

Banking (Amendment) Regulations 2007

Table of Contents

Enacting Formula

1 Citation and commencement

2 New regulation 4A

3 New regulation 5A

4 New Parts X, XI, XII and XIII

5 Amendment of Third Schedule

No. S 238

BANKING ACT (CHAPTER 19)

BANKING (AMENDMENT) REGULATIONS 2007

In exercise of the powers conferred by sections 4B (4)(*b*) and (4A), 5(2)(*g*), 29(1)(*d*), 55C(2)(*d*), 55F(2), 55J(2), 55M(2), 62(3)(*b*) and (ii), 69(3) and 78(1) of the Banking Act, the Monetary Authority of Singapore hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Banking (Amendment) Regulations 2007 and shall come into operation on 11th June 2007.

New regulation 4A

2. The Banking Regulations (Rg 5) are amended by inserting, immediately after regulation 4, the following regulation:

“Prescribed deposit

4A. For the purposes of section 4B(4)(b) of the Act, a sum of money paid by a person (“A”) to another person (“B”) or any other person as an agent of A is prescribed as a deposit made by A with B, if it is paid for the purpose of making funds of A available to B and under the following arrangement:

- (a) the payment is made to enable B or the agent to purchase an asset on behalf of A, being an asset that exists at the time of the purchase;
- (b) B purchases the asset from A at a price (the marked-up price) that is greater than the sum of money paid by A, and sells the asset;
- (c) A and B, respectively, 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 A (which represents the return to A for making funds available to B); and
- (d) no part of the marked-up price is required to be paid by B to A until after the date of sale of the asset by the B.”.

New regulation 5A

3. The Banking Regulations are amended by inserting, immediately after regulation 5, the following regulation:

“Prescribed international financial institution

5A. The following institutions are prescribed as international financial institutions for the purposes of section 5(2)(g) of the Act:

- (a) African Development Bank;
- (b) Asian Development Bank;
- (c) Bank for International Settlements;
- (d) Caribbean Development Bank;
- (e) Council of Europe Development Bank;
- (f) European Bank for Reconstruction and Development;
- (g) European Central Bank;
- (h) European Investment Bank;
- (i) Inter-American Development Bank;

- (j) Islamic Development Bank;
- (k) Nordic Investment Bank; and
- (l) World Bank Group.”.

New Parts X, XI, XII and XIII

4. The Banking Regulations are amended by inserting, immediately after regulation 23, the following Parts:

“PART X

EXPOSURES AND CREDIT FACILITIES

Prescribed persons

24.—(1) For the purposes of section 29(1)(d) of the Act, the Authority may, by notice in writing to a bank or a class of banks, impose requirements for the purpose of limiting the exposure of the bank or 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; and
- (b) a group of persons —
 - (i) who are financially dependent on one another; or
 - (ii) where one person (referred to in this regulation as the controlling person) controls every other person in that group,

and where at least one of the persons is a counterparty to the bank.

(2) For the purposes of paragraph (1)(a), a company is connected with a bank if —

- (a) it is treated as part of the bank’s group of companies for accounting purposes according to Accounting Standards; and
- (b) in the case of a bank incorporated outside Singapore, it is also reflected as an investment in the books of the bank in Singapore in relation to its operations in Singapore.

(3) For the purposes of paragraph (1)(b)(i), a person A is financially dependent on another person B if by virtue of a contractual or other relationship between them, A will or is likely to be unable to meet A's financial obligations if B is unable to meet B's financial obligations.

(4) For the purposes of paragraph (1)(b)(ii), a person is controlled by the controlling person if the person is —

- (a) a person in which the controlling person holds more than half of the total number of issued shares, whether legally or beneficially;
- (b) a person in which the controlling person controls more than half of the voting power;
- (c) a person in which the controlling person controls the composition of the board of directors;
- (d) a subsidiary of a person described in sub-paragraph (a), (b) or (c); or
- (e) a person the policies of which the controlling person is in a position to determine.

(5) Any reference in this regulation to the controlling person shall, if he is an individual, include a reference to his family member.

PART XI

TRANSFER OF BUSINESS AND SHARES AND RESTRUCTURING OF BANK

Particulars to be published

25. For the purposes of section 55C(2)(d) of the Act, the transferor shall publish the following particulars:

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

Information to be specified in certificate of transfer of business

26. For the purposes of section 55F(2) of the Act, the certificate of transfer shall specify the following information:

- (a) the names of the transferor and transferee;
- (b) whether the transfer is of the whole or part of the business of the transferor, and if it is part of the business, a description of the part of the business to be transferred; and
- (c) details of the determination made by the Authority for the transfer.

Information to be specified in certificate of transfer of shares

27. For the purposes of section 55J(2) of the Act, the certificate of transfer shall specify the following information:

- (a) the names of the transferor and transferee;
- (b) the class and number of shares to be transferred; and
- (c) details of the determination made by the Authority for the transfer.

Information to be specified in certificate of restructuring

28. For the purposes of section 55M(2) of the Act, the certificate of transfer shall specify the following information:

- (a) the amount by which the share capital of the bank is to be reduced and the number of shares that are to be cancelled, or the names of the subscribers (if any) and the number of shares to be issued to each of them, or both, as the case may be; and
- (b) details of the determination made by the Authority for the restructuring.

PART XII

DEPOSIT LIABILITIES OF BANK

Liabilities which are included in deposit liabilities of bank

29. For the purposes of section 62(3)(b) of the Act, “deposit liabilities of a bank” include the liabilities of a bank to a person under the following arrangement: