Global Financial Services Regulatory Guide - Singapore

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# 1. Who regulates banking and financial services in your jurisdiction?

## Who regulates banking and financial services in your jurisdiction?

The Monetary Authority of Singapore (MAS) is the integrated supervisor overseeing and supervising all financial institutions in Singapore, including banks, insurers, capital market intermediaries, financial advisors and market operators. The MAS has enforcement powers and oversees the compliance of all financial institutions in various areas, including in relation to Anti-money laundering and countering the financing of terrorism (AML/CFT). The MAS is also tasked with promoting and developing Singapore as an internationally competitive financial center.

In addition to the MAS, the Commercial Affairs Department (CAD) of the Singapore Police Force is the principal white-collar crime investigation agency in Singapore. Among others, the CAD investigates AML/CFT and fraud involving employees of financial institutions. The MAS and CAD jointly investigate all capital markets and financial advisory offenses as well to improve effectiveness in market misconduct offenses.

# 2. What are the main sources of regulatory laws in your jurisdiction?

## What are the main sources of regulatory laws in your jurisdiction?

The main sources of regulatory laws in Singapore are found in primary legislation, such as the following:

The Banking Act (Cap. 19)

The Financial Advisers Act (Cap. 110)

The Insurance Act (Cap. 142)

The Securities and Futures Act (Cap. 289)

The Payment Services Act (PSA).

The various acts provide the MAS with authority to prescribe subsidiary legislation, make regulations and issue directions. The subsidiary legislation, regulations and directions set out in greater detail the requirements that financial institutions have to comply with, and they detail the criteria that the regulated entities must meet when applying for the necessary licenses. Compliance is mandatory, and contravention of subsidiary legislation, regulations or directions is a criminal offense.

The MAS also issues guidelines that set out the best practices that govern the following, among others:

The conduct of financial institutions on various issues, including on risk management

AML/CFT practices to adhere to MASs supervisory regime

 While the guidelines are not legally binding, the degree of observance with the guidelines may impact the MASs overall risk assessment of a financial institution. Codes are also sometimes used to set out a system of rules governing the conduct of certain specific activities. Failure to abide by a code does not in itself amount to a criminal offense but may have other consequences, including sanctions like a private reprimand or public censure. The MAS also regularly issues practice notes and circulars to a specific or specific class of financial institutions in order to provide guidance or information.

# 3. What types of activities require a license in your jurisdiction?

## What types of activities require a license in your jurisdiction?

Singapore regulates a broad range of financial activities, including the following:

Banking business – This covers the business of receiving money on a current or deposit account, paying and collecting checks drawn by or paid in by customers, and the making of advances to customers.

Dealing in capital markets products – This includes marketing or dealing in and introducing broker activity in relation to capital markets products, which includes securities, debentures, units of CIS, exchange-traded derivatives, over-the-counter derivatives, and spot foreign exchange contracts for the purpose of leveraged foreign exchange trading.

Financial advisory services – This covers advising others concerning any investment products (including securities, debentures, units of CIS, exchange-traded derivatives, over-the-counter derivatives, spot foreign exchange contracts and life policies), issuing or promulgating research analyses or research reports concerning any investment products, and arranging life policies.

Fund management – This covers undertaking on behalf of customers (whether on a discretionary authority or otherwise) the management of a portfolio of capital markets products for the purpose of managing customers’ funds.

Insurance or insurance broking business – The insurance business includes insurance businesses concerned with life and non-life policies. Insurance brokers are persons who carry out insurance business as agents for the insured.

Issuing credit and charge cards – Credit and charge card refers to any article, whether in physical or electronic form, intended for use in purchasing goods or services on credit.

Payment services - The following payment services are regulated:

Money ‑changing

Account issuance

Domestic money transfer

Cross ‑border money transfer

Merchant acquisition

Digital payment token (not currency-denominated)

E-money issuance (denominated in currency)

The PSA will license payment service providers as follows:

Money-changing licensee  ̶  money-changing service

Standard Payment Institution licensee

money-changing service

any payment account (account issuance, domestic money transfer, cross‑border money transfer, merchant acquisition, digital payment token) where the monthly transactions amount to less than SGD 3 million for any one service or less than SGD 6 million for any two or more services

E-money issuance service where the average daily stored value is less than SGD 5 million or the average daily value of specified e-money issued is less than SGD 5 million

Major Payment Institution licensee

money-changing service

any payment account (account issuance, domestic money transfer, cross‑border money transfer, merchant acquisition, digital payment token) where the monthly transactions amount to more than SGD 3 million for any one service or more than SGD 6 million for any two or more services

E-money issuance service where the average daily stored value is more than SGD 5 million or the average daily value of specified e-money issued is more than SGD 5 million

Designated payment systems - Operators and settlement institutions of designated payment systems (generally, a funds transfer system or another system that facilitates the circulation of money and includes any instruments and procedures that relate to the system that the MAS has designated under the PSA) will be subject to regulations under the PSA

Other capital markets intermediaries – This includes advising on corporate finance, real estate investment trust management, product financing, and provision of credit rating services.

Providing custodial services – This includes having custody of specified products (including securities, specified securities-based derivatives contracts or units in a CIS) and carrying out functions such as the settlement of transactions, collecting or distributing dividends, paying tax or costs associated with the securities, exercising rights attached to securities, and others necessary or incidental to the safeguarding or administration of the specified products.

Operating an organized market - This includes a market for being a place or facility where offers or invitations to exchange, sell or purchase derivatives contracts, securities or units of CIS are regularly made on a centralized basis, and where such offers or invitations are intended or may reasonably be expected to result, whether directly or indirectly, in the acceptance or making of offers to sell or purchase such products, whether through that place or facility or otherwise.

Others - Clearing houses, trade repositories and financial benchmarks, moneylenders, and spot commodity brokers/financial advisers/pool operators are subject to licensing and regulations as well.

Prospectus requirements/selling restrictions - The offer of securities, debentures and units in CIS may also trigger prospectus requirements unless exemptions can be relied on.

For each of these activities, certain exemptions from the requirement to be licensed, registered, authorized or recognized may apply.

The specific nature and functions of crypto-assets and crypto-currencies need to be assessed to determine how they are regulated in Singapore. Generally, crypto-assets such as security tokens that satisfy the definition of capital markets products would be regulated under the securities and capital markets regulatory regime under the Securities and Futures Act. Crypto-currencies such as Bitcoin and Ether are regulated as digital payment tokens under the Payments Services Act. Stable coins, on the other hand, depending on their specific features, may potentially be considered to be e-money, regulated under the Payment Services Act, or digital payment tokens. At the moment, payment token derivatives that are not issued on an approved exchange in Singapore are not regulated. Utility tokens that do not fall within the scope of local regulation would also not be regulated.

# 4. How do the licensing requirements apply to cross-border business in your jurisdiction?

## How do the licensing requirements apply to cross-border business in your jurisdiction?

A firm outside Singapore that deals with a client or counterparty located in Singapore is subject to Singapore laws and regulations if it conducts activities or transacts business in Singapore or targets persons in Singapore.

Where a firm conducts its activities wholly outside Singapore, it may still be subject to Singapore laws and regulations, depending on whether the applicable statute governing that activity has extraterritorial jurisdiction. For example, under the Banking Act, no person, whether in Singapore or elsewhere, shall accept any deposit from any person in Singapore or accept or receive in Singapore any application for a credit card or charge card. Under the Securities and Futures Act (which generally regulates capital markets activities) and the Insurance Act (which regulates insurance and insurance broking business), acts done wholly outside Singapore will be subject to regulation if they have a substantial and foreseeable effect in Singapore. Under the Financial Advisers Act (which regulates financial advisory services), a person is regarded as carrying out financial advisory business in Singapore if they engage in any activity or conduct intended to or likely to induce the public in Singapore to use any financial advisory service provided by them.

Certain exemptions do apply. For example, it is not the MAS policy intent to regulate activities conducted wholly outside Singapore where the foreign entity is responding to unsolicited inquiries or applications from persons in Singapore; the foreign entity is servicing a client previously resident overseas who has subsequently become a resident in Singapore; or when the foreign entity purchases the services of, or provides services to, a regulated person. Exemption from licensing requirements may also apply for certain specific activities where the foreign firm is related to an entity regulated in Singapore.

A firm based outside Singapore should also be cautious of regulatory requirements in Singapore when conducting non-regulated activities in Singapore. Under Singapore law, any person carrying out business or having a place of business in Singapore must register the business or company in Singapore. Firms should also not transact business in Singapore under the name “bank”; carry out business in Singapore under the name “insurance,” “insurance broker” or “financial advisor”; or display the title or description “securities exchange,” “futures exchange,” “securities clearing house” or “futures clearing house” in Singapore, unless they are authorized to do so by the MAS.

There is no restriction on foreign ownership of entities carrying out regulated activities in Singapore. However, in some cases, such as fund management, dealing in capital markets products, providing financial advisory services, and payment services, the MAS will require that a company be incorporated in Singapore to obtain the license for providing such regulated services.

Where a firm is authorized to carry out regulated activities such as fund management, trading, provision of custodial services, or provision of financial advisory services, it may be required to register individuals acting on its behalf in the public register of representatives maintained by the MAS. To cater to situations where individuals ordinarily based outside Singapore may carry out regulated activities in Singapore on behalf of their firms, an individual may be appointed as a temporary representative. A temporary representative is not required to comply with certain minimum examination requirements but may not carry out regulated activities in Singapore for more than six months in any 24-month period.

# 5. What are the requirements to obtain authorization in your jurisdiction?

## What are the requirements to obtain authorization in your jurisdiction?

In order to become authorized, recognized, licensed or registered to carry out regulated activities in Singapore, an applicant for authorization must satisfy the relevant regulator that it meets certain requirements. The requirements, which may be set out in primary or subsidiary legislation, notices, directions or guidelines, vary, depending on the type of activity the applicant intends to carry out.

Broadly, however, the following conditions will need to be satisfied:

Location of offices - Companies seeking a license to carry out capital markets services or financial advisory services must establish and operate out of a Singapore office. In addition, such companies may be required to appoint a chief executive officer and/or a director who is a resident in Singapore.

Adequate resources - Generally, the MAS will prescribe a minimum capital or financial requirement for financial institutions applying to carry out regulated activities in Singapore. For some activities, professional indemnity insurance is either required or strongly encouraged.

Suitability - The MAS will consider whether the applicant, its officers, directors and shareholders are fit and proper to carry out regulated activities in Singapore. The criteria for considering whether they are fit and proper include, but are not limited to: honesty, integrity and reputation; competence and capability; and financial soundness.

Experience - The MAS may also consider the applicant's track record and whether its directors and representatives have relevant experience. Where the applicant is a foreign company, the MAS will also consider whether it is subject to proper supervision by a recognized home regulatory authority.

# 6. What is the process for becoming authorized in your jurisdiction?

## What is the process for becoming authorized in your jurisdiction?

Generally, an applicant must undergo a formal process involving the completion of required application forms and the submission of supporting information. There is no time frame in which the MAS must consider and decide on an application.  The particular forms that must be completed for submission to the MAS will depend on the nature of the regulated activities to be conducted. The requisite forms (if any) may be found on MAS' website.

For a license to carry out capital markets services or financial advisory services, the following forms are broadly required:

License Application Form ̶  This form sets out information about the applicant, its proposed business activities, organizational structure, shareholders and directors.

Individual Forms ̶  An applicant will also have to submit forms providing information about individuals to be appointed as representatives, chief executive officer and directors. The applicant will have to certify that it is satisfied that such individuals are fit and proper.

Supporting documents ̶  Various documents, such as business plans, organization charts and recent audited financial statements must be submitted with the forms set out above.

Letter of responsibility or undertaking - In some cases, the MAS may require the applicant to procure a letter of responsibility or undertaking from its parent company, which commits the parent company to maintaining adequate oversight over the applicant or to undertaking liability if the applicant fails to maintain certain liquidity or financial requirements.

The MAS has the FinTech Regulatory Sandbox which enables financial institution and FinTech players to experiment with innovative financial products or services in a live environment but within a well-defined space and duration. There could therefore be already licensed financial institutions expanding the scope of their activities or new market entrants looking at obtaining a license.  Depending on the experiment, MAS will provide the appropriate regulatory support by relaxing specific legal and regulatory requirements prescribed by MAS, which the sandbox entity will otherwise be subject to, for the duration of the sandbox. The sandbox will include appropriate safeguards to contain the consequences of failure and maintain the overall safety and soundness of the financial system. Upon successful experimentation and on exiting the sandbox, the sandbox entity must fully comply with the relevant legal and regulatory requirements. There are two sandbox options: (i) sandbox for more complex business models where customization is required to balance the risks and benefits of the experiment; and (ii) fast track approvals for activities where the risks are low and well understood by the market.  It is also possible for FinTech players to apply for the relevant licenses under the standard license application process without having to go into the sandbox if there is no intention to test products within the sandbox.

# 7. What financial services passporting arrangements does your jurisdiction have with other jurisdiction?

## What financial services passporting arrangements does your jurisdiction have with other jurisdiction?

To take advantage of investor interest in the growing economies and sophistication of the financial markets in the Asia Pacific region, a number of Asian economies have collaborated to initiate Asia-centric fund passport schemes. Two schemes involving Singapore are as follows:

 The Association of Southeast Asian Nations Collective Investment Schemes Framework for Cross Border Offering of Funds ("**ASEAN CIS Framework"**)

The Asia-Pacific Economic Cooperation (APEC) Asia Region Funds Passport

**ASEAN CIS Framework**

In October 2013, the securities regulators and capital market authorities of Singapore, Malaysia and Thailand signed a memorandum of understanding to establish the ASEAN CIS Framework for the cross-border offering of collective investment schemes (CIS).

The objective of the ASEAN CIS Framework is to allow a qualifying fund manager to offer units of an ASEAN CIS authorized in its home jurisdiction to retail investors in other host jurisdictions with minimal regulatory hurdles. The participating countries adopt uniform Standards of Qualifying CIS set out the minimum qualifications required for the CIS operator and its management and personnel, relevant investment restrictions, and the obligations of the CIS operator.

At the time of writing, there have been at least 10 funds registered under the SFA and approved as Qualifying CIS under the ASEAN CIS Framework.

We understand that the participating countries have also separately agreed to an arrangement to provide mutual assistance to facilitate cross-border offerings of CIS to non-retail investors. However, no further details in this regard are currently given.

**APEC Asia Region Funds Passport**

Another funds passport scheme is the APEC Asia Region Funds Passport, which was launched on 1 February 2019. It facilitates the distribution across regional borders of CIS funds manufactured, distributed and administered within the APEC region (similar to the operation of the ASEAN CIS Framework but with a broader reach).

Japan, Thailand, Australia and New Zealand are ready to receive registration applications from local prospective Passport funds as well as entry applications from foreign Passport funds.

The Republic of Korea continues to make progress with the legal and regulatory requirements for implementation required in its jurisdiction.

# 8. Authors and Contact Information

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