

CONSULTATION PAPER

P010 - 2020

December 2020

Proposed Amendments to Regulations, Notices and Guidelines Arising from the Banking (Amendment) Act 2020 and Other Changes

MAS

Monetary Authority of Singapore

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1 Preface

1.1 On 6 January 2020, Parliament passed the Banking (Amendment) Act 2020 (BAA). The BAA introduces several amendments to the Banking Act (BA) to update and enhance MAS' banking regulatory framework. Among the significant amendments are the removal of the requirement for banks to segregate their accounting books into the Domestic Banking Unit and Asian Currency Unit (DBU-ACU divide), and the consolidation of the regulation of merchant banks (MBs) under the BA.

1.2 Most of the BAA provisions require supporting amendments to Regulations, Notices and Guidelines before they can commence. MAS has already commenced sections of the BAA that are legislatively and operationally straightforward and do not require further consultation on 1 October 2020. MAS had also consulted the industry on supporting amendments to Regulations, Notices and Guidelines arising from the removal of the DBU-ACU divide for banks in 2015 (2015 Consultation).¹

1.3 This consultation paper sets out the remaining amendments to Regulations, Notices and Guidelines for the rest of the BAA that have not yet commenced. Proposed requirements for outsourcing arrangements of banks and MBs will be consulted on separately.

1.4 In addition to the amendments arising from the BAA, MAS proposes to extend its composition powers by prescribing (a) the offences under section 47 and section 47 as applied by section 55ZI of the BA, in relation to the privacy of customer information; and (b) the offence under section 49 of the Trust Companies Act (TCA) in relation to the confidentiality of protected information, as compoundable offences under the BA and TCA respectively.

1.5 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

¹ The Consultation Paper and MAS' Response to Feedback are available at this link: <https://www.mas.gov.sg/publications/consultations/2015/consultation-paper-on-removing-the-dbu-acu-divide---implementation-issues>

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.

1.6 Please submit written comments by 15 January 2021 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

1.7 Electronic submission is encouraged. We would appreciate that you use the prescribed format for your submission to ease our collation efforts.

2 Proposed amendments arising from the BAA

Removing the DBU-ACU Divide

2.1 The BAA will effect the removal of the DBU-ACU divide. MAS had consulted on the amendments to remove the DBU-ACU divide for the Banking Regulations, Notices and Guidelines in the 2015 Consultation.

2.2 Following the 2015 Consultation, MAS has reviewed the anti-commingling framework for banks in Singapore in 2017.² Further amendments to regulations 23F and 23G of the Banking Regulations arising from the 2017 review are set out in green in **Annex A(1)**.

Regulating Merchant Banks under the BA

2.3 The BAA consolidates the regulation of MBs into the BA. MAS had consulted on the proposed new MB regulatory framework in a consultation paper published on 21 May 2019.³ The BAA introduces a new Part VIIB in the BA, which sets out a new licensing framework for MBs, as a class of financial institutions distinct from banks and replaces the existing approval regime for MBs under the Monetary Authority of Singapore Act (MAS Act).

2.4 Part VIIB will contain empowering provisions for requirements currently found in Directives issued under the MAS Act. Existing MB Directives, Notices and Guidelines will be cancelled and replaced by provisions in Part VIIB, as well as Regulations, Notices and Guidelines issued under the BA set out in **Annex A**. The new MB instruments are not intended to introduce new requirements or modify existing ones, except for changes that have been previously communicated or consulted with the MBs.

2.5 **Annex B** lists the cancelled Notices issued under the MAS Act, and which are replaced by those in Annex A.

Question 1. MAS seeks comments on the draft amendments to the Regulations, MAS Notices and Guidelines, and the new Regulations and MAS Notices, set out in red⁴ in the attachments to **Annex A**.

² The Consultation Paper and MAS Response to Feedback are available at this link: <https://www.mas.gov.sg/publications/consultations/2017/consultation-paper-on-review-of-anti-commingling-framework-for-banks>

³ The Consultation Paper and MAS Response to Feedback are available at this link: <https://www.mas.gov.sg/publications/consultations/2019/consultation-paper-on-regulating-merchant-banks-under-the-banking-act>

⁴ All amendments or new instruments are set out in red other than amendments to MAS Notices 1004, 1012 and 1015, which are presented as clean Notices.

3 Proposed amendments to compound offences in relation to privacy of customer information

3.1 MAS may offer composition for any offence under the BA and TCA that is prescribed by MAS in regulations as a compoundable offence.

3.2 In order to allow MAS greater flexibility in pursuing appropriate and proportionate regulatory actions, MAS proposes to prescribe, as compoundable, offences that arise from a failure to comply with requirements to safeguard the privacy of customer information. These requirements are set out in section 47 of the BA in relation to banks and MBs.⁵

3.3 As trust companies licensed and regulated under the TCA are also subject to similar confidentiality requirements with respect to protected information⁶, MAS proposes to prescribe, as compoundable, an offence that arises from a failure to comply with the confidentiality requirement imposed for protected information, as set out in section 49(6) of the TCA.

3.4 These privacy or confidentiality requirements apply to the relevant financial institutions, their officers, and third parties who receive customer information or protected information in certain situations.⁷

3.5 The proposed amendments will give MAS the power to offer composition for breaches of these requirements. This is a useful addition to MAS' toolkit to ensure that action appropriate to the facts and circumstances of each case can be taken for instances of non-compliance. This will complement MAS' existing supervisory powers over these financial institutions and their officers, as well as powers to institute criminal proceedings against offenders in court. MAS would be able to take tougher actions against breaches that do not meet the threshold of a criminal prosecution but call for stronger penalties than provided for under existing supervisory tools. At the same time, criminal proceedings against egregious breaches will continue to be pursued, to safeguard trust in our financial institutions.

⁵ As applied by section 55ZI of the BA in the case of MBs.

⁶ Protected information under section 49 of the TCA refers to information regarding a protected party or the business or other affairs of the protected party. Under section 2 of the TCA, a protected party, in relation to a trust company, means a trust for which the trust company provides trust business services and includes the settlor and beneficiary under the trust.

⁷ These are persons who receive customer information pursuant to exceptions set out in Part II of the Third Schedule of the BA in relation to banks, and Part II of the Third Schedule as applied by section 55ZI of the BA in relation to MBs, such as bank auditors or credit bureaus. In the context of the TCA, there are persons who receive protected information pursuant to exceptions set out in Part II of the Third Schedule to the TCA such as auditors or other professional advisers.

3.6 The proposed amendments to regulation 36 of the Banking Regulations, regulation 37 of the new MB Regulations, and regulation 23 of the Trust Companies Regulations are set out in **Annexes A(1), A(2) and A(4)** respectively.

Question 2. MAS seeks views on the proposal to prescribe offences under section 47, section 47 as applied by 55ZI of the BA, and section 49 of the TCA as compoundable offences.

ANNEX A

DRAFT AMENDMENTS

DRAFT AMENDMENTS TO EXISTING BANKING ACT SUBSIDIARY LEGISLATION AND INTRODUCTION OF NEW BANKING ACT SUBSIDIARY LEGISLATION

No.	Subsidiary legislation	New/ Existing	Attachment name
(1)	Banking Regulations	Existing	A(1) Banking Regulations
(2)	Banking (Merchant Banks) Regulations	New	A(2) Banking (Merchant Banks) Regulations
(3)	Banking (Fees) Notification	New	A(3) Banking (Fees) Notification

DRAFT AMENDMENTS TO EXISTING TRUST COMPANIES ACT SUBSIDIARY LEGISLATION

No.	Subsidiary legislation	New/ Existing	Attachment name
(4)	Trust Companies Regulations	Existing	A(4) Trust Companies Regulations

DRAFT AMENDMENTS TO EXISTING BANK NOTICES

No.	Notices	New/ Existing	Attachment name
(5)	MAS Notice 630	Existing	A(5) MAS Notice 630
(6)	MAS Notice 631	Existing	A(6) MAS Notice 631

DRAFT AMENDMENTS TO EXISTING MERCHANT BANK NOTICES AND INTRODUCTION OF NEW MERCHANT BANK NOTICES

No.	Notices	New/ Existing	Attachment name
(7)	MAS Notice 1001	Existing	A(7) MAS Notice 1001
(8)	MAS Notice 1002	Existing	A(8) MAS Notice 1002
(9)	MAS Notice 1004	Existing	A(9) MAS Notice 1004
(10)	MAS Notice 1007	Existing	A(10) MAS Notice 1007
(11)	MAS Notice 1012	Existing	A(11) MAS Notice 1012
(12)	MAS Notice 1015	Existing	A(12) MAS Notice 1015
(13)	MAS Notice 1102	Existing	A(13) MAS Notice 1102

No.	Notices	New/ Existing	Attachment name
(14)	MAS Notice 1107	Existing	A(14) MAS Notice 1107
(15)	MAS Notice 1109	Existing	A(15) MAS Notice 1109
(16)	MAS Notice 1110	Existing	A(16) MAS Notice 1110
(17)	MAS Notice 1111	Existing	A(17) MAS Notice 1111 A(17A) MAS Notice 1111 Reporting Schedules
(18)	MAS Notice XX (equivalent of MAS Notice 630 for MBs)	New	A(18) MAS Notice XX (630 for MBs)
(19)	MAS Notice XX (equivalent of MAS Notice 631 for MBs)	New	A(19) MAS Notice XX (631 for MBs)
(20)	MAS Notice XX: Privacy of Customer Information – Conditions for Disclosure of Customer Information by Auditors (for MBs)	New	A(20) MAS Notice XX – Privacy of Customer Information – Conditions for Disclosure of Customer Information by Auditors
(21)	MAS Notice XX (equivalent of MAS Notice 641 for MBs)	New	A(21) MAS Notice XX (641 for MBs)

DRAFT AMENDMENTS TO EXISTING BANK GUIDELINES

No.	Guidelines	New/ Existing	Attachment name
(22)	Guidelines on Definition of a “Deposit”	Existing	A(22) Guidelines on Definition of a Deposit

ANNEX B

**LIST OF MB NOTICES WHICH WILL BE CANCELLED AND RE-ISSUED DUE TO
CHANGES IN EMPOWERING PROVISION**

No.	Notices	Current empowering provision under the MAS Act	New empowering provision under the Banking Act
1.	MAS Notice 1001 on Definition of Capital Funds and Net Head Office Funds dated 15 December 2011 (last revised on 22 January 2018)	28	2(1) and 55T(11)
2.	MAS Notice 1002 on Auditors' Reports and Additional Information to be Submitted with Annual Accounts dated 9 March 2006	28(3)	26 as applied by 55ZD(1) and 58
3.	MAS Notice 1004 on Credit Facilities to Merchant Bank Directors, Staff and Related Concerns dated 1 November 1985	24C(3)	27(1) and (4) as applied by 55ZD(2) and (3)
4.	MAS Notice 1005 on Credit Files, Grading and Provisioning dated 29 December 2017	28(3)	55(1) as applied by 55ZJ(1)
5.	MAS Notice 1007 on Appointment of External Auditors dated 1 November 1985	24C(3)	55(1) as applied by 55ZJ(1)
6.	MAS Notice 1012 on Credit Facilities to a Single Borrower or Group of Borrowers dated 1 November 1985	24C(3)	55ZE(1)
7.	MAS Notice 1013 on Disclosure in Financial Statements dated 1 March 2006	28	55(1) as applied by 55ZJ(1)

No.	Notices	Current empowering provision under the MAS Act	New empowering provision under the Banking Act
8.	MAS Notice 1015 on Minimum Liquid Assets and Liquidity Coverage Ratio dated 16 December 2015 (last revised on 22 January 2020)	28(4)	38(1) as applied by 55ZG(1), and 65A(2)
9.	MAS Notice 1102 on Appointment of Head of Treasury and Register of Dealers dated 7 September 2007	28	55(1) as applied by 55ZJ(1)
10.	MAS Notice 1104 on Weekly Report on S\$ Transactions dated 4 July 2003	28(3)	55(1) as applied by 55ZJ(1)
11.	MAS Notice 1105 on Lending of Singapore Dollar to Non-Resident Financial Institutions dated 28 May 2004 (last updated on 5 October 2018)	28(3)	55(1) as applied by 55ZJ(1)
12.	MAS Notice 1106 on Residential Property Loans dated 27 August 2013 (last revised on 5 April 2020)	28(3)	55(1) as applied by section 55ZJ(1)
13.	MAS Notice 1106A on Residential Property Loans – Fact Sheet dated 12 December 2017	28(3)	55(1) as applied by section 55ZJ(1)
14.	MAS Notice 1106B on Residential Property Loans dated 17 February 2020 (last revised on 5 May 2020)	28(3)	55(1) as applied by section 55ZJ(1)
15.	MAS Notice 1107 on Bridging Loans for the Purchase of Immovable Properties dated 29 November 2013	28(3)	55(1) as applied by 55ZJ(1)
16.	MAS Notice 1109 on Unsecured Credit Facilities to Individuals dated 29 November 2013 (last revised on 5 May 2020)	28(3)	55(1) as applied by 55ZJ(1)

No.	Notices	Current empowering provision under the MAS Act	New empowering provision under the Banking Act
17.	MAS Notice 1110 on Negotiable Certificates of Deposit dated 1 March 2004 (last revised on 25 May 2004)	28	55(1) as applied by 55ZJ(1)
18.	MAS Notice 1111 on Risk Based Capital Adequacy Requirements for Merchant Banks Incorporated in Singapore dated 2 November 2012 (last revised on 5 October 2018)	28(3)	10(1) as applied by 55ZB(1), and 65A(2)
19.	MAS Notice 1113 on Motor Vehicle Loans dated 25 February 2013 (last revised on 5 May 2020)	28(3)	55(1) as applied by 55ZJ(1)
20.	MAS Notice 1114 on Technology Risk Management dated 21 June 2013	28(3)	55(1) as applied by 55ZJ(1)
21.	MAS Notice 1115 on Computation of Total Debt Servicing Ratio for Property Loans dated 28 June 2013 (last revised on 17 February 2020)	28(3)	55(1) as applied by section 55ZJ(1)
22.	MAS Notice 1115A on Computation of Total Debt Servicing Ratio for Property Loans dated 17 February 2020 (last revised on 5 May 2020)	28(3)	55(1) as applied by section 55ZJ(1)
23.	MAS Notice 1116 on Foreign Exchange Conversion in China via the Renminbi Clearing Bank for the Settlement of Eligible Cross-border Trade dated 9 July 2013 (last revised on 1 August 2014)	28(3)	55(1) as applied by section 55ZJ(1)
24.	MAS Notice 1118 on Cyber Hygiene dated 6 August 2019	28(3)	55(1) as applied by 55ZJ(1)

