

## **Section 58A of the Banking Act: Regulation of outsourcing arrangement**

(1) The Authority may, as it thinks fit, having regard to the risks arising from the activities of the bank or class of banks, and such other factors as the Authority considers relevant, issue directions to require any bank to comply with such requirements relating to its outsourcing arrangements.

(2) Without limiting subsection (1), the Authority may require a bank or class of banks to do one or more of the following:

- (a) to enter into an outsourcing agreement or in the case where an outsourcing arrangement is entered into by a related entity of the bank with a service provider to provide a service to the bank, to ensure that its related entity enters into an outsourcing agreement with the service provider;
- (b) to include or ensure the inclusion of, such terms in the outsourcing agreement referred to in paragraph (a) which –
  - (i) requires the service provider to protect the confidentiality of any customer information;
  - (ii) requires the service provider to confer a right of inspection or audit on the bank or the Authority, or such person as the bank or Authority may appoint;
  - (iii) requires a service provider to provide to the bank or Authority such record, document, information or report relating to the outsourcing arrangement as the bank or the Authority, or such person as the bank or Authority may appoint, may require;
  - (iv) entitles the bank or the related entity of the bank upon the instruction by the bank, to terminate the outsourcing agreement under certain circumstances the Authority may specify;
- (c) in the case where the bank allows the service provider to engage a sub-contractor to perform the whole or part of the service to the bank, to ensure that the service provider enters into a written agreement with its sub-contractors
- (d) to ensure that the service provider includes such terms in the written agreement referred to paragraph (c) which -
  - (i) requires the sub-contractor to protect the confidentiality of any customer information of the bank;

- (ii) requires the sub-contractor to confer a right of inspection or audit on the bank or the Authority, or such person as the bank or Authority may appoint;
    - (iii) requires the sub-contractor to provide to the bank or Authority such record, document, information or report relating to the outsourcing arrangements as the bank or the Authority, or such person as the bank or Authority may appoint, may require;
  - (e) notify the Authority of the occurrence of any of the circumstances referred to in paragraph (2)(b)(iv) and, if the Authority is satisfied that it is expedient in the public interest to do so, to direct the bank or class of banks to –
    - (i) exercise their rights under the outsourcing agreement to terminate the agreement; or
    - (ii) direct its related entity to terminate the agreement, where the related entity enters into the outsourcing agreement with the service provider to provide a service to the bank;
  - (f) take any action or refrain from taking any action with respect to its right under paragraphs (2)(b)(i)-(iv);
  - (g) conduct due diligence on the service provider before the bank enters into an outsourcing arrangement with the service provider or its related entity enters into an outsourcing arrangement with the service provider to provide a service to the bank;
  - (h) establish and maintain measures to minimise disruption to the operations of the bank in the event that the service provider is unable to provide the service to the bank;
- (4) The Authority may –
- (a) impose different requirements on different banks or different classes of banks, having regard to the risk arising from the activities of the bank or class of banks, the systemic impact of the bank or class of banks on the financial sector, and such other factors as the Authority may consider relevant; and
  - (b) impose different requirements in relation to different types of outsourcing arrangements.

(5) Any bank which contravenes any directions made under this section 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.

(6) In this section –

“outsourcing agreement” means a written agreement which sets out the contractual terms and conditions governing the relationships, functions, obligations, responsibilities, rights and expectations of the contracting parties to an outsourcing arrangement and includes any document setting out –

- (a) the processes and procedures to be complied with under the outsourcing arrangement; or
- (b) the levels of expected service of a contracting party under the outsourcing arrangement;

“outsourcing arrangement” means an arrangement between a service provider and a bank in Singapore or its related entity, under which the service provider agrees to do one or more of the following:

- (a) provide to the bank any service that is currently or is commonly performed by the bank;
- (b) provide any service to the public in the name of the bank;

“related entity”, in relation to a bank in Singapore, means—

- (a) the head office of the bank and any branch thereof outside Singapore; or
- (b) any entity that is controlled by the bank, controls the bank or is controlled by another entity that also controls the bank;

“right of inspection or audit” means a right to access and inspect or audit a service provider or its sub-contractor for any or all of the following purposes:

- (a) obtaining any record, document, information or report relating to the outsourcing arrangement;
- (b) determining whether the service provider or sub-contractor, as the case may be, has complied with its obligations under the outsourcing agreement;

- (c) assessing the service provider's or sub-contractor's, as the case may be, corporate governance, risk management, security and internal controls (including information technology controls), audit and compliance with applicable laws and regulations;
- (d) determining whether the service provider or sub-contractor, as the case may be, has the ability to safeguard the confidentiality, integrity and availability of information entrusted to it;

“service provider”, means a person who provides a service to a bank in Singapore pursuant to an outsourcing arrangement;

“sub-contractor” means a person who is engaged by a service provider to provide a service to a bank in Singapore pursuant to an outsourcing arrangement.