Asia Pacific Insurance - Singapore

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# Guide for Directors and Senior Managers of Insurance Companies

## Does the CEO, director or senior executives of an insurance company need to be registered or licensed by the insurance regulatory authority?

The Monetary Authority of Singapore (MAS) needs to approve the appointment of a director, chair or key executive person (which includes the chief executive and where applicable, the deputy chief executive) of an insurer incorporated in Singapore. For an insurer not incorporated in Singapore, the appointment of a key executive person also requires the approval of the MAS.

## Is approval from the regulator required for the appointment of a director/senior management of an insurance company? Is there any distinction between persons acting in an executive capacity and persons in a non-executive capacity?

Yes. MAS approval is required for the appointment of key executive persons (including the chief executive, deputy chief executive (where applicable) and appointed/certifying actuary), regardless of where the insurer is incorporated.

Where the insurer is a Tier 1 insurer (ie, a direct life insurer, a direct general insurer or a reinsurer, or a direct composite insurer established or incorporated in Singapore, with at least the minimum prescribed amount of assets or gross premiums) incorporated in Singapore, MAS approval for the appointment of all directors (whether EDs or NEDs), the chair of the board, the nominating committee members, the chief financial officer and the chief risk officer will also be required.

## Is there generally any distinction between EDs and NEDs?

No. There is no distinction (to the extent that it relates to the approval requirement) between an executive director and a non-executive director. MAS approval will be required for a licensed insurer (being one which is established or incorporated in Singapore) to appoint a person as its director, and such director will need to satisfy the MAS that he is a fit and proper person to be so appointed. That said, the assessment of whether a director is fit and proper may differ depending on whether the director is an ED or an NED. For example, the appointment of any person who is assuming concurrent responsibilities, particularly someone who will be or is an ED, requires closer scrutiny.

## Is approval from the regulator required for the resignation or removal of a director/senior management of an insurance company? Is there any distinction between EDs and NEDs?

No. However, MAS must be notified of the resignation or removal of directors/senior management, depending on the relevant position.

## Is there any nationality requirement for directors/senior management of an insurance company? If so, do any exemptions exist?

No. However, residency requirements may apply.

## Is there a minimum qualification or minimum number of years of relevant experience applicable to directors/senior management of an insurance company?

Key executive persons and other directors are subject to fit and proper requirements, which include competence and capability criteria, taking into account past relevant experience and qualifications.

## Are there any other fitness and propriety requirements that apply to directors of an insurance company? What are they?

Yes. Candidates must satisfy the criteria of honesty, integrity and sound reputation, and financial soundness, and comply with the fit and proper guidelines.

## Are there any other negative factors which will disqualify a candidate from becoming a director of an insurance company?

Yes. This includes a past conviction relating to fraud or dishonesty or other criminal offenses, being an undischarged bankrupt, having had execution in respect of a judgment debt returned unsatisfied in whole or in part, having entered into a compromise or scheme of arrangement with creditors (being a compromise or scheme of arrangement that is still in operation), having had a prohibition order made by the MAS against him/her or has been a director or concerned in the management of regulated financial institutions that ended up having their licenses revoked or wound up by a court.

## Is there a residency requirement for directors/senior management of an insurance company (e.g., primary residence must be in each local jurisdiction)?

The chief executive is expected to be primarily a resident in Singapore.

## Does the insurance company need to evaluate its directors/senior management before appointing such persons? What certifications, if any, must the insurance company provide to the insurance regulatory authority in respect of its directors/senior management?

Yes. An insurance company is expected to (i) assess the fitness and propriety of key executive persons, directors and the chair and, where  
applicable, committee members; (ii) assess whether the appointment will cause any conflicts of interest; and (iii) if applicable, satisfy  
independence and board composition requirements.

Information that needs to be submitted to the MAS includes personal particulars, educational and professional qualification, employment  
history, business interests in other entities (including an assessment of any conflict of interest) and a fit and proper certification.

## Generally, are there any distinctions in the duties and responsibilities or the regulatory treatment for EDs and NEDs?

Generally, the board is collectively responsible for the operations of the insurance company. However, we would highlight the following:

In the case of a Singapore branch insurance company, directors who are not responsible for the Singapore operations are, generally speaking, subject to less supervisory oversight by MAS. Rather, members of the senior management, collectively, of the insurer's head office with oversight responsibilities for the insurer's Singapore operations will be required to comply with certain obligations imposed on the licensed insurer.

Independent directors of Singapore-incorporated companies who are members of the relevant committees (see next section) are  
subject to specific corporate governance duties and responsibilities.

## Are there any overarching duties and responsibilities for directors/senior management of insurance companies arising from insurance regulations (in addition to general corporate laws)?

Directors are responsible for the operations of the insurer, including compliance with applicable regulatory requirements. The MAS Guidelines on Risk Management Practices for Insurance Business - Core Activities in this regard provide that the board of directors is ultimately responsible for the sound and prudent management of an insurer. The board should approve the risk management strategy and risk policies pertaining to core insurance activities. It should ensure that adequate resources, expertise and support are provided for the effective implementation of the insurer’s risk management strategy, policies and procedures. The senior management, or a committee comprising members of senior management from both the business operations and control functions, should establish the risk management framework.

The board and committees of Singapore-incorporated insurance companies are subject to specific corporate governance roles and responsibilities.

## Will directors/senior management be personally liable for breach of insurance regulations by the insurance company? What penalties are there, if any?

Yes, unless it is proven that they have exercised all such diligence to prevent the commission of the offense as they ought to have exercised, having regard to the nature of their functions in that capacity and to all the circumstances.

Statutory penalties include fines and/or imprisonment and the quantum/length depends on the offenses committed.

MAS may also issue warning letters or public reprimands and has the power to direct the insurance company to remove a director.

## Are directors/senior management of an insurance company subject to any periodic filing/notification requirements? What are they?

Generally, no periodic filings apply to directors. However, ad hoc filings may apply to resignation or cessation of appointment, notification to the MAS of any new roles/appointment and instances where conflicts of interest arise or there are changes in a fit and proper status. An annual notification on additional roles taken by appointed/certifying actuary applies.

However, these notifications are generally to be filed by the insurance company.

## Is there a requirement on minimum number of the board of directors of an insurance company?

Yes. Singapore-incorporated insurance companies are required to have at least three directors.

## Are there any rules around composition of the board of directors or equivalent (e.g., independence requirement or the number of executive- or management-level directors)?

Yes. For a Tier 1 Singapore-incorporated insurance company, the majority of directors must be independent, subject to certain exceptions.

For a Tier 2 Singapore-incorporated insurance company, at least one-third of directors must be independent, subject to certain exceptions.

## Are there any mandatory requirements for setting up of other committees (e.g., audit, remuneration committees)? If so, briefly describe the responsibilities of these committees.

Yes. Generally, subject to certain exceptions, Tier 1 Singapore-incorporated insurance companies are required to set up the following:

Nominating committee – responsible for identifying candidates and reviewing nominations of key persons and directors

Remuneration committee – responsible for recommending remuneration framework based on prescribed criteria

Audit committee – responsible for audit functions of the insurance company

Risk-management committee – responsible for establishing an independent risk-management system

Rules on the composition (eg, minimum number, independence) of the committees apply.

Note that Tier 1 Singapore-incorporated insurance companies require MAS approval for the appointment of the members of the nominating committee, the chief financial officer and chief risk officer.

## Are directors of an insurance company permitted to hold other passive business interests (e.g., non-executive directorships and investments/shareholdings in other corporations)? What disclosures, if any, need to be made to the relevant regulatory authorities? Are there restrictions on the number of positions board members can hold?

Yes, provided that there is no conflict of interest and subject to an independence rule where the director concerned makes up the independent composition. Such interests will need to be disclosed to the MAS and a report on the assessment of conflict of interest will need to be submitted.

## Is there any requirement or prohibition for an insurance company to make a payment to its directors/senior management?

No specific requirement or prohibition on remuneration to directors/senior management. However, corporate governance rules apply in respect of remuneration of senior management and other key personnel. For certain matters, such as subsidy payments to be made to INEDs, it will require approval from the shareholders in a general meeting.

# Guide to Insurtech Innovation and Utilization

## Who are the relevant regulators in the region?

The Monetary Authority of Singapore (MAS) is Singapore's central bank and the integrated financial regulator supervising financial institutions in Singapore, including banks, insurance companies, capital markets intermediaries and other financial markets infrastructure. If the fintech/insurtech activities involve moneylending, the regulator is the Registrar of Moneylenders.

As a statutory board in the Singapore government, the Infocomm Media Development Authority of Singapore (IMDA) develops and regulates the converged infocomm and media sector, and also seeks to promote and regulate data protection in Singapore through the Personal Data Protection Commission (which is part of the IMDA).

The Intellectual Property Office of Singapore (IPOS) administers the intellectual property regime.

## What are the types of fintech/insurtech activities that are regulated?

Activities involving insurers, insurance intermediaries and the insurance business may be regulated under the Insurance Act (Cap. 142), Financial Advisers Act (Cap. 110), and their attendant regulations, directions, notices, guidelines and industry codes (for example, there are codes of conduct or guidelines under the auspices of the General Insurance Association (GIA) or the Life Insurance Association (LIA)). Regulated insurance companies seeking to commence or develop fintech/insurtech activities must ensure that any new activities comply with the foregoing (as applicable) and do not breach any existing license conditions. In order to encourage more fintech/insurtech experimentation, the MAS has implemented the regulatory sandbox experiment such that companies may avail themselves of a regulatory sandbox to experiment with fintech solutions in the production environment but within a well-defined space and duration.

Payment and settlement systems (for example, digital payments) may be regulated under the Payment Systems (Oversight) Act (Cap. 222A), its attendant regulations, directions, notices and guidelines. Money-changing and remittance businesses will be subject to the requirements of the Money-changing and Remittance Businesses Act (Cap. 187), its attendant regulations, directions, notices and guidelines.

In August 2016, the MAS issued a Consultation Paper on Proposed Activity-based Payments Framework and Establishment of a National Payments Council. This consultation proposes a payment framework that will supersede the Payment Systems (Oversight) Act (Cap. 222 A), and envisages regulation on an activity basis to entities within the payments ecosystem to allow MAS to better address issues such as consumer protection, access, corporate governance, and other emerging risks such as cybersecurity, interoperability, technology, and money-laundering and terrorism financing.

Virtual currencies (for example, Bitcoin) are not regulated; however, the MAS has announced that virtual currency intermediaries may be regulated for anti-money laundering and countering the financing of terrorism purposes.

Any activities involving all offers of investments of securities in Singapore (for example, equity crowdfunding platforms), the dealing of securities, fund management, securities financing, custodial services for securities, leveraged foreign exchange trading, trading in futures contracts, among others, will potentially be regulated under the Securities and Futures Act (Cap. 289). Fintech activities involving moneylending may also be regulated under the Moneylenders Act (Cap. 188).

Separately, in relation to cryptography and data encryption, while Singapore does not have control on the import of cryptographic/dataencryption products or their use, the export of cryptographic/data-encryption products and technology listed in the Strategic Goods Control List of the Strategic Goods (Control) Order 2015, is controlled under the Strategic Goods (Control) Act (Cap. 300).

## What is the attitude and what are the policy views of the regulator in relation to insurtech (if any)? Is innovation encouraged?

There is strong government and regulatory support. The development of the fintech/insurtech space is in line with Singapore's ambition to be a Smart Nation. The MAS seeks to create a Smart Financial Centre where technology is used pervasively in the financial industry to increase efficiency, create opportunities, allow for better management of risks and improve lives. Fintech/insurtech, which involves using technology to devise new financial services and products, is a key ingredient in building a Smart Financial Centre. The regulators have  
been positive and encourage fintech/insurtech innovation in the following ways:

Funding – There are currently various funding schemes for fintech/insurtech-related innovations. In particular, the MAS has committed SGD 225 million to the Financial Sector Technology & Innovation scheme (FSTI), which is aimed at growing the fintech/insurtech ecosystem in Singapore over the next five years by funding the establishment of innovation labs, institutional-level projects and industry-wide initiatives. Some FSTI-supported projects include a decentralized record-keeping system that prevents duplicate invoicing in trade finance, a cyber-risk test bed and a natural catastrophe data analytics exchange. The MAS is providing up to SGD 1.15 million worth of prizes (to a maximum of 10 winners) through the FTSI scheme to recognize innovative fintech solutions that have been implemented.

Support – The MAS, together with the National Research Foundation, has set up a FinTech Office to serve as a one-stop virtual entity for all fintech/insurtech matters and to promote Singapore as a fintech/insurtech hub. The new FinTech Office will assist with reviewing, aligning and enhancing these funding schemes across government agencies, identify gaps and propose strategies, policies, and schemes in industry infrastructure, talent development and manpower requirements, and business competitiveness, and manage the branding and marketing of Singapore as a fintech/insurtech hub through fintech/insurtech events and initiatives. The inaugural Singapore Fintech Festival that was held in Singapore from 14 to 18 November 2016 — the first of its kind in Asia — is a good example of Singapore's commitment to promote itself as a fintech/insurtech hub. The festival showcased, among other things, a selection of up to 20 teams that were invited to ideate and co-create solutions to specific problems/challenges faced in the financial industry. The MAS has also announced the second edition of the Singapore FinTech Festival, which will be held from 13 to 17 November 2017.

Policy views – Recognizing that innovation may be constrained by existing regulations, the MAS indicated that it does not expect financial institutions to seek MAS approval for all new digital products and services. Instead, they may proceed to launch such products without MAS approval provided that they are satisfied with their due diligence that no license or approval is required in relation to such products. In terms of the regulatory approach, the MAS will apply a materiality and proportionality test and ensure that regulation must not front-run innovation. To further this policy, the MAS, in November 2016, issued the FinTech Regulatory Sandbox Guidelines, which seek to encourage more  
fintech experimentation so that promising innovations can be tested in the market and have a chance for wider adoption in Singapore and abroad. Approval to enter the regulatory sandbox should be sought when experimenting with innovative financial services in the production environment, and the MAS may determine the specific legal and regulatory requirements, which it is prepared to relax for each case.

Developing expertise – The MAS has also set up the Financial Technology and Innovation Group within the MAS comprising three divisions (two of which — the Payments & Technology Solutions Office and the Technology Infrastructure Office — would focus on the regulatory policies, whereas the third — the Technology Innovation Lab — would focus on innovation and keep a lookout for opportunities to cooperate with the industry to test bed innovative solutions). This would allow the MAS to ensure that rather than having its regulations play catch-up with innovation, the MAS would stay very much involved and engaged in innovation in order to better supervise and regulate.

## What are the licenses required and what are the criteria and process involved?

The licenses required will depend on the specific activities contemplated. We recommend seeking the advice of local counsel. In brief overview:

Designated Payment Systems. No operator or settlement institution of a designated payment system may hold itself out as such unless the payment system has been designated by the MAS and annual fees are required for operators of designated systems. There are additional conduct of business and reporting obligations. There is no formal application for a license for designated payment systems. However, payment systems that may satisfy the criteria to become designated payment systems would be advised to engage the MAS on their business activities in Singapore.

Stored Value Facilities. Holders of widely accepted stored value facility (WASVF) with an aggregate of more than SGD 30 million will need to be approved as a holder of a WASVF and an approved bank must undertake full liabilities for the stored value held. The SVF Guidelines must comply with the minimum standards. Multipurpose SVFs whose aggregate value is SGD 30 million or less and single-purpose SVFs are subject to a light touch regime where no MAS approval is required (though notification to the MAS may be required), although certain restrictions may continue to apply and they are strongly encouraged to adopt and implement the SVF Guidelines, taking into consideration the nature, size and complexity of their SVFs. Applications to be approved holders of WASVF may take between 3 and 6 months; however, we recommend engaging local counsel and the MAS as early as possible in the process. Remittance business. A remittance license is required for remittance business, unless exempt.

Equity crowdfunding. A capital markets services license may be required for an equity crowdfunding platform. In June 2016, the MAS announced that it will make it easier for start-ups and small and medium enterprises to access securities-based crowdfunding. The MAS has published guidelines on advertising restrictions relating to securities-based crowd-funding and FAQs on lending-based crowdfunding.

Moneylending. A moneylender's license may be required if the contemplated lending activity is not excluded or exempt. Further information for applying for a moneylending license can be found at the following link: https://www.mlaw.gov.sg/content/rom/en/information-for-moneylenders.html.

Services-Based Operator License. A company intending to lease telecommunication network elements (such as transmission capacity and switching services) from any Facilities-Based Operator (FBO) licensed by IDA to provide their own telecommunication services, or to resell the telecommunication services of FBOs to third parties will need to apply for a Services-Based Operator (SBO) License. The SBO Licenses issued by IMDA fall under two categories: the SBO (Individual) License category, where individual licensing is required for the stipulated types of operations and services; and the SBO (Class) License category where interested parties will only be required to register with IMDA before providing the stipulated types of services. In general, operators who lease international transmission capacity for the provision of their services will be licensed individually.

Intellectual property registrations. For completeness, if the fintech/insurtech innovation involves a patentable invention or if there are plans to register a trademark, further information can be found at the following links: (a) for patents (https://www.ipos.gov.sg/protecting-your-ideas/patent/application-process); an d (b) trademarks (https://www.ipos.gov.sg/protecting-your-ideas/trade-mark/application-process)

Please note that the foregoing links may be updated from time to time and you are advised to check with local counsel for updates before relying on the above information.

## Is the use of telematics and/or biometrics regulated?

There are no specific regulations for the use of telematics or biometrics on its own; however, insurance companies should ensure that such use is compliant with any existing regulations or conduct of business requirements. Data privacy concerns will also apply. Further, depending on how such technology is used, we may need to consider whether other areas of regulation are attracted (for example, telecommunications or pharmaceuticals).

## Does the regulator draw a distinction between institutions that are "too big to fail" versus "too small to care"?

Yes, there can be different standards of regulation, for example, for payment systems. While the MAS has general oversight functions and information-gathering powers over payment systems, it has more extensive powers in relation to designated payment systems, which are those where the MAS is satisfied that a disruption in the operations of the payment system could trigger, cause or transmit further disruption to participants or systemic disruption to the financial system of Singapore; a disruption in the operations of the payment system could affect public confidence in payment systems or the financial system of Singapore; or it is otherwise in the interests of the public to do so.

Based on recent public announcements by the MAS, this distinction between "too big to fail" and "too small to care" may also be applied to fintech/insurtech innovations that may not already be regulated. This is because, as mentioned, the MAS has announced that it will apply a materiality and proportionality test and regulation introduced to address risks from fintech/insurtech innovation must be proportionate to the risk posed.

## What laws (if any) do insurance companies have to comply with in respect of technology risk management?

Licensed insurers (other than captive insurers and marine mutual insurers) will need to comply with MAS 127 Notice on Technology Risk Management, registered insurance brokers will need to comply with Insurance companies MAS 506 Notice on Technology Risk Management, and licensed financial advisers will need to comply with FAA-N18 Notice on Technology Risk Management. The Technology Risk Management Guidelines, Business Continuity Guidelines, MAS 126 Notice Enterprise Risk Management for Insurers, MAS Circular No. SRD TR 02/2014 IT Security Risks Posed By Personal Mobile Devices, MAS Circular No. SRD TR 01/2014 System Vulnerability Assessments and Penetration Testing, MAS Circular No. SRD TR 01/2015 Early Detection of Cyber Intrusions and MAS Circular No. SRD TR 03/2015 Technology Risk and Cyber Security Training for Board will also need to be complied with.

## Are there any laws governing big data, including the collection, use, storage, disclosure and transfer of personal data?

Singapore's Personal Data Protection Act 2012 (PDPA) and its attendant Personal Data Protection Regulations (which came into effect on 2 July 2014) applies to all organizations in the private sector. The PDPA regulates the collection, use, storage, disclosure and transfer of personal data in Singapore. In addition to the baseline requirements of the PDPA, additional specific mandatory regulations also apply to certain industries (such as banking and medical) with respect to certain categories of sensitive personal data (such as bank customer  
information and medical records).

The Personal Data Protection Commission (PDPC) has issued advisory guidelines, which indicate the manner in which the PDPC will interpret provisions of the PDPA. Of interest to insurance companies and fintech/insurtech businesses seeking to utilize big data and telematics are the advisory guidelines on the PDPA for selected topics such as analytics and research, and on anonymization, which was revised on 28 March 2017, There are also industry-led guidelines developed by the insurance industry associations, such as the LIA Code of Practice for Life Insurers on the PDPA, and the LIA Code of Conduct for Tied Agents of Life Insurers on the PDPA.

In addition, the PDPC recently, on 20 January 2017, introduced and updated its advisory guidelines to help companies better protect personal data in compliance with the PDPA. The new and/or updated guidelines include:

Guide to preventing accidental disclosure when processing and sending Personal Data (new)(b) Guide to securing Personal Data in electronic medium (updated)

Guide to disposal of Personal Data on physical medium (updated)

Guide on building websites for SME (updated)

Insurance companies will also need to ensure that their dealing with personal data do not contravene any business conduct requirements or any technology risk management guidelines.

## Are there any restrictions that could hinder the growth and usage of insurtech by insurance companies under data privacy laws?

Yes, the PDPA provides the following:

an organization (including insurance companies) should not transfer personal data outside of Singapore unless it ensures that the transferred personal data will be afforded a standard of protection that is at least comparable to that provided under the PDPA

an organization is required to ensure that personal data in its possession and control is protected from unauthorized access and use, and implement appropriate physical, technical and organizational security safeguards commensurate with the amount, nature and sensitivity of the personal data involved, to protect the personal data

an organization should cease to retain personal data as soon as it is reasonable to assume that the purpose for which the personal data was collected is no longer being served and when the retention is no longer necessary for legal or other business purposes

## Are there any laws governing cybersecurity or to mitigate cybersecurity concerns?

Singapore's Computer Misuse and Cybersecurity Act (Cap. 50A) (CMCA) criminalizes certain activities, including the unauthorized access, use, interception and modification of computers, data and computer services, and empowers the Minister of Home Affairs to act against  
cybersecurity threats. On 3 April 2017, the Singapore Parliament passed certain amendments to the CMCA to strengthen Singapore's legislative framework for combatting cybercrime. In particular, the amendments seek to extend the reach of the CMCA by criminalizing acts that are enabled by cybersecurity attacks. For example, it would be unlawful for a person to use hacked credit card details, even if the act of hacking was committed by another. In addition, the amendments also targets acts that enable cybercrime, by criminalizing the act of obtaining and the act of dealing in tools that may be used to commit a CMCA offense (for example, hacking tools such as malware).

The Singapore Minister of Communications and Information has also indicated that a new stand-alone Cyber Security Act (CSA) will be introduced in 2017 to strengthen the powers of the Cyber Security Agency to protect Singapore's critical infrastructure and national systems, such as those in the energy and transport sectors, from cyber threats. The proposed CSA is intended to be an omnibus, overseeing cybersecurity of essential services as a whole. Among other things, the proposed CSA will confer power on the Cyber Security Agency's chief as Commissioner of Cybersecurity to investigate threats and incidents to ensure that critical infrastructure and national systems will not be disrupted in the event of a cyberattack. In addition, the proposed CSA also includes proactive and preventive measures that must be undertaken by owners of critical infrastructure, such as conducting regular system audits by a commissioner-approved  
third party, among others. The Cybersecurity Bill was just released on 10 July 2017 for public consultation.

## What innovations are insurance companies and/or regulators looking at implementing?

In April 2015, the MAS launched a web aggregator called compareFIRST, which allows consumers to compare the premiums and features of life insurance products and acts as a direct purchase channel, allowing people to buy simple life insurance products without commissions and financial advice. Since then, many banks and insurance companies have announced innovation hubs or accelerator programs, with the support of the MAS and other relevant government bodies, including the IDA (now merged with the MDA to constitute the IMDA).

In late 2016, MAS launched its fintech regulatory sandbox experiment in order to encourage more fintech experimentation so that promising innovations can be tested in the market and have a chance for wider adoption. As of June 2017, only one sandbox experiment has been accepted by the MAS and publicly announced. The sandbox is an area of active innovation and there are market trends suggesting continued application of the sandbox to insurtech developments in Singapore.

## Have there been fintech/insurtech-related cases (including competition and/or data privacy) in Asia Pacific

On 17 March 2016, the Competition Commission of Singapore issued an infringement decision against ten financial advisers in Singapore for engaging in an anticompetitive agreement to pressure their competitor, iFAST Financial Pte. Ltd., to withdraw its offer of a 50% commission rebate on competing life insurance products on the Fundsupermart.com website. The ten financial advisers were fined between SGD 5,000 and SGD 405,114, depending on each financial advisor's respective life insurance business turnover and aggravating and mitigating factors. This is the first case involving market access and restriction of market access involving firms in the financial services industry and highlights that the Competition Commission of Singapore will enforce the law where necessary to ensure that new and innovative players can access the market and compete fairly in Singapore.

## What are the most immediate challenges to insurtech innovation?

The high costs of development and innovation; for start-ups, the lack of finances

Regulatory and compliance – Fintech/insurtech businesses may not always fall squarely within any particular regulatory regime in Singapore, and in certain instances, such as the use of virtual currencies and blockchain technology, there is ongoing uncertainty over  
the approach to regulation. The regulatory sandbox approach seeks to mitigate the uncertainty over the application of laws and regulations to new fintech/insurtech businesses, and fintech/insurtech are encouraged to make use of such regulatory framework to continue innovation in their spheres notwithstanding such uncertainty.

Cybersecurity – As the sophistication of cybercriminals has evolved, it is crucial to ensure that there are robust policies and systems in place to address cybersecurity. Failure to do so may also affect customer confidence.

The lack of skilled employees that are able to effectively develop, utilize and apply fintech/insurtech innovations

Data protection privacy – Many insurtech companies are making use of big data capabilities and analytics. Any misuse or leakage of such analytics might be in breach of data protection laws and pose a reputational risk for insurers.

## What has been, or could be, the impact of fintech/insurtech on the financial services industry?

Fintech/insurtech will likely be a key enabler in designing better and more efficient work processes and creating new business models that will deliver higher growth, cost savings and better services for industry participants.

## What insurtech trends or disruptions may impact insurance companies?

Insurance companies will seek to acquire or team up with non-insurance tech players such as new digital insurance start-ups or telematics-related companies in order to deliver new offerings, better price risk, extend the value chain and have greater overall efficiency. As a further example, insurance companies are also looking to mine data sets to identify underwriting opportunities for those who suffer chronic illnesses such as dementia and obesity. With big data, we also expect to see more insurers better adopt end-to-end analytics solutions that cross the entire insurance value chain. In doing so, they hope to gain an enriched, single client view and the ability to execute a targeted pipeline.

Another area may be "just-in-time" insurance. It has also been suggested that the traditional concept of insuring an asset over many periods is outdated, and that instead, the business should move to a more transactional consumption model where just-in-time insurance is delivered on mobile and underwritten in seconds.

We may increase accessibility to insurance in Singapore. The MAS' compareFIRST web aggregator was successful with more than 180,000 visits within the first three months of its launch and we may see the cost of insurance become lower, providing access to lower-income  
consumers. In addition, the insurance sector has seen new contenders come up with the aim of addressing the shortcomings in user experience and analytics of compareFIRST. This ensures a more efficient "aggregator" experience where customers have a smoother experience comparing the latest offerings. Hence, we may see the cost of insurance become lower, providing access to lower-income consumers.

We expect to see enhanced customer service in insurtech. For example, some insurance companies have launched a self-learning virtual assistant, which is meant to provide instant answers to operational inquiries, and thus enabling frontline staff to focus on dealing with more  
complex queries. Other insurtech apps are working on improving the notification system for payment of premiums and renewals. In doing so, insurance companies can heighten efficiency in serving customers, which might help expand the insurance company's customer base.

We can also expect a rise in usage-based insurance and dynamically adjusted premiums. Companies may begin to offer insurance schemes based on lifestyles instead of traditional factors such as age and location.

# Guide for Insurance Sales, Advisory and Distribution

## What are the different types of insurance intermediaries in the market and do they need to hold any licenses and minimum qualification to conduct business?

Third-party intermediaries in the market include tied agents who distribute insurance products for insurers that they represent, independent financial advisers and insurance brokers who source insurance products for insureds or policyholders, and banks that enter into bancassurance with selected insurers to distribute the insurers’ products.

Entities that distribute or provide advice concerning life products (whether acting on behalf of insurers or policyholders) will need to hold a financial adviser’s license or, if eligible, be registered with the Monetary Authority of Singapore (MAS) as an exempt financial adviser under the Financial Advisers Act (FAA). Insurance brokers who arrange general and long-term accident and health policies for policyholders will need to be registered as an insurance broker with the MAS under the Insurance Act (IA), or if eligible, be registered as an exempt insurance broker. Insurance agents who arrange general insurance products only on behalf of insurers do not need to hold a license, but must be registered with the General Insurance Association of Singapore (GIA).

Individual representatives who are involved in the sale or advice of insurance products will be subject to minimum qualification and exam requirements depending on the types of insurance involved. These include possessing the Certificate in General Insurance (CGI) qualification (for general insurance), health insurance module conducted by the Singapore College Insurance (for health insurance) and/or Modules 5, 9 and 9A of the Capital Markets and Financial Advisory Services Examination (for life insurance). Exemptions may apply, for example, where a representative confines its sale and advisory activities for life policies only with accredited or institutional investors.

## Is it mandatory for insurers to offer customers the option of purchasing insurance products directly from them without going through financial advisers or intermediaries?

Licensed life insurers in Singapore who serve the retail market are required to manufacture and offer simple term and whole life insurance products with total and permanent disability cover and optional critical illness rider that customers can buy directly from the life insurers.

## Do agreements between insurers and their agents need to take a certain form?

Agreements with GIA-registered insurance agents should follow the form of the written agency agreement prescribed by the GIA (although customization is permitted). Other than this, there is generally no specific requirement with respect to the forms of agreement between insurers and intermediaries. In practice, terms relating to the appointment of any distributors or agents, remuneration, ownership of and rights  
to client information, and allocation of liabilities and indemnities arising from any mis-selling or other misconduct should be set out clearly in the agreement.

## Can insurers pay volume-based commission to their appointed agents?

Various rules apply with respect to the payment of commissions or other remuneration to appointed agents and other insurance intermediaries, depending on the types of insurance products and insurance intermediaries.

Licensed life insurers in Singapore are prohibited from paying sales or volume-based commissions and other remuneration to intermediaries who provide financial advice to retail investors with respect to life policies, unless it meets certain criteria. For example, for regular premium life policies, insurers are required to pay out commissions over a minimum period of six years, with commissions paid in the first year capped at 55% of the total commissions agreed.

For non-profit commissions, insurers are also prohibited from paying insurance brokers (who arrange general or long-term accident and health policies on behalf of insureds) fixed or variable sales commission based solely on all or any of the following: (a) the number of contracts arranged, (b) total premiums paid payable; and (c) total sums insured.

Other than the specific rules some of which are illustrated above, insurers should abide by general principles of upholding fair practices and standards of conduct, managing conflicts or misalignment of interests adequately and avoid running into any conduct that may be construed as fraudulent or deceptive activities, when determining the commission and remuneration terms for their appointed agents and other intermediaries.

## Are insurers liable for any mis-selling of its agents or appointed distributors?

Insurers may potentially ring-fence some liabilities arising from any mis-selling of its agents or appointed distributors through seeking appropriate protections (such as limitation on authorities, exclusion of liabilities or indemnities) in the contract with agents or distributors, and ensuring that the appointed agents or distributors are not seen as “agent” of the insurer in the legal sense. However, insurers may be separately liable for failing to comply with any related regulatory or compliance requirements, for example, where an insurer has failed to discharge its obligations in ensuring that the appointed agents or distributors’ staff are duly registered or licensed, or possess relevant minimum qualification. Therefore, it is important for insurers to conduct appropriate due diligence on their appointed agents and distributors, and incorporate appropriate safeguards in the agreements.

## Are there rules on the number of insurers that insurance brokers need to present to their customers?

There are no specific minimum requirements. However, insurance brokers and financial advisers who source for insurance products for potential policyholders or insureds would be subject to various conduct of business rules, including ensuring fairness and reasonableness, acting in the best interest of the client and where applicable ensuring reasonableness or suitability of products offered or recommended to the clients. Therefore, effectively, insurance brokers and financial advisers who act for prospective policyholders or insured should offer appropriate comparison of products and/or product providers.

## Can insurance brokers receive commission from both insurers and their customers? If so, can they be volume-based commission?

Insurance brokers may receive commission from insurers provided that disclosure requirements are satisfied. Insurance brokers may also receive service fees from their customers. The receipt of commission and other remuneration from insurers are subject to various rules as explained in item 4 above.

## Can agents or appointed distributors offer rebates on insurance premiums or other special concessions to the customers?

Any rebates of commission or other special concessions offered should not unduly influence the financial decisions of customers, amount to aggressive sale tactics or be relied on as the basis of recommendation of the insurance products. Any alteration of insurance premiums should be authorized by the insurer.

## Can insurers appoint offshore agents or accept business from offshore brokers?

While there is no specific prohibition on Singapore insurers appointing offshore agents or accepting business from offshore brokers, it is likely that the insurer will attract licensing or regulatory issues in the offshore jurisdiction. Therefore, insurers should consider the laws of the offshore jurisdiction before accepting business from offshore brokers or appointing offshore agents.

In the reverse, Singapore agents and brokers are restricted from soliciting insurance business for offshore insurers who are not licensed in Singapore. However, if an insurance broker is approached by clients to advise on or arrange life policies with offshore insurers on a reversed-inquiry basis, the broker may do so if it relates to offshore risks. For onshore risks, the broker cannot negotiate the life policies on  
behalf of the clients even if it is made at the request of the client, unless MAS approval is obtained.

## Are there specific requirements on selling products through call centers, telemarketing or other distribution channels?

Specific rules apply to telemarketing of accident and health policies, such as offering the call recipient to seek advice on the product or to consider whether the policy is suitable for them, and keeping records of the tele-conversation. Sale of Medisave-approved products that are sold via telemarketing cannot be concluded over telephone. Particular attention will also need to be paid on personal data legislation.

Marketing and distribution of insurance products at retailers and public places to retail customers are subject to guidelines and market conduct standards imposed by the MAS. For example, financial institutions are required to conduct call backs and surveys for all customers prospected at retailers and public places before or within the free-look period, conduct regular mystery shopping and site visits to monitor the sales and  
marketing practices of their representatives, ensure that remuneration and incentives paid to representatives do not lead to aggressive sale tactics, and gifts offered to customers do not unduly influence their decision to purchase the product.

## Are there specific requirements on selling products through online channels?

The standards applicable to the sale and advisory process will also apply equally to sales through online channels. Insurance companies are required to comply with technology risk management guidelines when offering financial services through online platforms, and ensure that they formulate security controls, system availability and recovery capabilities commensurate with the level of risk exposure for online services.  
Examples include implementing two-factor authentication to avoid unauthorized access, implement security controls to ensure confidentiality and integrity of data, and maintain high resiliency and availability of online systems. There are also specific maximum unscheduled downtime and recovery time objective that insurers and financial intermediaries will need to comply with. Specific rules apply to direct purchase  
insurance products sold online.

## Can insurers share client information with insurance agents and brokers and vice versa? What data privacy or confidentiality laws apply?

Insurers, agents and brokers owe a general common law duty to their clients and third parties to ensure client information that is of confidential nature is not subject to unauthorized disclosure. In addition, the handling of personal data is subject to the Singapore Personal Data Protection Act 2012. Generally, insurers, agents and brokers must notify clients of the purpose for which their personal data is collected for and obtain consent from the clients for the use and disclosure of their personal data. Transfer of personal data outside the jurisdiction of Singapore is also subject to additional requirements, such as ensuring that the receiving jurisdiction has privacy safeguards of equivalent standards. To the extent that an insurer is receiving client’s personal data through an intermediary and vice versa, the recipient should take steps to ensure that notification to and consent from the client has been obtained for the disclosure of personal data and the purposes  
contemplated.

# Investing in Insurtech Start-ups

## Are there any limitations or criteria on the type of start-up that an insurer can invest in? Does the start-up need to be registered with any authority?

Investment activities by insurers are regulated under the Insurance Act and by the Monetary Authority of Singapore (MAS).

A licensed insurer intending to obtain a major stake in a corporation must obtain the prior approval of MAS. A "major stake" means: (i) beneficial interest exceeding 10% of the total number of issued shares in the start-up; (ii) control of more than 10% of the voting power in the start-up; or (iii) any interest where the directors of the start-up are accustomed or required to act in accordance with the instructions of the licensed insurer.

Licensed insurers seeking to invest in or develop insurtech activities must ensure that any new activities comply with the foregoing and do not breach any existing license conditions imposed by MAS.

## What are the available options in terms of investments that an insurer can make in an insurtech start-up?

An insurer can invest in an insurtech start-up via equity, debt or hybrid financing. However, the insurer must comply with the financial and valuation requirements prescribed under the Insurance (Valuation and Capital) Regulations. If the insurer is intending to experiment with insurtech solutions, it can also consider applying to enter into a regulatory sandbox and if approved, MAS may relax certain legal and regulatory requirements for a period of time.

## What are the restrictions on investing in an onshore insurtech start-up?

A licensed insurer established or incorporated in Singapore must obtain the prior approval of MAS before obtaining a major stake in a corporation, which includes an onshore insurtech start-up (as well as other offshore corporations).

A "major stake" means: (i) beneficial interest exceeding 10% of the total number of issued shares in the start-up; (ii) control of more than 10% of the voting power in the start-up; or (iii) any interest where the directors of the start-up are accustomed or required to act in accordance with the instructions of the licensed insurer.

The insurer will also be required to comply with any existing license conditions imposed by MAS when seeking to invest in an insurtech start-up, and ensure that any investment will not breach the license conditions.

## What are the restrictions on investing in an offshore insurtech start-up? Is approval required from the regulators?

A licensed insurer established or incorporated in Singapore must obtain the prior approval of MAS before obtaining a major stake in a corporation, which includes a foreign company. Accordingly, prior approval from the MAS must be obtained before a licensed insurer obtains a major stake in an offshore insurtech start-up.

The insurer will also be required to comply with any existing license conditions imposed by MAS when seeking to invest in an offshore insurtech start-up, and must ensure that any investment will not breach the license conditions.

## Is an insurer permitted to grant loans to an insurtech start-up? Under what conditions?

If an insurer is carrying on or holding itself out in any way as carrying on the business of moneylending in Singapore, it will be required to hold a license, unless it is an excluded moneylender. For example, if an insurer lends money solely to corporations or limited liability vehicles (e.g., the insurtech start-up), it may be considered an excluded moneylender.

A licensed insurer must not directly or indirectly grant any unsecured loans or advances to any of the following:

A director of the insurer (including the wife, husband, father, mother, son or daughter of the director), exceeding the amount of SGD 5,000 at any one time

An employee of the insurer, exceeding one year's emolument of that employee

The insurer should also consider the requirement under the Insurance (Valuation and Capital) Regulations and any existing license conditions imposed by MAS when considering the grant of the loan.

## What type of corporate approvals is required for an insurer to invest in an insurtech start-up?

If an insurer intends to invest in an insurtech start-up, it must seek approval from the board of directors to establish an investment committee and formulate an investment policy. The insurer must also ensure that its investments are carried out in accordance with the approved investment policy as well as supervised or directed by the investment committee.

General corporate law requirements should also be considered to determine whether other corporate approvals are required from the directors or shareholders, including requirements prescribed under the constitution of the insurer.

The insurtech start-up may also be required to obtain the necessary corporate approvals in order for the insurer to invest. If the insurtech start-up is a Singapore incorporated company, it will also need to comply with general corporate law requirements under Singapore law, such as obtaining shareholders' approval in a general meeting if there is any issue of shares by the company.

## Are there any general minority shareholder protection mechanisms in your jurisdiction?

Yes. Minority shareholders holding 25% or more of the shares in the company are able to veto certain decisions that require special resolution (i.e., 75% approval).

Minority shareholders may call for meetings. Two or more members holding not less than 10% of the total number of issued shares of a company (excluding treasury shares) may call a meeting of the company. In addition, members holding not less than 10% of the paid-up capital (excluding paid-up capital held as treasury shares), which carries voting rights at a general meeting, may requisition the directors of the company to convene an extraordinary general meeting within two months of the requisition.

Minority shareholders have a right to be treated fairly and are entitled to personal remedies in cases of oppression or injustice by the majority shareholders. Minority shareholders also have a right to initiate statutory derivative action on behalf of the company for breach of director's duties.

Minority shareholders may also seek the just and equitable winding up of the company.

## Are there any restrictions on the insurer in terms of appointing its own staff or management to join the insurtech start-up's board of directors or management team?

No, there are no regulatory prohibitions on appointing the insurer’s own staff or management to join the insurtech start-up’s board of directors or management team. This is subject to two considerations. First, issues relating to conflict of interests should be considered. The insurer's own staff or management acting as the insurtech start-up's director or management would owe fiduciary duties to the insurtech start-up (e.g., to act in the best interest of the company), and cannot place the interest of the principal (i.e., the insurer) before that of the insurtech start-up. Second, such persons must continue to meet any fit and proper requirements that may apply to them. The fit and proper criteria include: (i) honesty, integrity and reputation; (ii) competence and capability; and (iii) financial soundness.

Where the insurtech start-up carries out any activities regulated by the MAS, further considerations may apply on the insurtech's appointment of its board of directors or management team.

## Are there any restrictions on entering into a service contract with the insurtech start-up upon completion of the investment? (a) Any connected party transaction restrictions? (b) Any prerequisite approvals required from the regulators or from internal committees?

There is none, assuming that the insurer and the insurtech start-up are not listed companies.

The investment committee of the insurer must ensure that all its investments are carried out in accordance with an investment policy that has been approved by the board of directors, and must exercise added oversight to ensure that the interests and rights of policy owners are not compromised. General corporate law requirements should also be considered to detemine whether the other corporate approvals are required from the directors or shareholders, including requirements prescribed under the constitution of the insurer.

The insurer must also make sure it complies with the MAS Guidelines on Outsourcing in entering into a service contract with the insurtech start-up, and can demonstrate observance with the guidelines. For example, the insurer must ensure that the oversight and governance of outsourcing arrangements, managing outsourcing risks, and implementing an adequate outsourcing risk management framework, continue to rest with the insurer and its board or senior management. If MAS is not satisfied that the insurer has complied with the guidelines, it may require the insurer to take additional measures to address the deficiencies.

## Are there any regulatory requirements on the disclosure of the transactions and connected transactions thereafter between the insurer and the insurtech start-up?

There are none, assuming that the insurer and the insurtech are not listed companies.

## To what extent can the insurer provide operational support to the insurtech start-up?

The insurer can provide back-office services to the insurtech start-up, but in doing so, it must ensure that it continues to have effective control of its risk management framework and internal controls. For instance, the provision of such operational support should not prejudice the insurer's support for its own core functions.

## What type of remuneration is permitted for the insurer to offer to the insurtech start-up?

The insurer and insurtech start-up may enter into a service contract in consideration for a reasonable service fee to be paid by the insurer at arm’s length.

Profit sharing is not expressly prohibited under the Insurance Act. However, it would be necessary to consider whether the remuneration structure could give rise to any inference that the insurtech start-up is receiving remuneration in breach of the restriction as to receipt and payment of remuneration under section 35ZH of the Insurance Act.

## How can the insurtech start-up transfer the intellectual property rights for its

Intellectual property rights may be transferred from the insurtech start-up to the insurance company through an assignment agreement or licensing agreement.

Generally, licensed have to be in writing to be effective. If the license involves trademarks, it has to be in writing and signed by or on behalf of the grantor. If the license involves patents, the license need not be entered in any particular form. If the license involves copyrights, the license must be in writing and signed by or on behalf of the owner or prospective owner of the copyright. Licenses for trademarks, registered designs and patents also need to be registered. For registered designs and patents, unregistered licenses will mean that the license is not effective against a person acquiring a conflicting interest.

If the assignment involves patents or applications for patents, the assignment has to be signed by or on behalf of the parties to the transaction. On the other hand, if the assignment involves trademarks, designs and copyright, the assignment may be signed by or on behalf of the assignor. As a matter of practice, most assignments are also signed by the assignee even if it is not strictly required.

## Are there any laws governing the collection, usage, storage, disclosure and transfer of personal data between the insurer and the insurtech start-up?

The Personal Data Protection Act (PDPA) and the Personal Data Protection Regulations cover the collection, use, storage, disclosure and transfer of personal data in Singapore. Generally, an insurance company should ensure that the individual has given, or is deemed to have given, their consent for the disclosure of their personal data, and that any disclosure of their personal data, and that any disclosure of personal information to the insurtech start-up falls within the purposes in which consent has been given. In this regards, an insurance company intending to transfer personal data to the insurtech start-up may also refer to the Personal Data Protection Commission's (PDPC) Guide to Data Sharing.

If the insurance company intends to transfer personal data to an offshore insurtech start-up, it must ensure that the transferred personal data will be afforded a standard of protection that is at least comparable to that provided under the PDPA in Singapore.

If the insurance company is a life insurance, it may also refer to the PDPC's industry-led guidelines, i.e., the Life Insurance Association (LIA) Singapore Code of Practice for Life Insurers and Code of Conduct for Tied Agents of Life Insurers. These industy-led guidelines clarify the duties, responsibilities and best practices of life insurers and tied agents of life insurers under the PDPA.

# Insurance Regulatory Landscape and Key Considerations for M&A Transactions

## Who is the main regulator with oversight of insurance companies?

Monetary Authority of Singapore (**MAS**)

## Are there foreign ownership limitations for insurance companies? Are there shareholding caps on individuals and/or corporate bodies for insurance companies? If in the affirmative, is this encapsulated within statute or a matter of policy?

There are no foreign ownership limitations or shareholding caps for insurance companies.

## Can an insurance company carry on a composite business (i.e., life and non-life)? Is this encapsulated in statute or a matter of policy?

Yes (based on precedents).

## Are there other conditions imposed by the regulator in doing an M&A transaction?

From a regulatory perspective, MAS approval is required if the M&A transaction results in a person obtaining effective control or substantial shareholding of a licensed insurer incorporated in Singapore, if there is a change in the key executive person, chairman or director of a licensed insurer, or reduction in paid-up capital.

**Control of take-overs of licensed insurers incorporated in Singapore**: No person shall obtain effective control of a licensed insurer incorporated in Singapore without the prior written approval of the MAS. "Effective control" is defined to include holding 20% or more of the total issued shares in the insurer, or being in a position to control 20% or more of the voting power in the insurer.

**Control of substantial shareholdings of licensed insurers licensed in Singapore**: No person shall become a substantial shareholder of a licensed insurer incorporated in Singapore without the prior written approval of MAS. "Substantial shareholding" is defined as interest in one or more voting shares in the company, provided that the total votes attached to the share(s) is not less than 5% of the total votes attached to all the voting shares in the company (Section 81 Companies Act).

**Change in key executive person, chairman or director of licensed insurer**: If the M&A transaction will result in a change or appointment of a new key executive person, chairman, or director of a licensed insurer, MAS approval is required.

**Reduction in paid-up capital**: In the unlikely event that the M&A transaction results in a reduction in paid-up capital, a locally incorporated insurer will need to seek the approval of the MAS.

The insurer should ensure that the M&A transaction will not breach any existing license conditions imposed by the MAS.

There may also be broader considerations such as competition law and regulatory approvals that may be relevant depending on the facts.

## Is dispensation given for fulfillment of these conditions and in what circumstances?

No, MAS approval is required if the M&A transaction results in a person obtaining effective control or substantial shareholding of a licensed insurer incorporated in Singapore, if there is a change in key executive person, chairman or director of a licensed insurer, or reduction in paid-up capital.

## Is there a single presence policy and is it imposed under statute or policy? Is dispensation given and what criteria will the regulator consider?

No, there is no express statutory requirement in relation to a single presence policy. However, the Insurance Act provides that MAS approval is required for a person to become a "substantial shareholder" or to obtain "effective control" of a licensed insurer incorporated in Singapore (see definitions in response to question 4). One of the conditions for approval is the "likely influence of the people in relation to whether the insurer will continue to conduct its business prudently." Therefore, MAS may take into consideration the person's existing substantial shareholding or effective control of a licensed insurer in determining whether to give approval for obtaining effective control or substantial shareholding in another licensed insurer.

## What approvals are required for a foreign entity to take a stake in an insurer? Is there a distinction between a share deal or an asset deal?

**Share deal**

MAS approval is required for a share deal if it will result in the acquirer having a substantial shareholding (i.e., an interest in 5% or more of voting shares) or obtaining effective control (i.e., holding 20% or more of the total issued shares, or being in a position to control 20% or more of the voting power) of a licensed insurer incorporated in Singapore.

**Asset deal**

For an asset deal involving a transfer of the whole of part of an insurance business, MAS approval must be obtained and the transfer must be effected by way of a court-approved scheme.

Both requirements do not apply to the transfer of the whole or part of any insurance business of a company established or incorporated outside Singapore, except insofar as it relates to Singapore policies and offshore policies.

The requirement that the transfer must be effected by a court-approved scheme also does not apply to the transfer of any insurance business of a licensed insurer where it relates to the reinsurance business or a captive insurer.

## How long will regulatory approvals typically take for a share deal versus an asset deal?

**Share deal**

In a share deal resulting in the acquirer having a substantial shareholding or obtaining effective control of a licensed insurer incorporated in Singapore, obtaining regulatory approval will take approximately three to four months.

**Asset deal**

In an asset deal resulting in a transfer of the whole or part of an insurance business, obtaining both MAS and court approvals will take approximately nine to 12 months.

## How open is the regulator to private equity participation in an insurer?

There is no statutory prohibition. Empirically, we note that most insurance companies in Singapore are wholly owned subsidiaries of foreign parent companies or are branches of foreign head offices. However, there are also insurers that are held by multiple private investors. It is likely that private equity investors will be subject to more extensive review in the regulatory approval processof becoming a substantial shareholder of an insurer.

## Is there a financial holding company concept (FHC) or other equivalent status? What are the implications?

FHCs are regulated under the Financial Holding Companies Act (FHCA), which has been gazetted but has not come into force yet.

The FHCA, when in force, will empower MAS to regulate FHCs of financial groups. If the FHC is the ultimate parent of a financial group with a bank and/or insurance subsidiary in Singapore, MAS will be the home supervisor of the FHC and its financial group. If the FHC is an intermediate holding company, MAS will evaluate the significance of its bank and/or insurance subsidiary in Singapore to the Singapore financial system, or to the intermediate FHC group.

Designated FHCs will have to comply with the FHC requirements, including but not limited to, obtaining MAS approval for shareholders with substantial or controlling interests in the FHCs, complying with corporate governance regulations on the roles and responsibilities of directors, and appointing key persons such as the chief executive officer of the FHC.

## What are the typical modes of distribution for insurance companies?

Financial advisors, bancassurance, agency force, brokerage arrangements, and direct and indirect distribution through digital platforms

## Is bancassurance a popular mode of distribution? What approvals are required? What are the main parameters in negotiating a bancassurance agreement?

Yes, bancassurance is a popular mode of distribution.

There are no specific approvals from the MAS, although the bank may need to notify the MAS depending on the scope of the bancassurance arrangements (i.e., banking representatives will need to be appropriately licensed/approved).

The salient terms are:

Exclusivity (and any exclusions to exclusivity)

Products

Co-branding/white label products

Remuneration and risk allocation

Mining of the bank’s customer data

Temination provisions

## What are the top challenges in closing an insurance M&A transaction (share deal versus asset deal)?

**Share and asset deals**

Obtaining the requisite court and MAS approvals

Legal issues relating to the sharing of customer information, especially for foreign insurers considering integration strategies that involve cross-border transfer of information

**Asset deal**

Issuing notices of assignment to all policy holders

Transfer of contracts, policies and other business undertakings

# Data Protection and Cybersecurity

## Who is the main regulator with oversight of data privacy matters?

The Personal Data Protection Commission (PDPC)

## What is the main legislation on the protection of personal data privacy?

The Personal Data Protection Act 2012 (PDPA)

# Regulatory Landscape and Issues in Bancassurance

## Who is the main regulator with oversight of bancassurance matters?

The Monetary Authority of Singapore (**MAS**).

## Is bancassurance a popular mode of distribution? What types of bancassurance partnership arrangements are available?

Yes.

Bancassurance partnerships are generally divided into the following arrangements:

exclusive arrangements;

preferred partner arrangements; and

conventional/open architecture arrangements (i.e., bank will distribute the insurance products of insurer without preferential treatment).

## What are the main parameters in negotiating a distribution agreement?

The salient terms are:

type of bancassurance partnership;

term and renewal;

products and products development;

commission, incentives and timing for such payment;

distribution methodology and operating procedures; and

the mining of the bank’s customer data.

## Are insurance companies and banks required to hold any specific license (whether to be obtained on an ad hoc or ongoing basis) in order to enter into the distribution agreements to provide bancassurance services and products?

Yes, insurance companies and the banks must be respectively licensed (or exempted from licensing) under the Insurance Act (Cap. 142 of the Republic of Singapore), the Banking Act (Cap. 19 of the Republic of Singapore) and the Financial Advisers Act (Cap. 110 of the Republic of Singapore) to carry on insurance business and the booking of general insurance policies, banking business or the marketing/arrangement of life policies (as the case may be) in Singapore.  
  
Representatives or personnel of the banks or insurance companies carrying out such activity must also be appropriately registered (see Question 22 below).

## Are there any legal or regulatory restrictions on the insurance company or the bank providing exclusivity to the other party?

Exclusivity, and its term or duration, is a matter of negotiation between the parties. Parties must also be aware of competition law considerations.

## Assuming full exclusivity is not possible for legal or regulatory reasons, would the bank be able to grant the insurance company preferential treatment? If yes, under what conditions?

Yes, preferential treatment, or preferred partner arrangement, is common in instances where a bank resists an exclusive arrangement. The form of the preferential treatment is a matter of negotiation.

## What type of engagement (if any) with the regulators would be legally required in connection with the negotiation/entering into of the distribution agreements?

No regulatory approval is necessary but a bank which intends to arrange any contract of insurance in respect of life and non-life policies (other than a contract of reinsurance) in the course of its bancassurance activities is obliged to notify the MAS of the commencement of such business.

## Would the insurance company and/or the bank be required to submit the distribution agreements (and any ancillary documents) to the regulators as part of any notification/approval process? If yes, do the regulators require any specific terms to be included in the distribution agreements?

No, unless the MAS requests for it.

## If the distribution agreements are submitted, would the regulators review/provide comments and require that the agreements be modified?

Not applicable.

## Would any antitrust/competition analysis have to be conducted with respect to the insurance company and/or the bank prior to entering into the distribution agreements?

It would be prudent to undertake a competition analysis given the broad application of, and significant penalties for breach under, the Competition Act (Cap. 50B of the Republic of Singapore).

## What are the competition law considerations that might impact the term (e.g., duration) of a distribution agreement?

None in particular. The concern is in determining whether the distribution agreement has any anti-competitive object or effect, and if any exclusions apply.

## Under applicable laws and regulations, would the insurance company be allowed to use customer information (consisting of certain personal and demographic data) possessed by the bank to: (a) develop new products and refine marketing strategies, among others; (b) conduct its own telemarketing or direct mail activities; and (c) cross-sell products?

Any customer information possessed by the bank is subject to banking secrecy provisions under the Banking Act, and such disclosure may only be made if one of the exemptions to banking secrecy applies or the information is processed such that it is not referable to a customer or group of customers.  
  
Further, the collection, use and disclosure of personal data will under the Personal Data Protection Act (No. 26 of 2012) (**PDPA**) require the consent or deemed consent of the individual concerned, unless an exemption applies. Unless consent has been obtained or there is an applicable exemption, the insurance company will not be allowed to use customer information other than for the original purpose for which the insurance company received the information.  
  
The PDPA has also established a Do Not Call Registry, and introduced obligations and restrictions that apply in relation to persons sending specified messages (in the form of voice calls, text or fax messages) to Singapore telephone numbers.

## Are there any laws or regulations limiting or prohibiting the dissemination of customer information without the customers’ consent? Are customers allowed to waive any of these limitations or prohibitions?

Yes, the PDPA prohibits the dissemination of customer information without the customers’ consent. Appropriate consent should be obtained from customers, and where relevant, notifications should be issued to customers. The banking secrecy provisions under the Banking Act also provide an exception to allow disclosure where the customer’s prior written consent is obtained.

## Are there any other prohibitions or limitations resulting from applicable privacy laws relating to the sharing of customer information for purposes of marketing and distribution of insurance products?

Common-law duty of confidentiality may apply.

## Are there any prohibitions or limitations in respect of compensation arrangements for bancassurance transactions (up-front/staggered payments, commission payments, bonus payment schemes)?

Parties should consider the rules in place concerning commission payments for regular premium life policies paid by manufacturers to banks.

## What are the sanctions for non-compliance with the prohibitions or limitations in respect of compensation arrangements?

Currently not applicable, but under the draft Financial Advisers (Remuneration and Incentive) Regulations, a contravention of the proposed compensation limitations and product-related incentives will be regarded as an offense. However, the precise penalties for such contravention has not been prescribed or announced yet.

## Would the regulators request information on compensation arrangements (for specific jurisdictions or globally)?

In our past experience, typically no. However, based on the new requirements proposed (as discussed in Questions 15 and 16 above) this may change.

## Are there any restrictions in relation to the classes of insurance products which may be offered pursuant to a bancassurance arrangement?

No, but depending on the class of product, there may be an obligation to hold a separate license or notify the MAS (see our response to Question 7 above). Different ongoing conduct of business requirements may also apply to different classes of insurance products.

## Are there any products or product lines that the insurance company would be unable to offer to and distribute through the bank?

None, but subject to compliance requirements.

## Would the policy forms used by the insurance company have to be approved by any regulator? Would the insurance company own the intellectual property rights relating to such policy forms?

New policies or policies with features that do not appear in the insurance company’s existing business portfolio need to be approved by the MAS. The approval request requires submission of the policy form, proposal form, product summary and benefit illustration (among others).  
  
Yes, insurance companies own the IP rights to such policy forms.

## Are there any prohibitions or limitations in respect of co-branding between the bank and the insurance company?

No, there is no specific regulatory prohibition or limitations on co-branding provided that the bank does not assume any risk or undertake any liability under the relevant policies and provided that it is not false, misleading or deceptive.

## Would the bank personnel be required to hold any specific license in order to distribute the insurance products? Are there any reasons why bank personnel may be prohibited from distributing insurance products?

The bank would generally exercise care regarding the level of access to its customer data to preserve confidentiality and banking secrecy.

## If the sales person is employed by the bank: (a) is the insurance company required to have oversight or provide special training; and (b) are there applicable laws and regulations allowing the insurance company to compensate the bank for the service provided by its sales personnel?

There is no statutory requirement for training or oversight responsibility by the insurer. However, it is common for the insurer to provide training to the bank personnel.

This is contractual. The bank would be compensated based on the consideration set out within the distribution agreement.

## If the sales person is employed by the insurance company, are there any restrictions on their access to the bank’s branches?

The bank would generally exercise care regarding the level of access to its customer data to preserve confidentiality and banking secrecy.

## Are banks allowed to lease space to insurance companies to market its products in the bank’s branches?

This may be subject to regulatory notifications or approvals, and subject thereto banks are allowed to lease space to insurance companies, provided there are adequate safeguards in segregating information and maintaining confidentiality and banking secrecy.

## Are there any investment requirements (e.g., minimum stake to be held by the insurance company in its distribution partner) or any other similar legal or regulatory obligations that may affect the insurance company’s ability to enter into the distribution agreements?

None.

## Are there any recent (or pending) developments in laws and regulations that may be relevant to the negotiation and/or the entering into of the distribution agreements (or the provision of services by the insurance company and/or the bank pursuant thereto)?

Draft amendments to legislation and the regulatory regime for financial advisory services (including the arranging of life insurance contracts) have been proposed pursuant to the Financial Advisers Industry Review. The key thrusts introduced by the Financial Advisers Industry Review were: (i) raising the quality of financial advisory firms; (ii) lowering distribution costs in respect of distributing life policies; and (iii) promoting a culture of fair dealing.

## Are there any other issues that may affect the insurance company’s ability to enter into the distribution agreements and provide bancassurance services on an ongoing basis to the bank?

None.

# Top 10 Issues to Consider in a Regional Bancassurance Deal

## What are the issues to consider in respect of exclusivity rights in a bancassurance agreement?

Exclusivity rights are common in bancassurance arrangements, and typically restrict the marketing, promotion, distribution or sale of bancassurance products of another insurer or even partnering up with another insurer or bank without prior written permission of the counterparty. Exclusivity, and its term or duration, is a matter of negotiation between the parties, but parties should consider if any competition concerns arise.

## What are generally the obligations of an insurer in terms of providing manpower support?

There are no specific obligations on insurers other than as agreed between the parties. However, it is common for the insurer to be obligated to provide support to the bank by providing dedicated individuals, who may be seconded to the bank, particularly during the initial stages, to train the bank’s staff, assist with the marketing and sale of the bancassurance products, and provide compliance support, alongside the bank’s own staff.

## What are the typical rights and provisions in relation to insurer’s right to access the bank’s customer database and also the obligations of an insurer that is in receipt of such information?

Any customer information possessed by the bank, including the bank’s customer database, is subject to banking secrecy provisions under the Banking Act, and such disclosure may only be made if one of the exemptions to banking secrecy applies or the information is processed such that it is not referable to a customer or group of customers.  
  
Further, the Personal Data Protection Act (**PDPA**) requires the consent or deemed consent of the individual concerned for the collection, use and disclosure of personal data, unless an exemption applies. Unless consent has been obtained or there is an applicable exemption, the insurance company will not be allowed to use customer information other than for the original purpose for which the insurance company received the information.  
  
The PDPA also establishes a Do Not Call Registry, and introduces obligations and restrictions that apply in relation to persons sending specified messages (in the form of voice calls, text or fax messages) to Singapore telephone numbers.  
  
As a result of these privacy restrictions, bancassurance arrangements typically include extensive restrictions on the insurer’s ability to use the bank’s customer database, and often include express obligations regarding the insurer’s compliance with the Banking Act and the PDPA.

## What are the issues to consider in respect of compensation payable by the insurer to the bank and cost of distribution of bancassurance products?

There are no specific prohibitions or limitations in Singapore in respect of compensation arrangements for bancassurance transactions, although note that the Monetary Authority of Singapore has issued a Consultation Paper on Recommendations of the Financial Advisory Industry Review dated 5 March 2013 and a Response to Feedback Received thereto on 30 September 2013. These papers propose certain changes to the regulatory regime for the financial advisory industry, with the key thrusts of, amongst other things: (i) raising the quality of financial advisory firms; (ii) lowering distribution costs; including specific recommendations in respect of distributing life policies; and (iii) promoting a culture of fair dealing. It is currently not known when these changes will come into effect. Depending on the precise changes introduced pursuant to the above consultation, there could be implications on the level of commission payable, and bancassurance arrangements more generally. Currently, however, the level of commission payable remains a matter for negotiation between the parties.

## What can parties do if the insurer is unable to develop or refuses to develop a bancassurance product or cease offering a bancassurance product?

This is a matter for negotiation between the parties. The bancassurance arrangement typically specifies the rights of the parties in the event that the insurer is unable to develop, or ceases to offer, a bancassurance product, and may provide for the right for the bank to either source a new bancassurance product from a third party, or terminate the agreement if certain service levels, including the provision of specific bancassurance products, are not met.

## What are the possible terms and issues relating to intellectual property that has been jointly developed (JDIP) pursuant to a bancassurance agreement?

The bancassurance arrangement will typically provide for a non-exclusive royalty-free license to be provided by each party to the other in respect of their trademarks and any JDIP in order for the parties to perform their respective obligations under the bancassurance arrangement.  
  
A party that is responsible for creating and/or developing a JDIP will also be expected to provide a warranty that the JDIP does not infringe any third-party rights or laws.  
  
In terms of the ownership of any JDIP, this should, generally, be agreed between the parties at the outset of the arrangement to avoid any future disputes regarding ownership of any JDIP.

## What happens to the facilitation fee for the promotional and marketing activities paid by the insurer to the bank in the event of an early termination?

This is generally a matter for negotiation between the parties, but may involve the refund or partial refund of the facilitation fee where the early termination is caused by the bank. Depending on the negotiation position of the parties, the termination provisions may also provide that the facilitation fee (i) is refunded pro rata (in accordance with a specific calculation/methodology) in the event of a no-fault early termination (e.g., a change in regulation), and/or (ii) is retained by the bank in the event of a default by the insurer.

## A pro-rata refund of the facilitation fee in the event of an early termination may not be fair to the banks as the banks would typically invest and incur more costs and expenses during the initial years of a bancassurance agreement to promote and market and put in place a business structure to supports the objectives of the bancassurance agreement. How can the parties address this issue?

The facilitation fee and any refund (pro-rata or otherwise) can be structured in any way that the parties determine. Depending on the negotiation position of the parties, and the anticipated expenditure by the bank in the early stages of the relationship, the facilitation fee may be paid by the insurer to the bank in tranches. If structured in this way, the bank may argue that no refund of the facilitation fee should be paid if there has been no default by the bank.

## Can a party ask for an indemnity for any losses, expenses and damages suffered as a result of an act by a bank staff and conversely can a bank to ask for an indemnity or any losses, expenses and damages suffered which is attributed to the other party?

Yes, although this is a matter of negotiation between the parties and will depend on the parties’ negotiation powers. In any event, bancassurance agreements typically provide for specific undertakings from each party to comply with any regulatory requirements and applicable laws, including any anti-bribery, money laundering and corruption laws.

## What are the issues to consider when forming a bancassurance steering committee?

A bancassurance steering committee is jointly formed by the insurer and the bank to facilitate collaboration and to ensure the effective implementation of the bancassurance business and the annual business plan.  
  
The issues that the parties may wish to address include the purpose of the steering committee and the authority that the steering committee has in relation to specific matters (such as approval of business plans, monitoring of compliance with service level agreements, resolution of disputes, allocation of resources, approval of new products or amendments to existing products and identification of business development opportunities). The parties should also consider the composition of the steering committee and identity of the chairman, voting (including deadlock resolution mechanisms) and frequency of the steering committee’s meetings.

# Digitalization in Insurance Guide

## Is there any specific regulation governing the sale of insurance through online platforms?

No. There is no specific regulation that generally governs the sale of all types of insurance products through online platforms. However, there are notices and guidelines issued in relation to the online distribution of life policies under certain circumstances. To this end, the Monetary Authority of Singapore (**MAS**) has issued: (i) to direct life insurers on 13 May 2016, the Notice on Direct Purchase Insurance Products - Life Insurers; (ii) to financial advisers on 30 March 2015, the Notice on the Distribution of Direct Purchase Insurance Products; and (iii) to direct insurers and financial advisers on 31 March 2017, the Guidelines on the Online Distribution of Life Policies with No Advice. The said guidelines set out the MAS' expectations on the safeguards that direct life insurers and financial advisers arranging life policies should put in place for the online distribution of life policies without the provision of advice.

## Is the sale of insurance through mobile applications subject to the same requirements as the online sale?

Yes, the same requirements should apply as there is no distinction made between different modes of online sales. For instance, "online direct channel", in relation to the online distribution of life policies with no advice, is defined to mean any web portal or application in the internet.

## Set out three key regulatory requirements for the distributions of products online or through mobile applications.

All insurers distributing products online or through mobile applications should (i) comply with technology risk management guidelines, (ii) ensure that they formulate security controls, and (iii) implement system availability and recovery capabilities commensurate with the level of risk exposure for online services.

## Do the current insurance regulations in your jurisdiction allow the KYC process be done online or electronically? If so, what are the key requirements?

Yes, the KYC process may be done online or electronically. Insurers must ensure that their e-KYC process meets the usual KYC requirements prescribed by MAS' AML/CFT Notices and Guidelines.

## Do the insurance regulations permit insurance policies/contracts to be concluded through digital means? For example, through a “click-through” or “e-signature”, without any wet signature.

Yes, the use of an electronic signature is sufficient to render terms and conditions as binding and enforceable. Under the Electronic Transactions Act (Cap. 88 of the Republic of Singapore), an offer and the acceptance of an offer may be expressed by means of electronic communications, and in such a case, the contract so formed will not be denied validity or enforceability solely on the ground that an electronic communication was used, save for certain limited instances of contracts which does not include insurance policies/contracts.

## Is there any specific regulation governing the advertising of insurance products through online platforms or the use of aggregators?

No specific regulation governing the advertisement of insurance products online; this is subject to the same regulations as advertising through other means. However, licensed insurers are required to provide certain prescribed information under MAS Notice 322 (Information to be Submitted relating to the Web Aggregator) in relation to a web aggregator which the MAS (or such person as the MAS may appoint) creates, develops and operates for the purposes of publishing certain information from time to time, to assist any person in the purchase of a policy.

## Are there any customer service requirements if the insurers sell their products online?

The MAS Guidelines on the Online Distribution of Life Policies with No Advice provides that a direct life insurer should set up appropriate avenues to address general queries from its clients relating to the life policies offered on its online direct channel, including telephone or email helplines. The insurer should also provide information, such as contact details, information on the claims process and the process for filing complaints, on its online direct channel. Similar requirements apply to financial advisers.

## If an obligation is imposed on insurers to allow customers to amend or update their policies online, are there any specific regulatory requirements governing that process?

There is no such obligation imposed yet.

## Are insurers required to apply for specific insurance licenses in order to conduct online sales?

No. There are no specific insurance licenses for the conduct of online sales, and insurers may perform online sales with their current insurance licenses. In relation to direct purchase insurance products (**DPI**) for life insurance, the insurer is required to obtain written approval from the MAS before offering any new DPI or re-priced DPI for sale to the public.

## In order to conduct online sales, are insurance intermediaries required to apply for any specific insurance licenses?

No. Insurance intermediaries may perform online sales with their current licenses. They do not need to make any additional registrations with any regulatory body to perform online sales. However, financial advisers arranging life policies via an online direct channel are required to comply with the Guidelines on the Online Distribution of Life Policies with No Advice.

## Are there specific requirements on the commission rates paid to insurance intermediaries for online sales? Please specify if these rates are different from the rates applicable in the case of insurance sale through other means.

No. Singapore law does not prescribe different levels of commission rates to be paid to insurance intermediaries for online sales as opposed to insurance sale through other means. However, note the Insurance Act (Cap. 142 of the Republic of Singapore) which provides that an insurer shall not pay to a registered insurance broker, in respect of the arranging or effecting of contracts of insurance by the insurance broker with the insurer, remuneration at a rate or on a basis that has been varied, having regard solely to all or any of the following: (a) the number of contracts so arranged or effected; (b) the total amount of premiums paid or payable under such contracts; and (c) the total amount of sums insured under such contracts.

Separately, the Insurance (Web Aggregator Fees) Regulations 2015 prescribe certain fees in relation to a direct life insurer's participation in a web aggregator.

## Where the insurers do not engage in online insurance sales themselves, but engage intermediaries to do so, would the insurers be deemed as offering or selling insurance products online?

Where there is a use of an intermediary for the online sales of an insurer's products, the insurer will likely generally be regarded as offering or selling its insurance products online but whether a legal agency or other relationship is established, and the extent of responsibility the insurer has in respect of the intermediary, will depend on the engagement of and scope of authority granted to the intermediary. The analysis would include consideration of factors such as: (a) whether the intermediary could be regarded as an outsourced service provider to the insurer; (b) whether the intermediary holds a separate licence to market products of the insurer; and (c) whether the intermediary is acting as an agent of the insurer (as an insurance agent) or an agent for insureds or intending insureds (as an insurance broker) (e.g., through a general platform hosting products of multiple insureds).

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