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The following Act was passed by Parliament on 29 February 2016 and assented to by the President on 13 April 2016:—

**REPUBLIC OF SINGAPORE**

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**No. 5 of 2016.**

I assent.

TONY TAN KENG YAM,  
*President.*  
*13 April 2016.*



An Act to amend the Banking Act (Chapter 19 of the 2008 Revised Edition) and to make a consequential amendment to the Income Tax Act (Chapter 134 of the 2014 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

**Short title and commencement**

1. This Act is the Banking (Amendment) Act 2016 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

**Repeal and re-enactment of long title**

2. The long title to the Banking Act is repealed and the following long title substituted therefor:

“An Act to provide for the licensing and regulation of the businesses of banks, merchant banks and related institutions, and the credit card and charge card business of banks, merchant banks and other institutions, and matters related thereto.”.

**Amendment of section 2**

3. Section 2(1) of the Banking Act is amended —

- (a) by deleting the words “calculating its capital adequacy ratio” in paragraph (a)(i) of the definition of “capital funds” and substituting the words “complying with the capital adequacy requirements imposed”;
- (b) by inserting, immediately after the word “established” in the definition of “company”, the words “in or”;
- (c) by inserting, immediately after the definition of “foreign-owned bank incorporated in Singapore”, the following definition:
  - ““Guidelines on Fit and Proper Criteria” means the document by that title issued by the Authority and published on its website, as revised from time to time;”;
- (d) by inserting, immediately after the definition of “limited liability partnership”, the following definition:
  - ““merchant bank” means a merchant bank approved as a financial institution under

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section 28 of the Monetary Authority of Singapore Act (Cap. 186);”;

(e) by deleting the words “the supervisory authority” in paragraphs (a) and (b) of the definition of “parent supervisory authority” and substituting in each case the words “a supervisory authority”;

(f) by deleting the definition of “place of business” and substituting the following definition:

““place of business”, in relation to a bank, includes a head or main office, a branch, an agency, a mobile branch of the bank, any office established and maintained for a limited period only, and any other place used by the bank for the conduct of any business of the bank;”;

(g) by inserting, immediately after the definition of “related corporation”, the following definition:

““representative office” means an office established by a person to carry out liaison work, market research or feasibility studies, in relation to banking business, for use by the person;”.

#### **Amendment of section 7**

4. Section 7 of the Banking Act is amended —

(a) by deleting subsection (2);

(b) by inserting, immediately after subsection (4), the following subsection:

“(4A) Without limiting the generality of subsections (3) and (4), the conditions that may be imposed include —

(a) a condition as to the type of banking business that may be carried out; and

- (b) a condition placing limits on the banking business that may be carried out.”;
- (c) by inserting, immediately after subsection (7), the following subsections:
- “(8) A bank which desires to vary a condition referred to in subsection (4A) in its licence must apply to the Authority in writing, and the application must be accompanied by such information as the Authority may require.
- (9) An application under subsection (1) or (8) must be accompanied by a non-refundable application fee of such amount as the Authority may, by notification in the *Gazette*, prescribe, which must be paid in the manner specified by the Authority.
- (10) Any person who furnishes any document or information in connection with an application under subsection (1) or (8), knowing or reckless that the document or information is false or misleading in a material particular, shall be guilty of an offence and shall be liable on conviction —
- (a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or
- (b) in any other case, to a fine not exceeding \$250,000.”; and
- (d) by inserting, immediately after the word “licence” in the section heading, the words “or variation of condition as to banking business”.

### **Amendment of section 9**

**5.** Section 9 of the Banking Act is amended —

- (a) by deleting the words “or hold” in subsection (1);
- (b) by deleting subsection (2) and substituting the following subsections:

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“(2) Subject to subsection (2A), the paid-up capital and capital funds of a bank incorporated in Singapore must be denominated in Singapore dollars or any currency approved by the Authority, and must be in ordinary shares.

(2A) Any amount of paid-up capital or capital funds of a bank incorporated in Singapore above the amount referred to in subsection (1)(a) may be denominated in any currency, and may be in any type of shares.”;

(c) by inserting, immediately after subsection (3), the following subsection:

“(3A) A bank must at all times maintain —

(a) if it is a bank incorporated in Singapore, capital funds of not less than the amount referred to in subsection (1)(a); or

(b) if it is a bank incorporated outside Singapore, head office capital funds of not less than the equivalent of the amount referred to in subsection (1)(b).”;

(d) by deleting the words “subsection (1)” in subsection (4) and substituting the words “subsection (2) or (3A)”;

(e) by deleting the words “section 71” in subsection (5) and substituting the words “subsection (5A)”;

(f) by inserting, immediately after subsection (5), the following subsection:

“(5A) Any bank which fails to comply with —

(a) subsection (2), (3), (3A) or (4); or

(b) any restriction or suspension imposed by the Authority, or any direction of the Authority, under subsection (5),

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 of a day during which the offence continues after conviction.”.

### **Amendment of section 9A**

6. Section 9A of the Banking Act is amended —

- (a) by deleting the words “and hold” in subsection (1);
- (b) by deleting paragraph (a) of subsection (1);
- (c) by inserting, immediately after subsection (3), the following subsections:

“(3A) Subject to subsection (3B), the paid-up capital and capital funds of a bank which is a qualifying subsidiary must be denominated in Singapore dollars or any currency approved by the Authority, and must be in ordinary shares.

(3B) Any amount of paid-up capital or capital funds of a bank which is a qualifying subsidiary above the amount referred to in subsection (1)(b), or such other amount as may be prescribed by the Authority in substitution, may be denominated in any currency, and may be in any type of shares.”;

- (d) by deleting the words “subsection (1)” in subsection (5) and substituting the words “subsection (3) or (3A)”;
- (e) by deleting the words “section 71” in subsection (6) and substituting the words “subsection (6A)”;
- (f) by inserting, immediately after subsection (6), the following subsection:

“(6A) Any bank which fails to comply with —

- (a) subsection (2), (3), (3A) or (5); or
- (b) any restriction or suspension imposed by the Authority, or any direction of the Authority, under subsection (6),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in

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the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part of a day during which the offence continues after conviction.”.

### **Amendment of section 10**

7. Section 10 of the Banking Act is amended —

(a) by deleting subsection (2) and substituting the following subsections:

“(2) The Authority may, by notice in writing to any bank incorporated in Singapore or any class of banks incorporated in Singapore, impose capital adequacy requirements on them.

(2A) Without limiting the generality of subsection (2), a notice under that subsection may prescribe —

- (a) the appropriate level (which may be expressed in the form of a ratio) and quality of capital that is commensurate with the type, amount and concentration of risk of the bank or class of banks;
- (b) the manner and process for calculating the level or quality of capital of each bank;
- (c) the internal processes of each bank in assessing the adequacy of its level and quality of capital, having regard to the risks arising from the activities of the bank and such other factors as the Authority considers relevant;
- (d) the reports to be submitted by each bank; and
- (e) restrictions on the distributions by a bank of dividends, bonuses, commissions, payments as a result of a buyback of shares, and any other payment, in the event that it fails to maintain the level or

quality of capital prescribed under paragraph (a).”;

(b) by deleting the words “the capital adequacy ratio applicable to that bank” in subsection (3) and substituting the words “any capital adequacy requirement imposed by a notice under subsection (2) on that bank”; and

(c) by deleting subsection (4) and substituting the following subsections:

“(4) Without prejudice to subsection (5), the Authority may restrict or suspend the operations of a bank which fails to comply with a notice under subsection (1) or (2).

(5) A bank which fails to comply with —

(a) a notice under subsection (1) or (2); or

(b) any restriction or suspension imposed by the Authority under subsection (4),

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 of a day during which the offence continues after conviction.”.

### **New sections 10A and 10B**

8. The Banking Act is amended by inserting, immediately after section 10, the following sections:

#### **“Leverage ratio requirement**

**10A.**—(1) The Authority may, by notice in writing, require any bank incorporated in Singapore or any class of banks incorporated in Singapore, to maintain a minimum leverage ratio of a specified percentage, and to carry out other acts relating to this.

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(2) Without limiting the generality of subsection (1), a notice under that subsection may prescribe the manner of and process for calculating the leverage ratio.

(3) Where the Authority issues a notice under subsection (1) to a class of banks incorporated in Singapore, the Authority may by another notice —

- (a) impose additional leverage ratio on the class of banks;
- (b) impose restrictions on distributions by a bank of dividends, bonuses, commissions, payments as a result of a buyback of shares, and any other payment, in the event that the bank fails to comply with a requirement imposed under subsection (1); or
- (c) vary the requirements for different banks within that class having regard to the risks arising from the activities of each bank, the financial soundness of each bank, and such other factors as the Authority may consider relevant.

(4) Any bank which fails to comply with a notice under subsection (1) or (3) 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 of a day during which the offence continues after conviction.

(5) In this section and section 10B, “leverage ratio” means the ratio of the capital to the exposures of the bank.

### **Public disclosure requirement**

**10B.**—(1) For the purposes of enhancing market discipline, the Authority may, by notice in writing to a bank in Singapore or a class of banks in Singapore, require —

- (a) the bank or each bank in the class to disclose to the public, in the form and manner specified by the Authority, any information relating to its operations and activities, and the manner it complies with any

provision of this Act or a notice or direction issued under this Act; or

- (b) the bank or each bank in the class, if incorporated in Singapore, to disclose to the public, in the form and manner specified by the Authority, any information relating to the operations and activities of any entity in its bank group within the meaning of section 48AA.

(2) Without limiting the generality of subsection (1), a notice under that subsection may require a bank to disclose one or more of the following information of the bank or an entity in the bank group of the bank (as the case may be):

- (a) its risk profile and risk management process;
- (b) aspects of its corporate governance;
- (c) its capital adequacy, including various components used to calculate its capital adequacy;
- (d) its leverage ratio;
- (e) the manner it complies with any requirement imposed on it under section 38 (if applicable);
- (f) the aggregation of —
  - (i) its assets, liabilities, profits or losses, and any other information whether or not on its balance-sheet; and
  - (ii) the assets, liabilities, profits or losses, and any other information whether or not on the balance-sheet or balance-sheets, of all or any of its related corporations, and the entities in which it holds, directly or indirectly, a major stake as defined in section 32(7).

(3) Any bank which fails to comply with a notice under subsection (1) 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 of a day during which the offence continues after conviction.

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(4) Any bank which, in purported compliance with a notice under subsection (1), provides to the public any information, knowing or reckless that the information is false or misleading in a material particular, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000.

(5) Where a bank is guilty of an offence under subsection (3) or (4), any individual charged with the duty of securing the bank's compliance with the notice and was in the position to discharge that duty, shall also be guilty of an offence and shall be liable on conviction —

- (a) if the individual committed the offence wilfully, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or
- (b) if the individual did not commit the offence wilfully, to a fine not exceeding \$125,000.”.

### **Repeal and re-enactment of section 12**

9. Section 12 of the Banking Act is repealed and the following section substituted therefor:

**“New place of business and change of location of existing place of business**

12.—(1) Except with the approval of the Authority, a bank must not —

- (a) open a new place of business in Singapore for the conduct of any business referred to in subsection (2);
- (b) change the location of an existing place of business in Singapore for the conduct of any business referred to in subsection (2); or
- (c) conduct any business referred to in subsection (2) from the new place of business referred to in paragraph (a) or the relocated place of business referred to in paragraph (b).

(2) Subsection (1) applies to the following businesses:

- (a) the dispensing or acceptance of money on account;

- (b) the conduct of other banking business;
- (c) such business referred to in section 30(1)(b) to (e) as may be prescribed.

(3) Except with the approval of the Authority, a bank incorporated in Singapore must not open a new branch, agency or office in a place outside Singapore.

(4) An application for approval under subsection (1) or (3) must be made in such form and manner as the Authority may specify.

(5) On receiving an application, the Authority may —

- (a) approve the application, with or without conditions;  
or
- (b) reject the application.

(6) The Authority may at any time vary or revoke any existing condition, or impose conditions or additional conditions.

(7) A bank which contravenes subsection (1) or (3), or fails to comply with any condition imposed under subsection (5) or (6), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.”.

### **New section 13A**

**10.** The Banking Act is amended by inserting, immediately after section 13, the following section:

#### **“Registration of representative office**

**13A.—**(1) A person must not establish or operate a representative office in Singapore that is not registered with the Authority.

(2) Any person who desires to establish or operate a representative office must —

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- (a) apply in writing to the Authority for registration of the office;
  - (b) furnish such information or documents as the Authority may require; and
  - (c) pay the Authority in the manner specified by the Authority, a non-refundable fee of such amount as the Authority may, by notification in the *Gazette*, prescribe.

(3) On receiving an application under subsection (2), the Authority is to consider the application, and may register the representative office, with or without conditions, or refuse to register the representative office.

(4) The Authority may at any time vary or revoke any existing condition of registration, or impose conditions or additional conditions of registration.

(5) A registered person must furnish such information or documents in relation to its representative office as the Authority may require from time to time, within such time as the Authority may specify.

(6) The Authority may cancel the registration of a representative office if the registered person contravenes —

- (a) any condition of registration imposed by the Authority; or
- (b) any provision of this Act.

(7) Any person who contravenes subsection (1) or (5), fails to comply with any condition of registration imposed by the Authority under subsection (3) or (4), or operates a representative office which has had its registration cancelled by the Authority under subsection (6), shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for

every day or part of a day during which the offence continues after conviction; or

- (b) in any other case, to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

(8) Any person who furnishes any document or information under subsection (2)(b) or (5), knowing or reckless that the document or information is false or misleading in a material particular, shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or

- (b) in any other case, to a fine not exceeding \$250,000.

(9) Where —

- (a) before the date of commencement of section 10 of the Banking (Amendment) Act 2016, a person notifies the Authority in writing of the person's intention to establish a representative office in Singapore; and

(b) either —

- (i) before that date; or

- (ii) if before that date the Authority, on the person's request, set a later date for the person to establish and commence operating the representative office in Singapore, by that later date,

the person established and commenced operating the representative office in Singapore,

then that representative office is taken to be registered under this section for the purposes of the establishment (if applicable) and operation of that representative office in Singapore on or after the firstmentioned date.

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(10) A registration under subsection (9) is subject to such conditions as the Authority may at any time by notice in writing impose on the person referred to in that subsection.

(11) Subsections (4) to (8) apply in relation to a representative office that is taken as registered under subsection (9).”.

#### **Amendment of section 14**

**11.** Section 14 of the Banking Act is amended by inserting, immediately after subsection (3), the following subsections:

“(4) Any person which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000.

(5) Any person who in purported compliance with any requirement under subsection (2A), furnishes any information, knowing or reckless that the information is false or misleading in a material particular, shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in any other case, to a fine not exceeding \$250,000.”.

#### **Amendment of section 15E**

**12.—(1)** Section 15E of the Banking Act is amended —

(a) by inserting, immediately after subsection (5), the following subsections:

“(6) A designated financial institution must immediately inform the Authority after the institution becomes aware that —

(a) a person has contravened section 15A(1) or (3) or 15B(1) in relation to the institution;

(b) a person is, in accordance with the Guidelines on Fit and Proper Criteria, not a fit and proper person to be a substantial

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shareholder, a 12% controller, a 20% controller or an indirect controller of the institution; or

- (c) the institution is not likely to be able to conduct its business prudently or to comply with the provisions of this Act having regard to the likely influence over the institution of a substantial shareholder, a 12% controller, a 20% controller or an indirect controller of the institution.

(7) A designated financial institution which fails to comply with subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000.

(8) In this section, “12% controller”, “20% controller” and “indirect controller” have the meaning given to those expressions in section 15B.”; and

- (b) by inserting, immediately after the word “institutions” in the section heading, the words “, and notification of Authority of contravention, etc.”.

(2) Section 15E of the Banking Act, as amended by subsection (1), is amended —

- (a) by deleting the words “designated financial institution” in subsections (6) and (7) and substituting in each case the words “bank incorporated in Singapore”; and
- (b) by deleting the word “institution” wherever it appears in subsection (6) and substituting in each case the word “bank”.

### **Amendment of section 18**

**13.**—(1) Section 18 of the Banking Act is amended by inserting, immediately after subsection (4), the following subsection:

“(5) Where a person claims, before providing any information to a designated financial institution under subsection (1) or to the

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Authority under subsection (2), that the information might tend to incriminate the person, the information is not admissible in evidence against the person in criminal proceedings, other than proceedings for an offence under section 17 or this section.”.

(2) Section 18(5) of the Banking Act, as amended by subsection (1), is amended by deleting the words “designated financial institution” and substituting the words “bank incorporated in Singapore”.

### **Amendment of section 19**

**14.** Section 19(3) of the Banking Act is amended by inserting, immediately after the words “every day”, the words “or part of a day”.

### **Amendment of section 25**

**15.** Section 25(5) of the Banking Act is amended by inserting, immediately after the words “every day”, the words “or part of a day”.

### **Amendment of section 26**

**16.** Section 26 of the Banking Act is amended —

- (a) by deleting the word “or” at the end of subsection (6A)(d);
- (b) by deleting the full-stop at the end of paragraph (e) of subsection (6A) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:
  - “(f) the disclosure of the information is required under any written law.”;
- (c) by inserting, immediately after subsection (6A), the following subsection:
  - “(6B) Nothing in subsection (6) prevents the Authority from disclosing any information received from a bank under this section if the disclosure is pursuant to an order of court in Singapore.”; and
- (d) by deleting subsection (8) and substituting the following subsections:

“(8) Any bank which contravenes subsection (1) or (2) or a requirement of the Authority under subsection (5) 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 of a day during which the offence continues after conviction.

(9) Any bank which in purported compliance with this section furnishes any information to the Authority, knowing or reckless that the information is false or misleading in a material particular, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000.

(10) Where a bank is guilty of an offence under subsection (8) or (9), any individual charged with the duty of securing the bank’s compliance with the subsection or requirement, and was in the position to discharge that duty, shall also be guilty of an offence and shall be liable on conviction —

(a) if the individual committed the offence wilfully, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) if the individual did not commit the offence wilfully, to a fine not exceeding \$125,000.

(11) Any bank which fails to take reasonable care that any information furnished to the Authority in purported compliance with this section is accurate, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000.”.

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**Amendment of section 27**

17. Section 27 of the Banking Act is amended —

- (a) by deleting the words “and all the exposures of the bank to” in subsection (1) and substituting the words “, all the exposures of the bank to, and all the transactions of the bank with”;
- (b) by deleting the words “or exposures” in subsection (1)(i) and substituting the words “, exposures or transactions”;
- (c) by deleting subsection (3) and substituting the following subsections:

“(3) If it appears to the Authority, whether from a statement submitted under subsection (2)(c) or otherwise, that any credit facility from, any exposure of the bank to, or any transaction of a bank with, any person referred to in subsection (1) is detrimental to the interests of the depositors of the bank, the Authority may by notice in writing to the bank do one or more of the following:

- (a) direct the bank to do any of the following within such time and to such extent as may be specified in the notice:
  - (i) secure repayment of the credit facility;
  - (ii) reduce or eliminate the exposure;
  - (iii) terminate the transaction;
- (b) prohibit the bank from granting any new credit facility, creating any new exposure, or entering into any new transaction to or with the person;
- (c) impose such restrictions as the Authority considers appropriate on the grant of any new credit facility, the creation of any new exposure, or the entering into of any new transaction to or with the person.

(3A) A bank which fails to comply with a notice under subsection (3) 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 of a day during which the offence continues after conviction.”;

- (d) by deleting the full-stop at the end of the definition of “substantial shareholder group” in subsection (4) and substituting a semi-colon, and by inserting immediately thereafter the following definition:

““transaction” has the meaning given to it in the Fifth Schedule.”; and

- (e) by deleting the section heading and substituting the following section heading:

**“Information on exposures, etc., and actions if exposures, etc., detrimental to depositors’ interests”.**

#### **Amendment of section 29**

**18.** Section 29 of the Banking Act is amended by deleting subsections (4) and (5).

#### **Amendment of section 30**

**19.** Section 30 of the Banking Act is amended by deleting the section heading and substituting the following section heading:

**“Businesses which banks in Singapore may carry out”.**

#### **Amendment of section 32**

**20.** Section 32 of the Banking Act is amended —

- (a) by deleting the word “company” in subsection (1) and substituting the word “entity”;
- (b) by deleting subsections (2), (3) and (3A) and substituting the following subsections:

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“(2) The Authority must not grant its approval under subsection (1) if the entity carries on, whether as its principal business or otherwise, any prohibited business.

(3) Despite subsection (2), the Authority may, in a particular case that comes within that subsection, grant its approval if it is satisfied that approval should be granted by reason of the exceptional circumstances of the case.

(3A) An approval of the Authority under this section may be subject to such conditions as the Authority may determine, including any condition relating to the operations or activities of the entity concerned.”;

(c) by deleting paragraph (a) of subsection (5) and substituting the following paragraph:

“(a) disapply this section to any entity or class of entities, subject to such conditions as may be prescribed;”;

(d) by deleting paragraph (c) of subsection (5) and substituting the following paragraph:

“(c) provide that any interest or control referred to in the definition of “major stake” in subsection (7) that is acquired or held, directly or indirectly, by an entity in which a bank has, directly or indirectly, a major stake is to be treated as acquired or held by the bank.”;

(e) by deleting the definition of “major stake” in subsection (7) and substituting the following definitions:

““company” means a company incorporated under the Companies Act (Cap. 50) or any corresponding previous written law, or a company incorporated outside Singapore;

“entity” means any body corporate or unincorporate, whether incorporated, formed or established in or outside Singapore;

“limited liability partnership” has the same meaning as in section 2(1) of the Limited Liability Partnerships Act (Cap. 163A), and includes a limited liability partnership formed or established outside Singapore;

“major stake”, in relation to an entity, means —

- (a) any beneficial interest exceeding 10% of the total number of issued shares or such other measure corresponding to shares in a company as may be prescribed;
- (b) control of over more than 10% of the voting power or such other measure corresponding to voting power in a company as may be prescribed; or
- (c) any interest in the entity, by reason of which the management of the entity is accustomed or under an obligation, whether formal or informal, to act in accordance with the bank’s directions, instructions or wishes, or where the bank is in a position to determine the policy of the entity;

“management”, in relation to an entity, means —

- (a) if the entity is a company, its directors;
- (b) if the entity is a limited liability partnership, its partners or managers;
- (c) if the entity is any other partnership, its partners;

(d) if the entity is a cooperative society, the members of its committee of management; or

(e) if the entity is any other society, its officers,

and includes such other person of the entity as the Authority may prescribe;” and

(f) by deleting the section heading and substituting the following section heading:

**“Major stake in entity”.**

### **Repeal of section 36**

**21.** Section 36 of the Banking Act is repealed.

### **Amendment of section 38**

**22.** Section 38 of the Banking Act is amended —

(a) by inserting, immediately after subsection (1), the following subsection:

“(1A) For the purposes of subsection (1), the Authority may impose different requirements for different types of liquid assets.”;

(b) by deleting subsection (5);

(c) by deleting the definition of “liquid assets” in subsection (9) and substituting the following definition:

““liquid assets” means any asset that can be easily sold or converted into cash at little or no loss in value, as specified in the notice referred to in subsection (1);” and

(d) by deleting the section heading and substituting the following section heading:

**“Liquid assets requirement”.****Amendment of section 39**

23. Section 39 of the Banking Act is amended by inserting, immediately after subsection (8), the following subsection:

“(9) Any bank which fails to comply with any direction of the Authority under subsection (4) or (5) 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 of a day during which the offence continues after conviction.”.

**New section 39A**

24. The Banking Act is amended by inserting, immediately after section 39, the following section:

**“Use of minimum cash balances in liquidity stress situation**

**39A.**—(1) Despite section 39 but subject to subsection (6), a bank may utilise its minimum cash balances, if the bank —

- (a) is in a liquidity stress situation;
- (b) is solvent immediately before, and will remain solvent after, the utilisation of its minimum cash balances; and
- (c) is permitted by a notice under subsection (2) to utilise its minimum cash balances.

(2) The Authority may, by notice in writing to any bank in Singapore or class of banks in Singapore, permit the bank or a bank within the class to use its minimum cash balances in the event that it is in a liquidity stress situation.

(3) When deciding whether to issue a notice under subsection (2) to a bank or class of banks, the Authority may have regard to —

- (a) the risks arising from the activities of the bank or class of banks; and

(b) such other factors as the Authority considers relevant.

(4) The Authority may in a notice under subsection (2) impose on the bank or a bank within the class requirements in relation to the utilisation by the bank of its minimum cash balances, including —

(a) the procedures which the bank must comply with before or after utilising, or during the utilisation of, its minimum cash balances; and

(b) the manner in which the bank may utilise its minimum cash balances.

(5) A bank that has purportedly used its minimum cash balances in a liquidity stress situation must, within such time as may be specified by the Authority, provide such information as the Authority may require concerning —

(a) the liquidity stress situation and the utilisation of its minimum cash balances; or

(b) the bank's compliance with any requirement imposed under subsection (4).

(6) Where the Authority is of the opinion that —

(a) a bank that has used or is about to use its minimum cash balance —

(i) is not in a liquidity stress situation;

(ii) has failed to comply with any requirement imposed under subsection (4); or

(iii) is or is likely to become insolvent or unable to meet its obligations, or is about to suspend payments; or

(b) it is otherwise in the public interest to do so,

the Authority may by notice in writing to the bank direct the bank to do the applicable act or acts mentioned in subsection (7).

- (7) For the purposes of subsection (6), the acts are —
- (a) if the bank has already utilised its minimum cash balances, to comply with any requirement imposed under section 39(1) within such time as may be specified by the Authority in the notice; or
  - (b) if the bank has not utilised or has not fully utilised its minimum cash balances, one or more of the following:
    - (i) not to use the bank’s minimum cash balances;
    - (ii) to stop utilising the bank’s minimum cash balances;
    - (iii) to comply with any requirement imposed under section 39(1) within such time as may be specified by the Authority in the notice under subsection (6).

(8) A bank which fails to comply with any direction or requirement of the Authority under subsection (4), (5) or (6) 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 of a day during which the offence continues after conviction.

- (9) In this section —
- “liquidity stress situation” has the meaning given to it in the Fifth Schedule;
  - “minimum cash balances”, in relation to a bank, means its minimum cash balances maintained on deposit with the Authority under section 39.”.

### **Amendment of section 40**

- 25.** Section 40 of the Banking Act is amended —
- (a) by deleting subsection (1) and substituting the following subsection:

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“(1) The Authority may, from time to time, by notice in writing to any bank in Singapore or any class of banks in Singapore, impose requirements in relation to the minimum amount or amounts of assets in Singapore that the bank or each bank in the class is to hold, for the purpose of meeting its liabilities.”; and

- (b) by deleting subsection (3) and substituting the following subsection:

“(3) Where the Authority issues a notice under subsection (1) to a class of banks, the Authority may impose different requirements on different banks, having regard to the financial soundness of each bank, the risk profile of each bank, and such other factors as the Authority may consider relevant.”.

### **Amendment of heading to Part VII**

**26.** Part VII of the Banking Act is amended by inserting, immediately after the word “BANKS” in the Part heading, the word “, ETC.”.

### **Amendment of section 43**

**27.** Section 43 of the Banking Act is amended —

- (a) by deleting subsection (2) and substituting the following subsection:

“(2) The Authority may, from time to time, inspect under conditions of secrecy, the books of each subsidiary incorporated in Singapore of a bank incorporated in Singapore, not being a subsidiary that is regulated or licensed by the Authority under any other Act.”; and

- (b) by inserting, immediately after the word “banks” in the section heading, the words “and their local subsidiaries”.

**Amendment of section 44A**

**28.** Section 44A of the Banking Act is amended —

- (a) by inserting, immediately after the word “bank” in subsections (1), (2) and (5), the words “or subsidiary”;
- (b) by deleting paragraphs (a) and (b) of subsection (1) and substituting the following paragraphs:
  - “(a) produce its books to the Authority and afford the Authority access to them;
  - (b) provide such information or facilities as may be required by the Authority to conduct the inspection or investigation; and
  - (c) procure any person who is in possession of the books or information referred to in paragraph (a) or (b) to produce the books or provide the information to the Authority.”;
- (c) by inserting, immediately after subsection (3A), the following subsection:
  - “(3B) The Authority may, in its discretion, waive the payment of all or any part of the remuneration and expenses referred to in subsection (3A).”; and
- (d) by inserting, immediately after subsection (5), the following subsection:
  - “(5A) Where the offence under subsection (5) is proved to have been committed with the consent of, or to be attributable to any negligence on the part of, an officer of the bank or subsidiary, that officer shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part of a day during which the offence continues after conviction.”.

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**Amendment of section 45**

**29.** Section 45 of the Banking Act is amended —

(a) by inserting, immediately after subsection (1), the following subsection:

“(1A) Without limiting the generality of subsection (1), and subject to subsection (2), the inspection may be conducted in respect of any activity of the bank besides banking business.”; and

(b) by inserting, immediately after subsection (7), the following subsection:

“(8) Where the offence under subsection (6) is proved to have been committed with the consent of, or to be attributable to any negligence on the part of, an officer of the bank, that officer shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part of a day during which the offence continues after conviction.”.

**Amendment of section 46**

**30.** Section 46 of the Banking Act is amended —

(a) by inserting, immediately after the words “bank in Singapore” in subsections (1) and (2)(a) and (b), the words “or subsidiary incorporated in Singapore of a bank incorporated in Singapore”;

(b) by inserting, immediately after the words “the bank” wherever they appear in subsections (1) and (4), the words “or subsidiary”;

(c) by inserting, immediately after the words “that bank” wherever they appear in subsection (2)(a) and (b), the words “or subsidiary”;

(d) by deleting subsection (3) and substituting the following subsection:

“(3) In granting written approval for any disclosure under subsection (2)(d), the Authority may impose such conditions or restrictions as it thinks fit on the bank, the subsidiary, any officer or auditor of the bank or subsidiary, or the person to whom disclosure is approved, and the bank, subsidiary, officer, auditor or person (as the case may be) must comply with those conditions or restrictions.”; and

(e) by deleting the words “subsection (1)” in subsection (4) and substituting the words “subsections (1) and (3)”.

### **New sections 46A and 46B**

**31.** The Banking Act is amended by inserting, immediately after section 46, the following sections:

#### **“Application of section 45 to merchant banks**

**46A.**—(1) Sections 45 and 46 apply, with such modifications as may be prescribed, in relation to an inspection by a parent supervisory authority of —

- (a) a merchant bank incorporated outside Singapore; or
- (b) a foreign-owned merchant bank incorporated in Singapore,

of the books of any branch or office of that merchant bank, as they apply in relation to an inspection by a parent supervisory authority of a bank incorporated outside Singapore, or a foreign-owned bank incorporated in Singapore, of the books of any branch or office of the bank in Singapore.

(2) In this section —

“foreign-owned merchant bank incorporated in Singapore” means a merchant bank incorporated in Singapore, the parent bank of which is incorporated, formed or established outside Singapore;

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“merchant bank incorporated outside Singapore” means a merchant bank incorporated, formed or established outside Singapore;

“parent bank”, in relation to a foreign-owned merchant bank incorporated in Singapore or a merchant bank incorporated outside Singapore, means a financial institution incorporated, formed or established outside Singapore of which the merchant bank is a subsidiary;

“parent supervisory authority” means —

(a) in relation to a merchant bank incorporated outside Singapore, a supervisory authority which is responsible, under the laws of the country or territory where the merchant bank or its parent bank is incorporated, formed or established, for supervising the merchant bank or parent bank, as the case may be; or

(b) in relation to a foreign-owned merchant bank incorporated in Singapore, a supervisory authority which has consolidated supervision authority over the merchant bank.

### **Inspection outside Singapore of subsidiaries of banks incorporated in Singapore**

**46B.**—(1) The Authority may, in a country or territory outside Singapore, from time to time, inspect under conditions of secrecy, the books of a subsidiary of a bank incorporated in Singapore.

(2) Without limiting the generality of subsection (1), the inspection may be conducted in respect of activities that correspond to activities that are regulated or licensed by the Authority under this Act or any other Act.

(3) The Authority may appoint an auditor, other than the auditor appointed by the bank or by the Authority under section 58, to exercise the power of inspection.

(4) If the inspection is carried out on the ground that the Authority has reason to believe that the subsidiary of the bank incorporated in Singapore is carrying on its business in a manner likely to be detrimental to the interest of the depositors and other creditors of the bank and if the Authority so directs, then the bank is liable to pay for the remuneration and expenses of the auditor appointed under subsection (3).

(5) The Authority may, in its discretion, waive the payment of all or any part of the remuneration and expenses referred to in subsection (4).”.

#### **Amendment of section 47**

**32.** Section 47 of the Banking Act is amended —

- (a) by deleting the words “approved as a financial institution under section 28 of the Monetary Authority of Singapore Act (Cap. 186)” in subsection (10); and
- (b) by deleting the section heading and substituting the following section heading:

**“Privacy of customer information”.**

#### **Amendment of section 48**

**33.** Section 48(2) of the Banking Act is amended —

- (a) by deleting “\$100,000” and substituting “\$250,000”; and
- (b) by deleting “\$10,000” and substituting “\$25,000”.

#### **New section 48AA**

**34.** The Banking Act is amended by inserting, immediately after section 48, the following section:

**“Information of material adverse development, etc.**

**48AA.**—(1) When a bank in Singapore becomes aware of any development that has occurred or is likely to occur which the bank has reasonable grounds to believe has materially affected adversely, or is likely to materially affect adversely —

- (a) the financial soundness or reputation of the bank;

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(b) the ability of the bank to conduct any business referred to in section 30(1); or

(c) such other matters as the Authority may prescribe, the bank must immediately inform the Authority of the development.

(2) When a bank incorporated in Singapore becomes aware of any development that has occurred or is likely to occur which the bank has reasonable grounds to believe has materially affected adversely, or is likely to materially affect adversely —

(a) the financial soundness or reputation of any entity in the bank group of the bank or any entity or trust in the FHC group of the designated financial holding company of the bank (if applicable);

(b) the ability of any entity in the bank group of the bank or any entity or trust in the FHC group of the designated financial holding company of the bank (if applicable), to conduct its business; or

(c) such other matters as the Authority may prescribe, the bank must immediately inform the Authority of the development.

(3) A bank in Singapore must immediately inform the Authority when it is aware that it has contravened or is likely to contravene, any provision of any Act administered by the Authority or any requirement imposed on it by the Authority under any such Act.

(4) Any bank which contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000.

(5) In this section —

“accounting standards” means the accounting standards made or formulated by the Accounting Standards Council under Part III of the Accounting Standards Act (Cap. 2B);

“associate”, in relation to an entity (called in this definition the first entity), means —

- (a) any entity in which the first entity controls the composition of the board of directors or such corresponding officers as may be prescribed;
- (b) any entity in which the first entity controls more than half of the voting power or such measure corresponding to voting power as may be prescribed;
- (c) any entity in which the first entity holds more than half of the total number of issued shares or such corresponding interest as may be prescribed;
- (d) a subsidiary of any other entity which is an associate by reason of paragraph (a), (b) or (c);
- (e) any entity (called in this paragraph the second entity) in which —
  - (i) the first entity; or
  - (ii) any entity which is an associate by reason of paragraph (a), (b), (c) or (d),has, or the entities in sub-paragraphs (i) and (ii) together have, an interest in shares entitling the beneficial owners of those interests the right to cast (whether by proxy or in person) not less than 20% but not more than 50% of the total votes able to be cast at a general meeting of the second entity, or such corresponding interest as may be prescribed; or
- (f) any entity (not being one which is an associate by reason of paragraph (a), (b), (c), (d) or (e)) the policies of which —
  - (i) the first entity; or
  - (ii) any entity which is an associate by reason of paragraph (a), (b), (c), (d) or (e),

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or the entities in sub-paragraphs (i) and (ii) together are able to control or influence materially;

“bank group”, in relation to a bank, means a group of entities comprising the bank and —

(a) any of its associates; and

(b) any other entity treated as part of the bank’s group of companies according to the accounting standards applicable to the bank;

“designated financial holding company” has the meaning given to it in section 2(1) of the Financial Holding Companies Act 2013 (Act 13 of 2013);

“entity” means any body corporate or unincorporate, whether incorporated, formed or established in or outside Singapore;

“FHC group”, in relation to a designated financial holding company, means a group of entities and trusts comprising the financial holding company and —

(a) any of its associates; and

(b) any other entity or trust treated as part of the financial holding company’s group of companies according to the accounting standards applicable to the financial holding company;

“subsidiary” means an entity prescribed as a subsidiary for the purposes of this section.”.

### **Amendment of section 49**

**35.** Section 49 of the Banking Act is amended by inserting, immediately after subsection (6), the following subsection:

“(7) A bank which fails to comply with any requirement imposed under subsection (2)(a) 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 of a day during which the offence continues after conviction.”.

### **New section 53A**

**36.** The Banking Act is amended by inserting, immediately after section 53, the following section:

#### **“Appointment of chief executive officer and other persons**

**53A.**—(1) A bank incorporated in Singapore must obtain the prior approval of the Authority for the appointment of any of the following:

- (a) all directors;
- (b) the chairman of the board of directors;
- (c) the chief executive officer and the deputy chief executive officer;
- (d) a person holding such appointment in the bank as may be prescribed.

(2) A bank incorporated outside Singapore must obtain the prior approval of the Authority for the appointment of the following persons for its bank in Singapore:

- (a) the chief executive officer and the deputy chief executive officer;
- (b) a person holding such appointment in the bank as may be prescribed.

(3) Without prejudice to any other matter that the Authority may consider relevant, the Authority, in determining whether to grant its approval under subsection (1) or (2), must have regard to whether the person is a fit and proper person to hold the office or appointment in accordance with the Guidelines on Fit and Proper Criteria.

(4) The Authority may —

- (a) grant its approval under subsection (1) or (2), with or without conditions; and

(b) at any time vary or revoke any existing condition or impose conditions or additional conditions.

(5) Without limiting the generality of section 78, the Authority may prescribe —

(a) the duties of a person appointed under subsection (1) or (2); and

(b) the maximum term for which a person appointed under subsection (1) or (2) may hold such office or appointment.

(6) A bank incorporated in Singapore must immediately inform the Authority after the bank becomes aware that a person who holds an office or appointment referred to in subsection (1) is, in accordance with the Guidelines on Fit and Proper Criteria, no longer a fit and proper person to hold that office or appointment.

(7) A bank incorporated outside Singapore must immediately inform the Authority after the bank becomes aware that a person who holds an office or appointment referred to in subsection (2) is, in accordance with the Guidelines on Fit and Proper Criteria, no longer a fit and proper person to hold that office or appointment.

(8) Any bank which contravenes subsection (1) or (2), or fails to comply with any condition imposed by the Authority under subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

(9) Any bank which contravenes subsection (6) or (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000.”.

#### **Amendment of section 54**

**37.** Section 54 of the Banking Act is amended by deleting subsections (2) and (3) and substituting the following subsections:

“(2) Despite the provisions of any other written law, where the Authority is satisfied that —

- (a) a director of a bank in Singapore which is incorporated in Singapore; or
- (b) an executive officer of a bank in Singapore,

is not a fit and proper person to be a director or an executive officer (as the case may be), the Authority may, by notice in writing to the bank, direct the bank to remove the director or executive officer from his office or employment within such period as may be specified by the Authority in the notice, and the bank must comply with the notice.

(3) In assessing whether to direct a bank to remove a director or an executive officer from his office or employment under subsection (2), the Authority may consider any matter which it considers relevant, including (but not limited to) whether —

- (a) he has wilfully contravened or wilfully caused the bank to contravene any provision of this Act;
- (b) he has, without reasonable excuse, failed to secure the compliance of the bank with this Act, the Monetary Authority of Singapore Act (Cap. 186) or any of the written laws set out in the Schedule to that Act;
- (c) he has failed to discharge any of the duties of his office or employment; or
- (d) his removal is necessary in the public interest or for the protection of the depositors of the bank.”.

### **Amendment of section 55**

**38.** Section 55(2) of the Banking Act is amended —

- (a) by deleting paragraph (h); and
- (b) by deleting paragraph (n) and substituting the following paragraph:

“(n) the opening of new places of business and representative offices and the change of

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location of any place of business or representative office;”.

### **Amendment of heading to Part VIIA**

**39.** The heading of Part VIIA of the Banking Act is amended by deleting the word “VOLUNTARY”.

### **Amendment of Division 1 heading of Part VIIA**

**40.** Part VIIA of the Banking Act is amended by deleting the words “*Voluntary transfer*” in the heading of Division 1 and substituting the word “*Transfer*”.

### **Amendment of section 55B**

**41.** Section 55B of the Banking Act is amended —

- (a) by inserting, immediately after the words “A transferor may” in subsection (1), the word “voluntarily”;
- (b) by inserting, immediately after subsection (1), the following subsection:
  - “(1A) A transferor must transfer the whole or any part of its banking business in Singapore to a company incorporated by the bank or its parent bank under the Companies Act (Cap. 50) for the purpose of carrying on that business or that part of the business, if —
  - (a) it is directed by the Authority under section 55BA to do so; and
  - (b) the Court has approved the transfer.”;
- (c) by deleting the words “Subsection (1) is” in subsection (2) and substituting the words “Subsections (1) and (1A) are”; and
- (d) by deleting the section heading and substituting the following section heading:

**“Conditions for transfer of business”.****New section 55BA**

42. The Banking Act is amended by inserting, immediately after section 55B, the following section:

**“Power to require incorporation and transfer of business**

**55BA.**—(1) The Authority may, by notice in writing to a bank incorporated outside Singapore, direct the bank to transfer the whole or any part of its banking business in Singapore to a company incorporated or to be incorporated by the bank or its parent bank under the Companies Act (Cap. 50).

(2) The bank that is so directed by the Authority must —

- (a) apply to the Court, within the period specified in the notice (including any extension approved by the Authority), for the Court’s approval of the transfer of the whole or any part of its banking business in Singapore to a company incorporated or to be incorporated by the bank or its parent bank under the Companies Act for the purpose of carrying on that business or that part of the business, and use all reasonable efforts to obtain such approval; and
- (b) upon approval of the Court, incorporate such company (if applicable), and transfer that business or that part of the business to the company in accordance with the terms of the approval and within such time as the Authority may specify in the notice (including any extension approved by the Authority).

(3) The Authority may only make the direction in subsection (1) if it is of the opinion that —

- (a) it is necessary or expedient in the public interest;
- (b) it is in the interest of the depositors of the bank; or
- (c) it is in the interest of the financial system in Singapore,

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for the bank to carry out the acts mentioned in that subsection.

(4) A bank which fails to comply with a notice under subsection (1) 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 of a day during which the offence continues after conviction.”.

### **Amendment of section 55C**

**43.** Section 55C of the Banking Act is amended —

(a) by deleting subsection (5) and substituting the following subsections:

“(5) The Court may, after taking into consideration the views, if any, of the Minister and the Authority —

(a) approve the transfer without modification or subject to any modification agreed to by the transferor and the transferee; or

(b) refuse to approve the transfer.

(5A) In an application made on a direction issued under section 55BA(1) by the Authority, the transferor must notify the Authority immediately if the Court —

(a) approved the transfer of business subject to any modification; or

(b) refused to approve the transfer of business.”; and

(b) by inserting, immediately after subsection (13), the following subsection:

“(14) For the purposes of this section, where the transfer is one referred to in section 55B(1A) and the transferee has yet to be incorporated when the application is made to the Court —

- (a) subsections (2), (5), (12) and (13) apply as if there is no reference to the transferee;
- (b) the reference in subsection (6) to the transferee becoming licensed to carry on banking business in Singapore is a reference to the transferee at the time it is incorporated and so licensed; and
- (c) a reference in subsections (7), (9) and (11) to the transferee is a reference to the transferee when it is incorporated.”.

#### **Amendment of section 55N**

**44.** Section 55N of the Banking Act is amended by deleting subsection (2) and substituting the following subsections:

“(2) Any person who —

- (a) without reasonable excuse, fails to comply with any requirement under subsection (1); or
- (b) in purported compliance with any requirement under subsection (1), furnishes any information knowing or reckless that the information is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction —

- (i) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part of a day during which the offence continues after conviction; or
- (ii) in any other case, 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 of a day during which the offence continues after conviction.

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(3) Where a person claims, before furnishing the Authority with any information that the person is required to furnish under subsection (1), that the information might tend to incriminate the person, the information is not admissible in evidence against the person in criminal proceedings other than proceedings under this section.”.

### **Amendment of section 56**

**45.** Section 56 of the Banking Act is amended by deleting the full-stop at the end of the definition of “licensee” and substituting a semi-colon, and by inserting immediately thereafter the following definition:

““place of business”, in relation to a licensee, includes a head or main office, a branch, an agency, a mobile branch of the licensee, any office established and maintained for a limited period only, and any other place used by the licensee for the conduct of any business of the licensee.”.

### **New sections 57EA and 57EB**

**46.** The Banking Act is amended by inserting, immediately after section 57E, the following sections:

#### **“Place of business**

**57EA.**—(1) Except with the approval of the Authority, a licensee must not —

- (a) open a new place of business in Singapore for the conduct of any business referred to in subsection (2);
- (b) change the location of an existing place of business in Singapore for the conduct of any business referred to in subsection (2); or
- (c) conduct any business referred to in subsection (2) from the new place of business referred to in paragraph (a) or the relocated place of business referred to in paragraph (b).

- (2) Subsection (1) applies to the following businesses:
- (a) the business of issuing credit cards or charge cards;
  - (b) such other business as may be prescribed.
- (3) An application for approval under subsection (1) must be made in such form and manner as the Authority may specify.
- (4) On receiving an application, the Authority may —
- (a) approve the application, with or without conditions;  
or
  - (b) reject the application.
- (5) The Authority may at any time vary or revoke any existing condition, or impose conditions or additional conditions.
- (6) A licensee which contravenes subsection (1) or fails to comply with any condition imposed under subsection (4) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part of a day during which the offence continues after conviction.

**Information to be furnished on business of issuing credit cards or charge cards**

**57EB.**—(1) The Authority may, by notice in writing, require —

- (a) any licensee;
- (b) any bank in Singapore; or
- (c) any person prescribed under section 57(9),

to furnish to the Authority such information or statement relating to its business of issuing credit cards or charge cards, at such time and in such manner as the Authority may specify, if, in the opinion of the Authority, it requires that information or statement for the proper discharge of its functions under this Act.

(2) The Authority may require any information or statement submitted to it under subsection (1) to be accompanied by —

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- (a) in the case of a bank —
    - (i) a certificate of the auditor appointed by the bank under section 58(1); or
    - (ii) a certificate of any auditor appointed by the Authority under section 58(3); or
  - (b) in the case of any other person, a certificate of an auditor appointed by that person,

as to whether, in the opinion of the auditor, the information or statement is correct.

(3) Any information received from any person under this section must be treated as secret by the Authority.

(4) The Authority may disclose any information or statement received under this section if —

- (a) it is in the public domain;
- (b) it is disclosed in such a manner that the identity of the person who furnished it cannot be ascertained;
- (c) the person who furnished it, or the person from whom it is obtained, consents to the disclosure;
- (d) the person to whom the information or statement relates consents to the disclosure;
- (e) its disclosure is necessary for the performance of any principal object or function, or the exercise of any power, of the Authority under this Act or any other written law; or
- (f) its disclosure is pursuant to any requirement under any written law or order of court in Singapore.

(5) Nothing in this section prevents the Authority from preparing and publishing consolidated statements aggregating information furnished under subsection (1).

(6) Any person who fails to comply with a requirement under subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 and, in the

case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part of a day during which the offence continues after conviction.

(7) Where a person referred to in subsection (1)(a), (b) or (c), in purported compliance with a requirement in subsection (1) or (2), furnishes any information to the Authority, knowing or reckless that the information is false or misleading in a material particular, the person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000.

(8) Where a person referred to in subsection (1)(a), (b) or (c) is guilty of an offence under subsection (6), any individual charged with the duty of securing the person's compliance with the requirement under subsection (1) or (2), and was in the position to discharge that duty, shall also be guilty of an offence and shall be liable on conviction —

- (a) if the individual committed the offence wilfully, to a fine not exceeding \$12,500 or to imprisonment for a term not exceeding 12 months or to both; or
- (b) if the individual did not commit the offence wilfully, to a fine not exceeding \$12,500.

(9) Where a person referred to in subsection (1)(a), (b) or (c) is guilty of an offence under subsection (7), any individual charged with the duty of securing the person's compliance with the requirement under subsection (1) or (2), and was in the position to discharge that duty, shall also be guilty of an offence and shall be liable on conviction —

- (a) if the individual committed the offence wilfully, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or
- (b) if the individual did not commit the offence wilfully, to a fine not exceeding \$125,000.

(10) A person referred to in subsection (1)(a), (b) or (c) who fails to take reasonable care that any information furnished to the Authority in purported compliance with a requirement under

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subsection (1) or (2) is accurate, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000.”.

### **Amendment of section 58**

**47.** Section 58 of the Banking Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

“(1) Despite the provisions of the Companies Act (Cap. 50), every bank must —

(a) on an annual basis, appoint an auditor and obtain the approval of the Authority to such appointment; and

(b) where, for any reason, the auditor ceases to act for the bank, as soon as practicable thereafter, appoint another auditor and obtain the approval of the Authority to such appointment.”;

(b) by deleting the words “banks unless he” in subsection (2) and substituting the words “a bank unless the auditor”;

(c) by inserting, immediately after the words “The Authority may” in subsection (5), the words “, by notice in writing,”;

(d) by inserting, immediately after subsection (5), the following subsection:

“(5A) An auditor to whom a notice is given under subsection (5) must comply with each direction specified in the notice.”;

(e) by inserting, immediately after subsection (6), the following subsection:

“(6A) Despite any other provision of this Act or the provisions of the Companies Act, the Authority may, if it is not satisfied with the performance of any duty by an auditor of a bank, at any time —

(a) direct the bank to remove the auditor; and

(b) direct the bank to appoint another auditor approved by the Authority, as soon as practicable after the removal,

and the bank must comply with the directions.”;

(f) by deleting paragraphs (b), (c) and (d) of subsection (8) and substituting the following paragraphs:

“(b) losses have been incurred which reduce the capital funds of the bank by at least 50%;

(c) serious irregularities have occurred, including irregularities that jeopardise the security of the creditors of the bank; or

(d) the auditor is unable to confirm that the claims of creditors of the bank are still covered by the assets,”; and

(g) by inserting, immediately after subsection (9), the following subsections:

“(10) Where an auditor discloses in good faith to the Authority —

(a) any information referred to in subsection (5)(a) or report referred to in subsection (5)(d);

(b) any of the matters referred to in subsection (8); or

(c) any information in support of that matter,

the disclosure is not to be treated as a breach of any restriction on the disclosure imposed by any law, contract or rules of professional conduct, and the auditor is not liable for any loss arising from the disclosure or any act or omission as a result of the disclosure.

(11) A bank which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in

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the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

(12) A bank which fails to comply with a direction under subsection (6A) 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 of a day during which the offence continues after conviction.

(13) Any auditor who fails to carry out any duty referred to in subsection (4), or who fails to comply with subsection (5A) or (8), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.”.

### **Amendment of section 60**

**48.** Section 60 of the Banking Act is amended —

(a) by deleting subsections (1) and (2) and substituting the following subsection:

“(1) The Authority may, at any time by notice published in the *Gazette*, declare any day or days as a bank holiday or holidays, and prohibit banks in Singapore from conducting, during the bank holiday or holidays —

(a) such activities as may be specified in the notice; or

(b) all activities other than such activities as may be specified in the notice.”; and

(b) by inserting, immediately after subsection (4), the following subsections:

“(5) Any bank which contravenes any prohibition under a notice referred to in subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

(6) In this section, “day” includes a part of a day.”.

### **Amendment of section 62**

**49.** Section 62 of the Banking Act is amended —

- (a) by inserting, immediately after the words “section 77” in subsection (1)(d), the words “other than liabilities referred to in paragraph (b)”;
- and
- (b) by deleting sub-paragraph (B) of subsection (3)(i) and substituting the following sub-paragraph:

“(B) the terms of which comply with the criteria for the treatment of the liabilities as capital in determining whether the bank complies with the capital adequacy requirements under section 10, whether or not the entire amount of such liabilities is treated as capital in the determination.”.

### **New section 65**

**50.** The Banking Act is amended by inserting, immediately after section 64, the following section:

#### **“Power of Authority to secure compliance with Act**

**65.—**(1) A bank in Singapore, if called upon at any time by the Authority in writing to do so, must satisfy the Authority by the production of such evidence or information as the Authority may require, that the bank is not in contravention of any of the

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provisions of, or any regulation, notice or direction made or issued under, section 10, 10A, 23, 27, 29, 31, 32, 33, 35, 38, 39, 40, 42 or this section.

(2) Without prejudice to sections 10, 10A, 23, 27, 29, 31, 32, 33, 35, 38, 39, 40 and 42 or any other subsection of this section, the Authority may, for the purpose of securing compliance with any of those provisions, or any regulation, notice or direction made or issued under any of those sections (other than this section), on a consolidated basis, from time to time by notice in writing, require any bank to aggregate, in such manner as may be specified in the notice —

- (a) its assets, liabilities, profits or losses, and any other information whether or not on its balance-sheet; and
- (b) the assets, liabilities, profits or losses, and any other information whether or not on the balance-sheets of —
  - (i) the bank's related corporations; and
  - (ii) the entities in which the bank holds, directly or indirectly, a major stake as defined in section 32(7).

(3) A notice under subsection (2) may vary a requirement of a notice issued under any of the sections mentioned in that subsection.

(4) The bank must comply with the notice under subsection (2) within such time as may be specified in the notice.

(5) Any bank which fails to comply with a requirement of the Authority under subsection (1) 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 of a day during which the offence continues after conviction.

(6) Any bank which contravenes subsection (4) shall be guilty of an offence and shall be liable on conviction to the same punishment as that provided for a contravention of the section of

this Act, or of a notice or direction under the section of this Act, for the compliance with which the notice was given.”.

### **Amendment of section 66**

**51.** Section 66 of the Banking Act is amended by deleting subsection (2) and substituting the following subsection:

“(2) Any person who —

- (a) provides any information or document to the Minister or the Authority under or for the purposes of any provision of this Act which is false or misleading in a material particular; and
- (b) does not use reasonable care to ensure that the information or document is not false or misleading in any material particular,

shall, if the provision of such information or document which is false or misleading in a material particular is not already an offence under any other provision of this Act, be guilty of an offence and shall be liable on conviction —

- (i) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or
- (ii) in any other case, to a fine not exceeding \$250,000.”.

### **Repeal and re-enactment of section 70**

**52.** Section 70 of the Banking Act is repealed and the following section substituted therefor:

#### **“Publication of information on banks**

**70.**—(1) The Authority is to publish and maintain on its website at all times, a list of banks licensed under this Act.

(2) If any licence is issued, revoked or surrendered, or the name of any bank is changed, the Authority is to publish notice of this in the *Gazette*.”.

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**Amendment of section 74**

**53.** Section 74(1) of the Banking Act is amended by deleting the words “section 44A(3)” in paragraph (b)(i) and substituting the words “sections 44A(3) and 46B(3)”.

**Amendment of section 77**

**54.** Section 77(4) of the Banking Act is amended —

- (a) by deleting the words “approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186),” in paragraph (a);
- (b) by deleting “, 38” in paragraph (a)(ii); and
- (c) by deleting the words “sections 38 and 39” in paragraph (b) and substituting the words “section 39”.

**Amendment of section 78**

**55.** Section 78 of the Banking Act is amended —

- (a) by deleting the word “companies” in subsection (3)(a) and substituting the word “entities”;
- (b) by deleting the word “and” at the end of subsection (3)(a);
- (c) by deleting paragraph (b) of subsection (3) and substituting the following paragraphs:
  - “(b) the prohibition or restriction on mutual holding of shares or other interests between the banks, related corporations or other entities referred to in paragraph (a); and
  - (c) the risk management of banks, whether or not relating to banking business.”; and
- (d) by deleting subsection (5) and substituting the following subsections:
  - “(5) Except as otherwise expressly provided in this Act, regulations made under this section may provide that any contravention of any of those regulations is an offence punishable —

- (a) in the case of an individual, with a fine not exceeding \$50,000 or with imprisonment for a term not exceeding 2 years or with both and, in the case of a continuing offence, with a further fine not exceeding \$5,000 for every day or part of a day during which the offence continues after conviction; or
  - (b) in any other case, with a fine not exceeding \$100,000 and, in the case of a continuing offence, with a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.
- (6) Regulations made under subsection (3)(c) may provide that a contravention of any of those regulations shall be an offence punishable —
- (a) in the case of an individual, with a fine not exceeding \$125,000 or with imprisonment for a term not exceeding 3 years or with both and, in the case of a continuing offence, with a further fine not exceeding \$12,500 for every day or part of a day during which the offence continues after conviction; or
  - (b) in any other case, with a fine not exceeding \$250,000 and, in the case of a continuing offence, with a further fine not exceeding \$25,000 for every day or part of a day during which the offence continues after conviction.”.

### **Amendment of Fifth Schedule**

**56.** The Fifth Schedule to the Banking Act is amended —

- (a) by deleting the Schedule heading and substituting the following Schedule heading:

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“DEFINITIONS IN SECTIONS 27, 28, 29, 38 AND 39A”;

- (b) by deleting the words “any company” wherever they appear in the definition of “affiliate” in paragraph 1 and substituting in each case the words “any entity”;
- (c) by inserting, immediately after the definition of “associate” in paragraph 1, the following definition:

““child” includes a stepchild and a child who has been de facto adopted by the person in question, whether or not such adoption has been registered in accordance with the provisions of any written law;”;

- (d) by deleting the words “group of companies” in the definition of “financial group” in paragraph 1 and substituting the words “group of entities”;
- (e) by deleting the words “every company” in paragraphs (a) and (b) of the definition of “financial group” in paragraph 1 and substituting in each case the words “every entity”;
- (f) by deleting the full-stop at the end of the definition of “substantial shareholder group” in paragraph 1 and substituting a semi-colon, and by inserting immediately thereafter the following definition:

““transaction” means any type of transaction including (but not limited to) any contract, agreement and arrangement and any transaction forming part of a contract, agreement or arrangement, and includes a write-off of a debt, loan or any other similar arrangement.”;

- (g) by deleting the words “section 38” in paragraph 6 and substituting the words “sections 38 and 39A”; and
- (h) by deleting paragraph 7 and substituting the following paragraph:

“7. In this Schedule, unless the context otherwise requires —

- (a) a reference to an entity is a reference to any body corporate or unincorporate, whether incorporated, formed or established in or outside Singapore; and
- (b) a reference to an entity in which another entity acquires or holds, directly or indirectly, a major stake

is a reference to an entity in which the other entity has a major stake as defined in section 32(7).”.

### **Miscellaneous amendments**

**57.** The Banking Act is amended —

- (a) by deleting the words “approved as a financial institution under section 28 of the Monetary Authority of Singapore Act (Cap. 186)” in sections 4A(6)(d) and 5(2)(f); and
- (b) by deleting the definition of “merchant bank” in Part III of the Third Schedule.

### **Savings and transitional provisions for amendments to section 32 of Banking Act**

**58.—**(1) An approval —

- (a) granted under section 32 of the Banking Act before the commencement date; and
- (b) in force immediately before that date,

is treated as an approval granted under the amended section 32 of the Banking Act, and is subject to all the conditions which it was subject to immediately before that date.

(2) If on the day immediately before the commencement date —

- (a) a bank in Singapore held, directly or indirectly, a major stake in an entity other than a company; and
- (b) the entity only carried on, whether in Singapore or elsewhere, one or more of the businesses mentioned in section 30(1)(a) to (d) of the Banking Act,

then, so long as the entity only carries on one or more of those businesses on or after that date, the amended section 32 of the Banking Act does not apply to the continued holding of such major stake in the entity, or the acquisition or holding, directly or indirectly, of any other major stake in the entity, by the bank in Singapore on or after that date.

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- (3) If on the day immediately before the commencement date —
- (a) a bank in Singapore held, directly or indirectly, a major stake in an entity other than a company; and
  - (b) the entity carried on, whether in Singapore or elsewhere (and whether as its principal business or otherwise), any business other than the businesses mentioned in section 30(1)(a) to (d) of the Banking Act,

then the amended section 32 of the Banking Act does not apply to the continued holding of such major stake by the bank in Singapore on or after that date for the period mentioned in subsection (4).

- (4) In subsection (3), the period is —
- (a) 3 months after the commencement date; or
  - (b) if, before the expiry of the period in paragraph (a), the bank in Singapore applies for approval under the amended section 32 of the Banking Act for the holding of that major stake —
    - (i) until the date the approval is given; or
    - (ii) if the application is refused, 12 months, or such longer period as the Authority may specially allow, after the date the application is refused.

- (5) In this section —

“amended section 32 of the Banking Act” means section 32 of the Banking Act as amended by section 20 of the Banking (Amendment) Act 2016;

“commencement date” means the date of commencement of section 20 of the Banking (Amendment) Act 2016.

### **Savings and transitional provisions for new section 53A of Banking Act**

**59.—**(1) A person whose appointment as a director, the chairman of the board of directors, the chief executive officer, or the deputy chief executive officer of a bank incorporated in Singapore —

(a) has been approved by the Authority under regulation 18 of the Banking (Corporate Governance) Regulations 2005 (G.N. No. S 583/2005) in force immediately before the commencement date; and

(b) has not expired or been revoked before that date,

is taken to be so appointed with the approval of the Authority under section 53A of the Banking Act.

(2) A person whose appointment as a chief executive or deputy chief executive of a bank incorporated outside Singapore —

(a) has been approved by the Authority under paragraph 4 of Notice 622A in force immediately before the commencement date; and

(b) has not expired or been revoked before that date,

is taken to be so appointed with the approval of the Authority under section 53A of the Banking Act.

(3) Any condition to which the approval of the Authority under subsection (1)(a) or (2)(a) is subject and that is in force immediately before the commencement date, continues to have effect as a condition of the approval of the Authority under section 53A of the Banking Act referred to in subsection (1) or (2), as the case may be.

(4) In this section —

“commencement date” means the date of commencement of section 36 of the Banking (Amendment) Act 2016;

“Notice 622A” means the notice commonly known as MAS Notice 622A that is issued by the Authority under section 55 of the Banking Act, and includes any notice that replaces it.

### **Savings and transitional provision**

**60.** For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a savings or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

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**Consequential amendment to Income Tax Act**

**61.** Section 100(2) of the Income Tax Act (Cap. 134) is amended by deleting the words “36(2) and 55” in the definition of “MAS Notice 637” and substituting the words “55 and 65(2)”.

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