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**BANKING ACT
(CHAPTER 19)**

**BANKING
(MERCHANT BANKS)
REGULATIONS 2021**

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In exercise of the powers conferred by sections 76A(1) and 78 of the Banking Act, the Monetary Authority of Singapore makes the following Regulations:

PART 1

PRELIMINARY

Citation and commencement

1. These Regulations are the Banking (Merchant Banks) Regulations 2021 and come into operation on 1 July 2021.

Definitions

2.—(1) In these Regulations, unless the context otherwise requires —

“Accounting Standards” has the meaning given by section 4(1) of the Companies Act (Cap. 50);

“group”, in relation to a corporation, means a group within the meaning of the Accounting Standards, of which the corporation is a part;

“liabilities”, in relation to the policies of an insurance fund maintained by an insurer, means the liabilities and expenses of the insurer that are attributable to the business to which the insurance fund relates, but excludes any levy payable by that insurer under section 37 of the Deposit Insurance and Policy Owners’ Protection Schemes Act (Cap. 77B);

“major stake” has the meaning given by section 55ZF(2) of the Act;

“merchant bank group”, in relation to a merchant bank incorporated in Singapore, means a group of entities comprising —

- (a) the merchant bank;
- (b) every subsidiary of the merchant bank;
- (c) every branch of the merchant bank; and
- (d) every other entity that is treated as part of the merchant bank’s group of entities for accounting purposes in accordance with the Accounting Standards.

(2) For the purposes of these Regulations, a company is a wholly-owned subsidiary of a merchant bank in Singapore if the sole member of the company, or the only person holding any ownership interest in the company, is the merchant bank.

PART 2

RESTRICTIONS ON ACCEPTANCE OF DEPOSIT OR
BORROWING MONEY IN SINGAPORE DOLLARS

Prescribed person under section 55U(1)(a)(i) of Act

3.—(1) For the purpose of section 55U(1)(a)(i) of the Act, each of the following is a prescribed person from whom a merchant bank in Singapore may accept any deposit in Singapore dollars or otherwise borrow any money in Singapore dollars:

- (a) a bank;
- (b) a finance company licensed under the Finance Companies Act (Cap. 108);
- (c) a shareholder of the merchant bank in Singapore;
- (d) a company controlled by any shareholder of the merchant bank in Singapore.

(2) For the purposes of paragraph (1)(d), a shareholder has control of a company if the shareholder —

- (a) holds the right (directly or indirectly) to appoint or remove the directors or equivalent persons of the company, where such directors or equivalent persons hold a majority of the voting rights at any meeting of the directors or equivalent persons of the company on all or substantially all matters;
- (b) holds (directly or indirectly) more than 25% of the rights to vote on any matter that is to be decided upon by a vote of the members or equivalent persons of the company; or
- (c) has the right to exercise, or actually exercises, significant influence or control over the company.

PART 3
PRESCRIBED BUSINESSES UNDER
SECTION 55V(1)(d) OF ACT

Purpose of this Part

4. The purpose of this Part is to prescribe the businesses (each called a prescribed business) that a merchant bank in Singapore may carry on, or enter into any partnership, joint venture or other arrangement with any person to carry on, whether in Singapore or elsewhere, under section 55V(1)(d) of the Act.

Definitions of this Part

5. In this Part —

“asset” includes any commodity within the meaning of section 2 of the Securities and Futures Act (Cap. 289);

“building” means any immovable property that has undergone development within the meaning of section 3 of the Planning Act (Cap. 232);

“foreclosed property”, in relation to a merchant bank in Singapore or its major stake entity, means the whole or any part of any residential, commercial or industrial land or building that has been acquired by the merchant bank or its major stake entity (as the case may be) acting in its capacity as the mortgagee of the whole or that part of the land or building (as the case may be) arising from an action for foreclosure;

“investment property”, in relation to a merchant bank in Singapore or its major stake entity, means the whole or any part of any residential, commercial or industrial land or building that has been acquired or is held by the merchant bank or its major stake entity (as the case may be) as an investment;

“land” means any immovable property that has not undergone development within the meaning of section 3 of the Planning Act;

“major stake entity”, in relation to a merchant bank in Singapore, means —

- (a) in the case of a merchant bank incorporated in Singapore — any entity in which the merchant bank holds, directly or indirectly, a major stake; or
- (b) in the case of the branches and offices located in Singapore of a merchant bank incorporated outside Singapore — any entity in which the merchant bank incorporated outside Singapore holds, directly or indirectly, a major stake that is reflected as an investment in the balance-sheet of the branches and offices located in Singapore;

“property enhancement” means —

- (a) in relation to a building, the carrying out of any works for the refurbishment, improvement or alteration of, or addition to, the building that —
 - (i) do not amount to demolition or reconstruction of the building; and
 - (ii) do not vary the gross floor area of the building by more than 20%; and
- (b) in relation to any part of a building, the carrying out of any works for the refurbishment, improvement or alteration of, or addition to, that part of the building that —
 - (i) do not amount to demolition or reconstruction of that part of the building; and
 - (ii) do not vary the gross floor area of that part of the building by more than 20%;

“property management”, in relation to the whole or any part of any land or building —

- (a) means the maintenance and management of the whole or that part of the land or building, as the case may be; and

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- (b) includes the procurement of security services and lease and tenancy administration in relation to the whole or that part of the land or building (as the case may be) but does not include property enhancement.

Prescribed business relating to property management and property enhancement

6. Each of the following businesses is a prescribed business for a merchant bank in Singapore:

- (a) the business of providing property management services in relation to —
- (i) any investment property that has been acquired or is held by —
- (A) in the case of a merchant bank incorporated in Singapore — an entity in its merchant bank group; or
- (B) in the case of the branches and offices located in Singapore of a merchant bank incorporated outside Singapore — the merchant bank incorporated outside Singapore, where the investment property is reflected as an asset in the balance-sheet of the branches and offices located in Singapore;
- (ii) any foreclosed property that has been acquired or is held by —
- (A) in the case of a merchant bank incorporated in Singapore — an entity in its merchant bank group; or
- (B) in the case of the branches and offices located in Singapore of a merchant bank incorporated outside Singapore — the merchant bank incorporated outside Singapore, where the foreclosed property is reflected as an asset in the balance-sheet of the branches and offices located in Singapore; or

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- (iii) the whole or any part of any building that is occupied and used —
 - (A) by the merchant bank in Singapore for the carrying on of any business or class of business mentioned in section 55V(1) of the Act; or
 - (B) in the case of a merchant bank incorporated in Singapore — by an entity in its merchant bank group for the carrying on of that entity's business;
 - (b) the business of managing and coordinating property enhancement works in relation to —
 - (i) any property mentioned in paragraph (a)(i) or (ii) that is a building; or
 - (ii) any building mentioned in paragraph (a)(iii).

Prescribed alternative financing business

7.—(1) Subject to paragraph (2), the business of purchasing and selling any asset is a prescribed business for a merchant bank in Singapore, if the business is carried on under the following arrangement:

- (a) the merchant bank, at the request of and for the purpose of financing the purchase of an asset by a customer, purchases the asset from the seller in circumstances where the asset is existing at the time of the purchase;
- (b) the merchant bank sells the asset to the customer;
- (c) the customer is under a legal obligation to the merchant bank to take delivery of the asset;
- (d) the amount payable by the customer for the asset (the marked-up price) is greater than the amount paid by the merchant bank for the asset (the original price), and the difference between the marked-up price and original price is the profit or return to the merchant bank for providing the financing to the customer;

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- (e) the merchant bank does not derive any gain or suffer any loss from any movement in the market value of the asset other than as part of the profit or return mentioned in sub-paragraph (d);
 - (f) the customer is not required to pay the marked-up price or any part of the marked-up price to the merchant bank until after the date of the sale mentioned in sub-paragraph (b).
- (2) The merchant bank must notify the Authority of its —
- (a) intention to commence the business mentioned in paragraph (1); or
 - (b) commencement of the business within 14 days after the date of its commencement.

Prescribed purchase and sale business

8.—(1) Subject to paragraph (2), the business of purchasing and selling assets is a prescribed business for a merchant bank in Singapore, if the business is carried on under the following arrangement:

- (a) for the purpose of making funds of a customer available to a merchant bank, the customer appoints the merchant bank or another person as an agent, to purchase on behalf of the customer, an asset for an amount of money (the original price), in circumstances where the asset is existing at the time of the purchase;
- (b) the merchant bank —
 - (i) purchases the asset from the customer at a price (the marked-up price) that is greater than the original price; and
 - (ii) sells the asset or appoints the customer, or another person as an agent of the merchant bank, to sell the asset on behalf of the merchant bank;
- (c) both the merchant bank and customer do not derive any gain or suffer any loss from any movement in the market value of the asset other than the difference between the

marked-up price and the original price (which represents the profit or return to the customer for making funds available to the bank);

(d) the merchant bank is not required to pay the marked-up price or any part of the marked-up price to the customer until after the date of the sale mentioned in sub-paragraph (b)(ii).

(2) The merchant bank must notify the Authority of its —

(a) intention to commence the business mentioned in paragraph (1); or

(b) commencement of the business within 14 days after the date of its commencement.

Prescribed inter-bank purchase and sale business

9.—(1) Subject to paragraph (3), the business of purchasing and selling any asset is a prescribed business for a merchant bank in Singapore, if the business is carried on under the following arrangement:

(a) for the purpose of making funds of the merchant bank (*A*) available to another bank or merchant bank (*B*), *A* purchases, or appoints *B* or another person as an agent of *A* to purchase on *A*'s behalf, an asset for an amount of money (the original price), in circumstances where the asset is existing at the time of the purchase;

(b) *B* —

(i) purchases the asset from *A* at a price (the marked-up price) that is greater than the original price; and

(ii) sells the asset, or appoints *A* or another person as an agent of *B*, to sell the asset on behalf of *B*;

(c) both *A* and *B* do not derive any gain or suffer any loss from any movement in the market value of the asset other than the difference between the marked-up price and the original price (which represents the profit or return to *A* for making funds available to *B*);

(d) *B* is not required to pay the marked-up price or any part of the marked-up price to *A* until after the date of the sale mentioned in sub-paragraph (b)(ii).

(2) Subject to paragraph (3), the arrangement set out in paragraph (1), in circumstances where the roles of *A* and *B* are reversed, is also a prescribed business for a merchant bank in Singapore.

(3) The merchant bank must notify the Authority of its —

- (a) intention to commence the business mentioned in paragraph (1); or
- (b) commencement of the business within 14 days after the date of its commencement.

Prescribed leasing business

10.—(1) Subject to paragraph (2), the business of leasing any asset (whether movable or immovable property) is a prescribed business for a merchant bank in Singapore, if the business is carried on under the following arrangement:

- (a) the merchant bank, or the merchant bank's agent, purchases an asset at the request of a customer for an amount of money (the original price) for the purposes of financing the use or purchase (or both) of the asset by the customer;
- (b) the merchant bank, or the merchant bank's agent, leases the asset to the customer;
- (c) if the asset is not in existence at the time the merchant bank, or the merchant bank's agent, leases the asset to the customer, an amount of money (the advance payment) may be paid by the customer to the merchant bank, or the merchant bank's agent, for the subsequent use of the asset;
- (d) an amount of money (the rental) is paid by the customer to the merchant bank, or the merchant bank's agent, for the lease of the asset;

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- (e) the merchant bank, or the merchant bank's agent, appoints the customer or a third party, to take on the obligations in connection with the use of the asset, including its maintenance and insurance;
 - (f) in the event of an early termination of the lease, the customer, or a third party, must purchase the asset from the merchant bank, or the merchant bank's agent, at a price determined at the start of the lease (the early termination price);
 - (g) upon expiry of the lease —
 - (i) where the aggregate of all rental and advance payments made under the lease is greater than the original price, the merchant bank, or the merchant bank's agent, must, whether with or without consideration, transfer the ownership of the asset to the customer or a third party; or
 - (ii) where the aggregate of all rental and advance payments made under the lease is equal to or less than the original price, the customer or a third party must purchase the asset from the merchant bank, or the merchant bank's agent, at a sale price determined at the start of the lease (the sale price), which amount is the consideration for the transfer of the asset;
 - (h) the total amount payable by the customer and such third party mentioned in either sub-paragraph (f) or (g) (if any) for the asset comprising —
 - (i) the advance payment;
 - (ii) the rental; and
 - (iii) the sale price or early termination price,is greater than the original price, and the difference between the total amount payable and original price is the profit or return to the merchant bank for providing such financing to the customer;

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- (i) the merchant bank, or the merchant bank's agent, does not derive any gain or suffer any loss from any movement in the market value of the asset, including total loss of the asset, other than as part of the profit or return mentioned in sub-paragraph (h).
 - (2) The merchant bank must notify the Authority of its —
 - (a) intention to commence the business mentioned in paragraph (1); or
 - (b) commencement of the business within 14 days after the date of its commencement.

Prescribed joint purchase and periodic sale business

11.—(1) Subject to paragraph (2), the business of jointly purchasing and selling (on a periodic basis) assets (whether movable or immovable property) is a prescribed business for a merchant bank in Singapore, if the business is carried on under the following arrangement:

- (a) the merchant bank, or the merchant bank's agent, jointly purchases an asset with the customer at the request of the customer and contributes an amount of money towards the purchase price (the contribution) for the purposes of financing the use or purchase (or both) of the asset by the customer;
- (b) the merchant bank or the merchant bank's agent —
 - (i) sells a portion of its share of the asset on a periodic basis to the customer for an amount of money determined at the start of the arrangement (the redemption); and
 - (ii) leases the unsold portion of its share of the asset to the customer for an amount of money determined at the start of the arrangement (the rental);
- (c) if the asset is not in existence at the time of the joint purchase and the merchant bank, or the merchant bank's agent, leases the unsold portion of its share of the asset to the customer, an amount of money (the advance payment)

may be paid by the customer to the merchant bank, or the merchant bank's agent, for the subsequent use of that portion of the asset;

- (d) the merchant bank, or the merchant bank's agent, appoints the customer, or a third party, to take on the obligations in connection with the use of the asset, including its maintenance and insurance;
- (e) in the event of an early termination of the arrangement, the customer must purchase from the merchant bank, or the merchant bank's agent, the remainder of the unsold portion of the share of the asset of the merchant bank, or the merchant bank's agent, at a price determined at the start of the arrangement (the early termination price);
- (f) upon expiry of the arrangement, the customer must have purchased from the merchant bank, or the merchant bank's agent, the whole of the share of the asset of the merchant bank, or the merchant bank's agent, and obtained full ownership of the asset;
- (g) the total amount payable by the customer for the asset comprising —
 - (i) the advance payment;
 - (ii) the redemption;
 - (iii) the rental; and
 - (iv) the early termination price,is greater than the contribution, and the difference between the total amount payable and the contribution is the profit or return to the merchant bank for providing such financing to the customer;
- (h) the merchant bank, or the merchant bank's agent, does not derive any gain or suffer any loss from any movement in the market value of the asset, including total loss of the asset, other than as part of the profit or return mentioned in sub-paragraph (g), except in the circumstances provided in sub-paragraph (i);

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- (i) in a case where the customer is unable to pay the merchant bank, or the merchant bank's agent, the early termination price, the merchant bank, or the merchant bank's agent, may sell the asset to a third party at a price lower than the outstanding amount payable by the customer.
- (2) The merchant bank must notify the Authority of its —
- (a) intention to commence the business mentioned in paragraph (1); or
- (b) commencement of the business within 14 days after the date of commencement of the arrangement mentioned in paragraph (1).

Prescribed purchase and sale business at spot price

12.—(1) Subject to paragraph (2), the business of purchasing and selling any asset at spot price is a prescribed business for a merchant bank in Singapore, if the business is carried on under the following arrangement:

- (a) for the purposes of effecting payment resulting from the carrying on of any business by the merchant bank in Singapore under section 55V(1)(a), (b) or (c) of the Act —
- (i) the merchant bank undertakes to purchase an asset from a customer (merchant bank purchase undertaking);
- (ii) the customer undertakes to purchase an asset from the merchant bank (customer purchase undertaking);
- (iii) the merchant bank undertakes to sell an asset to a customer (merchant bank sale undertaking); or
- (iv) the customer undertakes to sell an asset to the merchant bank (customer sale undertaking),
- for an amount of money determined at the time the undertaking is given by the merchant bank or the customer, as the case may be (the agreed price);
- (b) where the merchant bank purchase undertaking is exercised by the customer, or the customer sale

undertaking is exercised by the merchant bank, the merchant bank purchases the asset from the customer at the agreed price in circumstances where the asset is existing at the time of the purchase, and immediately sells the asset to a third party at spot price;

- (c) where the customer purchase undertaking is exercised by the merchant bank, or the merchant bank sale undertaking is exercised by the customer, the merchant bank purchases the asset from a third party at spot price in circumstances where the asset is existing at the time of the purchase, and immediately sells the asset to the customer at the agreed price;
 - (d) the merchant bank does not take physical delivery of the asset;
 - (e) the merchant bank does not derive any gain or suffer any loss from any movement in the market value of the asset other than the difference between the spot price and the agreed price.
- (2) The merchant bank must notify the Authority of its —
- (a) intention to commence the business mentioned in paragraph (1); or
 - (b) commencement of the business within 14 days after the date of its commencement.

Prescribed procurement business

13.—(1) Subject to paragraph (2), the business of procuring and selling any asset (whether movable or immovable property) is a prescribed business for a merchant bank in Singapore, if the business is carried on under the following arrangement:

- (a) the merchant bank, or the merchant bank's agent, at the request of the customer and for the purposes of financing the procurement and the use or purchase, or both, of an asset by the customer, commissions the customer to construct the asset in accordance with the customer's

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- specifications for an amount of money (the purchase price);
- (b) contemporaneously with the commissioning mentioned in sub-paragraph (a) —
- (i) the merchant bank, or the merchant bank's agent, and the customer enter into an arrangement prescribed under regulation 10 where the asset is not in existence at the time the asset is leased to the customer (the lease arrangement); or
 - (ii) the customer gives an undertaking to the merchant bank, or the merchant bank's agent, to purchase the asset from the merchant bank, or the merchant bank's agent, immediately after the transfer of the ownership of the asset to the merchant bank, or the merchant bank's agent, by the customer under sub-paragraph (e)(i) (the purchase undertaking);
- (c) the customer procures the construction of the asset by a third party;
- (d) the merchant bank, or the merchant bank's agent, makes payment of the purchase price to the customer on a periodic basis (the progress payment);
- (e) one of the following takes place:
- (i) the customer transfers the ownership of the asset to the merchant bank, or the merchant bank's agent, on a mutually agreed date on or after the completion of the construction of the asset by the third party;
 - (ii) the customer refunds all progress payments to the merchant bank, or the merchant bank's agent, and the lease arrangement or the purchase undertaking (as the case may be) is cancelled;
 - (iii) the merchant bank, or the merchant bank's agent, agrees to the substitution of the asset that is the subject of the lease arrangement or the purchase undertaking with a comparable asset, and the

customer transfers the ownership of the comparable asset to the merchant bank, or the merchant bank's agent, on a mutually agreed date;

- (f) the merchant bank, or the merchant bank's agent, does not take physical delivery of the asset or the comparable asset;
 - (g) at the end of the arrangement, the merchant bank, or the merchant bank's agent, transfers ownership of the asset, or of the comparable asset, to the customer pursuant to the lease arrangement or the purchase undertaking, except in the circumstances mentioned in sub-paragraph (e)(ii);
 - (h) the amount payable by the customer for the asset, or the comparable asset, is greater than the purchase price, and the difference between the total amount payable and the purchase price is the profit or return to the merchant bank for providing such financing to the customer;
 - (i) the merchant bank, or the merchant bank's agent, does not derive any gain or suffer any loss from any movement in the market value of the asset, including from the total loss of the asset, other than the profit or return mentioned in sub-paragraph (h).
- (2) The merchant bank must notify the Authority of its —
- (a) intention to commence the business mentioned in paragraph (1); or
 - (b) commencement of the business within 14 days after the date of its commencement.

Prescribed private equity or venture capital business

14.—(1) Subject to paragraph (2) and regulation 15(4), a business (not being a business mentioned in section 55V(1)(a), (b) or (c) of the Act) that is —

- (a) carried on by a company or the trustee of a trust; and

- (b) a business that a merchant bank in Singapore has determined to have potential for high growth or value creation,

is a prescribed business for the merchant bank in Singapore.

(2) The business in paragraph (1) does not include —

- (a) the business of engaging in any property-related activity;
or
(b) the business of factoring, leasing equipment or otherwise purchasing debt obligations from third parties.

(3) In this regulation, “property-related activity” has the meaning given by regulation 28.

Prescribed related or complementary business

15.—(1) Subject to paragraphs (2), (3), (4), (5) and (6), a business that fulfils the following criteria is a prescribed business for a merchant bank in Singapore:

- (a) the business is related or complementary to a core financial business of the merchant bank;
- (b) the business is not —
- (i) any other business prescribed for the purposes of section 55V(1)(d) of the Act, including any prescribed business under regulation 16(1); or
 - (ii) any business approved under section 55V(1)(e) of the Act;
- (c) the business is not any of the following types of business:
- (i) property development;
 - (ii) provision of hotel and resort facilities;
 - (iii) property management;
 - (iv) owning, operating or investing in facilities for the extraction, transportation, storage or distribution of commodities;

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- (v) owning, operating or investing in facilities for processing, refining or otherwise altering commodities.

(2) A merchant bank in Singapore may carry on any business prescribed in paragraph (1) only if —

- (a) the merchant bank puts in place risk management and governance policies and procedures that are commensurate with the risks posed by the business;
- (b) the policies and procedures mentioned in sub-paragraph (a) have been approved by —
 - (i) in the case of a merchant bank incorporated in Singapore — the board of directors of the merchant bank;
 - (ii) in the case of the branches and offices located in Singapore of a merchant bank incorporated outside Singapore, the head office of which has never carried on a materially similar business before — the board of directors of the merchant bank; or
 - (iii) in the case of the branches and offices located in Singapore of a merchant bank incorporated outside Singapore, the head office of which has carried on or is carrying on a materially similar business — by an authorised person of the merchant bank;
- (c) the merchant bank notifies the Authority, in accordance with paragraph (3), of the following matters:
 - (i) a description of the business;
 - (ii) any regulation or licensing requirement that the business is or will be subject to, whether in Singapore or elsewhere;
 - (iii) the nature of the merchant bank's investment in the business and the amount of such investment;
 - (iv) the date on which the merchant bank intends to start carrying on the business;

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- (v) any partnership, joint venture or other arrangement into which the merchant bank has entered to carry on the business;
 - (d) the merchant bank notifies the Authority of any change to the matters in relation to which information had been provided in the notification mentioned in sub-paragraph (c), before making the change or as soon as the merchant bank becomes aware of the change; and
 - (e) the merchant bank obtains prior approval from the Authority for the issuance of any guarantee, indemnity, letter of comfort or any other letter that imposes similar obligations on the merchant bank as a guarantee or indemnity, or similar expectations on the bank as a letter of comfort, in respect of the business.
- (3) The notification under paragraph (2)(c) must be submitted at least 14 days before the earliest of the following:
- (a) any public announcement that the merchant bank intends to carry on, or enter into any partnership, joint venture or other arrangement with any person to carry on, the business;
 - (b) the entry of the merchant bank into any partnership, joint venture or arrangement with any person to carry on the business;
 - (c) the date on which the merchant bank starts carrying on the business, or the date on which any partnership, joint venture or other arrangement entered into by the merchant bank to carry on the business comes into effect.
- (4) In addition to the conditions in paragraph (2), a merchant bank in Singapore may carry on any business under paragraph (1) or regulation 14(1) only if its aggregate non-financial business size does not exceed —
- (a) in the case of a merchant bank incorporated in Singapore —
 - (i) 30% of its capital funds; and

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- (ii) 30% of the capital funds of its merchant bank group;
or
- (b) in the case of the branches and offices located in Singapore of a merchant bank incorporated outside Singapore — 4% of the assets that are reflected as assets in the balance-sheet of the branches and offices located in Singapore (less net inter-bank lending).
- (5) A merchant bank in Singapore must —
- (a) submit a report to the Authority within 30 days after the end of every quarter or any other time as may be approved in writing by the Authority, containing the information specified in the First Schedule; and
- (b) provide any other information that the Authority may require in relation to any business prescribed in paragraph (1) that is carried on by the merchant bank.
- (6) A merchant bank in Singapore that carries on any business prescribed in paragraph (1) must comply with any other conditions or restrictions that the Authority may impose, from time to time, by written notice in relation to its carrying on of such business.
- (7) In this regulation, unless the context otherwise requires —
- “aggregate non-financial business size”, in relation to a merchant bank in Singapore, means the total balance-sheet asset value or total exposures (whichever is higher), or any other measure that the Authority may specify by written notice, of —
- (a) all businesses prescribed in paragraph (1) carried on by the merchant bank;
- (b) all businesses prescribed in regulation 14(1) carried on by the merchant bank;
- (c) all businesses carried on by any major stake entity of the merchant bank that is acquired or held by the merchant bank in accordance with regulation 18;

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- (d) all businesses prescribed in paragraph (1) or regulation 14(1) carried on by any major stake entity of the merchant bank, where —
- (i) the merchant bank has obtained the prior approval of the Authority under section 32 of the Act (as applied by section 55ZF(2) of the Act) to acquire or hold a major stake in the entity; and
 - (ii) the approval under sub-paragraph (i) is subject to conditions that include the merchant bank having to treat the balance-sheet asset value or exposures (whichever is higher) of such businesses as part of its aggregate non-financial business size;
- (e) all businesses for which the Authority has granted approval to the merchant bank under section 55V(1)(e) of the Act and the approval is subject to conditions that include the merchant bank having to treat the balance-sheet asset value or exposures (whichever is higher) of such businesses as part of its aggregate non-financial business size; and
- (f) all businesses carried on by any major stake entity of the merchant bank, other than a business mentioned in section 55V(1)(a), (b), (c) or (d) of the Act, where —
- (i) the merchant bank has obtained the approval of the Authority under section 32 of the Act (as applied by section 55ZF(2) of the Act) to acquire or hold a major stake in the entity; and
 - (ii) the approval under sub-paragraph (i) is subject to conditions that include the merchant bank having to treat the balance-sheet asset value or exposures (whichever is higher) of such businesses as part of its aggregate non-financial business size;

“authorised person”, in relation to the branches and offices located in Singapore of a merchant bank incorporated outside Singapore, means one or more persons, or a committee of persons, authorised by the board of directors of the merchant bank to approve the risk management and governance policies and procedures of the business carried on by those branches and offices;

“capital funds” means —

- (a) in relation to a merchant bank incorporated in Singapore — the capital of the merchant bank that is used for the purposes of calculating its capital adequacy requirements under section 10 of the Act as applied by section 55ZB of the Act; or
- (b) in relation to the merchant bank group of a merchant bank incorporated in Singapore — the capital of the merchant bank group that is used for the purposes of calculating the merchant bank group’s capital adequacy requirements under section 10 of the Act as applied by section 55ZB of the Act;

“core financial business”, in relation to a merchant bank, means a core business activity that the merchant bank carries out based on its particular business model which is either —

- (a) a business mentioned in section 55V(1)(a), (b) or (c) of the Act; or
- (b) a business prescribed under section 55V(1)(d) of the Act that is similar to any of the businesses mentioned in section 55V(1)(a), (b) and (c) of the Act in terms of economic substance and risks;

“net inter-bank lending”, in relation to the branches and offices located in Singapore of a merchant bank incorporated outside Singapore, means the total lending by those branches and offices to —

- (a) other branches and offices located outside Singapore of the merchant bank incorporated outside Singapore; and

(b) other banks and merchant banks,

less the total borrowing from —

(c) other branches and offices of the merchant bank located outside Singapore; and

(d) other banks and merchant banks;

“quarter” means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October of any year.

Prescribed related or complementary business that is non-revenue generating, etc.

16.—(1) Subject to paragraph (2), any business carried on that is related or complementary to a core financial business of a merchant bank in Singapore is a prescribed business for the merchant bank if —

- (a) the business is one from which the merchant bank in Singapore does not receive or intend to receive any revenue;
- (b) the business is one that has no asset value recorded on the balance-sheet of the merchant bank in Singapore; and
- (c) the business is one that does not result in any exposure for the merchant bank in Singapore.

(2) A merchant bank in Singapore that carries on any business prescribed in paragraph (1) must comply with any other conditions or restrictions that the Authority may impose, from time to time, by written notice in relation to its carrying on of such business.

(3) In this regulation, “core financial business” has the meaning given by regulation 15(7).

PART 4

EXEMPTIONS FROM OBTAINING APPROVAL
FOR ACQUISITION OR HOLDING OF
MAJOR STAKES IN ENTITIES

Disapplication of section 32 of Act to entity carrying on private equity or venture capital business

17.—(1) Section 32 of the Act (as applied by section 55ZF(2) of the Act) does not apply to an entity —

- (a) that carries on a business prescribed in regulation 14(1), whether or not as its principal business; or
- (b) whose principal business is that of investing in any entity mentioned in sub-paragraph (a).

(2) Paragraph (1) applies only if the entity does not carry on any of the following businesses:

- (a) the business of engaging in any property-related activity;
- (b) the business of factoring, leasing equipment or otherwise purchasing debt obligations from another person.

(3) In this regulation, “property-related activity” has the meaning given by regulation 28.

Disapplication of section 32 of Act to entity carrying on business under section 55V(1)(a), (b) or (c) of Act, etc.

18.—(1) Subject to paragraphs (2), (3) and (4), section 32 of the Act (as applied by section 55ZF(2) of the Act) does not apply to an entity that carries on —

- (a) a business prescribed in regulation 15(1) or 16(1); or
- (b) a business of investing in any entity that carries on a business prescribed in regulation 15(1) or 16(1).

(2) In each case mentioned in the following sub-paragraphs, paragraph (1) applies only if the condition corresponding to it is satisfied:

- (a) in a case where the entity carries on a business mentioned in paragraph (1)(a) and other businesses — each of such

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- other businesses is a business mentioned in section 55V(1)(a), (b) or (c) of the Act, or a business prescribed for the purposes of section 55V(1)(d) of the Act that is similar in economic substance and risk to a business mentioned in section 55V(1)(a), (b) or (c) of the Act; or
- (b) in a case where the entity carries on a business mentioned in paragraph (1)(b) and other businesses —
- (i) at least one of such other businesses is a business prescribed in regulation 15(1) or 16(1); and
 - (ii) each of such other businesses is a business mentioned in sub-paragraph (a).
- (3) In addition to the condition mentioned in paragraph (2), paragraph (1) applies only if —
- (a) the aggregate non-financial business size of the merchant bank concerned, after acquiring or holding a major stake in the entity, does not exceed —
 - (i) in the case of a merchant bank incorporated in Singapore —
 - (A) 30% of its capital funds; and
 - (B) 30% of the capital funds of its merchant bank group; or
 - (ii) in the case of the branches and offices located in Singapore of a merchant bank incorporated outside Singapore — 4% of the assets that are reflected as assets in the balance-sheet of the branches and offices located in Singapore (less net inter-bank lending);
 - (b) the merchant bank puts in place risk management and governance policies and procedures that are commensurate with the risks posed by all the businesses carried on by the entity;
 - (c) the policies and procedures mentioned in sub-paragraph (b) have been approved by —

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- (i) in the case of a merchant bank incorporated in Singapore — the board of directors of the merchant bank;
 - (ii) in the case of the branches and offices located in Singapore of a merchant bank incorporated outside Singapore, the head office of which has never carried on a materially similar business before — the board of directors of the merchant bank; or
 - (iii) in the case of the branches and offices located in Singapore of a merchant bank incorporated outside Singapore, the head office of which has carried on or is carrying on a materially similar business — by an authorised person of the merchant bank;
- (d) the merchant bank notifies the Authority of the following matters:
- (i) a description of all the businesses carried on by the entity;
 - (ii) any regulation or licensing requirement that the entity is or will be subject to, whether in Singapore or elsewhere;
 - (iii) the nature and extent of the major stake in the entity acquired or held by the merchant bank;
 - (iv) the date on which the major stake in the entity is acquired by the merchant bank, or (if applicable) the date on which the entity is incorporated, formed or established by the merchant bank,

at least 14 days before the earliest of the following:

- (v) any public announcement that the merchant bank intends to acquire the major stake in the entity, or (if applicable) incorporate, form or establish the entity;
- (vi) the entry of the merchant bank into any agreement to acquire the major stake in the entity, or (if applicable) incorporate, form or establish the entity;

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- (vii) the date on which the major stake in the entity is acquired by the merchant bank, or (if applicable) the date on which the entity is incorporated, formed or established by the merchant bank;
 - (e) the merchant bank notifies the Authority of any change to the matters in relation to which information had been provided in the notification mentioned in sub-paragraph (d), before making the change or as soon as the merchant bank becomes aware of the change;
 - (f) the merchant bank obtains prior approval from the Authority for the issuance by the merchant bank of any guarantee, indemnity, letter of comfort or any other letter that imposes similar obligations on the merchant bank as a guarantee or indemnity, or similar expectations on the merchant bank as a letter of comfort, in respect of any business carried on by the entity; and
 - (g) where the entity is or is to be a subsidiary of the merchant bank —
 - (i) the merchant bank has an agreement with the entity to allow the Authority and any person appointed by the Authority, at any time, to obtain any information from the entity and to inspect the books of the entity; and
 - (ii) where the entity is regulated by a regulatory authority in a foreign country or territory, the merchant bank is satisfied, from its own due diligence or based on professional advice, that the Authority and any person appointed by the Authority are not prohibited from obtaining any information from, or inspecting the books of, the entity.
- (4) A merchant bank in Singapore must, starting on the date of its acquisition of a major stake in any entity and during the period in which it holds such major stake —
- (a) submit a report to the Authority within 30 days after the last day of every quarter, or a later date approved by the

Authority in writing, containing the information specified in the First Schedule; and

- (b) provide any other information that the Authority may require, in relation to any entity in which the merchant bank acquired or holds a major stake under this regulation.

(5) The Authority may —

- (a) having regard to the specific circumstances of a merchant bank in Singapore, including whether the risk management and governance policies and procedures of the merchant bank in Singapore are sufficiently robust to effectively monitor and manage the risks of the entity; or
- (b) if any condition or requirement imposed on a merchant bank in Singapore is not satisfied by the merchant bank at any time,

issue to the merchant bank a written declaration that paragraph (1) does not apply to the merchant bank in relation to any entity specified in the declaration on or after a specified date.

(6) Where a written declaration is issued under paragraph (5), paragraph (1) does not apply to the merchant bank in Singapore on or after the specified date with respect to the specified entity.

(7) In this regulation —

“aggregate non-financial business size”, “authorised person”, “capital funds”, “net inter-bank lending” and “quarter” have the meanings given by regulation 15(7);

“regulatory authority”, in relation to a foreign country or territory, means an authority of the foreign country or territory exercising any function that corresponds to a regulatory function of the Authority under the Act, the Monetary Authority of Singapore Act (Cap. 186) or any of the written laws set out in the Schedule to that Act.

Disapplication of section 32 of Act to subsidiary acquired or held to segregate risks from carrying on business in regulation 15

19.—(1) Subject to paragraph (2), section 32 of the Act (as applied by section 55ZF(2) of the Act) does not apply to a wholly-owned subsidiary of a merchant bank in Singapore, where the merchant bank acquires or holds the major stake in that subsidiary primarily for the purpose of segregating any risk arising from the carrying on of any business prescribed in regulation 15(1), in order to prevent such risk from affecting the financial soundness and stability of the merchant bank.

(2) Paragraph (1) applies only if —

- (a) the merchant bank has an agreement with the subsidiary to allow the Authority and any person appointed by the Authority, at any time —
 - (i) to obtain any information from the subsidiary; and
 - (ii) to inspect the books of the subsidiary;
- (b) where the subsidiary is a financial institution regulated by a regulatory authority in a foreign country or territory — the merchant bank is satisfied, from its own due diligence or based on professional advice, that the Authority and any person appointed by the Authority are not prohibited from obtaining any information from, or inspecting the books of, the subsidiary; and
- (c) the merchant bank ensures that the subsidiary carries on its business in a manner that satisfies any condition relating to the operations or activities of the subsidiary that the Authority may impose, from time to time, by written notice.

(3) In this regulation, “regulatory authority” has the meaning given by regulation 18(7).

PART 5

COMPUTATION OF MAJOR STAKES

Meaning of “affiliated entity”

20.—(1) In this Part and Part 6, “affiliated entity”, in relation to a merchant bank, means —

- (a) any subsidiary of the merchant bank;
- (b) any entity in which the merchant bank and its subsidiaries hold in the aggregate a beneficial interest in at least 20% of the share capital, accumulated funds or contributed capital;
- (c) any entity in which the merchant bank and its subsidiaries control in the aggregate at least 20% of the voting power;
- (d) any other entity where the management of the entity is accustomed or under an obligation, whether formal or informal, to act in accordance with the merchant bank’s directions, instructions or wishes, or where the merchant bank is in a position to determine the policy of the entity; or
- (e) any subsidiary of any entity mentioned in sub-paragraph (b), (c) or (d).

(2) Despite paragraph (1)(a), (b), (c) or (e), any beneficial interest in the share capital, accumulated funds or contributed capital of, or voting power in, an entity that is —

- (a) acquired or controlled by a merchant bank or any entity mentioned in paragraph (1) under an arrangement with a person that has a trading account with the merchant bank or entity, and transferred to the trading account of that person within 2 market days after the date of acquisition; or
- (b) acquired or held, or controlled, by the merchant bank or the entity mentioned in sub-paragraph (a) in the course of satisfaction of debts due to it and disposed of at the earliest suitable opportunity,

is excluded for the purpose of determining whether the entity is an affiliated entity of the merchant bank.

(3) Despite paragraph (1)(c), any voting power in an entity that is controlled by the merchant bank or its subsidiary —

- (a) for the benefit of any person other than the merchant bank or its subsidiary, or any other affiliated entity of the merchant bank (called in this paragraph the beneficiary) under an obligation imposed under any written law, rule of law, contract or order of court; and
- (b) used or exercised by the merchant bank or its subsidiary primarily for the benefit of the beneficiary,

is excluded for the purpose of determining whether the entity is an affiliated entity of the merchant bank.

(4) Paragraph (3) does not apply if —

- (a) the voting power in the entity is controlled by the merchant bank, or a subsidiary of the merchant bank that is a licensed insurer under the Insurance Act (Cap. 142), through —
 - (i) any insurance fund established and maintained under the Insurance Act for its general business;
 - (ii) any insurance fund established and maintained under the Insurance Act for its non-participating policies;
 - (iii) any insurance fund established and maintained under the Insurance Act for its participating policies, and that relates to assets held other than for the purpose of meeting the liabilities in respect of the policies of the insurance fund; or
 - (iv) any insurance fund established and maintained under the Insurance Act for its investment-linked policies, and that relates to assets held other than for the purpose of meeting those liabilities in respect of the policies of the insurance fund, the values of which are dependent on the value of the underlying assets; or
- (b) the Authority —
 - (i) is of the opinion, having regard to the specific circumstances of the case including whether the

merchant bank or its subsidiary has investment and voting policies that comply with guidelines issued by the Authority, that the control of voting power in the entity is in fact not being used or exercised primarily for the benefit of the beneficiary; and

(ii) issues a declaration mentioned in paragraph (5).

(5) For the purpose of paragraph (4)(b)(ii), the Authority may issue a declaration by written notice to the merchant bank that the control of voting power in the entity mentioned in paragraph (3) must, starting from the date specified in the declaration, be included for the purpose of determining whether that entity is an affiliated entity of the merchant bank.

(6) Despite paragraph (1)(e), where an entity mentioned in paragraph (1)(b) or (c) is not an affiliated entity of the merchant bank because of paragraph (2) or (3), a subsidiary of that entity is correspondingly not an affiliated entity of the merchant bank.

(7) In this regulation, “market day”, in relation to a share traded on a securities exchange, means any day on which the securities exchange is open for trading.

Holding by affiliated entity treated as holding by merchant bank

21.—(1) In determining whether a merchant bank holds a major stake in an entity within the meaning of section 55ZF(2) of the Act —

- (a) any beneficial interest in the share capital, accumulated funds or contributed capital of an entity held by an affiliated entity of the merchant bank is treated as held by that merchant bank;
- (b) any voting power in an entity controlled by an affiliated entity of the merchant bank is treated as controlled by that merchant bank; and
- (c) any interest in an entity (where the management of the entity is accustomed or under an obligation, whether formal or informal, to act in accordance with the merchant bank’s directions, instructions or wishes, or where the

merchant bank is in a position to determine the policy of the entity) held by an affiliated entity of the merchant bank is treated as held by that merchant bank.

(2) Paragraph (1)(a) or (b) does not apply to —

(a) any beneficial interest in the share capital, accumulated funds or contributed capital of an entity; or

(b) any voting power in an entity,

that is acquired or held, or controlled, by an affiliated entity and transferred or disposed of by the affiliated entity in the manner mentioned in regulation 20(2)(a) or (b).

(3) Subject to paragraph (4), paragraph (1)(b) or (c) does not apply to any voting power or interest in an entity that is controlled or held by an affiliated entity of a merchant bank —

(a) for the benefit of any person other than the affiliated entity, the merchant bank or any other affiliated entity of the merchant bank (called in this paragraph the beneficiary), under an obligation imposed under any written law, rule of law, contract or order of court; and

(b) used or exercised by that affiliated entity primarily for the benefit of the beneficiary.

(4) Despite paragraph (3), paragraph (1)(b) or (c) applies to any voting power or interest in an entity controlled or held by an affiliated entity of a merchant bank if —

(a) the affiliated entity is an insurer licensed under the Insurance Act, and the voting power or interest is controlled or held by it through any of the insurance funds specified in regulation 20(4)(a); or

(b) the Authority —

(i) is of the opinion, having regard to the specific circumstances of the case including whether the affiliated entity has investment and voting policies that comply with guidelines issued by the Authority, that the voting power or interest in the entity is in fact

not being used or exercised primarily for the benefit of the beneficiary; and

- (ii) issues a declaration under paragraph (5) by written notice to the merchant bank.

(5) For the purpose of paragraph (4)(b)(ii), the Authority may issue a declaration by written notice to the merchant bank that, starting from the date specified in the declaration, paragraph (1)(b) or (c) applies to the voting power or interest in the entity controlled or held by that affiliated entity.

Affiliated entity over which the merchant bank has no effective control

22.—(1) Where an entity falls within the definition of “affiliated entity” under regulation 20(1)(a), (b), (c) or (e), but not regulation 20(1)(d), and the Authority is satisfied that —

- (a) the affiliated entity is not under the effective control of the merchant bank; and
- (b) the merchant bank is not exposed to any material risk because of —
 - (i) the affiliated entity’s beneficial interest in the share capital, accumulated funds or contributed capital of any other entity;
 - (ii) the affiliated entity’s control of voting power in any other entity; or
 - (iii) the affiliated entity’s interest in any other entity,

the Authority may issue a declaration by written notice to the merchant bank that regulation 21(1) does not apply to 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, held by the affiliated entity.

(2) Where a declaration is made under paragraph (1), regulation 21(1) does not apply starting on the date specified in the declaration, until such time as the declaration is revoked.

(3) The Authority may, at any time on or after making the declaration under paragraph (1), impose any condition, and if any condition is not complied with at any time, the Authority may revoke the declaration by written notice to the merchant bank.

(4) The Authority may add to, vary or revoke any condition imposed under paragraph (3).

(5) Without affecting paragraph (3), the Authority may, by written notice to a merchant bank, revoke a declaration made under paragraph (1) if the Authority is satisfied that —

- (a) the affiliated entity has come under the effective control of the merchant bank; or
- (b) the merchant bank has become exposed to any material risk because of —
 - (i) the affiliated entity’s beneficial interest in the share capital, accumulated funds or contributed capital of any other entity;
 - (ii) that affiliated entity’s control of voting power in any other entity; or
 - (iii) that affiliated entity’s interest in any other entity,

and in such event, regulation 21(1) applies to that affiliated entity accordingly starting on the date specified in the notice of revocation.

(6) Without affecting paragraph (5), a declaration under paragraph (1) is automatically revoked if the affiliated entity falls within the definition of “affiliated entity” under regulation 20(1)(d), whether or not that affiliated entity continues to fall within the definition of “affiliated entity” under regulation 20(1)(a), (b), (c) or (e).

PART 6

LIMITATION OF MUTUAL SHAREHOLDINGS

Definitions of this Part

23. In this Part —

“holding company” has the meaning given by section 5 of the Companies Act;

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

Limitation of mutual shareholdings

24.—(1) A qualified major stake entity of a merchant bank incorporated in Singapore must not acquire or hold shares in the merchant bank that has the effect of enabling it, whether alone or jointly with other qualified major stake entities of the merchant bank, to control more than 2% of the voting power in the merchant bank.

(2) A qualified major stake entity of a merchant bank incorporated in Singapore must not acquire or hold shares in any holding company of the merchant bank that has the effect of enabling it, whether alone or jointly with other qualified major stake entities of the merchant bank, to control more than 2% of the voting power in the holding company.

(3) A qualified major stake entity of a merchant bank incorporated in Singapore must not acquire or hold shares in the merchant bank or any holding company of the merchant bank that has the effect of enabling it, whether alone or jointly with other qualified major stake entities of the merchant bank, to control —

(a) any percentage of the voting power in the merchant bank;
and

(b) any percentage of the voting power in any holding company of the merchant bank,

such that the aggregate of the percentages mentioned in sub-paragraphs (a) and (b) (even if they are percentages of voting powers in different companies) exceeds 2.

(4) A merchant bank incorporated in Singapore must not cause or knowingly permit any qualified major stake entity of the merchant bank to acquire or hold shares in the merchant bank or any holding company of the merchant bank in contravention of paragraph (1), (2) or (3).

(5) In determining whether there is a contravention of paragraph (1), (2), (3) or (4), any control of voting power in a merchant bank or any holding company of the merchant bank that is held by a qualified major stake entity of the merchant bank —

- (a) for the benefit of any person other than the qualified major stake entity or any other qualified major stake entity of that merchant bank (called in this paragraph and paragraph (6) the beneficiary), under an obligation imposed under any written law, rule of law, contract or order of court; and
- (b) used or exercised by the qualified major stake entity for the benefit of the beneficiary,

is disregarded.

(6) Paragraph (5) does not apply if —

- (a) the qualified major stake entity is an insurer licensed under the Insurance Act, and the voting power is controlled by it through any of the insurance funds specified in regulation 20(4)(a); or
- (b) the Authority —
 - (i) is of the opinion, having regard to the specific circumstances of the case including whether the qualified major stake entity has investment and voting policies that comply with guidelines issued by the Authority, that the control of voting power in the merchant bank or holding company of the merchant bank is in fact not being used or exercised primarily for the benefit of the beneficiary; and
 - (ii) issues a declaration under paragraph (7) by written notice to the qualified major stake entity.

(7) For the purpose of paragraph (6)(b)(ii), the Authority may issue a declaration by written notice to the qualified major stake entity that, starting from the date specified in the declaration, its control of voting power in the merchant bank or holding company of the merchant bank must be included in determining whether there is a contravention of paragraph (1), (2), (3) or (4).

Qualified major stake entity over which merchant bank has no effective control

25.—(1) Where a qualified major stake entity falls within the definition of “affiliated entity” of a merchant bank under regulation 20(1)(a), (b), (c) or (e) but not regulation 20(1)(d), and the Authority is satisfied that —

- (a) the qualified major stake entity is not under the effective control of the merchant bank; and
- (b) the merchant bank is not exposed to any material risk because of —
 - (i) the qualified major stake entity’s beneficial interest in the share capital, accumulated funds or contributed capital of other entities;
 - (ii) the qualified major stake entity’s control of voting power in other entities; or
 - (iii) the qualified major stake entity’s interest in other entities,

the Authority may, by written notice to the merchant bank, declare that any shares held by the qualified major stake entity in the merchant bank or any holding company of the merchant bank, must be excluded in determining whether there is a contravention of regulation 24(1), (2), (3) or (4) and in such event, the exclusion takes effect starting on the date specified in the declaration until such time as the declaration is revoked.

(2) Upon making a declaration under paragraph (1), the Authority may at any time, impose any condition that it considers appropriate and if any condition is not complied with at any time, the Authority may revoke the declaration by written notice to the merchant bank.

(3) The Authority may add to, vary or revoke any condition imposed under paragraph (2).

(4) Without affecting paragraph (2), the Authority may, by written notice to a merchant bank, revoke a declaration made under paragraph (1) if the Authority is satisfied that —

- (a) the qualified major stake entity has come under the effective control of the merchant bank; or
- (b) the merchant bank has become exposed to material risk because of —
 - (i) the qualified major stake entity’s beneficial interest in the share capital, accumulated funds or contributed capital of other entities;
 - (ii) the qualified major stake entity’s control of voting power in other entities; or
 - (iii) the qualified major stake entity’s interest in other entities,

and in such event, any shares held by the qualified major stake entity in the merchant bank or any holding company of the merchant bank must, starting on the date specified in the notice of revocation, be included in determining whether there is a contravention of regulation 24(1), (2), (3) or (4).

(5) Without affecting paragraph (4), a declaration under paragraph (1) is automatically revoked if the qualified major stake entity falls within the definition of “affiliated entity” under regulation 20(1)(d), whether or not the qualified major stake entity continues to fall within the definition of “affiliated entity” under regulation 20(1)(a), (b), (c) or (e).

Offences, penalties and defences

26.—(1) A person who contravenes regulation 24 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 of \$2,500 for every day or part of a day during which the offence continues after conviction.

(2) A qualified major stake entity of a merchant bank shall not be guilty of an offence in respect of a contravention of regulation 24(1), (2) or (3) if the qualified major stake entity proves that —

- (a) it became a qualified major stake entity of the merchant bank because of, or the contravention resulted from, circumstances beyond its control; or
- (b) it had, at the time of its acquisition or holding of shares in the merchant bank or any holding company of the merchant bank, reasonable grounds for believing that the acquisition or holding would not result in a contravention of regulation 24(1), (2) or (3), as the case may be,

and it had, within 14 days of becoming aware of the contravention, notified the Authority in writing of the contravention and taken any action directed by the Authority within the time determined by the Authority.

(3) A merchant bank shall not be guilty of an offence in respect of a contravention of regulation 24(4) if the merchant bank proves that —

- (a) the contravention resulted from circumstances beyond its control; or
- (b) it did not know and had no reason to suspect that there was an acquisition or holding of shares in itself or any of its holding companies by its qualified major stake entity or entities that would result in the merchant bank being in contravention of regulation 24(4),

and the merchant bank had, within 14 days of becoming aware of the contravention, notified the Authority in writing of that contravention, and taken any action directed by the Authority within the time determined by the Authority.

(4) Except as provided in paragraphs (2) and (3), it is not a defence for a person charged with an offence in respect of a contravention of regulation 24 to prove that the person did not intend to or did not knowingly contravene regulation 24.

Grace period for mutual shareholdings

27.—(1) Where a qualified major stake entity of a merchant bank would, but for this paragraph, be guilty of an offence under regulation 26(1) because of its shareholding in the merchant bank or a holding company of the merchant bank immediately before 1 July 2021, the qualified major stake entity is not so liable under that regulation on or before 30 June 2022 if it does not do any act that causes an increase in the shareholding.

(2) Where a merchant bank would, but for this paragraph, be guilty of an offence under regulation 26(1) because of its qualified major stake entity’s shareholding in itself or its holding company immediately before 1 July 2021, the merchant bank is not so liable under that regulation on or before 30 June 2022 if it does not cause or permit the qualified major stake entity to do any act that causes an increase in the shareholding.

PART 7**EXPOSURE TO IMMOVABLE PROPERTY SECTOR****Definitions of this Part**

28. In this Part —

“credit derivative” means any swap, option or other financial derivative the purpose of which is to secure a profit or avoid a loss by reference —

(a) to the performance by a third party of certain specified obligations; or

(b) to the change in creditworthiness of the third party;

“overseas bank” means a company incorporated, formed or established outside Singapore that carries on banking business only outside Singapore and is not licensed under the Act;

“property corporation” means a body corporate where —

- (a) more than 50% of the total turnover of the body corporate is derived from property-related activities;
or
- (b) more than 50% of the total assets of the body corporate comprises interests in or rights over immovable property situate in Singapore, other than an immovable property or any part of an immovable property that is used —
 - (i) as premises for the conduct of any business carried on by the body corporate;
 - (ii) for the business of a hotel, hostel, serviced apartment, boarding house, lodging house or dormitory; or
 - (iii) for community, charity or educational purposes;

“property-related activity” means —

- (a) the construction of or the causing of the construction of any building on, over or under land in Singapore for the purpose of sale by the person carrying out or causing the construction, of any right or interest in the land that would be appurtenant to the building, other than a building or part of a building constructed for use —
 - (i) for the business of a hotel, hostel, serviced apartment, boarding house, lodging house or dormitory; or
 - (ii) for community, charity or educational purposes;
- (b) the acquisition or holding of any interest in or right over immovable property situate in Singapore for the purpose of rental, or for the purpose of securing a profit from its sale, other than an immovable property or part of an immovable property that is —

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- (i) used or to be used by the person acquiring or holding the immovable property for occupation by the person or any member of the person's family or as premises for any business carried on by the person;
 - (ii) used or to be used for the business of a hotel, hostel, serviced apartment, boarding house, lodging house or dormitory; or
 - (iii) used or to be used for community, charity or educational purposes;
- (c) the financing of any activity mentioned in paragraph (a) or (b);
 - (d) the making of loans to any property corporation;
 - (e) the acquisition or holding as beneficial owner of shares or debentures issued by any property corporation; and
 - (f) the acquisition or holding as beneficial owner of debentures the payment of principal or interest on which is contingent, directly or indirectly, on the turnover, profits or cashflow from any activity under paragraph (a), (b), (c), (d) or (e);

“total eligible assets”, in relation to a merchant bank in Singapore, means the aggregate of —

- (a) amounts outstanding to the merchant bank under credit facilities granted to any person other than a bank, a merchant bank or an overseas bank;
- (b) amounts of debentures beneficially held by the merchant bank and issued by any other person who is not a bank, a merchant bank or an overseas bank;
- (c) amounts paid by the merchant bank for securities transferred to it under a repurchase transaction between the merchant bank and any other party who is not a bank, a merchant bank or an overseas bank, on terms that require the future transfer of

equivalent securities by the merchant bank to the other party;

(d) amounts of contingent liabilities incurred by the merchant bank —

(i) in respect of any obligation of a property corporation; or

(ii) in respect of any obligation of any other person, where such obligation is undertaken in connection with property-related activities;

(e) where the merchant bank has entered into any agreement (including a credit derivative agreement) with any other party under which the other party would secure a benefit or avoid a loss where there is —

(i) a failure by a property corporation to perform its obligations;

(ii) a decline in the creditworthiness of a property corporation; or

(iii) a failure by any person other than a property corporation to perform its obligations where such obligations are undertaken in connection with property-related activities,

the highest amount of such benefit or loss as may be secured or avoided (as the case may be) except to the extent that such amount constitutes part of any amounts under paragraph (d); and

(f) amounts payable to the merchant bank by any person, other than a bank, a merchant bank or an overseas bank, under a bill of exchange or promissory note,

but does not include any amounts in respect of —

(g) in the case of a merchant bank incorporated in Singapore, any instrument or transaction described in paragraphs (a) to (f) not forming part of the merchant bank's business in Singapore, except to the extent

that such instrument or transaction forms part of the property sector exposure of the merchant bank; or

- (h) in the case of the branches and offices located in Singapore of a merchant bank incorporated outside Singapore, any instrument or transaction described in paragraphs (a) to (f) not forming part of the merchant bank's business in Singapore.

Meaning of “property sector exposure”

29.—(1) Subject to paragraph (2), the exposure to the property sector (called in this Part the property sector exposure) of a merchant bank in Singapore is the aggregate of the following:

- (a) amounts outstanding to the merchant bank under credit facilities granted to any property corporation or to any related corporation of a property corporation for use by the property corporation;
- (b) amounts outstanding to the merchant bank under credit facilities granted to any person other than a property corporation —
 - (i) in the case where the person is a corporation — for the purpose of financing or facilitating any property-related activity of the person or a related corporation of the person; and
 - (ii) in any other case — for the purpose of financing or facilitating the property-related activities of the person;
- (c) amounts of debentures beneficially held by the merchant bank and issued by any property corporation;
- (d) amounts of debentures beneficially held by the merchant bank and issued by any person other than a property corporation, where the payment of principal or interest is contingent (whether wholly or in part) on the turnover, profits or cashflow from any property-related activity;
- (e) amounts paid by the merchant bank for securities transferred to it arising from a repurchase transaction

between the merchant bank and a property corporation, on terms that require the future transfer of equivalent securities by the merchant bank to the property corporation;

(f) amounts of contingent liabilities incurred by the merchant bank —

(i) in respect of any obligation of a property corporation; or

(ii) in respect of any obligation of any other person, where the obligation is undertaken in connection with any property-related activity;

(g) where the merchant bank has entered into any agreement (including a credit derivative agreement) with any other party under which the other party would secure a benefit or avoid a loss where there is —

(i) a failure by a property corporation to perform its obligations;

(ii) a decline in the creditworthiness of a property corporation; or

(iii) a failure by any person other than a property corporation to perform its obligations where such obligations are undertaken in connection with any property-related activity,

the highest amount of the benefit or loss that may be secured or avoided (as the case may be) except to the extent that such amount constitutes part of any amounts under sub-paragraph (f);

(h) amounts payable to the merchant bank by any property corporation under a bill of exchange or promissory note.

(2) The property sector exposure of a merchant bank in Singapore does not include any amounts in respect of —

(a) credit facilities granted to the Government or to any statutory board;

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- (b) securities issued by the Government under any written law or bonds issued by any statutory board;
 - (c) debentures held under an agreement entered into by the merchant bank for the underwriting of an issue of such debentures, for a period not exceeding 8 weeks after the date of the launch of the issue;
 - (d) loans, debentures or other assets forming the subject matter of a securitisation transaction where the criteria determined by the Authority for effecting a clean sale of assets by the merchant bank have been complied with; or
 - (e) any instrument or transaction described in paragraph (1) to the extent that the merchant bank would be indemnified or otherwise protected from losses that may be incurred by it under that instrument or transaction pursuant to a guarantee issued by any other bank or merchant bank, or any credit derivative entered into by the merchant bank with any person other than a property corporation.

Property sector exposure limit

30.—(1) The property sector exposure of a merchant bank in Singapore must not exceed 35% of the total eligible assets of the merchant bank.

(2) Despite paragraph (1), the Authority may, in any particular case, vary the property sector exposure limit of a merchant bank in Singapore to be any other percentage for any period specified by the Authority, if the specified circumstances are satisfied.

(3) A merchant bank in Singapore that contravenes this regulation 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 of \$10,000 for every day or part of a day during which the offence continues after conviction.

Submission of returns

31.—(1) Subject to paragraph (2), every merchant bank in Singapore must, within 14 days after 31 December of each year,

submit a return to the Authority on its property sector exposure in the form set out in the Second Schedule.

(2) If the last day for the submission under paragraph (1) is not a business day, the merchant bank may submit the return on the next following business day.

PART 8

TRANSFER OF BUSINESS AND SHARES AND RESTRUCTURING OF MERCHANT BANK

Particulars to be published

32. For the purposes of section 55C(2)(d) of the Act as applied by section 55ZK of the Act, the transferor must publish the following particulars:

- (a) the names of the transferor and transferee;
- (b) a summary of the transfer, including a description of the nature and the effect of the transfer;
- (c) the addresses of the respective offices of the transferor and transferee at which, and the period during which, the report mentioned in section 55C(2)(a) of the Act (as applied by section 55ZK of the Act) would be kept for inspection by any person that may be affected by the transfer.

PART 9

DEPOSIT LIABILITIES OF MERCHANT BANK

Liabilities included in deposit liabilities of merchant bank

33. For the purposes of section 62(3)(b) of the Act as applied by section 62B(5) of the Act, “deposit liabilities”, in relation to a merchant bank, includes the liabilities of a merchant bank to a person under the following arrangement:

- (a) the person pays a sum of money to the person’s agent or the merchant bank for the purpose of making the person’s funds available to the merchant bank and to enable the

person's agent or the merchant bank to purchase an asset on the person's behalf, being an asset that exists at the time of the purchase;

- (b) the merchant bank purchases the asset from the person at a price (the marked-up price) that is greater than the sum of money paid by the person, and sells the asset;
- (c) both the person and the merchant bank do not derive any gain or suffer any loss from any movement in the market value of the asset other than the difference between the marked-up price and the sum of money paid by the person (which represents the return to the person for making the person's funds available to the merchant bank);
- (d) the merchant bank is not required to pay any part of the marked-up price to the person until after the date of the sale of the asset mentioned in paragraph (b) by the merchant bank.

Liabilities not included in deposit liabilities of merchant bank

34. For the purposes of section 62(3)(ii) of the Act as applied by section 62B(5) of the Act, "deposit liabilities", in relation to a merchant bank, does not include the liabilities of a merchant bank in respect of a sum of money paid to the merchant bank by or on behalf of any person in consideration for the issue to the person by the merchant bank of bonds or negotiable certificate of deposits.

PART 10

MISCELLANEOUS

Definition of "subsidiary" in section 48AA of Act

35.—(1) For the purpose of the definition of "subsidiary" in section 48AA(5) of the Act as applied by section 55ZJ(1) 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 that 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 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),

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 —

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- (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 appointment for merchant bank incorporated in Singapore

36.—(1) For the purpose of section 53A(1)(*d*) of the Act as applied by section 55ZJ(1) of the Act, a merchant bank incorporated in Singapore must obtain the prior approval of the Authority for the appointment of its head of treasury.

(2) In this regulation, “head of treasury”, in relation to a merchant 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 merchant bank; and
- (*b*) is principally responsible for the management and conduct of the treasury operations of the merchant bank.

Prescribed appointment for branches and offices of merchant bank incorporated outside Singapore

37.—(1) For the purpose of section 53A(2)(*b*) of the Act as applied by section 55ZJ(1) of the Act, the branches and offices located in Singapore of a merchant bank incorporated outside Singapore must obtain the prior approval of the Authority for the appointment of its head of treasury.

(2) In this regulation, “head of treasury”, in relation to the branches and offices located in Singapore of a merchant 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, those branches and offices; and
- (*b*) is principally responsible for the management and conduct of the treasury operations of those branches and offices.

Maximum term of chairman of merchant bank incorporated in Singapore

38. For the purpose of section 53A(5)(b) of the Act as applied by section 55ZJ(1) of the Act, the maximum term for which the chairman of the board of directors of a merchant bank incorporated in Singapore may hold the office or appointment is 3 years.

Risk management of merchant bank

39.—(1) A merchant 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 merchant bank;
- (b) ensure that compliance of the merchant bank with the internal controls mentioned in sub-paragraph (a) is audited by an internal audit process of the merchant bank;
- (c) where any officer, committee, sub-committee or group of persons has a discretionary power to commit the merchant bank to any financial undertaking or to expose the merchant bank to any business risk —
 - (i) establish limits on the discretionary power that are appropriate, having regard to the business activities of the merchant bank; and
 - (ii) set out the limits mentioned in sub-paragraph (i) in writing; and
- (d) keep documentation sufficient to demonstrate —
 - (i) compliance by the merchant 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) A merchant bank that 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.

FIRST SCHEDULE

Regulations 15(5) and 18(4)

INFORMATION FOR QUARTERLY REPORTS TO BE SUBMITTED BY MERCHANT BANK IN SINGAPORE

1.—(1) The quarterly reports to be submitted by a merchant bank in Singapore to the Authority must contain the following information in relation to that quarter:

- (a) balance-sheet asset value, revenue numbers, and exposures of each of the following businesses:
 - (i) each business prescribed in regulation 14(1) carried on by the merchant bank;
 - (ii) each business prescribed in regulation 15(1) carried on by the merchant bank;
 - (iii) each business carried on by any major stake entity of the merchant bank acquired or held by the merchant bank in accordance with regulation 18;
 - (iv) each business prescribed in regulation 14(1) or 15(1) carried on by any major stake entity of the merchant bank, where —
 - (A) the merchant bank has obtained the approval of the Authority under section 32 of the Act as applied by section 55ZF(2) of the Act to acquire or hold a major stake in the entity; and
 - (B) the approval granted by the Authority mentioned in sub-paragraph (A) is subject to conditions that include the merchant bank having to treat the balance-sheet asset value or exposures (whichever is higher) of the business as part of its aggregate non-financial business size;
 - (v) each business for which the Authority has granted approval to the merchant bank under section 55V(1)(e) of the Act and the approval is subject to conditions that include the merchant bank having to treat the balance-sheet asset value or exposures (whichever is higher) of the business as part of its aggregate non-financial business size;

FIRST SCHEDULE — *continued*

- (vi) each business carried on by any major stake entity of the merchant bank, other than a business mentioned in section 55V(1)(a), (b), (c) or (d) of the Act, where —
 - (A) the merchant bank has obtained the approval of the Authority under section 32 of the Act as applied by section 55ZF(2) of the Act to acquire or hold a major stake in the entity; and
 - (B) the approval granted by the Authority mentioned in sub-paragraph (A) is subject to conditions that include the merchant bank having to treat the balance-sheet asset value or exposures (whichever is higher) of the business as part of its aggregate non-financial business size;
 - (b) the aggregate non-financial business size, as defined in regulation 15(7), of the merchant bank;
 - (c) the merchant bank's utilisation of the regulatory limits prescribed in regulation 15(4).
- (2) In this Schedule, "major stake entity" has the meaning given by regulation 5.

SECOND SCHEDULE

Regulation 31(1)

**ANNUAL REPORTING FOR SECTION 35 OF BANKING ACT,
AS APPLIED BY SECTION 55ZF(3) OF BANKING ACT**

Name of Merchant Bank: _____

Property sector exposure ratio as at _____ (year)

All figures to nearest S\$'000		
Item	Numerator	
1.	Property sector exposure from credit facilities to property corporations	
2.	Property sector exposure from credit facilities to corporations other than property corporations	
3.	Property sector exposure from credit facilities to individuals	
4.	Property sector exposure from debt instruments	
5.	Property sector exposure from guarantees to borrowers	
6.	Property sector exposure from performance bonds and qualifying certificate guarantees	
7.	Other property sector exposure from contingent liabilities	
	Total property sector exposure numerator (A)	
	Denominator	
8.	Total non-bank loans	
9.	Total non-bank debt instruments	
10.	Total contingent liabilities (items 5 + 6 + 7)	
	Total property sector exposure denominator (B)	
	Property sector exposure ratio i.e. (A divided by B)	
	Other Figures	
11.	Owner-occupied housing loans	

Made on 29 June 2021.

RAVI MENON
Managing Director,
Monetary Authority of Singapore.

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