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# MAS Revises Corporate Governance Guidelines for Singapore-Incorporated Banks & Insurers

## Executive Summary

On 9 November 2021, the Monetary Authority of Singapore ("**MAS**") published revised Guidelines on Corporate Governance ("**2021 CG Guidelines**") for financial holding companies, banks and insurers incorporated in Singapore (collectively, "**FIs**").

The CG Guidelines provide guidance on best good practices on corporate governance that FIs should observe. It comprises the Principles and Provisions of the Code of Corporate Governance 2018 ("**CG Code**") which apply to companies listed on the Singapore Exchange Securities Trading Limited ("**SGX-ST**") as well as additional guidelines prescribed by MAS having regard to the unique characteristics of the businesses of banks and insurers ("**FI-specific Guidelines**").

Singapore-incorporated banks and insurers which are listed on SGX-ST are already required to comply with the Principles of the CG Code. Among other changes set out in the 2021 CG Guidelines, Singapore-incorporated banks, Tier 1 insurers<sup>1</sup> and designated financial holding companies that own a Singapore-incorporated bank or Tier 1 insurer are now expected to observe most of the Principles of the CG Code even though they are not listed on SGX-ST. Tier 2 insurers<sup>2</sup> and other designated financial holding companies are also expected to observe the Principles or explain any variance in their annual reports or on their company websites.

Other main revisions introduced by the 2021 CG Guidelines are discussed in this Update under the following headings:

- Compliance approach;
- Fundamental corporate governance requirements to be included in the Banking (Corporate Governance) Regulations 2005 and Insurance (Corporate Governance) Regulations 2013 (collectively, "**CG Regulations**"); and
- Key new/revised Provisions and FI-specific Guidelines relating to strengthening board competencies and encouraging disclosures, remuneration matters, etc.

The 2021 CG Guidelines apply to all FIs from **1 April 2022**, except:

<sup>1</sup> Refer to the [Insurance \(Corporate Governance\) Regulations 2013](#) for definition of Tier 1 insurers.

<sup>2</sup> Refer to the [Insurance \(Corporate Governance\) Regulations 2013](#) for definition of Tier 2 insurers.

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- The Guidelines relating to the disclosure of compliance of the 2021 CG Guidelines by FIs, which will apply to the FIs' annual reports covering financial years ("**FYs**") commencing from 1 January 2022; and
- Provision 2.2 requiring independent directors to make up a majority of the board of directors ("**Board**") of a local bank, qualifying full bank, full bank, Tier 1 insurer, and its designated financial holding company where its Chairman is not independent, which will take effect from 31 December 2022.

## Background Information

This development follows an earlier MAS consultation in May 2021. For a summary of the proposals in the consultation, please refer to our earlier Client Update titled "*MAS Consults on Revisions to Corporate Governance Requirements for Banks & Insurers Incorporated in Singapore*", available [here](#). MAS issued its Response to feedback received following the consultation on 9 November 2021.

The 2021 CG Guidelines supersede and replace the CG Guidelines issued on 3 April 2013.

## Compliance Approach

The 2021 CG Guidelines are structured as follows:

- **Principles** which set out broadly accepted characteristics of good corporate governance.
- **Provisions** which describe the tenets of good corporate governance and are designed to support compliance with the Principles.
- **FI-specific Guidelines** which serve the same purpose as the Provisions, but are targeted to take into account the unique characteristics of banks and insurers.

The compliance approach for FIs subject to the 2021 CG Guidelines is as follows:

### Non-Listed FIs

- **Locally incorporated banks, Tier 1 insurers, and designated financial holding companies that own a locally incorporated bank or Tier 1 insurer ("Relevant FIs")**
  - Principles 1 to 10, and 13: Full compliance.
  - Principles 11 and 12 concerning shareholder rights and engagement: Comply-or-explain.\*
  - Provisions & FI-specific Guidelines: Comply-or-explain\*.
- **Locally incorporated Tier 2 insurers, captive insurers, and designated financial holding companies which own Tier 2 insurers**
  - Principles, Provisions & FI-specific Guidelines: Comply-or-explain.\*

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*\* This means that the FIs are expected to observe the relevant Principles, Provisions or FI-specific Guidelines to the extent possible. If a FI is not able to comply with any Principles, Provisions or FI-specific Guidelines, it has to explicitly disclose and explain how its deviated practices are consistent with the aim and philosophy of the relevant Principles in its annual report or on its website.*

- **Captive insurers, special purpose insurance vehicles, marine mutual insurers and run-off insurers which are not listed on SGX-ST** are not expected to disclose any deviations from the 2021 CG Guidelines although the Guidelines continue to apply to them. The extent and degree to which such insurers observe the Guidelines should be commensurate with the size, nature and complexity of their business.

### Listed FIs

- **FIs which are listed on SGX-ST** should continue to fully comply with the Principles of the Code and observe the Provisions and FI-specific Guidelines on a comply-or-explain basis.

The above disclosure requirements take effect from 1 January 2022 and will apply to the FIs' annual reports covering FYs commencing from 1 January 2022.

## Key New/Revised FI-Specific Guidelines and Provisions

- **Risk management – appointing non-directors to Board Risk Committee ("Risk Committee").** Under the CG Regulations, the Risk Committee 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. To address the challenges FI have/are facing in covering certain specialised risk areas due to a limited supply of candidates with appropriate credentials, the new FI-specific Guidelines permits an expert, who is not a director, to be appointed as a member of the Risk Committee.

Responding to implementation concerns raised by some respondents, MAS clarified that FIs have the discretion to decide on the responsibilities of the non-director and the non-director must fulfil the "fit and proper" criteria. MAS requires FIs to disclose the appointments of non-directors (through their websites or corporate announcements) to ensure public accountability, and any appointments must be notified to MAS at least 30 days prior to appointment along with the Board's or Nominating Committee's assessment that the non-director is independent and fulfils the fit and proper criteria. The non-director on the Risk Committee is not accorded voting rights.

- **Roles and responsibilities of Board.** The FI-specific Guidelines now include an 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. These revisions serve to align with expectations under the Basel

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Committee on Banking Supervision Core Principles for Effective Banking Supervision (BCBS BCPs) and the International Association of Insurance Supervisors Core Principles (IAIS ICPs).

- **Remuneration practices.** Previously, the Financial Stability Board Principles and Standards for Sound Compensation Practices ("**FSB P&S**") which the Board Remuneration Committee ("**Remuneration Committee**") is expected to adopt in their remuneration practices, was appended as an Annex to the CG Guidelines. Now, key expectations under the FSB P&S and its Supplementary Guidance are set out as FI-specific Guidelines. These encompass several areas such as:
  - **Active oversight by Risk Committee.** The Risk Committee should regularly monitor the effectiveness of remuneration policies, particularly in relation to key management personnel ("**KMP**") and other "material risk takers" ("**MRTs**"), being employees whose actions have the potential of materially impacting the FI's risk exposure.
  - **Independent annual review.** FIs are expected to conduct an annual review (independent of management) of their compensation practices to assess the level of compliance with the relevant regulations and guidelines, and submit the review to MAS upon request. If an FI decides not to conduct the review (e.g. if there is no material change in FI's remuneration policies or relevant regulations), the FI must document and justify this decision.
  - **Remuneration of KMP and other MRTs.** FIs should align the remuneration of KMP and other MRTs with the time horizon of risk and long-term objectives of the FIs. For guidance on implementation, FIs may refer to the section on "Effective alignment of compensation with prudent risk taking" in the FSB P&S and MAS' Information Paper on Incentives Structures in the Banking Industry.
- **Board composition.** Notable new/revised provisions and FI-specific Guidelines include:
  - **Documenting unresolved concerns of independent directors.** This new FI-specific Guideline expects FIs to document in Board meeting minutes (in detail at the Board Committee level and a summary at the Board meeting) the unresolved concerns of the independent directors, particularly those related to the running of the company or a proposed corporate action.
  - **Board independence.** Where the Chairman is not independent, a local bank, qualifying full bank, full bank, Tier 1 insurer, and their designated financial holding companies should have a majority of independent directors on its Board to ensure effective check and balance. All other FIs should have at least half of the Board to be independent if the Chairman of the Board is not independent. This revised Provision 2.2 will take effect from 31 December 2022. Affected FIs are advised to make necessary changes to Board composition or explain any variance, for instance other mitigating safeguards are already in place. In view of feedback received, MAS indicated that it is reviewing the requirements concerning independent directors in the CG Regulations and will consult the industry in due course.

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- **Related party transactions.** Certain expectations pertaining to "related party transactions" applicable to banks are now aligned with the requirements under MAS Notice 643 on Transactions with Related Parties for banks. For instance, for purposes of reporting by banks, the definition of "related party" and "related party transactions" will follow the definitions under MAS Notice 643. The Board (or delegated Board Committee) of banks is expected to review all material related party transactions. These revisions align with the corresponding requirements under MAS Notice 643. Insurers and designated financial holding companies are subject to similar expectations.

In addition, FIs must disclose material related party transactions in annual reports or company websites. On what constitutes "material", there is presently no prescribed threshold under the CG Regulations and the relevant MAS Notices. As such, MAS will review this disclosure expectation after obtaining further feedback.

### Inclusion of Certain CG Guidelines in CG Regulations

Banks and insurers incorporated in Singapore are required to comply with the corporate governance requirements set out in the CG Regulations. These statutory requirements primarily relate to independent directors, constitution of the Board, and the constitution and key responsibilities of the Board committees.

In its earlier consultation paper, MAS proposed moving certain expectations fundamental to good corporate governance presently contained in the CG Guidelines to the CG Regulations for mandatory compliance by banks and insurers. In its response to feedback received on the consultation paper, MAS addressed various key concerns raised by the respondents and indicated that it will conduct further consultation on the proposed changes to the CG Regulations before finalising them.

The guidelines that MAS had proposed to move to the CG Regulations include, for instance, key responsibilities of the Board. Currently, the CG Regulations set out the overall key responsibilities of the various Board committees, and the key responsibilities of the Board are provided in the CG Guidelines. One of the Board's responsibilities is to conduct a review of the frameworks relating to business objectives, strategies, corporate governance, culture and conduct of the FI. The frequency of review was proposed to be at least once a year. In view of the feedback received, instead of prescribing an annual review, reviews shall be conducted periodically and when there are material developments. This means that if there are material developments, the review cycle may be less than a year. Where the reviews are conducted by delegated Board committees, the Board remains ultimately responsible. MAS indicated that it is still reviewing the roles and responsibilities of the Board to be included in the CG Regulations and will consult the industry in due course.

Provisions relating to MAS' baseline expectations on corporate governance were also proposed to be moved to the CG Regulations. These provisions and FI-specific Guidelines are aimed at, among other things, strengthening the oversight of the FI's internal controls and its internal audit function; fortifying

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the independence of directors on the Board; and increasing transparency on the profile of directors on the Board.

In relation to Board independence, some respondents raised concerns on the proposal to widen the concept of "independence from management" to cover employment of a director by a "related corporation" (which is broader in scope than a "subsidiary") and coverage of employment of the director's immediate family member. Given the feedback, MAS will deliberate on the scope when incorporating the new requirement into the CG Regulations, and will seek further industry input. For instance, MAS may calibrate by allowing a rebuttable presumption of non-independence if MAS incorporates the requirement in its expanded scope into the CG Guidelines.

Additionally, given that the decisions/actions of MRTs may materially impact an FI's risk profile, MAS had proposed in its consultation to extend existing remuneration requirements in the CG Regulations on executive officers to MRTs, and strengthen the Risk Committee'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.

### Further Information

If you have any queries on the above development, please feel free to contact our team members below who will be happy to assist.

Click on the following links for more information (available on MAS website at [www.mas.gov.sg](http://www.mas.gov.sg)):

- MAS Response to Feedback Received on its consultation paper on "[Revisions to the Guidelines on Corporate Governance for Designated Financial Holding Companies, Banks, Direct Insurers, Reinsurers and Captive Insurers which are incorporated in Singapore](#)"
- [Guidelines on Corporate Governance](#)
- MAS Consultation Paper titled "[Consultation Paper on Revisions to the Guidelines on Corporate Governance](#)"

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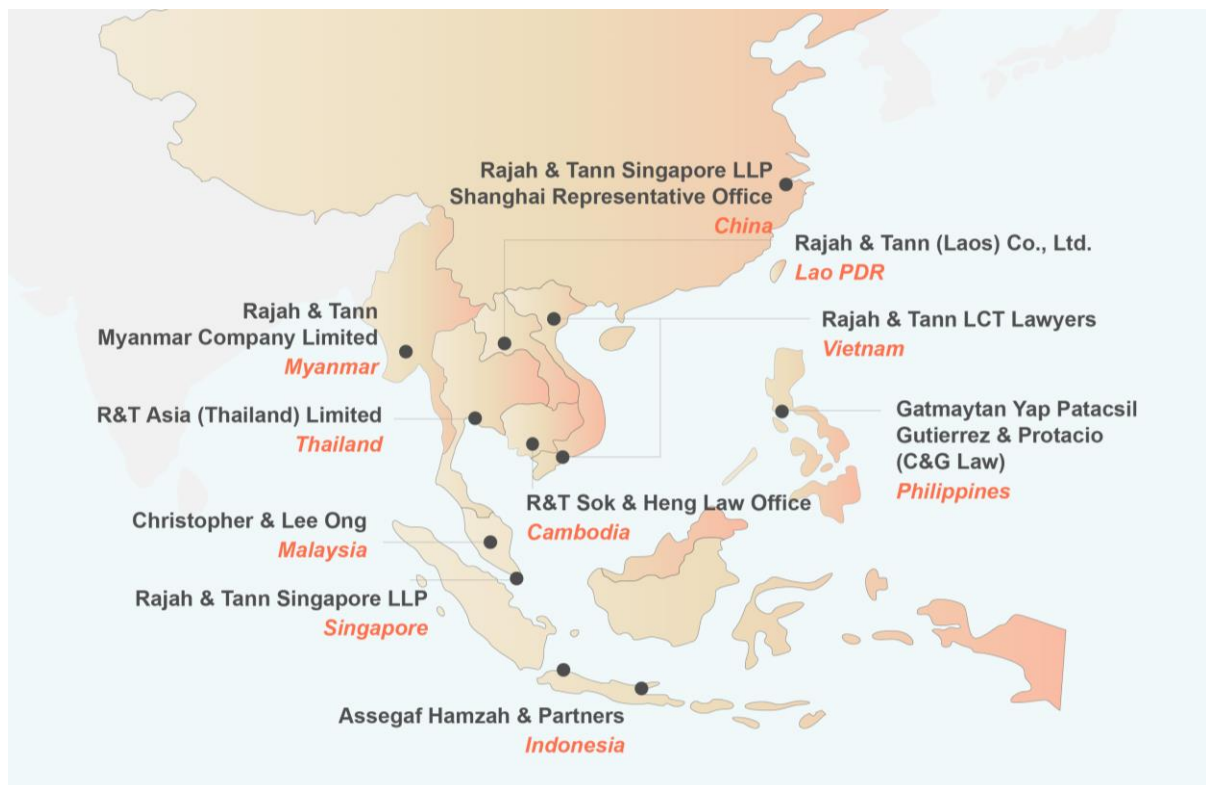
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