

Financial Services Update

MAS issues consultation paper on proposed changes to Banking Act

Introduction

On 31 July 2006, the Monetary Authority of Singapore (the “MAS”) released a draft Banking (Amendment) Bill 2006 (the “Draft Bill”) for public consultation. Comments on the Draft Bill must be submitted to the MAS by 31 August 2006.

The Draft Bill proposes to amend the Banking Act with the primary objectives of strengthening prudential safeguards, facilitating risk-based supervision, providing banks with greater operational flexibility and updating banking regulations.

Key proposed amendments to the Banking Act

1.	Proposed revision to section 29: Revision of methodologies for limiting concentration risk and related party exposures	
	Useful references: Please click on the titles of the following documents to read more about the proposed methodologies: <ul style="list-style-type: none"> • MAS Industry Consultation on Amendments to Section 29 of The Banking Act dated 15 January 2005 • MAS Response to Feedback Received - Consultation on Amendments to Section 29 of The Banking Act dated 15 May 2006 	
	Current position	Proposed amendment
	Current prudential limits on credit facilities extended by banks designed to limit concentration risk: <ul style="list-style-type: none"> • Section 29(1)(a) and (b): Single borrower limit of 25% of a bank’s capital funds and substantial loans limit of 50% of a bank’s total credit facilities on credit facilities extended by a bank to a single borrower or a group of borrowers under the common control of a single person 	<ul style="list-style-type: none"> • To apply the limits to all exposures (including equity investments, contingent liabilities, etc.), not just to credit facilities, to a single counter-party or group of related counter-parties posing a single risk • Exposures to well-rated counter-parties will be exempted from inclusion in the new exposures limits and credit risk mitigation will be recognised

	<p>Current prudential limits on credit facilities extended by banks to minimise the scope for conflict of interest and to limit contagion risks in respect of related entities of banks:</p> <ul style="list-style-type: none"> • Section 29(1)(d) and (e): Limits on unsecured credit facilities to directors, director-related entities, banks' related corporations and banks' employees 	<ul style="list-style-type: none"> • To widen the limits on exposures of a Singapore-incorporated bank to its substantial shareholder group and exposures of a bank in Singapore to financial entities in which the bank holds a major stake
2.	<p>Proposed revision to section 9 read with section 40: Introduction of risk-based asset maintenance requirement</p>	
	<p>Useful references: Please click on the titles of the following documents to read more about the new asset maintenance regime:</p> <ul style="list-style-type: none"> • MAS Industry Consultation on An Asset Maintenance Framework for Foreign Banks dated 14 January 2005 • MAS Response to the Industry Consultation on An Asset Maintenance Framework for Foreign Bank Branches dated 18 January 2006 • MAS Note on Asset Maintenance for Foreign Bank Branches dated 14 February 2006 	
	Current position	Proposed amendment
	<ul style="list-style-type: none"> • Section 9(1)(c)(ii): Foreign banks are required to hold not less than S\$10 million of net head office funds in Singapore with not less than S\$5 million in the form of assets approved by the MAS 	<ul style="list-style-type: none"> • Foreign banks to hold not less than S\$5 million of assets in Singapore, valued in the manner specified by the MAS • To introduce requirement for foreign bank branches to maintain a minimum level of eligible assets in Singapore in proportion to their liabilities • To require banks that pose greater supervisory concerns to comply with higher asset maintenance requirements
3.	<p>Proposed revision to section 62: Revising priority ranking of deposit liabilities of a bank</p>	
	Current position	Proposed amendment
	<ul style="list-style-type: none"> • Non-bank and inter-bank deposit liabilities of a bank rank ahead of other unsecured liabilities of the bank in the event of a winding up of the bank 	<ul style="list-style-type: none"> • Non-bank deposit liabilities of a bank rank ahead of other unsecured liabilities of the bank • Inter-bank deposit liabilities of a bank rank behind non-bank deposit liabilities and <i>pari passu</i> with other unsecured liabilities

4.	Proposed revision to section 4B: Flexibility for the MAS to prescribe what constitutes a “deposit”	
	Current position	Proposed amendment
	<ul style="list-style-type: none"> • Section 4B: “Deposit” is statutorily defined in Section 4B(4) (read with sections 4B(5) and 4B(6)) 	<ul style="list-style-type: none"> • To empower the MAS to include or exclude any financial product in or from the definition of “deposit”
5.	Proposed revision to provisions in Part VII and inclusion of new Part VIIA: Enhancing the MAS’ role in bank resolution	
	Current position	Proposed amendment
	<ul style="list-style-type: none"> • The MAS has powers to conduct inspections and special investigations of banks • Parent supervisory authorities may conduct inspections of foreign banks in Singapore, subject to approval from the MAS 	<ul style="list-style-type: none"> • To provide more powers to the MAS to enhance its role in resolving a bank failure: <ul style="list-style-type: none"> - to provide the MAS the right to be heard in insolvency proceedings of a bank - to empower the MAS to approve the liquidator of a bank - to empower the MAS to direct a failed bank to transfer the whole or part of its business to another bank, with the Minister’s approval - to empower the MAS to direct shareholders of a failed bank to transfer their shares to another person, with the Minister’s approval - to empower the MAS to write down a failed bank’s share capital against losses and issue new shares to another subscriber, with the Minister’s approval
6.	Proposed revision to sections 38 and 39: Implementing proposed enhancements to the liquidity risk supervision framework	
	<p>Useful references: Please click on the titles of the following documents to read more about the proposed enhancements to the liquidity risk supervision framework:</p> <ul style="list-style-type: none"> • MAS Consultation Paper on Liquidity Risk Supervision Framework - A Revised Minimum Liquid Asset Framework dated 19 May 2006 • Article entitled “MAS proposes to fine-tune existing minimum liquidity risk supervision framework for banks” featured in May 2005 issue of the Allen & Gledhill Legal Bulletin 	
	Current position	Proposed amendment
	<ul style="list-style-type: none"> • Base Minimum Liquid Assets (“MLA”) is computed based on 	<ul style="list-style-type: none"> • To allow the MAS to implement the proposed enhancements to the liquidity

	<p>“liabilities base”</p> <ul style="list-style-type: none"> • Eligible liquid assets include cash, SGS and bills of exchange • Minimum 10% SGS requirement 	<p>risk supervision framework which will</p> <ul style="list-style-type: none"> - impose MLA requirements on a revised set of “qualifying liabilities” which will replace the current “liabilities base” - expand the range of assets qualifying as eligible liquid assets - revise the computation of the MLA requirements and maintenance period - replace the existing minimum SGS requirement with a minimum Tier 1 assets requirement, which includes cash and SGS - formalise the procedures for MLA drawdown
7.	Proposed repeal of section 22	
	Lifting the statutory reserve fund requirement	
	Current position	Proposed amendment
	<ul style="list-style-type: none"> • Every bank is required to maintain a reserve fund 	<ul style="list-style-type: none"> • To abolish the requirement to maintain a reserve fund • To allow banks to release the reserves over a 5-year period
8.	Proposed inclusion of new Part VIII	
	Expanding the regulatory scope for credit card issuance	
	Current position	Proposed amendment
	<ul style="list-style-type: none"> • Only banks and non-bank financial institutions are subject to the MAS’ rules on the issuance of credit cards 	<ul style="list-style-type: none"> • To extend the regulatory scope of credit card issuance to all issuers, not just financial institutions, targeting Singapore market
	<ul style="list-style-type: none"> • Only single party merchant credit where the card is used only for transactions with the issuer who is the sole party bearing the credit risks of the cardholders is exempted from the MAS’ rules on the issuance of credit cards 	<ul style="list-style-type: none"> • To include a new exemption from the regulatory scope of credit card issuance for credit cards with low credit limits (not exceeding S\$500)

To view the full text of the MAS consultation paper containing the Draft Bill, please [click here](#).

To view the MAS press release relating to the above development, please [click here](#).

Further information

If you have any general queries regarding the impact of these developments on your business or require any further information, please do not hesitate to contact:

Francis Mok

Tel: +65 6890 7786

E-mail: francis.mok@allenandgledhill.com

Prawiro Widjaja

Tel: +65 6890 7717

E-mail: prawiro@allenandgledhill.com

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