the Authority.

(3) The Authority may appoint an auditor —

- (a) if the bank fails to appoint an auditor; or
- (b) if it considers it desirable that another auditor should act with the auditor appointed under subsection (1),

and may at any time fix the remuneration to be paid by the bank to that auditor.

(4) The duties of an auditor appointed under subsections (1) and (3) shall be —

- (a) to carry out, for the year in respect of which he is appointed, an audit of the accounts of the bank; and
- (b) to —
 - (i) in the case of a bank incorporated in Singapore, make a report in respect of its latest financial statements or, where the bank is a parent company for which consolidated financial statements are prepared, consolidated financial statements, in accordance with section 207 of the Companies Act; or
 - (ii) in the case of a bank incorporated outside Singapore, make a report on its latest annual balance sheet and profit and loss account together with any notes thereon showing the assets and liabilities and profit or loss arising out of the bank's operations in Singapore which complies with section 207 of the Companies Act.

(5) The Authority may, by notice in writing, impose all or any of the following duties on an auditor in addition to those provided under subsection (4):

- (a) a duty to submit such additional information in relation to his audit as the Authority considers necessary;
- (b) a duty to enlarge or extend the scope of his audit of the business and affairs of the bank;
- (c) a duty to carry out any other examination or establish any procedure in any particular case;
- (d) a duty to submit a report on any of the matters referred to in paragraphs (b) and (c).

(5A) An auditor to whom a notice is given under subsection (5) must comply with each direction specified in the notice.

(6) The bank shall remunerate the auditor in respect of the discharge by him of all or any of the additional duties mentioned in subsection (5).

(6A) Despite any other provision of this Act or the provisions of the Companies Act, the Authority may, if it is not satisfied with the performance of any duty by an auditor of a bank, at any time —

- (a) direct the bank to remove the auditor; and
- (b) direct the bank to appoint another auditor approved by the Authority, as soon as practicable after the removal,

and the bank must comply with the directions.

(7) The auditor's report made under subsection (4) shall be attached to the balance-sheet and the profit and loss account, the financial statements or the consolidated financial statements, as the case may be, and a copy thereof together with any report submitted under subsection (5) shall be transmitted in writing to the Authority.

(8) If an auditor, in the course of the performance of his duties as an auditor of a bank, ~~is satisfied that~~ —

- (a) ~~is satisfied that~~ there has been a serious breach or non-observance of the provisions of this Act or that otherwise a criminal offence involving fraud or dishonesty has been committed;
- (b) ~~is satisfied that~~ losses have been incurred which reduce the capital funds of the bank ~~incorporated in Singapore~~ by at least 50%;
- (ba) ~~becomes aware of any development that has occurred or is likely to occur which the auditor has reasonable grounds to believe has~~

materially affected adversely, or is likely to materially affect adversely, the financial soundness of the bank;

- (c) is satisfied that serious irregularities have occurred, including irregularities that jeopardise the security of the creditors of the bank; or
- (d) ~~the auditor~~ is unable to confirm that the claims of creditors of the bank are still covered by the assets,

he shall immediately report the matter to the Authority.

(9) In this section, “consolidated financial statements” and “financial statements” have the same meanings as in section 209A of the Companies Act.

(10) Where an auditor discloses in good faith to the Authority —

- (a) any information referred to in subsection (5)(a) or report referred to in subsection (5)(d);
- (b) any of the matters referred to in subsection (8); or
- (c) any information in support of that matter,

the disclosure is not to be treated as a breach of any restriction on the disclosure imposed by any law, contract or rules of professional conduct, and the auditor is not liable for any loss arising from the disclosure or any act or omission as a result of the disclosure.

(11) A bank which contravenes subsection (1) 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 not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

(12) A bank which fails to comply with a direction under subsection (6A) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part of a day during which the offence continues after conviction.

(13) Any auditor who fails to carry out any duty referred to in subsection (4), or who fails to comply with subsection (5A) or (8), 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 not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

Amendment 4: Revision to requirement for banks to publish audited accounts**Amendments to section 25 of Banking Act****Publication and exhibition of audited ~~accounts balance-sheet~~**

25.—(1) Every bank shall exhibit in a conspicuous position in each of its offices and branches in Singapore —

- (a) a copy of its latest audited annual balance-sheet and profit and loss account, together with any notes thereon, and a copy of the report of the auditors, except that in the case of a bank incorporated outside Singapore, those statements may be made in a manner that complies with the law for the time being applicable in the place of its incorporation or origin;
- (b) the full and correct names of all persons who are directors for the time being of the bank;
- (c) and the names of all subsidiary companies for the time being of the bank.

(1A) Every bank shall make available within a reasonable time to any person upon his request, a copy of one or more of the following:

- (a) its exhibit in subsection (1);
- (b) its publication in subsections (2) and (4).

(2) Every bank shall, within 5 months after the close of each financial year or within such period as the Authority may approve, publish in such ~~manner newspaper or newspapers~~ as may be prescribed by regulations a copy ~~or copies~~ of its latest audited annual balance-sheet and profit and loss account containing at least such information as the Authority may require by notice in writing.

(3) In the case of a bank incorporated outside Singapore, the statements referred to in subsection (2) may be made in a manner that complies with the law for the time being applicable in the place of its incorporation or origin.

(4) The Authority may, by notice in writing, require a bank to publish in addition to its balance-sheet and profit and loss account under subsection (2) such additional information ~~relating to the accounts of that bank for any financial year~~ as the Authority thinks fit.

(5) Any bank which fails to comply with this section 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 during which the offence continues after conviction.

Amendments to Banking (Publication of Accounts) Regulations

Citation

1. These Regulations may be cited as the Banking (Publication of Accounts) Regulations.

Definition

2. In these Regulations, “individual” means a single natural person.

Publication of accounts ~~in newspapers~~

3. The annual balance-sheet, profit and loss account and ~~such~~ other information which a bank is required to publish under section 25(2) and (4) shall —
 - (a) in the case of a bank which has accepted during the financial year to which those statements relate any interest-bearing deposit of less than \$250,000 in Singapore dollars from any individual resident in Singapore (except from directors and employees of the bank), be published —
 - (i) in at least 4 local daily newspapers, one each published in the Malay, Chinese, Tamil and English language; ~~or~~
 - (ii) ~~on the bank’s Internet website, in the Malay, Chinese, Tamil and English language; and~~
 - (b) in the case of any other bank, be published —
 - (i) in at least one local English language daily newspaper; ~~or~~
 - (ii) ~~on the bank’s Internet website in at least the English language.~~

Amendments to MAS Notice 607

MAS Notice 607

14 Feb 2003

*Last revised on ~~19-Mar-2007-DD~~ MMM 20XX

This Notice is issued pursuant to sections 25(2) and 25(4) of the Banking Act.

2 Every bank, in publishing³ its latest audited annual balance sheet and profit and loss account, and such consolidated accounts as may be required under the Companies Act in connection with the group of which the bank is a part, shall include the following: -

- (a) ~~A~~ a copy of the auditors' report; ~~and~~
- (b) ~~A~~ a statement of its Tier I capital ratio and total capital adequacy ratio; ~~and~~
- (c) ~~3 Subject to paragraph 4, in the case of a bank incorporated outside Singapore, the information referred to in paragraph 2 may be in a manner that complies with the law for the time being applicable to the bank in the place of its incorporation or origin. Further, as required in MAS Notice 608, a bank incorporated outside Singapore shall include within the publication, where the bank is incorporated outside Singapore, a statement as to whether its home country requires its head office to confer lower priority to depositors of the foreign offices of that bank, vis-a-vis the home country depositors, in the repayment of deposits in the event of receivership, winding up proceedings or equivalent proceedings of the bank.~~

Publication of notification statement

3 If a bank publishes its annual audited balance-sheet, profit and loss account and such other information as required by the Authority ("published information") on the bank's Internet website in accordance with –

- (a) regulation 3(a)(ii) of the Banking (Publication of Accounts) Regulations, the bank must on the same day, publish a notification statement in at least 4 local daily newspapers, one each published in the Malay, Chinese, Tamil and English language;
- (b) regulation 3(b)(ii) of the Banking (Publication of Accounts) Regulations, the bank must on the same day, publish a notification statement in at least one local English language daily newspaper.

4 For the purpose of paragraph 3, a notification statement means the following: -

- (a) a statement that the published information is now available on the bank's Internet website, and the link to its website; and
- (b) a statement that the published information is available to any person upon request.

³ Publication shall be made in accordance with the Banking (Publication of Accounts) Regulations.

5 A bank shall publish notes to the financial statements that relate to events or changes in policies that the bank has reasonable grounds to believe have or is likely to have, an adverse impact on the financial condition of the bank.

~~6 4~~ Subject to paragraph 5, a bank that does not publish notes to its ~~Banks which are not publishing the notes to their~~ audited annual balance sheet and profit and loss statement ~~are required to~~ shall highlight in ~~their~~ its publication, the fact that ~~the such~~ notes form an integral part of the audited financial statements and a full understanding of the statements and the state of affairs of the banks cannot be achieved without reference to the complete set of the banks' audited financial statements. ~~Notwithstanding this, notes to the financial statements that relate to events or changes in policies that have or would have an adverse impact on the financial condition of the bank shall nevertheless be published.~~

~~5 Banks shall make available a complete set of audited financial statements, list of bank directors and list of subsidiaries, on a timely basis, to members of the public upon request and shall disclose in the publication the means by which these can be obtained.~~

7 6 The requirements of this Notice shall take effect from 14 Feb 2003 and apply to financial statements of banks for financial years beginning from or after 1 Jan 2002

*Notes on history of amendments

1 MAS Notice 607 (Amendment) 20XX dated [DD MMM 20XX] takes effect from [DD MM 20XX].

Amendment 7: Allow employees of the Accounting and Corporate Regulatory Authority (ACRA) to obtain complete bank audit work papers for the sole purpose of allowing them to perform their duties in inspecting external auditors of banks

Amendments to Part II of the Third Schedule

PART II
FURTHER DISCLOSURE PROHIBITED

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

First column	Second column	Third column
Purpose for which customer information may be disclosed	Persons to whom information may be disclosed	Conditions
	office of the bank in Singapore or, in the case of a foreign owned bank incorporated in Singapore, its parent bank, under a contract for service to perform an audit. (b) Any of the following persons: (i) the head office of the bank in Singapore where it appointed or engaged the auditor in paragraph (a)(iv); (ii) in the case of a foreign-owned bank incorporated in Singapore, its parent Bank, where it appointed or engaged the auditor in paragraph (a)(iv); or (iii) an employee of the Accounting and Corporate Regulatory Authority that is appointed to carry out a practice review of a public accountant that is a partner, director or employee of the	Singapore, its parent Bank; or (iii) an employee of the Accounting and Corporate Regulatory Authority referred to in paragraph (b)(iii) of the Second Column. (b) The disclosure by any auditor referred to in paragraph (a)(iv) of the Second Column to an employee of the Accounting and Corporate Regulatory Authority referred to in paragraph (b)(iii) of the 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.

First column	Second column	Third column
Purpose for which customer information may be disclosed	Persons to whom information may be disclosed	Conditions
	auditor referred to in paragraph (a)(iv), under Part V of the Accountants Act, where the head office, parent bank or the employee of the Accounting and Corporate Regulatory Authority receives such information from an auditor referred to in paragraph (a)(iv).	

Amendments to Part III of the Third Schedule:

Insert the following definitions:

“auditor” means a public accountant, an accounting corporation, an accounting firm or an accounting limited liability partnership.

“practice review” has the meaning given by section 32 of the Accountants Act.

New Notice to be issued pursuant to paragraph (b) of the Third Column, item 1 of Part II of the Third Schedule

1. This Notice is issued pursuant to section 55 [to be amended to section 78A] and sub-paragraph (b) of the Third Column of item 1 of Part II of the Third Schedule to the Banking Act (Cap. 19) and sets out the conditions which an auditor must comply with before disclosing any customer information to an employee of the Accounting and Corporate Regulatory Authority (“ACRA”) referred to in sub-paragraph (b)(iii) of the Second Column of item 1 of Part II of the Third Schedule to the Act.

2. For the purpose of this Notice—
 - “auditor” has the same meaning as in Part III of the Third Schedule to the Act;
 - “customer” and “customer information” have the same respective meaning as in section 40A of the Banking Act; and
 - “practice review” has the same meaning as in Part III of the Third Schedule to the Act.
3. An auditor referred to in sub-paragraph (a)(iv) of the Second Column of item 1 of Part II of the Third Schedule to the Act must not disclose any customer information to an employee of ACRA referred to in sub-paragraph (b)(iii) of the Second Column of item 1 of Part II of the Third Schedule to the Act, unless—
 - (a) the disclosure is for the sole purpose of enabling the employee of ACRA to carry out a practice review of the professional work of a public accountant that is a partner, director or employee of the auditor referred to in paragraph (a)(iv) of the Second Column in respect of his audit of the bank, under Part V of the Accountants Act;
 - (b) the auditor only discloses such customer information which the bank had disclosed to the auditor for the auditor to audit its financial statements; and
 - (c) ACRA has given to the auditor a written confirmation that the access to customer information by its employees is for the sole purpose of enabling its employees to carry out a practice review of the professional work of a public accountant that is a partner, director or employee of the auditor referred to in paragraph (a)(iv) of the Second Column in respect of his audit of the bank, under Part V of the Accountants Act.

Amendment 8: Power for MAS to impose Stable Funding requirements**New section 38A of the Banking Act****PART VI****MINIMUM ASSET AND FUNDING REQUIREMENTS**

38A.—(1) For the purposes of ensuring that a bank has a stable and sustainable funding structure for its activities, the Authority may, from time to time, by notice in writing to a bank in Singapore or a class of banks in Singapore, impose requirements on the funds to be held by the bank or class of banks, having regard to the risks arising from the activities of the bank or class of banks, as the case may be, and such other factors as the Authority may consider relevant..

(2) Without limiting subsection (1), a notice issued under that subsection may prescribe –

- (a) the minimum amount (which may be expressed in the form of a ratio) of funds to be held by the bank or class of bank;
- (b) the manner of and process for calculating the amount of funds held by the bank or class of banks; and
- (c) the reports to be submitted by the bank or class of banks.

(3) The Authority may, if it considers appropriate in the particular circumstances of a bank, having regard to the risks arising from the activities of the bank, the systemic impact of the bank on the financial sector and such other factors as the Authority may consider relevant, vary any requirement imposed under subsection (1) on that bank.

(4) Without prejudice to subsection (5), the Authority may restrict or suspend the operations of a bank which fails to comply with a notice under subsection (1).

(5) A bank which fails to comply with –

- (a) a notice under subsection (1); or
- (b) any restriction or suspension imposed by the Authority under subsection (4),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part of a day during which the offence continues after conviction.

Amendments to section 10B(2) of the Banking Act**Public disclosure requirement**

10B.—(1) For the purposes of enhancing market discipline, the Authority may, by notice in writing to a bank in Singapore or a class of banks in Singapore, require —

- (a) the bank or each bank in the class to disclose to the public, in the form and manner specified by the Authority, any information relating to its operations and activities, and the manner it complies with any provision of this Act or a notice or direction issued under this Act; or
- (b) the bank or each bank in the class, if incorporated in Singapore, to disclose to the public, in the form and manner specified by the Authority, any information relating to the operations and activities of any entity in its bank group within the meaning of section 48AA.

(2) Without limiting the generality of subsection (1), a notice under that subsection may require a bank to disclose one or more of the following information of the bank or an entity in the bank group of the bank (as the case may be):

- (a) its risk profile and risk management process;
- (b) aspects of its corporate governance;
- (c) its capital adequacy, including various components used to calculate its capital adequacy;
- (d) its leverage ratio;
- (e) the manner it complies with any requirement imposed on it under sections 38 and 38A (if applicable);
- (f) the aggregation of —
 - (i) its assets, liabilities, profits or losses, and any other information whether or not on its balance sheet; and
 - (ii) the assets, liabilities, profits or losses, and any other information whether or not on the balance sheet or balance-sheets, of all or any of its related corporations, and the entities in which it holds, directly or indirectly, a major stake as defined in section 32(7).

(3) Any bank which fails to comply with a notice under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part of a day during which the offence continues after conviction.

(4) Any bank which, in purported compliance with a notice under subsection (1), provides to the public any information, knowing or reckless that the information is

false or misleading in a material particular, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000.

(5) Where a bank is guilty of an offence under subsection (3) or (4), any individual charged with the duty of securing the bank's compliance with the notice and was in the position to discharge that duty, shall also be guilty of an offence and shall be liable on conviction —

- (a) if the individual committed the offence wilfully, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or
- (b) if the individual did not commit the offence wilfully, to a fine not exceeding \$125,000.

Amendments to sections 65(1) and 65(2) of the Banking Act

Power of Authority to secure compliance with Act

65.—(1) A bank in Singapore, if called upon at any time by the Authority in writing to do so, must satisfy the Authority by the production of such evidence or information as the Authority may require, that the bank is not in contravention of any of the provisions of, or any regulation, notice or direction made or issued under, section 10, 10A, 23, 27, 29, 31, 32, 33, 35, 38, 38A, 39, 40, 42 or this section.

(2) Without prejudice to sections 10, 10A, 23, 27, 29, 31, 32, 33, 35, 38, 38A, 39, 40 and 42 or any other subsection of this section, the Authority may, for the purpose of securing compliance with any of those provisions, or any regulation, notice or direction made or issued under any of those sections (other than this section), on a consolidated basis, from time to time by notice in writing, require any bank to aggregate, in such manner as may be specified in the notice —

- (a) its assets, liabilities, profits or losses, and any other information whether or not on its balance-sheet; and
- (b) the assets, liabilities, profits or losses, and any other information whether or not on the balance-sheet of —
 - (i) the bank's related corporations; and
 - (ii) the entities in which the bank holds, directly or indirectly, a major stake as defined in section 32(7).

(3) A notice under subsection (2) may vary a requirement of a notice issued under any of the sections mentioned in that subsection.

(4) The bank must comply with the notice under subsection (2) within such time as may be specified in the notice.

(5) Any bank which fails to comply with a requirement of the Authority under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part of a day during which the offence continues after conviction.

(6) Any bank which contravenes subsection (4) shall be guilty of an offence and shall be liable on conviction to the same punishment as that provided for a contravention of the section of this Act, or of a notice or direction under the section of this Act, for the compliance with which the notice was given.

Amendment 9: Power for MAS to impose requirements on related party transactions

Amendment 10: Specifying persons or class of persons subject to large exposures limits by Notice

Amendments to section 27 of the Banking Act

~~Information on e~~ Exposures, etc., and actions if exposures, etc., detrimental to depositors' interests

~~27.—~~ (1) The Authority may by notice in writing to any bank in Singapore or any class of banks in Singapore, impose such requirements as may be necessary or expedient for the purposes of monitoring and controlling potential risks arising from —

- (a) credit facilities from the bank or any entity in the bank's group to any related party of the bank;
- (b) exposures of the bank or any entity in the bank's group to any related party of the bank; and
- (c) transactions of the bank or any entity in the bank's group with any related party of the bank.

~~(1) (2) Every bank in Singapore shall~~ The Authority may by notice in writing to any bank in Singapore or any class of banks in Singapore, require the bank or class of banks, as the case may be, to prepare a statement in respect of each quarter of a year, in such form as may be specified by the Authority, showing as at the end of that quarter ~~all the credit facilities from, all the exposures of the bank to, and all the transactions of the bank with~~ —

- (a) all the credit facilities from the bank or any entity in the bank's group to any related party of the bank;
 - (b) all the exposures of the bank or any entity in the bank's group to any related party of the bank; and
 - (c) all the transactions of the bank or any entity in the bank's group with any related party of the bank.
- ~~(a) any person in a director group of the bank;~~
 - ~~(b) any firm or limited liability partnership of which the bank is a partner, a manager, an agent, a guarantor or a surety;~~
 - ~~(c) any company of which any of the directors of the bank is a director or an agent;~~

- ~~(d) any company of which the bank or any of its officers (other than directors), employees or other persons who receive remuneration from the bank (other than for professional services rendered to the bank) is a director, an executive officer, an agent, a guarantor or a surety;~~
- ~~(e) any of its officers (other than directors), employees or other persons who receive remuneration from the bank (other than for professional services rendered to the bank) in excess of one year's emoluments of the officer, employee or person;~~
- ~~(f) in the case of a bank incorporated in Singapore, any person in a substantial shareholder group of the bank;~~
- ~~(g) any person in the financial group of the bank;~~
- ~~(h) any related corporation of the bank;~~
- ~~(i) any individual in whom, or any firm, limited liability partnership or company in which, any of the directors of the bank has an interest, directly or indirectly, as declared under section 28 other than the credit facilities, exposures or transactions particulars of which have already been supplied under this subsection; and~~
- ~~(j) such other person or class of persons as may be prescribed.~~

~~(2)~~ (3) A statement under subsection ~~(2)~~ ~~(1)~~ —

- (a) shall be prepared within 7 days, or such other period as may be approved by the Authority, after the quarter of the year in respect of which it is to be prepared;
- (b) shall —
 - (i) in the case of a bank incorporated in Singapore, be brought up and read at the next meeting of its board of directors after it is prepared; and
 - (ii) in the case of a bank incorporated outside Singapore, be submitted to the head office of the bank; and

shall be submitted to the Authority within 7 days from the date on which it is read at the meeting of the board of directors or submitted to the head office of the bank, as the case may be.

~~(3)~~ (4) If it appears to the Authority, whether from a statement submitted under subsection ~~(2)~~ (3)(c) or otherwise, that any credit facility from ~~the bank to~~, any exposure of the bank to, or any transaction of a bank with, any ~~person referred to in subsection (1) related party of the bank~~ is detrimental to the interests of the depositors of the bank, the Authority may by notice in writing to the bank do one or more of the following:

-
- (a) direct the bank to do any of the following within such time and to such extent as may be specified in the notice:
 - (i) secure repayment of the credit facility;
 - (ii) reduce or eliminate the exposure;
 - (iii) terminate the transaction;
 - (b) prohibit the bank from granting any new credit facility, creating any new exposure, or entering into any new transaction to or with the person;
 - (c) impose such restrictions as the Authority considers appropriate on the grant of any new credit facility, the creation of any new exposure, or the entering into of any new transaction to or with the person.

(3A) Any bank which fails to comply with a notice under subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part of a day during which the offence continues after conviction.

(4) In this section —

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

“bank’s group”, in relation to a bank in Singapore, means a group comprising —

- (a) in the case of a bank incorporated in Singapore —
 - (i) every subsidiary of the bank;
 - (ii) every branch of the bank located outside Singapore; and
 - (iii) every other entity that is treated as part of the bank’s group of companies for accounting purposes according to Accounting Standards;
- (b) in the case of the branches located within Singapore of a bank incorporated outside Singapore —
 - (i) every subsidiary of the bank; and
 - (ii) every other entity that that is treated as part of the bank’s group of companies for accounting purposes according to Accounting Standards;

that is reflected as an investment in the books in Singapore of the bank that relate to its operations in Singapore;

“director”, in relation to a bank in Singapore, has the meaning given to it in the Fifth Schedule;

“director group” has the meaning given to it in the Fifth Schedule;

“exposure” has the meaning given to it in the Fifth Schedule;

“~~financial~~ major stake entity group” has the meaning given to it in the Fifth Schedule;

“related corporation group” has the meaning given to it in the Fifth Schedule;

“related party”, in relation to a bank, means –

- (a) any person in a director group of the bank;
- (b) any firm or limited liability partnership of which the bank is a partner, a manager, an agent, a guarantor or a surety;
- (c) any company of which any of the directors of the bank is a director or an agent;
- (d) any company of which the bank or any of its officers (other than directors), employees or other persons who receive remuneration from the bank (other than for professional services rendered to the bank) is a director, an executive officer, an agent, a guarantor or a surety;
- (e) any of its officers (other than directors), employees or other persons who receive remuneration from the bank (other than for professional services rendered to the bank) in excess of one year’s emoluments of the officer, employee or person;
- (f) in the case of a bank incorporated in Singapore, any person in a substantial shareholder group of the bank;
- (g) any person in the senior management group of the bank;
- (h) any person in the key credit approver group of the bank;
- (i) any entity in the major stake entity group of the bank;
- (j) any entity in the related corporation group of the bank;
- (k) any person in which any of the directors of the bank has an interest, directly or indirectly, as declared under section 28 other than the credit facilities, exposures or transactions particulars of which have already been supplied under this subsection; and
- (l) such other person or class of persons that the Authority may prescribe or specify by notice in writing from time to time.

“senior management group” has the meaning given to it in the Fifth Schedule;

“substantial shareholder group” has the meaning given to it in the Fifth Schedule;

“key credit approver group” has the meaning given to it in the Fifth Schedule;

“transaction” has the meaning given to it in the Fifth Schedule.

Amendments to section 29 of the Banking Act

Exposures and credit facilities

29.—(1) The Authority may by notice in writing to any bank in Singapore, or any class of banks in Singapore, impose such requirements as may be necessary or expedient for the purposes of limiting the exposure of the bank, or a bank within the class of banks, to any one or more of the following:

- (a) where the bank is incorporated in Singapore, a substantial shareholder group of the bank;
- (b) the ~~financial~~ major stake entity group of the bank;
- (c) a director group of the bank;
- (d) any other person or class of persons as ~~may be prescribed the Authority~~ may prescribe or specify by notice in writing.

[1/2007]

(2) Without prejudice to the generality of subsection (1), the Authority may in a notice issued under that subsection —

- (a) specify the limit on any exposure;
- (b) exclude any exposure from any limit;
- (c) specify the method of measuring any exposure;
- (d) exclude any bank or class of banks from any requirement imposed under subsection (1); and
- (e) vary any limit in a particular case.

[1/2007]

(3) A bank in Singapore shall not grant any credit facility against the security of its own shares.

[1/2007]

(4) Any bank which fails to comply with subsection (3) or any requirement imposed under subsection (1) 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 not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

[1/2007]

(5) In this section —

“director group” has the meaning given to it in the Fifth Schedule;

“exposure” has the meaning given to it in the Fifth Schedule;

“~~financial~~ major stake entity group” has the meaning given to it in the Fifth Schedule;

“substantial shareholder group” has the meaning given to it in the Fifth Schedule.

Amendments to the Fifth Schedule

FIFTH SCHEDULE

Sections 27(4), 28(8), 29 (7), 38(9) and 77A

DEFINITIONS IN SECTIONS 27, 28, 29, 38 AND 39A

1. For the purposes of sections 27, 28 and 29 and this Schedule —

“affiliate” means —

(a) in relation to a substantial shareholder of a bank incorporated in Singapore, any corporation which is an associate of the substantial shareholder, other than —

- (i) the bank and any entity in which the bank acquires or holds, directly or indirectly, a major stake;
- (ii) the parent bank of the bank and any entity in which the parent bank acquires or holds, directly or indirectly, a major stake; or
- (iii) where the bank is the subsidiary of a financial holding company, the financial holding company and any entity in which the financial holding company acquires or holds, directly or indirectly, a major stake;

(b) in relation to a substantial shareholder of a financial holding company, any corporation which is an associate of the substantial shareholder, other than —

- (i) the financial holding company and any entity in which the financial holding company acquires or holds, directly or indirectly, a major stake; or

(ii) where the financial holding company is the subsidiary of another financial holding company, the second-mentioned financial holding company and any entity in which the second-mentioned holding company acquires or holds, directly or indirectly, a major stake; and

(c) in relation to a substantial shareholder of a parent bank, any corporation which is an associate of the substantial shareholder, other than the parent bank and any company in which the parent bank acquires or holds, directly or indirectly, a major stake;

“associate”, in relation to a substantial shareholder, means —

- (a) any corporation in which the substantial shareholder controls the composition of the board of directors;
- (b) any corporation in which the substantial shareholder controls more than half of the voting power;
- (c) any corporation in which the substantial shareholder holds more than half of the total number of issued shares;
- (d) any corporation which is a subsidiary of any other corporation which is an associate by virtue of paragraph (a), (b) or (c);
- (e) any corporation in which the substantial shareholder or any other corporation which is an associate by virtue of paragraph (a), (b), (c) or (d) has, or the substantial shareholder and such other corporation together have, an interest in shares entitling the beneficial owners thereof the right to cast, whether by proxy or in person, not less than 20% but not more than 50% of the total votes able to be cast at a general meeting of the first-mentioned corporation; or
- (f) any corporation (not being a corporation which is an associate by virtue of paragraph (a), (b), (c), (d) or (e)) the policies of which the substantial shareholder or any other corporation which is an associate by virtue of paragraph (a), (b), (c), (d) or (e) is, or the substantial shareholder together with such other corporation are, able to control or influence materially;

“child” includes a stepchild and a child who has been de facto adopted by the person in question, whether or not such adoption has been registered in accordance with the provisions of any written law;

“counterparty”, in relation to a bank, means a person —

(a) who has an obligation to the bank as a result of the bank's contractual or other arrangements; or

(b) in relation to whom the bank is at risk as a result of the bank's contractual or other arrangements or investments;

“director”, in relation to a bank in Singapore, includes the spouse, parent and child of a director of the bank;

“director group”, in relation to a bank in Singapore, means a group of persons comprising —

(a) any director of the bank;

(b) every firm or limited liability partnership in which the director is a partner, a manager, an agent, a guarantor or a surety;

(c) every individual of whom, and every company of which, the director is a guarantor or surety; and

(d) every company in which the director —

(i) is an executive officer;

(ii) owns more than half of the total number of issued shares, whether legally or beneficially;

(iii) controls more than half of the voting power; or

(iv) controls the composition of the board of directors;

“exposure” means the maximum loss that a bank may incur as a result of the failure of a counterparty to meet any of its obligations;

“family member”, in relation to an individual, means the individual's spouse, parent or child;

~~“financial group”, in relation to a bank in Singapore, means a group of entities comprising —~~

~~— (a) where the bank is incorporated in Singapore, every entity in which the bank acquires or holds, directly or indirectly, a major stake in accordance with section 32(1); or~~

~~— (b) where the bank is incorporated outside Singapore, every entity in which the bank acquires or holds, directly or indirectly, a major stake in accordance~~

~~with section 32(1) and which is reflected as an investment in the books of the bank in Singapore in relation to its operations in Singapore;~~

“major stake” has the meaning given by section 32(7) of the Act;

“major stake entity group”⁴, in relation to a bank in Singapore, means a group of entities comprising —

- (a) (in the case of a bank incorporated in Singapore) any entity in which the bank holds, directly or indirectly, a major stake;
- (b) (in the case of the branches located within Singapore of a bank incorporated outside Singapore) any entity in which the bank incorporated outside Singapore holds, directly or indirectly, a major stake that is reflected in the books in Singapore of the bank that relate to its operations in Singapore;

“parent bank”, in relation to a bank, means a bank incorporated in or outside Singapore of which the first-mentioned bank is a subsidiary;

“related corporation group”⁴, in relation to a bank in Singapore, means a group of entities comprising —

- (a) (in the case of a bank incorporated in Singapore) any related corporation of the bank and any branch of the bank located outside Singapore; or
- (b) (in the case of the branches located within Singapore of a bank incorporated outside Singapore) any related corporation of the bank, its head office and any branch of the bank located outside Singapore;

“senior management group”, in relation to a bank in Singapore, means a group comprising —

- (a) any executive officer of the bank;
- (b) any firm or limited liability partnership in or for which an executive officer of the bank is a partner, a manager, an agent, a guarantor or a surety;
- (c) any individual for whom an executive officer of the bank is a guarantor or surety;

⁴ Where an entity falls within two or more of the related party groups - “major stake entity group”, “related corporation group” and “substantial shareholder group”, a bank in Singapore may regard the entity as belonging to only one related party group for the purposes of Notice 643.

(d) any company for which an executive officer of the bank is a guarantor or surety;

(e) any company in which the executive officer of the bank —

(i) is an executive officer;

(ii) owns more than half of the total number of issued shares, whether legally or beneficially;

(iii) controls more than half of the voting power; or

(iv) controls the composition of the board,

but does not include any person who is a part of a director group of the bank;

“substantial shareholder group”⁴, in relation to a bank incorporated in Singapore, means a group of persons comprising —

(a) any substantial shareholder of the bank;

(b) every affiliate of the substantial shareholder of the bank; and

(c) where the bank is a subsidiary of a financial holding company or a parent bank —

(i) any substantial shareholder of the financial holding company or the parent bank; and

(ii) every affiliate of the substantial shareholder referred to in subparagraph (i);

“key credit approver” -

(a) in relation to a bank incorporated in Singapore, means any person who, whether singly or jointly with any other persons, has the authority to approve the highest tier of credit facilities across the bank in Singapore and its bank group, that will be booked in the books of the bank in Singapore or any entity within the bank group; and

(b) in relation to a bank incorporated outside Singapore, means any person who, whether singly or jointly with other persons, —

(i) has the authority to approve the highest tier of credit facilities across the bank in Singapore and its bank group, that will be booked in the books of the bank in Singapore or any entity within the bank group; and

- (ii) is involved in the day-to-day business of granting credit facilities to customers of the bank in Singapore.

“key credit approver group”, in relation to a bank in Singapore, means a group of persons comprising —

- (a) any key credit approver of the bank;
- (b) any firm or limited liability partnership in or for which the key credit approver is a partner, a manager, an agent, a guarantor or a surety;
- (c) any individual for whom a key credit approver of the bank is a guarantor or surety;
- (d) any company for which a key credit approver of the bank is a guarantor or surety;
- (e) every company in which a key credit approver of the bank —
 - (i) is an executive officer;
 - (ii) owns more than half of the total number of issued shares, whether legally or beneficially;
 - (iii) controls more than half of the voting power; or
 - (iv) controls the composition of the board;

but does not include any person who is a part of a director or senior management group of the bank;

“transaction” means any type of transaction including (but not limited to) any contract, agreement and arrangement and any transaction forming part of a contract, agreement or arrangement, and includes a write-off of a debt, loan or any other similar arrangement.

2. For the purposes of the definitions of “associate” and “substantial shareholder group”, a reference to a substantial shareholder shall, where the substantial shareholder is an individual, include a reference to a family member of the substantial shareholder.

3. For the purposes of the definition of “associate”, a substantial shareholder is deemed to control the composition of the board of directors of a corporation if he has any power, exercisable by him without the consent or concurrence of any other person, to appoint or remove all or a majority of the directors of the corporation.

4. For the purposes of the definition of “director group”, a director of a bank is deemed to control the composition of the board of directors of a company if he has any power, exercisable by him without the consent or concurrence of any other person, to appoint or remove all or a majority of the directors of the company.

5. For the purposes of the definition of “exposure”, in determining the maximum loss that a bank may incur as a result of the failure of a counterparty to meet any of its obligations —

(a) any collateral available to the bank; and

(b) any likelihood of recovery from the counterparty in the event of the bankruptcy or winding up, or its equivalent, of the counterparty,

shall not be taken into account.

6. For the purposes of sections 38 and 39A, “liquidity stress situation” means a situation where a bank, having exhausted all reasonable sources or avenues for obtaining funds, is unable to meet its obligations, as and when they fall due, without incurring significant costs or losses.

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

(a) a reference to an entity is a reference to anybody corporate or unincorporate, whether incorporated, formed or established in or outside Singapore; and

(b) a reference to an entity in which another entity acquires or holds, directly or indirectly, a major stake is a reference to an entity in which the other entity has a major stake as defined in section 32(7).

Amendment 11: Imposing additional leverage ratio requirements within the same Notice

Amendments to section 10A of the Banking Act

Leverage ratio requirement

10A.—(1) The Authority may, by notice in writing, ~~to require~~ any bank incorporated in Singapore or any class of banks incorporated in Singapore, ~~to maintain a minimum~~ impose leverage requirements on them. ~~ratio of a specified percentage, and to carry out other acts relating to this.~~

(2) Without limiting the generality of subsection (1), a notice under that subsection may prescribe — ~~the manner of and process for calculating the leverage ratio.~~

- ~~(a) the minimum leverage ratio to be maintained by the bank or class of banks;~~
- ~~(b) the manner of and process for calculating the leverage ratio;~~
- ~~(c) additional leverage ratio to be imposed on the bank or class of banks; and~~
- ~~(d) restrictions on the distributions by a bank of dividends, bonuses, commissions, payments as a result of a buyback of shares, and any other payment, in the event that the bank fails to comply with a requirement prescribed under subsection (a), (b) or (c).~~

(3) The Authority may, if it considers appropriate, in the particular circumstances of a bank incorporated in Singapore, having regard to the risks arising from the activities of the bank and such other factors that the Authority considers relevant, vary any leverage requirement imposed by a notice under subsection (1) on that bank. ~~Where the Authority issues a notice under subsection (1) to a class of banks incorporated in Singapore, the Authority may by another notice —~~

- ~~(a) — impose additional leverage ratio on the class of banks;~~
- ~~(b) — impose restrictions on distributions by a bank of dividends, bonuses, commissions, payments as a result of a buyback of shares, and any other payment, in the event that the bank fails to comply with a requirement imposed under subsection (1); or~~
- ~~(c) — vary the requirements for different banks within that class having regard to the risks arising from the activities of each bank, the financial soundness of each bank, and such other factors as the Authority may consider relevant.~~

(4) Any bank which fails to comply with a notice under subsection (1) ~~or (3)~~ shall be guilty of an offence and shall be liable on conviction to a fine not exceeding

\$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part of a day during which the offence continues after conviction.

(5) In this section and section 10B, “leverage ratio” means the ratio of the capital to the exposures of the bank.

Amendment 12: Other technical or administrative amendments**Amendment to clarify the definition of “deposit-taking business” in section 4B(7) of the Banking Act**

(7) Subject to the provisions of this section, for the purposes of section 4A, a business is a deposit-taking business if —

- (a) in the course of the business, money received by way of deposit is lent to others; or
- (b) any ~~other~~ activity of the business is financed, ~~wholly or~~ to any material extent, out of the capital of or the interest on money received by way of deposit.

Amendment to move section 55 from Part VII to Part IX of the Banking Act**Notices to banks**

55 78A.—(1) The Authority may, if it appears to the Authority to be necessary or expedient in the public interest, or in the interest of depositors or the financial system in Singapore, by notice in writing to a bank in Singapore or a class of banks in Singapore give directions or impose requirements on or relating to the operations or activities of, or the standards to be maintained by, the bank or banks.

(2) Without prejudice to the generality of subsection (1), any notice under that subsection may be given in respect of —

- (a) the revaluation of the assets of banks;
- (b) the maintenance of credit files of borrowers and the grading of loans;
- (c) the prohibition or control of the sale of commemorative coins or medals;
- (d) the deposit of specified securities with authorised depositaries;
- (e) the issue of Singapore dollar negotiable certificates of deposit;
- (f) prior notification to the Authority of changes in interest rates and minimum lending rates of banks;
- (g) restrictions on the granting of Singapore dollar credit facilities in whatever form or by whatever means to residents of Singapore where such facilities are to be used outside Singapore, or to non-residents;
- (h) the appointment or removal of chief executives, deputy chief executives and other principal officers of a bank incorporated outside Singapore;
- (i) the maintenance of a register of dealers of a bank;

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- (j) the terms and conditions for the operation of a bank's current and other accounts with the Authority;
 - (k) the manner in which a bank conducts its dealings with its customers, the procedures for the reporting of transactions between a bank and its employees, and conflicts of interest involving a bank and its employees or involving a bank and its customers;
 - (l) the maximum aggregate permissible percentage holdings by any class, category or description of persons of interests in shares of a bank incorporated in Singapore;
 - (m) the limits for the total amount of foreign exchange transactions which a bank incorporated in Singapore may undertake and for this purpose the limits may be applied uniformly to all such banks or separate limits may be determined for any particular bank incorporated in Singapore or for 2 or more of such banks;
 - (n) the opening of new branches of a bank and the change of location of any place of business of a bank;
 - (o) the installation of automated teller machines by a bank;
 - (p) the provision for and the writing-off of bad debts;
 - (q) any audit of a Singapore branch of a bank by an internal auditor from its head office which is outside Singapore;
 - (r) the forms, returns and submissions of statistics for the purposes of this Act.

(3) ~~A bank in Singapore shall comply with any direction given to the bank or any requirement imposed on the bank by any notice issued under this Act.~~ Any bank in Singapore that fails to comply with any requirement specified in a notice issued under subsection (1) shall (if the failure to comply with that requirement is not an offence under any other provision of this Act) 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 not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

(4) It shall not be necessary to publish any notice in writing issued under this Act in the Gazette.

