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Singapore

BANKING & FINANCE

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This country-specific Q&A provides an overview of banking & finance laws and regulations applicable in Singapore.

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SINGAPORE BANKING & FINANCE



1. What are the national authorities for banking regulation, supervision and resolution in your jurisdiction?

The Monetary Authority of Singapore (“MAS”) functions as Singapore’s central bank, regulator and supervisor of the financial services sector. Pursuant to the Monetary Authority of Singapore Act 1970 (“MAS Act”) and the Banking Act 1970, MAS is empowered to issue directions, regulations, guidelines and notices to regulate banks and their operations.

2. Which type of activities trigger the requirement of a banking licence?

The Banking Act 1970 (“BA”) provides that only a company in possession of a valid bank licence granted under the BA by MAS authorizing it to conduct banking business in Singapore may transact a banking business.

A “banking business” is defined by the BA as the business of receiving money on current or deposit account, paying and collecting cheques drawn by or paid in by customers, and the making of advances to customers. Furthermore, MAS has the power to prescribe new categories of businesses that require a banking license.

3. Does your regulatory regime know different licenses for different banking services?

Yes. Banking licenses are issued by MAS and banking services that may legally be offered depend on whether the entity is granted: (a) a Full Bank License; (b) a Wholesale Bank License; (c) a Merchant Bank License; or (d) a Digital Bank License.

Full Bank License

Full Bank Licensees may offer the full range of banking services, as denominated in Singapore Dollars or Foreign Currency, which a banking business is approved to

operate under the BA. This includes core banking services such as deposit taking, cheque services and lending as well as services regulated MAS such as financial advisory services, insurance broking and capital market services.

Foreign banks, or entities offering banking services without a locally incorporated branch, with Full Bank Licenses are generally subject to restrictions such as the number of branches and Automated Teller Machines (“ATMs”) that they may operate. Nevertheless, foreign Full Banks that are granted the status of Qualifying Full Banks (“QFBs”) enjoy privileges compared to and can establish more places of business (up to 25 places of businesses) and share ATMs.

Wholesale Bank License

Wholesale banks may engage in the same range of banking business as full banks but may not carry out Singapore dollar retail banking activities. They operate within the Guidelines for Operation of Wholesale Banks issued by MAS.

Merchant Bank License

Financial institutions may also be licensed by MAS to operate as merchant banks under the BA. They generally carry out banking businesses and deposit-taking businesses, and but may accept deposits only from banks, finance companies licensed under the Finance Companies Act, shareholders of the merchant bank in Singapore, and companies controlled by any shareholder of the merchant bank in Singapore.

Digital Bank License

Digital Bank Licenses issued by MAS enable licensees to provide entities and individuals with banking services online. A Digital Full Bank License enables the licensee to take deposits from and provide banking services to retail and non-retail customers. A Digital Wholesale Bank enables the licensee to take deposits from and provide banking services to non-retail customers.

4. Does a banking license automatically permit certain other activities, e.g., broker dealer activities, payment services, issuance of e-money?

A banking license permits licensees to conduct other regulated activities that fall outside the definition of a banking business provided that such a licensee is an entity exempted from applying for a license under the relevant regulatory regimes, such as the Securities and Futures Act 2001 (“SFA”), Payment Services Act 2019 (“PSA”) or the Financial Advisers Act 2001 (“FAA”).

Notwithstanding that the holder of a banking license may be exempt from applying for a license to conduct licensed activities, the licensee is still required to adhere to relevant provisions governing the conduct of entities carrying on regulated businesses. Such provisions may include, but are not limited to, requirements to notify MAS about their exempt status, ensure payment of annual fees and ensuring that their officers and representatives are suitably qualified under the relevant MAS Guidelines.

Licensed banks are exempted from having to apply for and hold a Capital Markets License (“CMS License”) under Part IV of the SFA to conduct activities normally requiring a CMS License, such as (but not limited to) engaging in fund management, broker dealing or otherwise dealing in capital markets products and providing custodial services. However, Licensed Banks are still required to adhere to the relevant provisions in the SFA.

The provision of payment services is regulated under the PSA. Providers of payment services are required to hold one of three licenses, specifically a money-changing license, a standard payment institution license or a major payment institution license. A holder of a banking license is exempt from holding a Payment Service License but subject to restrictions imposed by the PSA and MAS.

5. Is there a “sandbox” or “license light” for specific activities?

Yes. MAS has a FinTech Regulatory Sandbox framework. The different iterations include Regulatory Sandbox (2016), Sandbox Express (2019), and Sandbox Plus (2022).

Regulatory Sandbox, operating under the MAS FinTech Regulatory Sandbox Guidelines, began as a programme to encourage Financial Institutions to implement innovative financial products, services or process by

relaxing regulatory requirements for successful applicants.

Sandbox Express, operating under the MAS Sandbox Express Guidelines and only available in relation to insurance broking business and the operation of organized markets, was created to complement Regulatory Sandbox and allows applicants to quickly begin experimenting with implementing the innovative FinTech solutions in the market within 21 days of application.

Sandbox Plus, which took effect on 1 January 2022, introduced three enhancements to the Sandbox. It aims to further catalyse financial innovation and FinTech adoption, by enhancing assistance in areas of regulatory support and providing access to financial grants.

With Sandbox Plus,

- a. Early adopters of technology innovation, in addition to first movers, are eligible for the Sandbox. However, if the FinTech proposed is similar to an existing solution that has already been applied in Singapore, the applicant must show that a different technology is being applied or the same technology is being applied differently.
- b. If the proposed technology is not yet applied in financial service in Singapore, the applicant is eligible to apply for funding under the Financial Sector Technology and Innovation.
- c. Eligible applicants may enroll in the Deal Fridays Programme which will help Sandbox entities access the external investor community, to benefit from the network, mentorship, and funding.

Any firms that are looking to apply technology in an innovative way to provide new financial services regulated by MAS, can apply for a sandbox. MAS expects that interested firms would have conducted their due diligence, such as testing the proposed financial service in a laboratory environment and knowing the legal and regulatory requirements for deploying the proposed financial service, prior to applying.

To apply, the applicant must submit an application containing the necessary supporting information to MAS. After obtaining approval from MAS, the applicant becomes the entity responsible for deploying and operating the sandbox (“sandbox entity”), with MAS providing the appropriate regulatory support by relaxing specific legal and regulatory requirements prescribed by MAS. The sandbox will only operate for a limited period of time.

Upon successful experimentation and on exiting the sandbox, the sandbox entity must fully comply with the relevant legal and regulatory requirements. If the sandbox entity requires an extension of the sandbox period, the sandbox entity should apply to MAS at least 1 month before the expiration of the sandbox period and provide reasons to support the application for extension.

6. Are there specific restrictions with respect to the issuance or custody of crypto currencies, such as a regulatory or voluntary moratorium?

Yes. Cryptocurrencies that fall within the definition of digital payment tokens under the Payment Services Act 2019 ("PSA") would be regulated under the PSA, and an activity involving crypto-currencies can be a regulated activity under the PSA if the custody of cryptocurrencies constitutes a component of a Digital Payment Token Service ("DPT Service") as defined under the PSA.

The PSA defines a DPT Service as the business of providing any service of dealing in digital payment tokens, which refers to the buying or selling of a digital payment token in exchange for money or other digital payment tokens (subject to exceptions), or any service of facilitating the exchange of digital payment tokens. DPT Service providers, which include payment institutions, banks and other financial institutions as well as prospective licensees, require a DPT Service licence to engage in their business activity and are subject to relevant guidelines, notices and other relevant publications by MAS. For example, MAS Payment Services Notices such as MAS Notice on the Prevention of Money Laundering and Countering the Financing of Terrorism ("AML/CFT requirements") and MAS Notice on Cyberhygiene apply to DPT Service providers. Offers or issues of digital tokens by way of Initial Coin Offerings may be regulated by MAS if the digital token is considered to be a Capital Markets Product under the SFA. Capital Markets Products include (without limitation) any securities, units in a collective investment scheme, derivatives contracts and spot foreign exchange contracts for purposes of leveraged foreign exchange trading.

Dealing in Capital Market Products, which includes the act of offering capital market products to any person with a view of encouraging them to acquire the same, is a regulated activity requiring a Capital Markets Services License ("CMS License"). A CMS Licensee is required to comply with the relevant provisions under the SFA as well as relevant guidelines, notices and publications issued by MAS.

In January 2022, MAS issued the Guidelines on Provision of Digital Payment Services, giving effect to MAS' expectations that DPT Service providers should not promote their DPT services to the general public in Singapore. This includes placing of any form of advertisements or promotional materials in public areas such as Singapore public transport, public transport venues, broadcast media or periodical publication, third party websites, social media platforms, public events or roadshows.

DPT service providers can only market or advertise on their own corporate websites, mobile applications or official social media accounts. However, they must not trivialise the risks of trading in DPTs in a manner that is inconsistent with or contradicts the risk disclosures under the PSA.

When the amendments to the PSA following the enactment of the Payment Services Amendment Act 2021 take effect, DPT services would include the buying or selling of DPTs or facilitating the transfer of DPTs, provision of custodian wallet services for DPTs, and facilitating the exchange of DPTs without possession of moneys or DPTs by the DPT service provider.

7. Do crypto assets qualify as deposits and, if so, are they covered by deposit insurance and/or segregation of funds?

At the time of writing, Singapore does not have any guidelines on whether crypto assets qualify as deposits.

8. What is the general application process for bank licenses and what is the average timing?

The application process for bank licenses involves submitting an application form to MAS and requires confirmation of payment of the application fee (e.g. payment advice, bank statement transaction details) to MAS.

The average timing depends on the circumstances of each application, such as the time taken to discuss licensing requirements, quality of paperwork, as well as the merits of the application. However, MAS has indicated that assuming that all information has been submitted to MAS' satisfaction and that the application fee has been duly received by MAS, the processing time for a bank license application typically takes about 3 to 4 months.

9. Is mere cross-border activity permissible? If yes, what are the requirements?

Cross-border banking activity may be permissible in certain cases. Foreign entities may only provide banking services or conduct a banking business in Singapore with the appropriate banking license issued by MAS and are subject to the conditions of the licence, the Banking Act and relevant MAS guidelines and notices. Foreign full banks with Qualifying Full Bank status may carry out cross-border banking activity in Singapore provided they are in compliance with the terms attached to a Qualifying Full Bank status.

In order to set up a new branch, agency or office outside Singapore, Singapore-incorporated banks must submit a written application to MAS for approval.

Entities which conduct their activities wholly outside Singapore may also be subject to Singapore laws and regulations, depending on whether the statute governing that activity applies extraterritorially. For instance, under the Banking Act ("BA"), no person, whether in Singapore or elsewhere, shall accept any deposit from any person in Singapore or accept or receive in Singapore any application for a credit card or charge card unless the person is duly licensed under the BA.

A foreign incorporated bank may also set up a Bank Representative Office in Singapore by applying to MAS. A Bank Representative Office is only permitted to carry out cross border activity in the form of liaison work, market research or feasibility studies, but is not allowed to transact any business in Singapore.

10. What legal entities can operate as banks? What legal forms are generally used to operate as banks?

Pursuant to the Banking Act, only a company which is in possession of a valid bank licence granted under the BA by the MAS, can operate as a bank in Singapore.

11. What are the organizational requirements for banks, including with respect to corporate governance?

The Banking Act ("BA") prescribes organizational requirements that function to ensure that holders of banks have sufficient liquidity. Examples of such requirements under the BA include provisions governing the amount of paid-up capital of banks incorporated in Singapore or branches of foreign banks, requirements by

banks to maintain minimum capital amounts or controls on their leverage ratios as MAS may from time to time prescribe in MAS Notices.

Banks are required to organize their corporate governance systems in accordance with MAS Guidelines on Corporate Governance for Financial Holding Companies, Banks, Direct Insurers, Reinsurers and Captive Insurers which are Incorporated in Singapore ("CG Guidelines"). The CG Guidelines incorporate the principles and the provisions in the Code of Corporate Governance 2018 ("Code"), and banks are expected by MAS to adhere to the Code and the CG Guidelines. The Code and CG Guidelines are to be read with the Banking (Corporate Governance) Regulations 2005, which assists in interpreting the Code and CG Guidelines.

The Code and CG Guidelines set out requirements which include, but are not limited to, the conduct of the board of directors ("Board"), composition of the Board, powers of the Chairman of the Board and the Chief Executive Officer, assessment of the performance of the Board, establishing of dedicated committees such as audit committees on the Board, mix and remuneration of the Board as well as disclosure requirements.

12. Do any restrictions on remuneration policies apply?

Pursuant to the MAS Guidelines on Corporate Governance for Financial Holding Companies, Banks, Direct Insurers, Reinsurers and Captive Insurers which are Incorporated in Singapore ("CG Guidelines"), a bank incorporated in Singapore must have a Remuneration Committee to review and make recommendations to the board on (a) a framework of remuneration for the Board and key management personnel; and (b) the specific remuneration packages for each director as well as for the key management personnel.

While making these recommendations, the Remuneration Committee must be aligned with the Principles for Sound Compensation Practices and Implementation Standards issued by the Financial Stability Board established following the G20 London Summit in April 2009. These principles aim to reduce incentives for excessive risk-taking which may arise from the structure of compensation schemes.

13. Has your jurisdiction implemented the Basel III framework with respect to regulatory capital? Are there any major deviations, e.g., with respect to certain

categories of banks?

Yes. MAS has implemented the Basel III standards pertaining to minimum capital adequacy ratios (i.e., Pillar 1 of the Basel III framework) and has also set out the expectations of MAS in respect of the internal capital adequacy assessment process (i.e., Pillar 2 of the Basel III framework) for Singapore-incorporated banks via MAS Notice 637, which was last revised on 2 December 2021.

14. Are there any requirements with respect to the leverage ratio?

Yes. The requirements are set out in MAS Notice 637.

15. What liquidity requirements apply? Has your jurisdiction implemented the Basel III liquidity requirements, including regarding LCR and NSFR?

The Basel III liquidity requirements apply to Singapore-incorporated banks.

MAS Notice 649 sets out requirements pertaining to: (i) Minimum Liquid Assets required to be maintained by all banks in Singapore; and (ii) Liquidity Coverage Ratios applicable to domestic systemically important banks.

MAS Notice 652 sets out requirements for domestic systemically important banks and internationally active banks pertaining to their Net Stable Funding Ratio.

16. Do banks have to publish their financial statements? Is there interim reporting and, if so, in which intervals?

Yes. Section 25 of Banking Act requires banks incorporated in Singapore to publish their annual balance-sheet, profit and loss account containing at least such information as MAS may require by written notice. Foreign incorporated banks are required to publish the same in a manner that complies with the law in the place of incorporation.

The Banking (Publication and Provision of Accounts) Regulations set out where banks should publish the information required by the Banking Act, be it in daily newspapers or on the bank's website.

Additionally, MAS Notice 607 (Publication of Financial Statements) and MAS Notice 608 (Disclosure in Financial Statements) set out further requirements of banks relating to the publication of their Financial Statements.

For instance, under MAS Notice 607, a bank has to publish details of its annual financial statements (including necessary information e.g. auditor's report, capital adequacy ratio) and provide information to members of public upon request.

Interim reporting is done by banks incorporated in Singapore as part of their obligations arising from their listing on the Singapore Stock Exchange (SGX), as applicable. The SGX Rules prescribe half year reporting as a default unless specific circumstances apply such that the company listed on the SGX is a high-risk entity requiring quarterly reporting.

17. Does consolidated supervision of a bank exist in your jurisdiction? If so, what are the consequences?

Yes. Consolidated supervision of banks is a guiding principle of financial supervision adopted by MAS.

MAS conducts consolidated supervision of banks by evaluating banks on a whole-group basis across their banking, insurance, and securities activities, taking into account their Singapore and overseas operations.

The Banking Act empowers consolidated supervision by empowering MAS to exercise wide supervisory jurisdiction over local and foreign operations of Singapore Incorporated and Foreign Incorporated banks. For example, MAS may at any time investigate, under conditions of secrecy, the books of any bank in Singapore, where there are grounds to believe the bank is carrying on its business in a manner detrimental to depositors, possibly insolvent or is otherwise contravening the provisions of the Banking Act. Further, the Monetary Authority of Singapore Act ("MAS Act") also empowers MAS to prescribe action to be taken or assume control of a bank where MAS has grounds to believe that the foregoing has occurred.

As part of the requirements for obtaining a banking license, MAS requires foreign banks operating in Singapore to demonstrate that they are subject to consolidated supervision by their home regulators.

MAS also engages in information sharing with relevant authorities through means of supervisory college meetings as well as membership in significant banking groups worldwide to enhance preparedness and cross-border coordination between MAS, foreign authorities and cross-border financial institutions.

18. What reporting and/or approval

requirements apply to the acquisition of shareholdings in, or control of, banks?

The Securities and Futures Act provides for a disclosure regime in relation to Singapore-incorporated banking corporations listed on the Singapore Stock Exchange ("SGX-ST") or foreign-incorporated banks with a primary listing on the SGX-ST, substantial shareholders are statutorily required to disclose:

- a. When they become a substantial shareholder.
- b. When they have a change in the percentage level of their substantial shareholding.
- c. When they cease to be a substantial shareholder.

A substantial shareholder refers to a person who has an interest in at least 5% of the total votes attached to all the voting shares (excluding treasury shares) in the company.

The notifications must be made to the listed company, and the listed company must announce the substantial shareholding notifications received.

Pursuant to Section 15A and 15B of the Banking Act, an individual seeking to become a substantial shareholder, a 12% controller, a 20% controller or an indirect controller of a bank incorporated in Singapore is required to seek the approval of the Minister of Finance

19. Does your regulatory regime impose conditions for eligible owners of banks (e.g., with respect to major participations)?

Yes. MAS has in place Guidelines on Fit and Proper Criteria ("Fit and Proper Guidelines") which all relevant persons (as defined under the Fit and Proper Guidelines, which may include eligible shareholders and senior officers of the bank) carrying out any activity regulated by MAS. The relevant person is expected to be competent, honest, to have integrity and to be of sound financial standing and factors used to assess these characteristics described and listed in the Fit and Proper Guidelines.

20. Are there specific restrictions on foreign shareholdings in banks?

No, there are no specific restrictions on foreign shareholdings in banks, except for digital full banks. According to FAQs pertaining to Digital Full Banks issued by MAS, it would be exceptional for a digital bank license to be granted to an entity where the Singaporean and related parties do not hold absolute majority stake.

21. Is there a special regime for domestic and/or globally systemically important banks?

Yes. MAS has published a framework for identifying and supervising domestic systematically important banks ("D-SIBs") in Singapore. D-SIBs are banks that are assessed to have a significant impact on the stability of the financial system and proper functioning of the broader economy. MAS exercises additional supervision on banks designated as D-SIBs.

22. What are the sanctions the regulator(s) can order in the case of a violation of banking regulations?

Breaches of the BA and related subsidiary legislation may result in criminal sanctions. Additional duties and liabilities may also be imposed by MAS through guidelines.

There are a range of enforcement actions which MAS may pursue, namely: (a) refer a case for criminal prosecution; (b) civil penalty action; (c) withdrawal or suspension of license or regulatory status; (d) removal from office; (e) prohibition orders; (f) compositions; (g) reprimands; and/or (h) warnings/letters of advice.

In choosing the type of enforcement action to apply, MAS considers the full range of facts and circumstances of each case, including the harm caused by the offender, the degree of cooperation shown, and any other relevant facts relating to the offence. MAS uses the range of enforcement tools at its disposal to calibrate the actions taken to fit the nature of the misconduct and the circumstances in each case.

23. What is the resolution regime for banks?

MAS is provided with a broad range of powers to act speedily with a failed bank under the BA and MAS Act.

For instance, under the BA, when a bank is insolvent or likely to become insolvent, MAS can:

- a. Require the bank to take or restrain any action as it considers necessary;
- b. Appoint a statutory advisor to advise the bank on the proper management of its business; or
- c. Take control of and manage the bank's business, or appoint a statutory manager to do so.

Under the MAS Act, MAS can, in certain circumstances

and with the approval of the Minister of Finance, order the sale of a failed bank's business to another bank and, in a Singapore-incorporated bank, the issue of new shares of sale of existing shares to other investors.

The MAS Act also provides MAS with other powers, including:

- a. To transfer compulsorily all or part of the business or shares of a bank to a third party.
- b. To transfer all or part of the bank's business to a bridge entity.
- c. To use bail-in powers (for Singapore incorporated banks).
- d. To issue directions to a non-regulated entity incorporated or established in Singapore, where the entity belongs to a group that includes a bank and is significant to the group.
- e. In certain circumstances to apply to the High Court to claw-back the salary, remuneration or benefits of a director or executive officer for the previous two years. This period can be extended if the director or executive officer has acted recklessly, fraudulently or dishonestly.
- f. To share information with a foreign resolution authority in certain circumstances.
- g. To determine whether a foreign resolution should be recognised in whole or in part, or not be recognised at all.

There is currently no formal bail-out regime in Singapore.

24. How are client's assets and cash deposits protected?

Singapore dollar denominated deposits placed with a Deposit Insurance Scheme Member are protected under the Deposit Insurance Scheme in Singapore ("Scheme") that is administered by the Singapore Deposit Insurance Corporation Limited ("SDIC") for the purpose of providing limited compensation to insured depositors under certain circumstances. The board of directors of SDIC is accountable to the minister in charge of the MAS. The Scheme is provided for pursuant to the Deposit

Insurance and Policy Owners' Protection Scheme Act 2011.

25. Does your jurisdiction know a bail-in tool in bank resolution and which liabilities are covered?

Yes. The MAS Act provides MAS with powers to use bail-in powers for Singapore incorporated banks and their Singapore incorporated holding company.

26. Is there a requirement for banks to hold gone concern capital ("TLAC")?

Yes. MAS Notice 637 sets out the requirements on total loss absorbing capacity ("TLAC").

27. In your view, what are the recent trends in bank regulation in your jurisdiction?

Recently, new digital bank entrants have commenced their operations from early 2022, and MAS expects these digital banks to thrive alongside the incumbent banks and raise the industry's standards in delivering quality financial services, particularly for currently underserved businesses and individuals.

28. What do you believe to be the biggest threat to the success of the financial sector in your jurisdiction?

One of the biggest threats to the success of the financial sector is the onslaught of virtual banks/digital banks as well as the emergence of online money transfer services because the Securities and Futures Act and its related subsidiary legislation, the Financial Advisers Act and the Payment Services Act may not be able to properly regulate such businesses adequately. These businesses are likely to compete directly with the more traditional financial institutions that are currently regulated by the MAS and may even surpass these traditional financial institutions in the provision of services to corporations and individuals in the not too distant future.

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