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## MAS Consults on Revisions to Corporate Governance Requirements for Banks & Insurers Incorporated in Singapore

### Executive Summary

The Monetary Authority of Singapore ("**MAS**") is seeking feedback on proposed revisions to the corporate governance requirements for financial holding companies, banks, direct insurers, reinsurers and captive insurers which are incorporated in Singapore in the Consultation Paper titled "Consultation Paper on Revisions to the Guidelines on Corporate Governance" issued on 7 May 2021 ("**Consultation Paper**").

Banks and insurers incorporated in Singapore are required to comply with the corporate governance requirements set out in the Banking (Corporate Governance) Regulations 2005 and Insurance (Corporate Governance) Regulations 2013, respectively (collectively, "**CG Regulations**"). The statutory requirements in these regulations relate primarily to independent directors, constitution of the board of directors of these banks and insurers ("**Board**"), and the constitution and key responsibilities of the Board committees. In addition, MAS expects a bank and an insurer incorporated in Singapore to observe the Guidelines on Corporate Governance ("**CG Guidelines**") to the fullest extent possible and, disclose its corporate governance practices, and explain deviations from the CG Guidelines in its annual reports (if it is listed on the Singapore Exchange Securities Trading Limited ("**SGX-ST**") or on its website (if it is not listed on the SGX-ST).

The CG Guidelines provide guidance on best good practices on corporate governance that FIs should observe. The CG Guidelines comprise the principles and provisions of the Code of Corporate Governance ("**CG Code**") which apply to all companies listed on the SGX-ST (including banks and insurers incorporated in Singapore) as well as additional guidelines for locally-incorporated banks and insurers ("**FI-specific Guidelines**").

The proposed revisions to the CG Guidelines set out in the Consultation Paper aim to incorporate revisions made to the CG Code in 2018 to reinforce board competencies and emphasise disclosures of the relationship between remuneration and value creation as well as to update the FI-specific Guidelines with reference to international standards and industry good practices. In addition, MAS proposes mandating the compliance of some provisions in the CG Guidelines by shifting them to the CG Regulations.

The consultation ends on **18 June 2021**.



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This Update highlights the following main proposed revisions MAS is seeking feedback on:

- Compliance with the Principles of CG Code in the CG Guidelines;
- Revision of FI-specific Guidelines relating to the roles and responsibility of the Board, remuneration practices, documentation of unresolved concerns of independent directors, and appointment of non-directors to the Board Risk Committee ("**BRC**"); and
- Inclusion of certain fundamental corporate governance requirements in the CG Regulations.

## Compliance with Principles of CG Code

When the CG Code was revised in 2018, significant changes were made to the structure of the CG Code and the way in which companies listed on the SGX-ST are required to describe their corporate governance practices. Shifting from the pure comply or explain approach, the CG Code in 2018 contains core Principles of corporate governance that must be observed by companies listed on the SGX-ST. They are required to disclose how they conform to the Principles set out in the CG Code. In addition, the CG Code sets out Provisions that underpin the Principles of the CG Code. Companies are expected to comply with the Provisions or explicitly explain any deviations from a Provision and how their deviated practices are consistent with the aim and philosophy of the Principle in question.

MAS expects locally-incorporated banks, Tier 1 insurers,<sup>1</sup> and designated financial holding companies that own a locally-incorporated bank or Tier 1 insurer ("**Relevant FIs**") to fully observe the Principles of the CG Code set out in the CG Guidelines.

Deviations from the principles concerning shareholder rights and engagement (Principles 11 and 12 of the CG Code) are acceptable if they are not relevant in the context of the ownership structure of non-listed FIs. MAS proposes that the Relevant FIs that do not observe Principles 11 and 12 should explain the deviation in their annual reports (for listed FIs) or company websites (for non-listed FIs).

For Tier 2 insurers, captive insurers, and designated financial holding companies which own Tier 2 insurers, MAS does not expect full observance of the Principles in the CG Code, but any variation should be explained in their annual reports (for listed FIs) or company websites (for non-listed FIs).

MAS highlighted that all FIs within the scope of the CG Guidelines should continue to observe or explain variations from the provisions of the CG Code and FI-specific Guidelines in their annual reports (for listed FIs) or company websites (for non-listed FIs).

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<sup>1</sup> Tier 1 insurer means a registered insurer that is: (i) established or incorporated in Singapore; and (ii) in the case of (a) a direct life insurer, its latest annual audited statement of financial position shows that it has total assets of at least \$5 billion or its equivalent in any foreign currency; (b) a direct general insurer or reinsurer, its latest annual audited statement of profit and loss shows that it has gross premiums of at least \$500 million or its equivalent in any foreign currency in its insurance funds and Overseas (Branch) Operations; and (c) a direct composite insurer, satisfies the requirements of (ii)(a) in respect of its assets or (ii)(b) in respect of gross premiums for its general business. Refer to the [Insurance \(Corporate Governance\) Regulations 2013](#) for definitions of Tier 1 and Tier 2 insurers.

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## Key Proposed Revisions to FI-specific Guidelines

### Roles and responsibilities of Board

MAS proposes an elaboration on these roles to align with expectations under the Basel Committee on Banking Supervision Core Principles for Effective Banking Supervision (BCBS BCPs) and the International Association of Insurance Supervisors Core Principles (IAIS ICPs).

Proposed revisions to the FI-specific Guidelines include elaboration on the Board's oversight of the FI's strategic direction, overall business objectives, senior management as well as risk management. There are also new provisions on the role of the Audit Committee in relation to the external auditor. For details, refer to paragraph 3.2 of the Consultation Paper.

### Remuneration practices

The current CG Guidelines require the BRC of FIs to adopt the Financial Stability Board Principles and Standards for Sound Compensation Practices ("**FSB P&S**"), which are presently appended in full as an Annex to the CG Guidelines.

To emphasise their importance, MAS proposes to set out key expectations under the FSB P&S and its Supplementary Guidance as FI-specific Guidelines, instead of appending them in an Annex. These cover several areas such as the BRC having active oversight of and monitoring the effectiveness of remuneration policies, particularly in relation to key management personnel and other "material risk takers" ("**MRTs**"). MRTs refer to employees whose actions may have a material impact on the risk exposure of an FI. It is proposed that FIs should conduct an independent annual review of their compensation practices to assess the level of compliance with the relevant regulations and guidelines, and submit the review to MAS upon request. For details, refer to paragraph 3.4 of the Consultation Paper.

### Documentation of unresolved concerns of independent directors

Independent directors are expected to provide independent views to the Board of FIs, as well as to mitigate risks arising from possible conflict of interest situations. In view of the critical role that independent directors play in Board deliberations and decision-making, MAS proposes a new FI-specific Guideline to require unresolved concerns of the independent directors, particularly those on the running of the company or a proposed corporate action, to be documented in the minutes of meetings of the Board.

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### **Appointment of non-directors to the BRC**

Under the CG Regulations, the BRC is required, among other things, to oversee the establishment and operation of an independent risk management system for the FI. FIs are expected to appoint directors with skills and expertise relevant to their business strategy and objectives. Some FIs have highlighted the practical challenges in covering certain specialised risk areas due to a limited pool of suitably qualified director candidates.

In view of the above, MAS proposes a new FI-specific Guideline to clarify that an expert, who is not a director, may be appointed as a member of the BRC. Any such appointments should be notified to MAS at least 30 days prior to the date of appointment. MAS expects the non-director to commit to appropriate undertakings for proper accountability.

### **Inclusion of Certain CG Guidelines in CG Regulations**

Currently, the CG Regulations set out the overall key responsibilities of the various Board committees, and the key responsibilities of the Board are currently contained only in the CG Guidelines.

MAS proposes shifting certain expectations that are fundamental to good corporate governance presently contained in the CG Guidelines to the CG Regulations for mandatory compliance by the relevant FIs. These include for instance key responsibilities of the Board. MAS also proposes to include a requirement that the Board committees' written terms of reference should clearly set out the authority and duties of the committees in the CG Regulations.

MAS also proposes shifting the provisions that relate to MAS' baseline expectations on corporate governance into the CG Regulations. These proposals are aimed at, among other things, strengthening the oversight of the FI's internal controls and its internal audit function; fortifying the independence of directors on the Board; and increasing transparency on the profile of directors on the Board.

Additionally, considering that the decisions/actions of MRTs could materially impact an FI's risk profile, MAS proposes to extend existing remuneration requirements in the CG Regulations on executive officers to MRTs, and strengthen the BRC's ability to ensure that remuneration policies do not create incentives for excessive risk-taking behaviour. It is also important for FIs to have appropriate standards and processes in place to properly identify and subject MRTs to more stringent remuneration requirements.

The existing provisions and FI-specific Guidelines that are proposed to be shifted to the CG Regulations will temporarily remain in the CG Guidelines until amendments to the CG Regulations are effected.

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## **Further Information**

If you have any queries on the above development or would like to submit any feedback to the Consultation Paper, please feel free to contact our team members below who will be happy to assist.

Click on the following link for more information:

- MAS Consultation Paper titled "[Consultation Paper on Revisions to the Guidelines on Corporate Governance](#)" (available on MAS website)

## Contacts

### Financial Institutions



**Regina Liew**  
Head, Financial Institutions  
Group

T +65 6232 0456

[regina.liew@rajahtann.com](mailto:regina.liew@rajahtann.com)



**Larry Lim**  
Deputy Head, Financial  
Institutions Group

T +65 6232 0482

[larry.lim@rajahtann.com](mailto:larry.lim@rajahtann.com)



**Benjamin Liew**  
Partner, Financial Institutions  
Group

T +65 6232 0686

[benjamin.liew@rajahtann.com](mailto:benjamin.liew@rajahtann.com)

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## Insurance & Reinsurance



**Simon Goh**  
Head, Insurance & Reinsurance

T +65 6232 0645

[simon.goh@rajahtann.com](mailto:simon.goh@rajahtann.com)



**Elaine Tay**  
Partner, Insurance &  
Reinsurance

T +65 6232 0673

[elaine.tay@rajahtann.com](mailto:elaine.tay@rajahtann.com)



**Wang Ying Shuang**  
Partner, Insurance & Reinsurance

T +65 6232 0365

[ying.shuang.wang@rajahtann.com](mailto:ying.shuang.wang@rajahtann.com)

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Please feel free to also contact Knowledge and Risk Management at [eOASIS@rajahtann.com](mailto:eOASIS@rajahtann.com)

## Our Regional Contacts

### RAJAH & TANN | *Singapore*

**Rajah & Tann Singapore LLP**  
T +65 6535 3600  
sg.rajahtannasia.com

### R&T SOK & HENG | *Cambodia*

**R&T Sok & Heng Law Office**  
T +855 23 963 112 / 113  
F +855 23 963 116  
kh.rajahtannasia.com

### RAJAH & TANN 立杰上海

SHANGHAI REPRESENTATIVE OFFICE | *China*

**Rajah & Tann Singapore LLP  
Shanghai Representative Office**  
T +86 21 6120 8818  
F +86 21 6120 8820  
cn.rajahtannasia.com

### ASSEGAF HAMZAH & PARTNERS | *Indonesia*

**Assegaf Hamzah & Partners**

#### Jakarta Office

T +62 21 2555 7800  
F +62 21 2555 7899

#### Surabaya Office

T +62 31 5116 4550  
F +62 31 5116 4560  
www.ahp.co.id

### RAJAH & TANN | *Lao PDR*

**Rajah & Tann (Laos) Co., Ltd.**

T +856 21 454 239  
F +856 21 285 261  
la.rajahtannasia.com

### CHRISTOPHER & LEE ONG | *Malaysia*

**Christopher & Lee Ong**  
T +60 3 2273 1919  
F +60 3 2273 8310  
www.christopherleeong.com

### RAJAH & TANN | *Myanmar*

**Rajah & Tann Myanmar Company Limited**  
T +95 1 9345 343 / +95 1 9345 346  
F +95 1 9345 348  
mm.rajahtannasia.com

### GATMAYTAN YAP PATACSIL

GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*  
**Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)**

T +632 8894 0377 to 79 / +632 8894 4931 to 32  
F +632 8552 1977 to 78  
www.cagatlaw.com

### RAJAH & TANN | *Thailand*

**R&T Asia (Thailand) Limited**

T +66 2 656 1991  
F +66 2 656 0833  
th.rajahtannasia.com

### RAJAH & TANN LCT LAWYERS | *Vietnam*

**Rajah & Tann LCT Lawyers**

#### Ho Chi Minh City Office

T +84 28 3821 2382 / +84 28 3821 2673  
F +84 28 3520 8206

#### Hanoi Office

T +84 24 3267 6127  
F +84 24 3267 6128  
www.rajahtannlct.com

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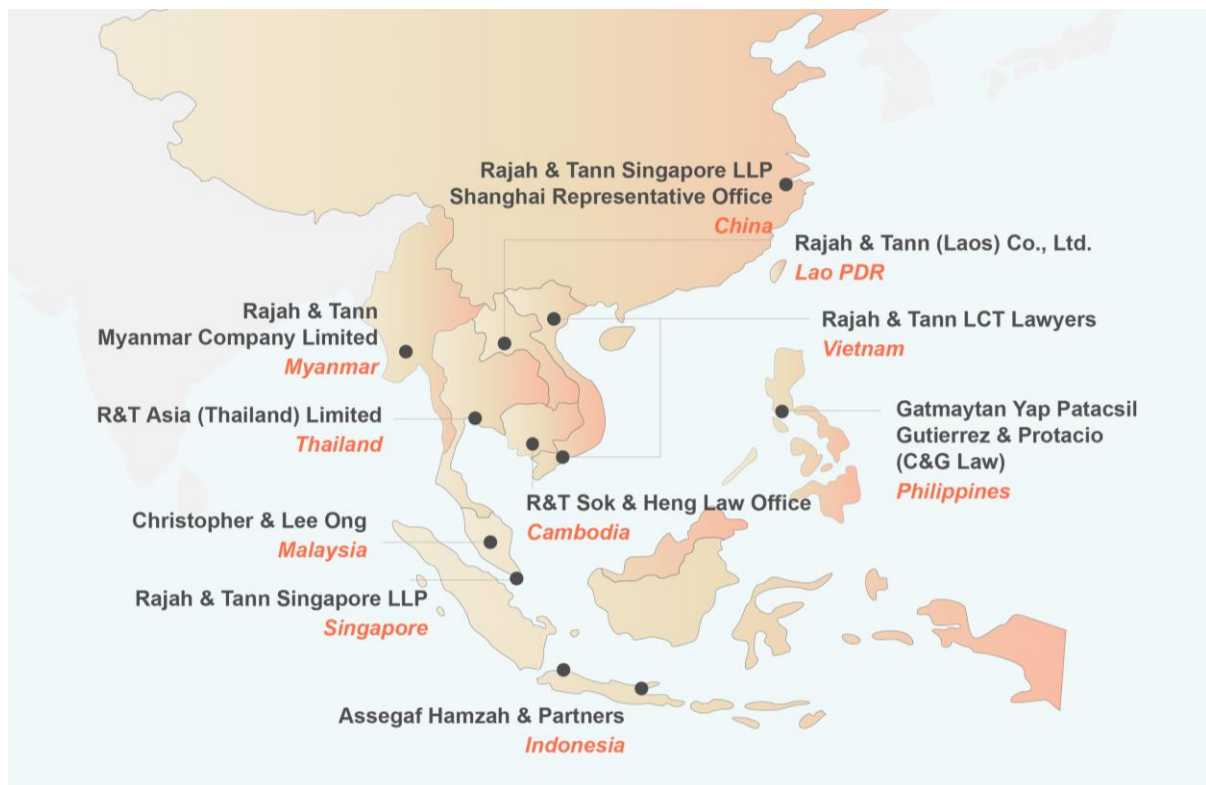


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