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No. S 511

BANKING ACT (CHAPTER 19)

BANKING (AMENDMENT) REGULATIONS 2019

In exercise of the powers conferred by section 78(1) of the Banking Act, the Monetary Authority of Singapore makes the following Regulations:

Citation and commencement

1.—(1) These Regulations are the Banking (Amendment) Regulations 2019 and, except for regulation 19(a), (b), (c) and (e), come into operation on 1 August 2019.

(2) Regulation 19(a), (b), (c) and (e) comes into operation on 1 October 2020.

Amendment of regulation 2

2. Regulation 2 of the Banking Regulations (Rg 5) is amended —

- (a) by deleting the definition of “accredited investor”;
- (b) by deleting the definition of “merchant bank”;
- (c) by deleting the words “or hostel” in paragraph (b)(ii) of the definition of “property corporation” and substituting the words “, hostel, serviced apartment, boarding house, lodging house or dormitory”;
- (d) by deleting the words “or hostel” in paragraphs (a)(i) and (b)(ii) of the definition of “property-related activities” and substituting in each case the words “, hostel, serviced apartment, boarding house, lodging house or dormitory”;
- (e) by deleting the word “members” in paragraph (b)(i) of the definition of “property-related activities” and substituting the words “any member”; and

(f) by deleting the definition of “subsidiary”.

Amendment of regulation 3A

3. Regulation 3A of the Banking Regulations is amended —

- (a) by deleting the words “accredited investor” in paragraph (1) and substituting the words “qualifying depositor”;
- (b) by deleting the words “accredited investors” in paragraph (2) and substituting the words “qualifying depositors”;
- (c) by deleting the words “an accredited investor” in paragraph (3) and substituting the words “a qualifying depositor”;
- (d) by deleting the words “the accredited investor” wherever they appear in paragraph (3) and substituting in each case the words “the qualifying depositor”; and
- (e) by deleting the full-stop at the end of the definition of “foreign entity” in paragraph (4) and substituting a semi-colon, and by inserting immediately thereafter the following definition:

““qualifying depositor” means —

- (a) an individual, a trustee or a person within the meaning of section 4A(1)(a)(i), (iii) or (iv) (as the case may be) of the Securities and Futures Act (Cap. 289);
- (b) a corporation with net assets or net group assets exceeding \$10 million in value (or its equivalent in a foreign currency) or such other amount as the Authority may prescribe under section 4A(1)(a)(ii) of the Securities and Futures Act in place of the first amount, as determined by —

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- (i) the most recent audited balance-sheet of the corporation (whether on an individual or on a group basis); or
 - (ii) where the corporation is not required to prepare audited financial statements regularly under the Companies Act (Cap. 50), a balance-sheet of the corporation (whether on an individual or on a group basis) certified by the corporation as giving a true and fair view of the state of affairs of the corporation and its group (where applicable) as of the date of the balance-sheet, which date must be within the preceding 12 months; or
 - (c) a corporation which acts as a trustee for the customers of a person carrying on the business of fund management with total assets under management exceeding \$10 million in value (or its equivalent in a foreign currency).”.

Amendment of regulation 5

4. Regulation 5 of the Banking Regulations is amended —

- (a) by deleting the words “exceed \$2 million or its equivalent in foreign currency at the time of the payment, or whose income in the preceding 12 months is not less than \$300,000 or its equivalent in foreign currency at the time of the payment” in paragraph (b) and substituting the words “exceed in value \$2 million (or its equivalent in foreign currency) at the time of the payment, whose financial assets (net of any related liabilities) exceed in value

\$1 million (or its equivalent in foreign currency) at the time of payment, or whose income in the preceding 12 months is not less than \$300,000 (or its equivalent in foreign currency) at the time of the payment”; and

- (b) by renumbering the regulation as paragraph (1) of that regulation, and by inserting immediately thereafter the following paragraph:

“(2) In determining the value of a person’s total net personal assets for the purposes of paragraph (1)(b), the value of the person’s primary residence is taken to be the lower of the following:

(a) the value calculated by deducting any outstanding amounts in respect of any credit facility that is secured by the residence from the estimated fair market value of the residence;

(b) \$1 million.”.

Amendment of regulation 5A

5. Regulation 5A of the Banking Regulations is amended —

- (a) by inserting, immediately after paragraph (b), the following paragraph:

“(ba) Asian Infrastructure Investment Bank;”;
and

- (b) by inserting, immediately after paragraph (j), the following paragraph:

“(ja) New Development Bank;”.

Amendment of heading to Part V

6. Part V of the Banking Regulations is amended by deleting the word “SECRECY” in the Part heading and substituting the words “PRIVACY OF CUSTOMER INFORMATION”.

Amendment of regulation 12

7. Regulation 12 of the Banking Regulations is amended —
- (a) by deleting the words “any company” in paragraph (1)(b) and (c) and substituting in each case the words “any entity”;
 - (b) by inserting, immediately after the word “capital” in paragraph (1)(b), the words “, accumulated funds or contributed capital”;
 - (c) by deleting the words “company where the directors of the company are” in paragraph (1)(d) and substituting the words “entity where the management of the entity is”;
 - (d) by deleting the words “policy of the company” in paragraph (1)(d) and substituting the words “policy of the entity”;
 - (e) by deleting the words “a company” in paragraphs (1)(e), (3) and (4) and substituting in each case the words “an entity”;
 - (f) by deleting the words “share capital of, or control of voting power in, a company” in paragraph (2) and substituting the words “share capital, accumulated funds or contributed capital of, or control of voting power in, an entity”;
 - (g) by deleting the words “the company” wherever they appear in paragraphs (2) and (3) and substituting in each case the words “the entity”; and
 - (h) by deleting the words “that company” in paragraph (3)(ii) and substituting the words “that entity”.

Amendment of regulation 13

8. Regulation 13 of the Banking Regulations is amended —
- (a) by deleting the words “a company” in paragraph (1) and substituting the words “an entity”;

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- (b) by deleting the words “share capital of a company” in paragraph (1)(a) and substituting the words “share capital, accumulated funds or contributed capital of an entity”;
 - (c) by inserting, immediately after the words “that share capital” in paragraph (1)(a), the words “, accumulated funds or contributed capital”;
 - (d) by deleting the words “a company” in paragraphs (1)(b) and (c) and (3) and substituting in each case the words “an entity”;
 - (e) by deleting the words “directors of the company are” in paragraph (1)(c) and substituting the words “management of the entity is”;
 - (f) by deleting the words “policy of the company” in paragraph (1)(c) and substituting the words “policy of the entity”;
 - (g) by deleting the words “share capital of, control of voting power or interest in, a company” in paragraph (2) and substituting the words “share capital, accumulated funds or contributed capital of, control of voting power in, or interest in, an entity”; and
 - (h) by deleting the words “the company” wherever they appear in paragraph (3)(i) and (ii) and substituting in each case the words “the entity”.

Amendment of regulation 14

9. Regulation 14 of the Banking Regulations is amended —

- (a) by deleting the words “a company” in paragraph (1) and substituting the words “an entity”;
- (b) by deleting sub-paragraph (b) of paragraph (1) and substituting the following sub-paragraph:
 - “(b) the bank is not exposed to any material risk by virtue of —
 - (i) that affiliated entity’s beneficial interest in the share capital,

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- accumulated funds or contributed capital of other entities;
- (ii) that affiliated entity’s control of voting power in other entities; or
- (iii) that affiliated entity’s interest in other entities,”;
- (c) by deleting the words “any beneficial interest in the share capital of, control of voting power in or interest in, any company” in paragraph (1) and substituting the words “any beneficial interest in the share capital, accumulated funds or contributed capital of any entity, any control of voting power in any entity, or any interest in any entity,”;
- (d) by inserting, immediately after paragraph (2), the following paragraph:
- “(2A) The Authority may vary or revoke any condition imposed under paragraph (2).”; and
- (e) by deleting sub-paragraph (b) of paragraph (3) and substituting the following sub-paragraph:
- “(b) the bank has become exposed to material risk by virtue of —
- (i) that affiliated entity’s beneficial interest in the share capital, accumulated funds or contributed capital of other entities;
- (ii) that affiliated entity’s control of voting power in other entities; or
- (iii) that affiliated entity’s interest in other entities,”.

Amendment of regulation 15

10. Regulation 15 of the Banking Regulations is amended by deleting the definitions of “qualified major stake company” and “share” and substituting the following definitions:

““major stake” has the same meaning as in section 32(7) of the Act;

“qualified major stake entity”, in relation to a bank, means an affiliated entity of the bank in which the bank holds a major stake.”.

Amendment of regulation 16

11. Regulation 16 of the Banking Regulations is amended —

- (a) by deleting the words “qualified major stake company” wherever they appear in paragraphs (1), (2), (3) and (5) and substituting in each case the words “qualified major stake entity”; and
- (b) by deleting the words “qualified major stake companies” in paragraphs (1), (2), (3) and (4) and substituting in each case the words “qualified major stake entities”.

Amendment of regulation 17

12. Regulation 17 of the Banking Regulations is amended —

- (a) by deleting the words “qualified major stake company” in paragraph (1) and substituting the words “qualified major stake entity”;
- (b) by deleting the words “the company” wherever they appear in paragraphs (1)(a), (3)(a) and (4) and substituting in each case the words “the entity”;
- (c) by deleting sub-paragraph (b) of paragraph (1) and substituting the following sub-paragraph:
 - “(b) the bank is not exposed to any material risk by virtue of —
 - (i) that entity’s beneficial interest in the share capital, accumulated funds or contributed capital of other entities;
 - (ii) that entity’s control of voting power in other entities; or

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- (iii) that entity’s interest in other entities,”;
 - (d) by deleting the words “that company” in paragraphs (1) and (3) and substituting in each case the words “that entity”;
 - (e) by inserting, immediately after paragraph (2), the following paragraph:
 - “(2A) The Authority may vary or revoke any condition imposed under paragraph (2).”;
 - (f) by deleting sub-paragraph (b) of paragraph (3) and substituting the following sub-paragraph:
 - “(b) the bank has become exposed to material risk by virtue of —
 - (i) that entity’s beneficial interest in the share capital, accumulated funds or contributed capital of other entities;
 - (ii) that entity’s control of voting power in other entities; or
 - (iii) that entity’s interest in other entities,”; and
 - (g) by deleting the word “company” in the regulation heading and substituting the word “entity”.

Amendment of regulation 18

13. Regulation 18 of the Banking Regulations is amended —

- (a) by deleting the words “qualified major stake company” wherever they appear in paragraph (2) and substituting in each case the words “qualified major stake entity”; and
- (b) by deleting the words “qualified major stake company or companies” in paragraph (3)(b) and substituting the words “qualified major stake entity or entities”.

Amendment of regulation 20

14. Regulation 20 of the Banking Regulations is amended —

- (a) by deleting the word “company” wherever it appears in the definitions of “foreclosed property” and “investment property” and substituting in each case the word “entity”; and
- (b) by deleting the definition of “major stake company” and substituting the following definition:

““major stake entity”, in relation to a bank in Singapore, means an entity in which the bank —

- (a) has acquired a major stake with the prior approval of the Authority under section 32(1) of the Act; or
- (b) holds a major stake with the prior approval of the Authority under section 32(1) of the Act;”.

New regulation 20A

15. The Banking Regulations are amended by inserting, immediately after regulation 20, the following regulation:

“Prescribed businesses to which section 12(1) of Act applies

20A.—(1) For the purpose of section 12(2)(c) of the Act, the following businesses mentioned in section 30(1)(b) of the Act are prescribed as businesses to which section 12(1) of the Act applies:

- (a) money-changing business;
- (b) remittance business.

(2) In this regulation, “money-changing business” and “remittance business” have the same meanings as in section 2(1) of the Money-changing and Remittance Businesses Act (Cap. 187).”.

Amendment of regulation 21

16. Regulation 21 of the Banking Regulations is amended —

- (a) by deleting the word “company” in paragraph (a)(i), (ii) and (iii)(B) and substituting in each case the word “entity”; and
- (b) by deleting the word “company’s” in paragraph (a)(iii)(B) and substituting the word “entity’s”.

Amendment of regulation 23F

17. Regulation 23F(6) of the Banking Regulations is amended by deleting the word “ratio” in paragraphs (a) and (b) of the definition of “capital funds” and substituting in each case the word “requirements”.

Amendment of regulation 23G

18. Regulation 23G(9) of the Banking Regulations is amended by deleting the word “ratio” in paragraphs (a) and (b) of the definition of “capital funds” and substituting in each case the word “requirements”.

Amendment of regulation 24

19. Regulation 24 of the Banking Regulations is amended —

- (a) by deleting paragraph (1) and substituting the following paragraph:

“(1) For the purposes of section 29(1)(d) of the Act, the Authority may, by notice in writing to a bank in Singapore, or a class of banks in Singapore, impose such requirements as are necessary or expedient for the purpose of limiting the exposure of the bank, or a bank within the class of banks, to the following:

- (a) any officer (other than a director) or employee of the bank, or other person who receives remuneration from the bank other than for services rendered to the bank or any company connected with the bank;

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- (b) any counterparty to the bank;
 - (c) a group of persons, where —
 - (i) at least one person in the group is a counterparty to the bank; and
 - (ii) one person in the group (called in this regulation the controlling person) controls every other person in that group;
 - (d) (in the case of branches and offices located within Singapore of a bank incorporated outside Singapore) a group of persons who are financially dependent on one another, where at least one person in the group is a counterparty to the bank;
 - (e) (in the case of a bank incorporated in Singapore) a group of persons, where —
 - (i) at least one person in the group is a counterparty to the bank; and
 - (ii) one person in the group is a person on which every other person in the group is economically dependent;
 - (f) (in the case of a bank incorporated in Singapore) a group of entities, each of which the bank holds, directly or indirectly, a major stake as defined in section 32(7) of the Act.”;
- (b) by deleting the words “paragraph (1)(b)(i)” in paragraph (3) and substituting the words “paragraph (1)(d)”;
- (c) by deleting the words “paragraph (1)(b)(ii)” in paragraph (4) and substituting the words “paragraph (1)(c)”;
- (d) by inserting, immediately after paragraph (5), the following paragraph:

“(6) For the purposes of paragraph (4)(c), a person *A* is deemed to control the composition of the board of directors of another person *B* if *A* has any power, exercisable by *A* without the consent or concurrence of any other person, to appoint or remove all or a majority of —

(a) the directors of *B*; or

(b) the equivalent of the directors of *B*.”; and

(e) by deleting paragraph (6) and substituting the following paragraphs:

“(6) For the purpose of paragraph (1)(e), a person *A* is economically dependent on another person *B* if *A* is so interconnected with *B* that any inability of *B* to obtain funds or meet *B*’s financial obligations would, or would be likely to, cause *A* to be unable to —

(a) obtain funds; or

(b) meet *A*’s financial obligations.

(7) For the purposes of paragraph (4)(c), a person *A* is deemed to control the composition of the board of directors of another person *B* if *A* has any power, exercisable by *A* without the consent or concurrence of any other person, to appoint or remove all or a majority of —

(a) the directors of *B*; or

(b) the equivalent of the directors of *B*.”.

Deletion and substitution of Part XIII

20. Part XIII of the Banking Regulations is deleted and the following Part substituted therefor:

“PART XIII

MISCELLANEOUS

Definition of “subsidiary” in section 48AA of Act

31.—(1) For the purpose of the definition of “subsidiary” in section 48AA(5) of the Act, an entity (called in this regulation *S*) is a subsidiary of another entity (called in this regulation *A*) if —

- (a) *A* —
 - (i) controls the composition of the board of directors of *S*; or
 - (ii) controls more than half of the voting power in *S*;
or
- (b) *S* is a subsidiary of an entity which is a subsidiary of *A*.

(2) For the purpose of paragraph (1)(a)(i), *A* is treated as having control of the composition of the board of directors of *S* if *A* has any power, exercisable by *A* without the consent or concurrence of any other person, to appoint or remove all or a majority of —

- (a) the directors of *S*; or
- (b) the equivalent of the directors of *S*.

(3) For the purposes of paragraph (1)(a), in determining whether *A* controls the composition of the board of directors of *S*, or controls more than half of the voting power in *S* —

- (a) any power exercisable by *A* in a fiduciary capacity is to be disregarded;
- (b) subject to sub-paragraphs (c) and (d), any power exercisable —
 - (i) by a nominee for *A* (except where *A* is concerned only in a fiduciary capacity); or
 - (ii) by a subsidiary of *A* or a nominee for the subsidiary (except where the subsidiary is concerned only in a fiduciary capacity),

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- is to be treated as exercisable by *A*;
- (c) any power exercisable by any person by virtue of the provisions of any debentures of *S* or of a trust deed for securing any issue of any debentures of *S* is to be disregarded; and
 - (d) any power exercisable by, or by a nominee for, *A* or its subsidiary (not being a power exercisable as mentioned in sub-paragraph (c)) is not to be treated as exercisable by *A* if —
 - (i) the ordinary business of *A* or its subsidiary (as the case may be) includes the lending of money; and
 - (ii) the power is exercisable by way of security only for the purpose of a transaction entered into in the ordinary course of that business.

Prescribed appointments for bank incorporated in Singapore

32.—(1) The following appointments are prescribed as appointments in a bank incorporated in Singapore to which section 53A(1)(d) of the Act applies:

- (a) the chief financial officer;
- (b) the chief risk officer;
- (c) the head of treasury;
- (d) the members of the Nominating Committee.

(2) In this regulation, “head of treasury”, in relation to a bank incorporated in Singapore, means any person, by whatever name described, who —

- (a) is in the direct employment of, or acting for or by arrangement with, the bank; and
- (b) is principally responsible for the management and conduct of the treasury operations of the bank.

Prescribed appointment for bank in Singapore of bank incorporated outside Singapore

33.—(1) The appointment of the head of treasury is prescribed as an appointment for the bank in Singapore of a bank incorporated outside Singapore to which section 53A(2)(b) of the Act applies.

(2) In this regulation, “head of treasury”, in relation to the bank in Singapore of a bank incorporated outside Singapore, means any person, by whatever name described, who —

- (a) is in the direct employment of, or acting for or by arrangement with, the bank in Singapore; and
- (b) is principally responsible for the management and conduct of the treasury operations of the bank in Singapore.

Prescribed term

34. For the purposes of section 53A(5)(b) of the Act, a term of 3 years is prescribed as the maximum term for which a person appointed under section 53A(1)(a) of the Act as a director of a bank incorporated in Singapore may hold such office or appointment.

Risk management of bank

35.—(1) A bank must, in a manner that is commensurate with the nature, scale and complexity of its business —

- (a) implement effective internal controls to regularly identify, measure, evaluate, monitor, report and control risks associated with the business activities of the bank;
- (b) ensure that compliance of the bank with the internal controls mentioned in sub-paragraph (a) is audited by an internal audit process of the bank;
- (c) where any officer, committee, sub-committee or group of persons has a discretionary power to

commit the bank to any financial undertaking or to expose the bank to any business risk —

- (i) establish limits on the discretionary power that are appropriate, having regard to the business activities of the bank; and
 - (ii) set out the limits mentioned in sub-paragraph (i) in writing;
- (d) keep documentation sufficient to demonstrate —
- (i) compliance by the bank with the internal controls mentioned in sub-paragraph (a); and
 - (ii) compliance by each officer, committee, sub-committee or group of persons who has a discretionary power with the limits mentioned in sub-paragraph (c)(i).

(2) Any bank which contravenes paragraph (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 of \$25,000 for every day or part of a day during which the offence continues after conviction.

Compoundable offences

36. The following offences may be compounded by the Authority in accordance with section 69 of the Act:

- (a) any offence (other than a continuing offence) under the Act or any regulations made under the Act which is punishable with a fine only;
- (b) any offence (other than a continuing offence) under section 4(2), 4A(4), 5(3), 17(2), 18(3)(a), 28(7), 50(7) or (8), 52(2)(a), 55N(2)(a) or 57(7) of the Act;
- (c) any offence under section 66(1) of the Act, where the non-compliance by the bank mentioned in that provision constitutes a compoundable offence under paragraph (a) or (b).”.

Amendment of Second Schedule

21. The Second Schedule to the Banking Regulations is amended by deleting the word “SECRECY” in the Schedule heading and substituting the words “PRIVACY OF CUSTOMER INFORMATION”.

Amendment of Third Schedule

22. The Third Schedule to the Banking Regulations is amended —

- (a) by deleting the word “SECRECY” in the Schedule heading and substituting the words “PRIVACY OF CUSTOMER INFORMATION”;
- (b) by inserting, immediately after item 4 of Part II, the following items:

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<p>4A. Disclosure is solely in connection with the transfer or proposed transfer of the business of the merchant bank to a company under section 38 of the Monetary Authority of Singapore Act (Cap. 186), whether or not the transfer is subsequently carried out or completed.</p>	<p>Any —</p> <p>(a) transferor or transferee as defined in section 31 of the Monetary Authority of Singapore Act;</p> <p>(b) person affected by the transfer;</p> <p>(c) professional adviser appointed by any person mentioned in paragraph (a) or (b); or</p> <p>(d) independent assessor appointed by the Authority under section 38 of the Monetary Authority of Singapore Act.</p>	
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<p>4B. Disclosure is solely in connection with the transfer or proposed transfer of the business of the merchant bank to a company under Division 2 of Part IVB of the Monetary Authority of Singapore Act, whether or not the transfer is subsequently carried out or completed.</p>	<p>Any —</p> <ul style="list-style-type: none"> (a) transferor or transferee as defined in section 56 of the Monetary Authority of Singapore Act; (b) person affected by the transfer; (c) professional adviser appointed by any person mentioned in paragraph (a) or (b); or (d) independent assessor appointed by the Authority under section 57 of the Monetary Authority of Singapore Act. 	
<p>4C. Disclosure is solely in connection with the transfer or proposed transfer of the shares in the merchant bank under Division 3 of Part IVB of the Monetary Authority of Singapore Act, whether or not the transfer is subsequently</p>	<p>Any —</p> <ul style="list-style-type: none"> (a) transferor or transferee as defined in section 65 of the Monetary Authority of Singapore Act; (b) professional adviser appointed by the transferor or transferee; or (c) independent assessor appointed by the 	

carried out or completed.	Authority under section 66 of the Monetary Authority of Singapore Act.	
4D. Disclosure is solely in connection with the restructuring or proposed restructuring of the share capital of the merchant bank under Division 4 of Part IVB of the Monetary Authority of Singapore Act, whether or not the restructuring is carried out or completed.	Any — (a) shareholder as of the bank; (b) subscriber as defined in section 68 of the Monetary Authority of Singapore Act; (c) professional adviser appointed by the bank or any person mentioned in paragraph (a) or (b); or (d) independent assessor appointed by the Authority under section 69 of the Monetary Authority of Singapore Act.	”;

- (c) by deleting the words “incorporated outside Singapore” in the definition of “foreign-owned merchant bank incorporated in Singapore” in Part III and substituting the words “incorporated, formed or established outside Singapore”; and
- (d) by deleting the words “the supervisory authority” in paragraphs (a) and (b) of the definition of “parent supervisory authority” in Part III and substituting in each case the words “a supervisory authority”.

Amendment of Fourth Schedule

23. The Fourth Schedule to the Banking Regulations is amended —

- (a) by inserting, immediately after the word “year” in paragraphs 1, 2, 3 and 4(b), the words “or such later date as may be approved in writing by the Authority”; and
- (b) by inserting, immediately after the word “business” in paragraph 4(a), the words “or such later date as may be approved in writing by the Authority”.

*[G.N. Nos. S 622/2005; S 170/2006; S 325/2006;
S 238/2007; S 401/2008; S 18/2009; S 203/2009;
S 360/2009; S 214/2010; S 370/2010; S 56/2011;
S 661/2013; S 741/2013; S 393/2015; S 444/2016]*

Made on 26 July 2019.

RAVI MENON
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Monetary Authority of Singapore.*

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