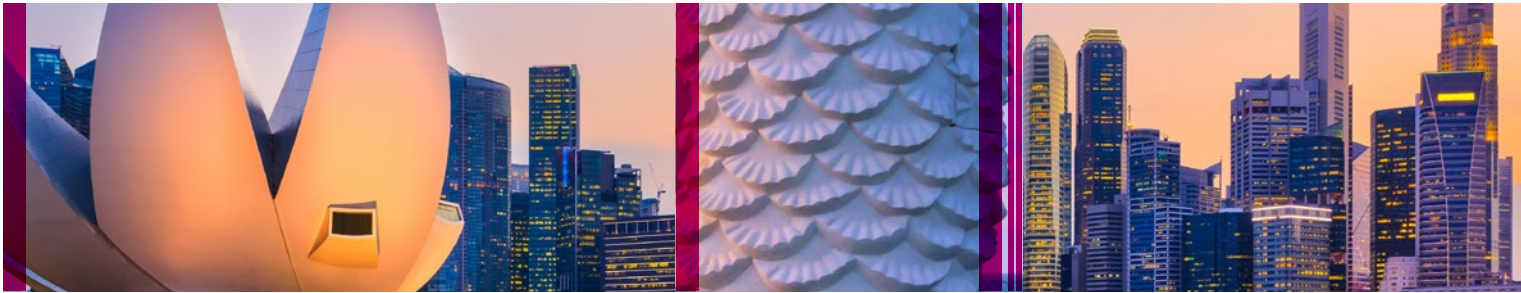


## Review of anti-commingling framework for banks in Singapore



### Summary

The Monetary Authority of Singapore (the “**MAS**”) recently issued a **consultation paper** (the “**CP**”) on its review of the anti-commingling framework for banks. The MAS’ review recognises how the banking landscape has significantly evolved since the anti-commingling framework was first implemented. Recent technological advancements have disrupted traditional business models of banking and created new opportunities for the provision of financial services, which should be reflected in the anti-commingling framework for banks in Singapore.



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### What is the anti-commingling framework for banks?

The anti-commingling policy was introduced by the MAS in 2001 to separate the financial and non-financial businesses (“**NFBs**”) of banks in Singapore. The framework sought to ensure that banks remain focused on their core banking business and competencies, and avoid contagion problems that could arise from the conduct of NFBs. Generally, under the anti-commingling framework, banks were prohibited from (i) directly undertaking businesses other than banking and financial businesses; (ii) acquiring major stakes in non-financial companies; and (iii) using or sharing their names, logos or trade marks.

The policy was amended in 2011 by the introduction of regulation 23G of the Banking Regulations, which expanded the scope for banks seeking to conduct or invest in permissible NFBs (businesses that are related or complementary to banks’ core financial businesses). The MAS now acknowledges that there is scope to simplify the regulatory requirements in this area, while still safeguarding its core policy objectives.

## Key proposals of the MAS

### Streamlining regulation 23G

Following feedback from banks that the exemption under regulation 23G is not widely used as the conditions and requirements set out therein can be onerous, the MAS proposes to refine the anti-commingling framework for banks by streamlining the conditions under regulation 23G. Specifically, the MAS proposed the following:

#### MAS proposals to streamline regulation 23G

- 1 Include within regulation 23G a prescribed list of NFBs that can be carried on pursuant to regulation 23G. This is a departure from the current approach of allowing any NFB to be conducted so long as the bank meets the conditions of regulation 23G and the NFB is not explicitly prohibited under regulation 23G(1)(e). The prescribed list of permissible NFBs is proposed to cover certain activities that banks should be allowed to carry out in light of the evolution of the banking landscape. To this end, the MAS proposes to:
  - > relax the current prohibition on banks conducting NFB related to the sale of consumer goods, and allow them to conduct NFB in relation to the provision of online platforms for the sale of consumer goods, and the direct sale of consumer goods through such platforms; and
  - > allow banks to carry on or invest in NFB in the sale of software or systems that were originally developed or commissioned by the bank for its own core financial business, or to enter into certain tie-up and referral arrangements (in response to industry feedback).

The MAS also proposes to include in the prescribed list other NFBs that banks currently carry on pursuant to regulation 23G (e.g. sales, purchase and trading of commodities; and provision of advisory services to a customer on the social/environmental impact of such customer's actual or planned investments or activities).
- 2 Replace the prior parent supervisory approval requirement with an obligation to notify the MAS (unless the home-jurisdiction laws of the bank separately require the bank to obtain prior regulatory approval).
- 3 Remove the current condition stipulating that the bank must not intend to hold an NFB equity investment (i) for more than seven years; or (ii) for the purpose of allowing the bank to participate in or make any management decisions for the company (as currently set out in regulation 23G(2)(c)).
- 4 Introduce a new safeguard to regulation 23G that a bank does not issue any guarantee, indemnity, letter of comfort or such other letter imposing similar obligations on the bank in respect of the NFB, without the prior approval of the MAS.
- 5 Exempt banks from the single equity investment limit under section 31 of the Banking Act (Cap. 19 of Singapore) (the “BA”), as well as the requirement to seek the MAS’ approval for the acquisition of a major stake in an entity under section 32 of the BA, if the entity to be acquired carries on a permissible NFB prescribed under regulation 23G and the bank complies with the conditions set out therein.
- 6 Require that the aggregate size of all NFBs carried on by the bank under regulation 23G does not exceed 10% of the bank’s (solo and group) capital funds (lowered from 15%, as currently set out in regulation 23G(3)). In addition, the aggregate cap of 20% for the bank’s NFB and private equity/venture capital business (carried on pursuant to regulation 23F) will be removed as it will no longer be relevant, given that regulation 23F already carries its own 10% cap.
- 7 Remove revenue contribution as a measurement of size of permissible NFB, but banks will need to monitor and report revenue contribution.



## Sharing of name, logo or trade mark

The MAS' prior approval is currently required for any use of a locally incorporated bank's name, logo or trade mark. The rationale for this restriction is to avoid any reputation and contagion risks arising from banks and non-financial entities sharing names and logos. The MAS proposes in the CP to allow a locally incorporated bank to place its name, logo and/or trade mark on any event that is sponsored by that bank, subject to deliberation and approval by the bank's board of directors.

## Reporting requirements

The MAS proposes revising the reporting requirements prescribed under the Fourth Schedule to the Banking Regulations in relation to information which a bank in Singapore is required to submit to the MAS. In particular, the reporting requirements will be amended to reflect the removal of revenue contribution as a measurement of size of permissible NFB (as discussed above).

## What should your business do now?

The CP represents an important recognition by the MAS of the need to update the regulatory framework in Singapore to reflect the modern banking landscape. This is a positive development that is in line with the MAS' and the Singapore government's strategy to foster financial technology innovation. It is also a significant development for banks, and if the aforementioned proposals are relevant to your business, you should consider taking the following actions:

## Further information

If you would like to discuss the above, feel free to contact [Peiyong Chua](#) or any of your other Linklaters contacts.

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## Consider how the new framework would fit with your strategy

The MAS' proposed changes to the anti-commingling framework will enable banks to expand their range of services in an increasingly competitive financial services marketplace. It will allow banks to provide a more integrated and seamless customer journey, leverage new technologies for the delivery of goods and services, greatly improve the customer experience, and tie up with third parties to provide more customer-centric offerings. Your business should therefore consider how the proposed changes to the anti-commingling framework (particularly the proposed prescribed list of permissible NFBs) may impact your strategy and allow for expanded product offerings and deeper customer engagement. The MAS has provided a helpful flowchart at Annex D to the CP to determine whether or not a business is a permissible NFB, and you may want to use this to guide your relevant policies going forward.

## Review your internal policies in light of new requirements

The MAS' proposed changes to the anti-commingling framework involve significant revisions to existing requirements. Where your business has existing internal policies to ensure compliance with such requirements, it may be prudent to start thinking about how you could revise such internal policies to comply with the new requirements or leverage the relaxations under the new framework.

## Continue to monitor developments in this area

The proposals in the CP remain subject to change through the consultation process. Furthermore, the MAS is also reviewing the appropriate anti-commingling regime to be applied to bank holding companies and merchant banks, to be consulted on at a later date. Therefore, if such anti-commingling frameworks are relevant to your business, you should actively monitor developments in this area.

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