MAS NOTICE 643A (AMENDMENT) 2020

Issued on: 21 September 2020

EXPOSURES AND CREDIT FACILITIES TO RELATED CONCERNS

Introduction

1 For presentational purposes, the amendments in this document are compared against the version of MAS Notice 643A dated 12 December 2019.

2 This document shall be interpreted as follows:

(a) Text which is coloured and struck through represents deletion which will not appear in the untracked version of MAS Notice 643A last revised on 21 September 2020 which is published on MAS' website www.mas.gov.sg ("Published Version"); and

(b) Text which is coloured and underlined represents insertion which will appear in the Published Version.

3 The amendments reflected in this document shall take effect on 1 October 2020.

4 This document is to be used for reference only. In the event of discrepancies between the amendments in this document and the Published Version, the Published Version shall prevail.

MAS NOTICE 643A

12 December 2019

Last revised on 21 September 2020*

NOTICE TO BANKS
BANKING ACT, CAP. 19

(MAS 639A dated 6 June 2007 is cancelled with effect from 1 July 2021~~October 2020~~.)
[MAS Notice 643A (Amendment) 2020]

EXPOSURES AND CREDIT FACILITIES TO RELATED CONCERNS

---

1 This Notice is issued pursuant to section 27(1) of the Banking Act (Cap. 19) ["the Act"].

Definition

2 In this Notice—

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

"capital funds", in relation to a bank incorporated outside Singapore, means the net head office funds of the bank and such other liabilities as defined in paragraph 5(b) of MAS Notice 601;

"eligible total capital", in relation to a bank incorporated in Singapore, has the same meaning as "Eligible Total Capital" in MAS Notice 637, on a standalone level;

"eligible total capital", in relation to a bank group, has the same meaning as "Eligible Total Capital" in MAS Notice 637, on a consolidated level;

"netting" has the same meaning as in MAS Notice 637;

"netting agreement" has the same meaning as in MAS Notice 637;

"netting transaction" refers to any off-balance sheet derivative transaction of a bank in Singapore covered under a netting agreement, including:

(a) any interest rate contract;

(b) any exchange rate or gold contract;

(c) any contract based on individual equities or equity indices, precious metals or commodities; and

(d) any credit derivative transaction;

"related concerns" means any person, branch, entity or head office referred to in section 27(2) of the Act;

"related party" has the same meaning as in paragraph 3 of MAS Notice 643;

"related party group" has the same meaning as in paragraph 3 of MAS Notice 643;

"subsidiary", in relation to a bank incorporated outside Singapore, has the same meaning as section 5 of the Companies Act, except that the control of shares in any corporation by the bank in Singapore, is by way of investments reflected in the books of the bank in Singapore in respect of its operations in Singapore.

3 The expressions used in this Notice shall, except where defined in this Notice or where the context otherwise requires, have the same meanings as in the Act.

Statement under section 27(1) of the Act

4 Every bank must prepare the statement under section 27(1) of the Act in respect of each quarter of the year in the form set out in Appendix 1. The Explanatory Notes for completing the statement are set out in Appendix 2.

5 Every bank must maintain detailed records of every credit facility from, and exposure of the bank or any branch or entity in its bank group with, any related concern.

Aggregation with subsidiaries

6 Every bank incorporated in Singapore that is not a subsidiary of another bank incorporated in Singapore must prepare an additional statement in the form set out in Table 1 of Appendix 1, at the consolidated level, aggregating its credit facilities and exposures respectively to each related party group with that of all its subsidiaries and any other entity treated as part of the bank's group of entities according to Accounting Standards.

Preparation of Quarterly Statements

7 A bank must prepare the statement –

(a) where the bank opts to compute exposures in accordance with MAS Notice 656, no later than the 14th day of the second month, 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; and

(b) where the bank opts to compute exposures in accordance with this Notice, 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.

Effective Date

8 This Notice takes effect on 1 ~~October~~ July 202~~0~~1. MAS Notice 639A dated 6 June 2007 is cancelled with effect from 1 ~~October~~ July 202~~0~~1.

[MAS Notice 643A (Amendment) 2020]

*Endnotes on History of Amendments

(1) MAS Notice 639A dated 6 June 2007 is cancelled with effect from 1 October 2020.
(2) MAS Notice 643A dated 12 December 2019 with effect from 1 October 2020.
(3) MAS Notice 643A (Amendment) 2020 takes effect from 21 September 2020.

Appendix 1

Name of Bank: ____

Table 1: Statement of exposures and credit facilities to be reported under section 27(1) of the Banking Act (Cap 19) as at _________________

	Total Exposure Limits (S$)	**Total Gross Exposure Amounts (S$)**	**Total Net Exposure Amounts (S$)**	**Total Gross Exposure Amounts of which are Credit Facilities (S$)**	**Total Credit Facilities which are Unsecured (S$)**	**Remarks**
a) Persons in the director groups of the bank						
b) In the case of a bank incorporated in Singapore, persons in the substantial shareholder groups of the bank						
c) Entities in the major stake entity groups of the bank						
d) Branches, entities or head office in the related corporation groups of the bank[1]						
e) Persons in the senior management groups of the bank						
f) Persons in the key credit approver groups of the bank						
g) Persons in which, any of the directors of the bank has a direct or indirect interest, as declared under section 28 other than the credit facilities or exposures particulars of which have already been supplied under section 27						

h) Persons whose duties or interests are in conflict with the interests of the bank, as determined by the bank in accordance with a manner and process specified by the Authority by written notice to the bank under section 27(2)(h)						

Note:
[1] Without prejudice to paragraph 6, for the purpose of paragraph 4 of this Notice, a bank incorporated in Singapore must report exposures and credit facilities under item d of Table 1 of Appendix 1 at the bank standalone level, and report the aggregate of all credit facilities from and all exposures of the bank to related corporations only.

Table 2: Related party transactions that depart from policies and procedures, exceed the materiality threshold (excluding related party transactions that fall within paragraph 29 or 30 of MAS Notice 643) or are write-offs

Entity	Exposure				Non-exposure		Materiality threshold (if applicable)	Reason for departing from policies/exceeding materiality threshold/write-off	Additional comments, if any
	Total Gross Exposure Amounts (S$)	Total Net Exposure Amounts (S$)	Total Gross Exposure Amounts of which are Credit Facilities (S$)	Total Credit Facilities which are Unsecured (S$)	Value of transaction (S$)	Type of Transaction (e.g. write-offs)			

Table 3: Nominal thresholds for the year ________________

	Type of related party transaction	Nominal Thresholds

Additional Information

____
____
____
____
____
____
____
____
____
____
____
____
____
____
____
____

Name of Manager: ______________________________

Designation of Manager: __________________________

Date of submission to Head Office/ reading at Board of Directors Meeting: __________________

Date of preparation: ____________________________

Date of submission to the Authority: ______________________

Appendix 2

EXPLANATORY NOTES FOR COMPLETION OF STATEMENT OF EXPOSURES AND CREDIT FACILITIES TO BE REPORTED UNDER SECTION 27(1) OF THE BANKING ACT (CAP 19)

General

1 A bank must report all its transactions, exposures and credit facilities in Singapore dollars. Where any of the bank's transactions, exposures or credit facilities is denominated in whole or in part in a currency other than Singapore dollars (for the purposes of this paragraph, a "foreign currency"), the bank must convert the amount denominated in foreign currency into Singapore dollars using the bank's internal currency conversion rates.

2 A bank does not need to report any related party transaction that fall within paragraphs 8 and 12 of MAS Notice 643.

3 If there are no transactions, exposures or credit facilities to be reported, a bank must submit a "Nil" return.

4 "Total gross exposure amounts" and "total net exposure amounts" in Appendix 1 refer to the exposure amounts before and after the application of any credit risk mitigation techniques in the manner set out in this Notice, or MAS Notice 656 if the bank opts to compute exposures in accordance with MAS Notice 656, respectively.

5 For the purpose of computing exposures to a related concern, a bank in Singapore may exclude any one or more exempt exposures set out in Appendix 4.

6 "Total gross exposure amounts of which are credit facilities" and "Total credit facilities which are unsecured" in Appendix 1 refer to the amounts before and after offsetting the portion of the credit facilities secured against acceptable collateral, as set out in this Notice, or MAS Notice 656 in the case where the bank is computing exposures in accordance with MAS Notice 656, respectively.

7 A bank must not include credit card and charge card facilities in the reporting of "Total Credit Facilities which are Unsecured" in Table 1 of Appendix 1.

Table 1 of Appendix 1

8 For the purposes of reporting under Table 1 of Appendix 1, a bank in Singapore may regard the person as belonging to one or more related party groups.

9 Where a person belongs to more than one related party group, the bank must in relation to such a person report the following under the "Additional Information" section:

(a) all the related party groups which the person belong to;

(b) the number of related party group(s) that the bank regards the person as

belonging to for the purposes of this Notice; and

(c) where the bank has regarded the person as belonging to only one related party group, whether the bank has previously regarded the person as belonging to another related party group and the reasons why the bank no longer regards the person as belonging to that related party group.

Table 2 of Appendix 1

10 Where a related party transaction – [1]

(a) is an exception to or does not comply with a bank's policies and procedures on related party transactions (e.g. an exception or a breach);

(b) exceeds a bank's aggregate or granular materiality threshold and the transaction does not fall within paragraphs 29 or 30 of MAS Notice 643; or

(c) is a write-off,

the bank must report the transaction in Table 2 and provide the reason for departing from the policies and procedures, exceeding the materiality threshold or making the write-off.

Table 3 of Appendix 1

11 A bank must report its nominal thresholds set for the purposes of complying with paragraph 25(a) of MAS Notice 643 in Table 3 of Appendix 1.

Application of Certain Credit Risk Mitigation Techniques

Bilateral Netting of Exposures for Off-balance Sheet Derivatives Transactions

12 A bank incorporated in Singapore that meets the requirements set out in MAS Notice 637[2] for recognising bilateral netting in respect of netting transactions entered into with a counterparty covered under a netting agreement, is deemed to have met the conditions for the purposes of computing its exposures from off-balance sheet derivatives transactions with the same counterparty on a net basis, for determining exposures to any counterparty who is also a related concern under this Notice.

13 A bank incorporated outside Singapore that is covered under netting agreements signed at its head office with any counterparty must, if it intends to compute exposures from off-balance sheet derivatives transactions with that counterparty on a net basis for the purpose of this Notice —

(a) provide the Authority with written notification from its head office prior to recognising netting for the purposes of this Notice, confirming that—

---

[1] This includes transactions in which no exposure arises, such as a contract for service, a sale or purchase of assets, a construction contract, a lease agreement, a borrowing or a write-off.

[2] For the avoidance of doubt, a bank incorporated in Singapore needs to meet all the conditions except those found in section 6 of Annex 7N to MAS Notice 637 if it intends to recognise bilateral netting for the purposes of this Notice.

(i) there are systems and processes in place at the head office to track gross and net exposures to each netting counterparty, including those of the Singapore branch;

(ii) the head office is subject to a large exposures regime in its home jurisdiction that is broadly equivalent to those set by the Authority, and which is applied to its exposures on a global basis including exposures of the bank in Singapore;

(iii) the head office complies with the rules relating to the recognition of bilateral netting for the purposes of capital adequacy set by its home supervisory authority; and

(iv) there is a legally enforceable, valid and effective master netting agreement in place which would cover the exposures of the bank in Singapore to each netting counterparty; and

(b) maintain records and documents confirming the bank's compliance with the conditions in sub-paragraph (a) and make these available upon the Authority's request.

14 A bank incorporated outside Singapore that is covered under a netting agreement that deals only with transactions between the bank in Singapore and any counterparty must, if it intends to compute exposures from off-balance sheet derivatives transactions on a net basis for the purpose of this Notice —

(a) provide the Authority with written notification from its head office prior to recognising netting for the purposes of this Notice, confirming that —

(i) there are systems and processes in place at the head office to track gross and net exposures to each netting counterparty, including those of the Singapore branch;

(ii) the head office is subject to a large exposures regime in its home jurisdiction that is broadly equivalent to those set by the Authority, and which is applied to its exposures on a global basis including exposures of the bank in Singapore;

(iii) there is a legally enforceable, valid and effective master netting agreement in place which would cover the exposures of the bank in Singapore to each netting counterparty; and

(iv) the netting arrangements meet the relevant conditions in Appendix 5; and

(b) maintain records and documents confirming the bank's compliance with the conditions in sub-paragraph (a) and to make these available upon the Authority's request.

15 For the purposes of paragraphs 13 and 14, the written notification must be signed by an executive officer of an independent internal function[3] of the bank's head office or an executive officer of the external auditors of the head office.

Exposures Secured Against Collateral

16 For the purposes of reporting exposures to related concern, a bank in Singapore may offset from the gross exposure, the portion of the exposure which is secured against qualifying collateral, to compute its resulting exposure to a counterparty. The list of qualifying collateral and conditions to be fulfilled before the collateral may be used for offsetting purposes, are set out at Appendix 6.

17 Where the gross exposure and collateral are denominated in different currencies, the bank must ensure that the value of the collateral is subject to a haircut based on the figures for "FX" set out in Table 4 of Appendix 3.

Substitution of Exposures

18 Subject to paragraphs 19 to 27, for the purpose of determining exposures to any counterparty who is also a related concern under this Notice, a bank in Singapore that has obtained credit protection may substitute its exposure to any counterparty, with its exposure to the provider of credit protection.

19 A bank in Singapore may substitute its exposures to a counterparty with that of the provider of credit protection if the provider of credit protection satisfies the following criteria:

(a) the provider of credit protection has a minimum credit rating of "A-" (or its equivalent) at the inception of the credit protection and at least a credit rating of "BBB-" (or its equivalent) over the tenor of the credit protection. Where there are two credit ratings for any particular counterparty, a bank in Singapore must use the poorer credit rating for that counterparty. Where there are more than two credit ratings for any particular counterparty, the bank must use the higher of the two poorest ratings;

(b) the provider of credit protection is rated equal to or better than, the counterparty;

(c) the provider of credit protection is not the head office of the bank or parent bank, the bank's sister branches, subsidiaries and associated companies, any holding company of the bank, the subsidiaries and associated

[3] For example, the bank's internal audit function.

companies of any holding company of the bank or any entity in the substantial shareholder group or major stake entity group of the bank (collectively referred to as "relevant bodies"), unless the following conditions are met, whereupon the bank may record an exposure to the ultimate third party provider of credit protection —

(i) the credit protection is obtained from a third party provider of credit protection by a relevant body of the bank in Singapore on its behalf;

(ii) there is documentary evidence indicating that the credit protection covers the relevant exposures of the bank in Singapore;

(iii) relevant records and documents are made available to the Authority upon request; and

(iv) in the case of a bank incorporated outside Singapore, the bank has provided a written confirmation from its head office that the bank is subject to a large exposures regime in its home jurisdiction which imposes the same requirements on the bank as those set out in MAS Notice 656, and which is applied to its exposures on a global basis including the exposures of the bank in Singapore; and

(d) the ultimate provider of credit protection is not financially dependent on the counterparty and vice versa.

20 A bank may only substitute an exposure to a counterparty that is covered by any of the following types of credit protection with an exposure to the provider of credit protection —

(a) any guarantee which satisfies the conditions at Appendix 7A;

(b) any single name credit default swap, total return swap or first-to-default credit derivative providing credit protection equivalent to a guarantee, which satisfies the conditions at Appendix 7B.

21 A bank in Singapore that has obtained credit protection via an instrument set out in paragraph 20 may substitute its exposure to a counterparty with its exposure to the provider of credit protection if there is no mismatch in the currency or maturity of the credit protection with the underlying exposure.

22 Where a maturity mismatch exists such that the residual maturity of the credit protection is shorter than that of the underlying exposure, a bank in Singapore may substitute its exposure to a counterparty with its exposure to the provider of credit protection subject to the haircuts described in Appendix 8 if all of the following conditions are met –

(a) the original maturity of the credit protection is at least 1 year;

(b) the residual maturity of the credit protection is longer than 3 months.

23 Where a mismatch exists between the currencies in which the credit protection and the underlying exposure are denominated, a bank in Singapore may substitute its exposure to a counterparty with its exposure to the provider of credit protection subject to a haircut of 8% of the notional value of the credit protection.

24 In the case where there are both currency and maturity mismatches between the exposure of a bank in Singapore to its counterparty and the credit protection, the bank must cumulatively add the haircut for currency mismatches to the haircut for maturity mismatches.

25 For the purposes of paragraph 20, a bank in Singapore must recognise protection for only one asset in a first-to-default credit derivative basket over the entire tenor of the credit derivative. A bank must recognise a first-to-default credit derivative only if the credit derivative contract is terminated upon the occurrence of a specified credit event. In the event of a default, where the defaulted name under a first-to-default credit derivative is not the counterparty of the bank for which protection has been bought, the bank must record the full amount of its exposure to the underlying counterparty upon the termination of the credit derivative contract. A bank must not recognise a second-to-default and other nth-to-default credit derivatives as eligible credit risk mitigation instruments for the purposes of this Notice.

26 The resulting exposure of a bank in Singapore to the provider of credit protection must be aggregated with the bank's other exposures to this same counterparty, for the purpose of determining exposures to any counterparty who is also a related concern under this Notice.

27 Where the provider of credit protection is an entity to which exposures of a bank in Singapore are exempt exposures under sub-paragraphs (a), (b), (d), (e) and (f) of Appendix 4, the bank may treat any exposure acquired indirectly by the bank as a result of substitution of exposures through credit risk mitigation as an exempt exposure.

Appendix 3

Basis of Computation of Exposures

1 For the purpose of determining exposures to any counterparty who is also a related concern under this Notice, a bank must record an exposure arising from:

(a) **an actual outstanding position or claim against a counterparty**, including:
- (i) any loan or advance granted;
- (ii) any bills purchased or any discounted bills held;
- (iii) any linked spot and forward purchases of securities that function economically like a secured loan;
- (iv) any debt securities purchased or sold[4];
- (v) any financial derivative purchased or sold over-the-counter[5];
- (vi) any margin held with any exchange, clearing house or other counterparty.

A bank must measure these exposures based on their carrying value, i.e. the same measurement basis that has been applied to the exposures in the preparation of the bank's financial statements. The bank must use the same measurement basis consistently and in a manner which complies with the requirements of the Singapore Financial Reporting Standards;

For the purposes of sub-paragraph (a)(iii), for a repurchase transaction, a bank must recognise an exposure to the issuer based on the carrying value of security. For a reverse repurchase transaction, a bank must recognise an exposure to the counterparty, equivalent to the amount due from the counterparty which may be offset by the value of any security if these are qualifying collateral.

(b) **any contingent liability or commitment arising from the normal course of business as a result of utilisation of limits available or drawing down of undrawn advised facilities which the bank has committed to provide,** including:
- (i) any undrawn credit facilities;
- (ii) any direct credit substitutes such as guarantees issued by the bank, bills accepted but not held by the bank;
- (iii) any transaction related contingent items such as standby letters of credit, performance bonds, bid bonds or warranties;
- (iv) any short-term self-liquidating trade related credits such as documentary credit collateralised by underlying shipments.

A bank must measure these contingent liabilities and commitments based on the facility limit that has been granted to the counterparty, excluding any amount that has been utilised or drawn down;

---

[4] This refers to exposures from pre-settlement risk (marked-to-market gain) and settlement risk.

[5] This refers to the marked-to market gain and potential future exposure (please see paragraph (f)).

(c) **any assets whose value depends on an issuer performing its obligations, or whose value otherwise depends on that issuer's financial soundness**, including securities, warrants and options.

A bank must record an exposure to the issuer of the security based on its carrying value i.e. the same measurement basis that has been applied to the exposures in the preparation of the bank's financial statements, provided that the same measurement basis is used consistently and in a manner which complies with the requirements of the Singapore Financial Reporting Standards.

Where the issuer is a foreign government, a bank may net long and short positions arising from the purchase and sale of securities issued by the government across different series and maturities for the purpose of computing its exposure to that government, where these are exposures in the bank's trading book;

(d) **any outstanding claims on a special purpose vehicle ("SPV") as part of a securitisation transaction,** including on-balance sheet exposure to securities issued e.g. asset-backed securities, mortgage-backed securities and collateralised debt obligations, and off-balance sheet exposures e.g. through credit enhancements, liquidity facilities, interest rate or currency swaps or credit derivatives, regardless of whether it was retained by the bank at, or repurchased by the bank after, the origination of the securitisation, and –

(i) subject to sub-paragraph (ii), a bank must record an exposure to the issuer of each of the underlying assets based on the relative size of the issuers' contribution to the pool of securitised assets;

(ii) where the exposure to the SPV does not exceed, in the case of a bank incorporated in Singapore, 2% of the bank's eligible total capital or in the case of a bank incorporated outside Singapore, 2% of its capital funds, the bank may record the exposure as an exposure to the SPV;

(iii) a bank may count an exposure to the SPV in place of the underlying assets under extenuating circumstances where the bank is unable to look through the SPV to its underlying assets. Where this occurs, the bank must document the reason(s) for its inability to look through the SPV. Such documentation must be made available for review by the Authority at all times;

(e) **any commitments due to underwriting.**

(i) In the case of securities underwriting, a bank must record an amount equivalent to the commitment limit multiplied by 20% as an exposure to the issuer of the securities underwritten. On the earlier of the issue date or eight weeks from the date of launch of the issue, the amount of securities that has not been sold must be counted as an exposure to the issuer;

(ii) In the case of notes issuance facilities and revolving underwriting facilities, a bank must record an amount equivalent to the facility limit multiplied by 50% as an exposure to the issuer;

(f) **any potential future exposure over the remaining life for over-the-counter off-balance-sheet items**. The potential future exposure for these items must be computed by applying an add-on factor to the effective notional principal amount as set out in the table below.

Table 4: Add-on for Potential Future Exposure

Residual Maturity	Interest Rate	FX & Gold	Equity	Precious Metals (Except Gold)	Other Commodities
One year or less	0.0%	1.0%	6.0%	7.0%	10.0%
Over one year to five years	0.5%	5.0%	8.0%	7.0%	12.0%
Over five years	1.5%	7.5%	10.0%	8.0%	15.0%

The Authority may allow a bank to use its internal models to derive appropriate add-ons if these models have been —

(i) accepted, approved or validated by its home supervisory authority for managing large exposures or for capital adequacy purposes; or

(ii) approved or validated by the Authority for capital adequacy purposes.

Exclusions

2 A bank may exclude one or more of the following from the computation of exposures:

(a) unadvised or uncommitted facilities and internal limits;

(b) accrued interest, accrued expenses and fees outstanding;

(c) in the case of a bank incorporated in Singapore computing the aggregate of its exposures to its major stake entity group, the amount of capital

investments referred to in paragraph 6.1.3(p)(iii) of MAS Notice 637, provided that those capital investments[6] are correspondingly excluded from the computation of the eligible total capital of the bank.

[6] For avoidance of doubt, the amounts excluded from the computation of the eligible total capital of the bank is the capital investments referred to in paragraph 6.1.3(p)(iii) of MAS Notice 637, as at the end of the quarter falling two quarters ago.

Appendix 4

Exempt Exposures

For the purposes of this Notice, the following exposures are exempt exposures:

(a) an exposure to the Singapore Government[7] and to the Authority;

(b) an exposure to a central bank[8] or a central government of a sovereign country that is rated "AAA" (or its equivalent);

(c) an exposure of an overseas branch or subsidiary of a bank incorporated in Singapore, to the central bank or central government of the jurisdiction where the branch or subsidiary is located, where -

  (i) the exposure meets the statutory liquidity and reserves requirement or other statutory requirements imposed by the central bank in that jurisdiction; or

  (ii) the exposure is denominated in the local currency of the jurisdiction and its original maturity is not greater than three months. The amount to be exempted is limited to the amount of local currency denominated liabilities of the branch or subsidiary concerned;

(d) an exposure to any public sector entity rated "AAA" (or its equivalent). A public sector entity means any one of the following:
  (i) a regional government or local authority that is able to exercise one or more functions of the central government at the regional or local level;
  (ii) an administrative body or non-commercial undertaking responsible to, or owned by, a central government, regional government or local authority, which performs regulatory or non-commercial functions;
  (iii) a statutory board in Singapore (other than the Authority); or
  (iv) a town council in Singapore established pursuant to the Town Councils Act (Cap 392A);

(e) an exposure to the following multilateral development banks ("MDBs"):
  (i) the African Development Bank;
  (ii) the Asian Development Bank;
  (iii) the Caribbean Development Bank;
  (iv) the Council of Europe Development Bank;
  (v) the European Bank for Reconstruction and Development;
  (vi) the European Investment Bank;
  (vii) the European Investment Fund;
  (viii) the Inter-American Development Bank;

[7] For the avoidance of doubt, an exposure to a statutory board in Singapore is not considered an exposure to the Singapore Government.

[8] This includes any entity which performs the role of a central bank.

(viiia) the International Finance Facility for Immunisation;
(ix) the Islamic Development Bank;
(x) the Nordic Investment Bank; and
(xi) the World Bank Group,

(f) an exposure to the Bank for International Settlements, the International Monetary Fund, the European Central Bank, the European Union, the European Stability Mechanism or the European Financial Stability Facility;

(g) an exposure guaranteed by or hedged by a credit derivative where the provider of credit protection is any entity listed in sub-paragraphs (a), (b), (d), (e) and (f) above, that fulfills the conditions in Appendix 7A or 7B, as the case may be;

(h) an exposure to a bank, whether or not licensed in Singapore, except that in the case of an exposure of a bank incorporated in Singapore to a subsidiary which is a bank, whether in Singapore or elsewhere, the residual maturity of the exposure must not exceed one year;

(i) an exposure to a merchant bank approved under the Banking Act that is a related corporation of the bank licensed in Singapore ("merchant bank subsidiary"), except that in the case of an exposure of a bank incorporated in Singapore to its merchant bank subsidiary, the residual maturity of the exposure must not exceed one year;

(j) an exposure of a bank incorporated outside Singapore to its head office or any other branch or subsidiary of its head office arising from a central risk management function performed by the head office, branch or subsidiary, subject to the bank—

(i) providing the Authority with written notification from its head office that is signed off by an executive officer from an independent internal function of the head office such as Internal Audit or an executive officer from the external auditors of the head office, confirming that —:

(A) all fair value losses are undertaken by the head office or other branches or entities in its bank group as the case may be; and

(B) the head office is subject to a large exposures regime in its home jurisdiction that is broadly equivalent to those set by the Authority, and which is applied to its exposures on a global basis including exposures of the branch in Singapore; and

(ii) maintaining relevant records and documents evidencing the sub-paragraph (j)(i)(A), and making these available upon request by the Authority; and

(k) an exposure to a counterparty arising from the clearing or settlement of any transaction, where the bank has fulfilled its obligation under the transaction but the counterparty has not, up to two business days from the date of settlement; and

(l) an exposure arising from granting intra-day facilities to or entering into an overnight repurchase or reverse repurchase transaction with a counterparty.

Appendix 5

Conditions Applicable to a Bank Incorporated Outside Singapore for Netting Arrangements

1 Introduction

1.1 This Appendix sets out the conditions applicable to a bank incorporated outside Singapore which is covered under a netting agreement dealing only with transactions between the bank in Singapore and a counterparty, and which intends to recognise bilateral netting in respect of netting transactions entered into with the counterparty for the purposes of computing its exposures to a related concern under this Notice.

2 Conditions

2.1 Subject to this paragraph and paragraphs 3 and 4, a bank may recognise the netted exposures in respect of any netting transaction for the purposes of computing its exposures to a related concern under this Notice only when the bank —

(a) has entered into a valid, effective and enforceable netting agreement necessary to effect the netting with a counterparty; and

(b) has obtained a written independent legal opinion confirming that the netting agreement is valid, effective and enforceable for each of the following jurisdictions, where applicable:

(i) the jurisdiction in which the counterparty is incorporated or established;

(ii) if the head office or a foreign branch of the counterparty has entered or will be entering into the netting transaction, the jurisdiction in which the head office or branch of the counterparty, as the case may be, is located;

(iii) the jurisdiction whose law governs the netting agreement; and

(iv) the jurisdiction whose law governs any netting transaction subject to the netting agreement if different from sub-paragraph (iii),

(referred to as "relevant jurisdictions") and which satisfies the requirements set out in paragraph 3.

2.2 The bank must provide the Authority with copies of or access to, the netting agreement and the legal opinions obtained for the purposes of paragraph 2.1(b) upon the Authority's request.

3 Legal Opinions obtained for purposes of paragraph 2.1(b)

3.1 A legal opinion shall —

(a) be in the form of a memorandum of law and addressed directly to the bank or the sponsors of a particular netting agreement or form of netting agreement; or

(b) be the product of a number of parties (including the bank) pooling together to seek a collective opinion on a particular netting agreement.

3.2 The bank must ensure that each legal opinion confirm that in an event of default as defined under the netting agreement, including liquidation, bankruptcy or other similar circumstance of either the counterparty or the bank, the courts and administrative authorities[9] of the relevant jurisdiction will find that the bank's claims and obligations pursuant to the relevant netting transactions would be limited to a net sum calculated in accordance with the netting agreement under the law of the relevant jurisdiction.

3.3 In addition, the bank must ensure that each legal opinion at the minimum[10]—

(a) highlight the material clauses in the netting agreement that provides for the netting ("material netting clauses");

(b) confirm that the unenforceability or illegality of any clause (other than a material netting clause) in the netting agreement is unlikely to undermine the material netting clauses referred to in sub-paragraph (a) above;

(c) state the circumstances under which the netting agreement may be relied upon including:

(i) the legal form of, or activities conducted by, the counterparty; and

(ii) whether certain counterparties (such as a bank, an insurance company or a local authority) may be subject to special rules relating to insolvency as a result of the legal form of, or activities conducted by, the counterparties;

(d) state whether the netting or other default provisions in the netting agreement are enforceable or enforceable differently (and if so, the extent of the difference) in a non-liquidation event, such as administration, judicial management, receivership, voluntary arrangement and a scheme of arrangement;

(e) state to what extent, if at all, the netting needs to be reflected in the records

---

9 This includes a court-appointed administrator and an administrator appointed by a regulatory authority.

10 This is not intended to be an exhaustive list of all the matters that should be covered in a legal opinion obtained for the purposes of paragraph 2.1(b).

of the counterparties in order for it to be valid, effective and enforceable;

(f) state whether a court or other relevant administrative authority in the jurisdiction covered by the legal opinion would uphold the rate chosen for the conversion of foreign currency obligations for the purpose of calculating the close-out amount and whether there are any statutory or other applicable rules that may affect this aspect of the netting agreement;

(g) state whether under the law of the jurisdiction covered by the legal opinion, it is necessary for the enforceability of the netting that all netting transactions be regarded as part of a single agreement, and if so, whether there is anything in the close-out methodology which may be held to be inconsistent with the treatment of all netting transactions as part of a single agreement and the effect it may have on the netting;

(h) state whether there is any reason to believe that the netting agreement would be unenforceable because of the law of another jurisdiction;

(i) state whether there is any preference specified in the netting agreement for automatic rather than optional close-out, and if so, whether such preference would affect the enforceability of the netting agreement;

(j) state whether there are legal problems in exercising any discretion or flexibility provided for in the netting agreement, and if so, whether such problems affect the enforceability of the netting agreement; and

(k) if other clauses are added to a standard form agreement, confirm that such additional clauses do not throw any reasonable doubt or affect the overall validity, effectiveness or enforceability of the netting agreement.

3.4 The Authority is aware that it may not be possible for a bank to obtain a legal opinion that provides a definitive view on the validity, effectiveness and enforceability of the netting agreement without certain assumptions or qualifications. The presence *per se* of assumptions and qualifications within the legal opinion will not render the legal opinion unsatisfactory for the purposes of this Notice. However, the assumptions underlying the legal opinion must not be unduly restrictive. They must be specific, of a factual nature and be adequately explained within the legal opinion. Likewise, where qualifications are made, these must be specific and their effect must be adequately explained within the legal opinion. A bank must examine and assess the assumptions and qualifications in the legal opinion and ensure that the legal opinion meets the requirements set out in paragraph 3.4.

3.5 If the bank determines that —

(a) the absence of any of the information listed in paragraph 3.3; or
(b) any of the assumptions or qualifications in the legal opinion,

gives rise to reasonable doubt as to the validity, effectiveness or enforceability of the netting agreement, the bank must not recognise netting in respect of the netting transactions covered under the netting agreement for the purposes of computing its exposures to a related concern under this Notice.

3.6 In this regard, where there is more than one relevant jurisdiction in relation to a netting agreement, the bank must not recognise netting in respect of any netting transaction for the purposes of computing its exposures to a related concern under this Notice if the bank has any reasonable doubt, based on its own evaluation of the legal opinions, as to whether the netting agreement is valid, effective and enforceable in any relevant jurisdiction considering the potential for conflicts of laws and whether action may be taken by insolvency officials in other jurisdictions.

3.7 The bank must review each legal opinion and obtain updates thereto, either in the form of a fresh legal opinion or a letter from an external firm of lawyers confirming that the opinion on the validity, effectiveness and enforceability of the netting agreement remains unchanged. Each legal opinion should be reviewed at least once every 12 months, but in any case must be reviewed no later than 15 months from the previous review. The bank must also document the sources of the legal opinions, and the expertise of the persons giving the legal opinions.

3.8 Notwithstanding paragraph 2.1(b), where any relevant jurisdiction does not recognise netting or recognises netting only in a limited form, the bank must report netting transactions for which that jurisdiction is a relevant jurisdiction on a gross basis under this Notice. All other transactions under the same netting agreement may be reported on a net basis.

3.9 The bank must alert the Authority when it becomes aware of any relevant jurisdiction that does not recognise netting or recognises netting only in a limited form (whether as to certain products or with counterparties of certain legal forms or counterparties performing certain activities).

3.10 Where a bank is aware that a supervisory authority of the counterparty of the bank (whether the supervisory authority is the home or host supervisor) is not satisfied that a netting agreement is legally valid, effective or enforceable under the law of the jurisdiction of that supervisory authority, the bank must not recognise netting in respect of any netting transaction covered by such netting agreement for the purposes of computing its exposures to a related concern under this Notice, notwithstanding any legal opinion obtained by the bank.

4 Policies, Systems and Controls

4.1 A bank that recognises netting in respect of any netting transaction for the purposes of computing its exposures to a related concern under this Notice must have in place a netting policy that sets out, as a minimum, all of the following:

(a) the person(s) responsible for setting and reviewing policy on netting;

(b) the frequency of review of the netting policy;

(c) the person(s) responsible for approving the application of a netting agreement to any netting transaction (including determining whether the netting agreement is covered by an existing legal opinion or whether separate legal opinions are required);

(d) how the bank monitors legal developments affecting its netting agreements and the need to obtain additional legal opinions;

(e) what the bank is to include in its netting agreements to ensure that its interests, rights and obligations are duly reflected;

(f) the processes for determining and reporting net exposures to individual counterparties.

4.2 The bank must also have in place adequate systems and controls to monitor the netting transactions, including systems and controls to ensure that—

(a) only netting transactions entered into by the bank with a counterparty that is covered by a netting agreement are netted;

(b) net exposures to individual counterparties are accurately determined and reported;

(c) documentary evidence of the netting transactions subject to netting are appropriately safeguarded and the bank is able to produce such documentary evidence, if required by the Authority;

(d) the legal opinions are not superseded by subsequent changes in the laws of the relevant jurisdictions. The bank must ensure that the following is duly documented and should be updated at least once every 12 months, but in any case, must be updated no later than 15 months from the previous update:

(i) the types of counterparties and netting transactions covered by each netting agreement; and

(ii) the relevant jurisdictions for each netting agreement to which the bank is a party. The bank must note any jurisdiction for which any doubt may exist as to the legal validity, effectiveness or enforceability of netting and what action the bank has taken as a result;

(e) counterparty limits are monitored in terms of such net exposures; and

(f) potential roll-off exposures, which occur upon maturity of short-dated obligations that are netted against longer dated claims, are monitored.

Appendix 6

Recognition of Collateral

1 "Qualifying collateral" means any cash deposit pledged, charged or secured as collateral and any security issued by entities listed in sub-paragraphs (a), (b), (d), (e) and (f) of Appendix 4.

2 A bank must ensure that all the following conditions are fulfilled before offsetting collateral in its computation of exposures:

(a) all collateral arrangements must be properly documented, and the bank must take all steps necessary to fulfill statutory and contractual requirements to ensure that it is able to enforce its security interest;

(b) the bank must have adequate procedures for the liquidation of collateral upon the default of the counterparty, to ensure that all legal requirements can be satisfied and the collateral can be liquidated promptly ;

(c) if the securities are held by a custodian, the bank must satisfy itself that there is adequate segregation between the collateral instruments and the custodian's own assets;

(d) the market value of the collateral must be readily determinable or marked to market on a regular basis; and

(e) the value of the collateral must not have a material positive correlation with the credit quality of the counterparty.

Appendix 7A

Requirements for Recognition of Guarantees

1 A bank must ensure that all the following conditions are met before it recognises a guarantee:

(a) the guarantee must be an explicitly documented obligation assumed by the guarantor;

(b) all documentation used for the guarantee must be binding on all parties and legally enforceable in all relevant jurisdictions;

(c) the guarantee must represent a direct claim on the guarantor;

(d) explicitly referenced to specific exposure or pool of exposures so that the extent of the credit protection cover is clearly defined and incontrovertible;

(e) other than in the event of non-payment by the bank of money due in respect of the guarantee, if applicable, there is an irrevocable obligation on the part of the guarantor to pay out a pre-determined amount upon the occurrence of a credit event, as defined under the guarantee;

(f) the guarantee must not contain any clause, the fulfillment of which is outside the direct control of the bank, that—

(i) would allow the guarantor to unilaterally cancel the guarantee[11];
(ii) would increase the effective cost of the guarantee as a result of deteriorating credit quality of the underlying exposure;
(iii) could prevent the guarantor from being obliged to make any pay out in a timely manner in the event that the counterparty fails to make any payment(s) due; or
(iv) could allow, where applicable, the maturity of the guarantee agreed ex-ante to be reduced ex-post by the guarantor;

(g) the bank must be able to pursue the guarantor for any monies outstanding under the documentation governing the transaction between the bank and the counterparty (referred to hereafter as "Documentation") on the default of, or non-payment by, the counterparty[12], and has the right to receive such

[11] This does not include any guarantee with a cancellation clause where it is provided that any obligation incurred or transaction entered into prior to any cancellation, unilateral or otherwise, continues to be guaranteed by the guarantor. When the exposure is no longer covered by the guarantee, the bank must record an exposure to the counterparty.

[12] The guarantee payments may be in the form of the guarantor making a lump sum payment of all monies to the bank or the guarantor assuming the future payment obligations of the counterparty covered by the guarantee, as specified in the relevant documentation governing the guarantee.

payments from the guarantor without first having to take legal actions to pursue the counterparty for payment;

(h) the guarantee must cover all types of payments that the counterparty is expected to make under the Documentation, except where the exposure is an exempt exposure or in the case of accrued interest, accrued expenses or fees outstanding, where these are deemed immaterial.

2 Where the amount of credit protection afforded by the guarantee is less than the amount of the underlying exposure, and the secured and unsecured portions of the underlying exposure are of equal seniority i.e. a bank and the guarantor share losses on a pro-rata basis, the bank may recognise an exposure to the guarantor for the portion of the original exposure that is hedged.

Appendix 7B

Requirements for Recognition of Credit Derivatives

1 A bank must ensure that all the following conditions are met before it recognises any credit derivative:

(a) the terms and conditions of any credit protection obtained via a credit derivative must be set out in writing by both the bank and the provider of credit protection and all documentation used for credit derivatives is binding on all parties and legally enforceable in all relevant jurisdictions ("credit derivative contract");

(b) the credit derivative must represent a direct claim on the provider of credit protection;

(c) the credit derivative will be explicitly referenced to specific exposure or pool of exposures so that the extent of the credit protection cover is clearly defined and incontrovertible;

(d) other than in the event of non-payment by a buyer of credit protection of money due in respect of the credit derivative, there is an irrevocable obligation on the part of the provider of the credit protection to pay out a pre-determined amount upon the occurrence of a credit event, as defined under the credit protection contract;

(e) the credit derivative contract must not contain any clause, the fulfillment of which is outside the direct control of the bank, that-

(i) would allow the provider of credit protection to unilaterally cancel the credit protection cover;

(ii) would increase the effective cost of the credit protection cover as a result of deteriorating credit quality in the hedged exposure;

(iii) could prevent the provider of credit protection from being obliged to make any pay out in a timely manner in the event that the counterparty fails to make any payment due [13]; or

(iv) could allow, where applicable, the maturity of the credit protection agreed ex-ante to be reduced ex-post by the provider of credit protection;

[13] This does not preclude an obligation by the buyer of credit protection to satisfy requirements relating to providing a Notice of Publicly Available Information, as is the case for the triggering of credit protection under standard Credit Default Swap contracts.

(f) the credit events specified by the contracting parties must at a minimum cover:

(i) failure to pay the amounts due under terms of the underlying exposure that are in effect at the time of such failure (with a grace period that is closely in line with the grace period in the underlying exposure);

(ii) bankruptcy, insolvency or inability of the counterparty to pay its debts, or its failure or admission in writing of its inability generally to pay its debts as they become due, and analogous events; and

(iii) restructuring of the underlying obligation involving forgiveness or postponement of principal, interest or fees that results in a credit loss event (i.e. charge-off, specific provision or other similar debit to the profit and loss account);

(g) in the event when only the restructuring of the underlying exposure is not specified as a credit event in the contract, partial recognition of the credit derivative under a substitution approach will be allowed. If the credit protection cover provided by the credit derivative is less than or equal to the amount of the underlying exposure, only 60% of the amount of the hedge can be attributed to the provider of credit protection while the residual exposure is attributed to the counterparty for the purposes of this Notice. If the amount of the credit derivative is larger than that of the underlying exposure, the amount of eligible hedge is capped at 60% of the amount of the underlying exposure;

(h) the credit derivative must not terminate prior to the maturity of the underlying exposure or expiration of any grace period required for a default on the underlying exposure to occur as a result of a failure to pay;

(i) the maturity of the underlying exposure and the maturity of the credit derivative must both be defined conservatively;

(j) a robust valuation process to estimate loss reliably must be in place in order to estimate loss reliably for credit derivatives that allow for cash settlement. There must be a clearly specified period for obtaining post-credit event valuations of the underlying obligation;

(k) where the right or ability of the bank to transfer the underlying exposure to the provider of credit protection is required for settlement, the terms of the underlying exposure must provide that any required consent to such transfer may not be unreasonably withheld;

(l) the identity of the parties responsible for determining whether a credit event has occurred must be clearly defined. This determination must not be

the sole responsibility of the provider of credit protection. The protection buying bank must have the right or ability to inform the protection seller of the occurrence of a credit event;

(m) the underlying obligation and the reference obligation specified in the credit derivative contract for the purpose of determining the cash settlement value or the deliverable obligation or for the purpose of determining whether a credit event has occurred may be different only if -

(i) the reference obligation ranks pari passu with or is junior to the underlying obligation; and

(ii) the underlying obligation and reference obligation share the same obligor (i.e. the same legal entity) and legally enforceable cross-default or cross-acceleration clauses are in place;

(n) there is no material positive correlation between the creditworthiness of the provider of credit protection and the counterparty.

2 Where the amount of the credit protection afforded by the credit derivative is less than the amount of the underlying exposure, and the secured and unsecured portions of the underlying exposure are of equal seniority, a bank may recognise an exposure to the provider of credit protection for the portion of the original exposure that is hedged.

3 For the purposes of para 1(i), a bank must gauge the effective maturity of the underlying as the longest possible remaining time before the counterparty is scheduled to fulfill its obligation, taking into account any applicable grace period. For the credit derivative, the bank must take into account embedded options which may reduce the term of the credit derivative and use the shortest possible effective maturity. Where a call is at the discretion of the protection seller, the bank must ensure that the maturity is at the first call date. If the call is at the discretion of the protection buying bank but the terms of the arrangement at origination of the credit derivative contain a positive incentive (e.g. there is a step-up in cost in conjunction with a call feature) for the bank to call the transaction before contractual maturity, the bank must deem the remaining time to the first call date as the effective maturity.

Appendix 8

Applicable Haircut for Maturity Mismatch between a Purchased Credit Derivative and the Underlying Exposure

1 A bank must estimate haircuts via the following method:

Pa = P x (t – 0.25) / (T – 0.25)

where:

Pa = value of the credit protection adjusted for maturity mismatch

P = value of the credit protection adjusted for any haircuts

t = min (T, residual maturity of the credit protection arrangement) expressed in years

T = min (5, residual maturity of the exposure) expressed in years

2 When a bank computes what is "T" via the formula "T= min (5, residual maturity of the exposure) expressed in years", if there is a basket of exposures with different maturities, the bank must use the longest maturity of any of the exposures as the maturity of all the exposures being hedged.