

RESPONSE TO FEEDBACK RECEIVED - CONSULTATION ON CYCLICAL SHAREHOLDING ARRANGEMENTS WITHIN BANKING GROUPS

On 22 May 2003, MAS released a Consultation Paper inviting public comments on a proposed restriction on cyclical shareholding arrangements within banking groups.

The consultation period closed on 23 June 2003. Respondents generally expressed support for the initiative to limit cyclical shareholding arrangements within banking groups. Respondents also raised implementation issues and suggested ways to address them.

We thank all respondents for their comments. The comments that are of wider interest and our responses are highlighted below.

1. Discretionary power to exclude specific affiliated entities

Some respondents suggested that MAS should be given the discretion to exempt specific affiliated entities from the restriction in circumstances where it deems appropriate, on a case-by-case basis.

MAS' Response: MAS agrees that some flexibility in the rules would be useful to cater to possible situations that fall within the technical legal definition of a cyclical shareholding arrangement but where the underlying policy objective may not be infringed. MAS will therefore build discretionary exemption powers into the regulations. MAS also agrees with a suggestion that exemption be given for cases where an entity becomes an affiliated entity because the bank had acquired shares in it in the course of satisfaction of debts, provided that the shares are disposed of at the earliest suitable opportunity.

2. Share capital vs. common shares

Some respondents suggested that the 2% aggregate limit on stakes held in a bank by affiliated entities should apply only to common shares of the bank and not non-voting preference shares or other similar non-voting quasi-equity instruments, because an equity interest with no voting rights attached does not confer on its holder ability to control the bank.

MAS' Response: While control is usually exercised through the holding of voting shares, this is not necessarily true in all situations. Nevertheless, MAS accepts the suggestion to apply the 2% aggregate limit only to voting shares of the bank, because the control of voting rights is the most common and direct form of control. However, this does not preclude the possibility that MAS will review its position if it subsequently becomes aware that affiliated entities are exercising influence on the bank through the holding of non-voting shares.

3. Applicability of proposed regulation to the Financial Holding Company of a bank group

A respondent sought clarification on whether the reference to shares in a bank includes shares in the financial holding company of a banking group.

MAS' Response: Reference to shares in a bank will include shares in the financial holding company of a banking group. This will be reflected in the finalised regulation.

4. Effective date of the proposed regulation

The Consultation Paper stated that the regulation, once finalised, will take effect on 18 July 2004, upon expiry of the three-year grace period granted to banks under section 34(1) of the Banking Act. Some respondents suggested that sufficient time be given to all parties to prepare for compliance and sort out implementation issues among the bank and its affiliated entities.

MAS' Response: MAS is of the view that the original date proposed gives sufficient time for banks and their affiliated entities to comply with the regulation. However, in view of MAS' announcement on 22 Aug 2003 that, upon application to MAS, it will extend by two years the grace period for a bank to divest its non-financial businesses, MAS will also 'grandfather' the bank's existing cyclical shareholding arrangements until 17 Jul 2006. New cyclical shareholding arrangements will, however, be prohibited.

MONETARY AUTHORITY OF SINGAPORE
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