

Monetary Authority of Singapore (Amendment) Bill

Bill No. 11/2015.

Read the first time on 13 April 2015.

A BILL

intituled

An Act to amend the Monetary Authority of Singapore Act (Chapter 186 of the 1999 Revised Edition) and to make consequential amendments to certain other Acts.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Monetary Authority of Singapore (Amendment) Act 2015 and comes into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of section 27A

2. Section 27A(6) of the Monetary Authority of Singapore Act (referred to in this Act as the principal Act) is amended by deleting the word “and” at the end of paragraph (*ka*), and by inserting immediately thereafter the following paragraphs:

10 “(*kb*) any designated financial holding company under the Financial Holding Companies Act 2013 (Act 13 of 2013);

15 (*kc*) any person licensed under the Banking Act (Cap. 19) to carry on the business of issuing credit cards or charge cards in Singapore; and”.

Amendment of section 27B

3. Section 27B of the principal Act is amended —

(*a*) by inserting, immediately after subsection (1), the following subsections:

20 “(1A) In particular, the directions and regulations under subsection (1) may provide for —

25 (*a*) customer due diligence measures to be conducted by financial institutions to prevent money laundering and the financing of terrorism; and

(*b*) the records to be kept for that purpose.

(1B) A financial institution must —

30 (*a*) conduct such customer due diligence measures as may be specified by the directions referred to in subsection (1A) that are issued to it, or as may be prescribed by the regulations referred to in that subsection that are applicable to it; and

(b) maintain records on transactions and information obtained through the conduct of those measures for such period and in such manner as may be specified by the directions referred to in subsection (1A) that are issued to it, or as may be prescribed by the regulations referred to in that subsection that are applicable to it.”;

(b) by deleting subsection (2) and substituting the following subsection:

“(2) A financial institution which —

(a) fails to comply with a direction issued to it under subsection (1);

(b) contravenes any regulation made under subsection (1); or

(c) contravenes subsection (1B),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1 million and, in the case of a continuing offence, to a further fine of \$100,000 for every day or part of a day during which the offence continues after conviction.”; and

(c) by deleting the section heading and substituting the following section heading:

“Requirements for prevention of money laundering and terrorism financing”.

New sections 27C to 27F

4. The principal Act is amended by inserting, immediately after section 27B, the following sections:

“Inspection of financial institutions for compliance with directions and regulations under sections 27A and 27B

27C.—(1) The Authority may, from time to time, inspect under conditions of secrecy the books of —

- (a) a financial institution; or
- (b) any subsidiary, branch, agency or office outside Singapore of a financial institution incorporated or established in Singapore,

5 for the purpose of determining the extent of compliance by the financial institution with the directions issued and the regulations made under sections 27A and 27B.

10 (2) The Authority may appoint any person, including an auditor (not being an auditor of the financial institution), to carry out an inspection under this section.

15 (3) If the inspection is carried out on the ground that the Authority has reason to believe that the financial institution has contravened or is contravening any direction issued or regulation made under section 27A or 27B, and if the Authority so directs, then the financial institution is liable to pay for the remuneration and expenses of any person appointed under subsection (2) for the inspection.

20 (4) The Authority may recover from the financial institution the remuneration and expenses referred to in subsection (3) as a civil debt due to the Authority.

(5) The Authority may, in its discretion, waive the payment of all or any part of the remuneration and expenses referred to in subsection (3).

25 (6) Where, in the course of an inspection under subsection (1), the Authority obtains any protected information as defined in section 30X(1), and that information is not necessary for taking any action regarding non-compliance with any direction issued or regulation made under section 27A or 27B, then the Authority must treat that information as secret.

30 (7) Subsection (6) does not prevent the transmission under section 27F, 30ZA, 30ZC or 30ZF by the Authority of any information to any authority referred to in the applicable section.

(8) In this section and section 27D, “book” has the same meaning as in section 30X(1).

(9) In this section and sections 27D, 27E and 27F, “financial institution” has the same meaning as in section 27A(6) read with section 27A(7).

Obligation of financial institution under inspection

27D.—(1) For the purposes of an inspection under section 27C(1), the financial institution must — 5

- (a) give the Authority access to such of the books of the financial institution as the Authority may reasonably require to conduct the inspection;
- (b) procure a person who is in possession of such of the books of the financial institution as the Authority may reasonably require to conduct the inspection, to give the Authority access to the books; 10
- (c) provide such information (including information relating to the internal control systems of the financial institution) and facilities as the Authority may reasonably require to conduct the inspection; and 15
- (d) procure a person who is in possession of such information (including information relating to the internal control systems of the financial institution) and facilities as the Authority may reasonably require to conduct the inspection, to provide the information and facilities to the Authority. 20

(2) Subsection (1) has effect despite any obligation of confidentiality or other restrictions on the disclosure of information imposed on the financial institution or any of its officers, or on any person referred to in subsection (1)(b) or (d), by any prescribed written law as defined in section 30X(1) or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct. 25 30

(3) A financial institution which refuses or neglects, without reasonable excuse, to comply with subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a

further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

(4) No civil or criminal liability is incurred by a financial institution or any of its officers, or by any person referred to in subsection (1)(*b*) or (*d*), in respect of any obligation or restriction referred to in subsection (2), for doing or omitting to do any act, if the act is done or omitted to be done with reasonable care and in good faith and for the purpose of complying with subsection (1).

(5) A financial institution or any of its officers, or any person referred to in subsection (1)(*b*) or (*d*), that, with reasonable care and in good faith, does or omits to do any act for the purpose of complying with subsection (1) is not to be treated as being in breach of any obligation or restriction referred to in subsection (2).

Confidentiality of inspection reports

27E.—(1) Except as provided in subsection (2), where a written report has been produced in respect of a financial institution by the Authority following an inspection under section 27C, the report must not be disclosed to any person by —

- (*a*) the financial institution; or
- (*b*) any officer or auditor of the financial institution.

(2) Disclosure of the report may be made —

- (*a*) by the financial institution to any officer or auditor of that financial institution solely in connection with the performance of the duties of the officer or auditor, as the case may be, in that financial institution;
- (*b*) by any officer or auditor of the financial institution to any other officer or auditor of that financial institution, solely in connection with the performance of their respective duties in that financial institution; or
- (*c*) to such other person as the Authority may approve in writing.

(3) In granting approval for any disclosure under subsection (2)(c), the Authority may impose such conditions or restrictions as it thinks fit on the financial institution, any officer or auditor of that financial institution or the person to whom disclosure is approved, and that financial institution, officer, auditor or person (as the case may be) must comply with those conditions or restrictions. 5

(4) The obligations of an officer or auditor under subsections (1) and (3) continue after the termination or cessation of the employment or appointment of the officer or auditor by the financial institution. 10

(5) Any person who contravenes subsection (1), or fails to comply with any condition or restriction imposed by the Authority under subsection (3), shall be guilty of an offence and shall be liable on conviction — 15

(a) in any case where the person is an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in any other case, to a fine not exceeding \$250,000.

(6) Any person to whom the report is disclosed and who knows or has reasonable grounds for believing, at the time of the disclosure, that the report was disclosed to the person in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction — 20

(a) in any case where the person is an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or 25

(b) in any other case, to a fine not exceeding \$250,000.

(7) Where a person is charged with an offence under subsection (6), it is a defence for the person to prove that — 30

(a) the disclosure was made contrary to the person's desire;

(b) where the disclosure was made in any written or printed form, the person had as soon as practicable after receiving the report surrendered, or taken all

reasonable steps to surrender, the report and all copies of the report to the Authority; and

- 5 (c) where the disclosure was made in an electronic form, the person had, as soon as practicable after receiving the report, taken all reasonable steps to ensure the deletion of all electronic copies of the report and the surrender of the report and all copies of the report in other forms to the Authority.

10 **Authority may transmit information from inspection to corresponding authority**

15 **27F.**—(1) The Authority or any person authorised by the Authority may, on the Authority’s own motion, and subject to the satisfaction of such conditions as the Authority may determine, transmit any information obtained by the Authority from an inspection under section 27C to a corresponding authority as defined in section 30X(1) of a foreign country that exercises consolidated supervision authority (whether or not for compliance with any AML/CFT requirement as defined in section 30X(1)) over the financial institution to which the inspection relates.

20 (2) Subsection (1) applies despite the provisions of any prescribed written law as defined in section 30X(1) or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct, and is without prejudice to section 30ZF or any other written law or rule of law authorising the Authority, or a person authorised by the Authority, to disclose information in the Authority’s or the person’s possession to another person.”.

30 **New Part VC**

5. The principal Act is amended by inserting, immediately after section 30W, the following Part:

“PART VC

ASSISTANCE TO FOREIGN AUTHORITIES AND
DOMESTIC AUTHORITIES FOR THEIR SUPERVISORY
AND OTHER ACTIONS IN RESPECT OF MONEY
LAUNDERING, TERRORISM FINANCING AND OTHER
OFFENCES

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Division 1 — General provisions

Interpretation of this Part

30X.—(1) In this Part, unless the context otherwise requires —

“agent” means an insurance agent in respect of policies which relate to general business within the meaning of section 2(1)(b) of the Insurance Act (Cap. 142);

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“AML/CFT authority”, or Anti-Money Laundering/Countering the Financing of Terrorism authority, means a public authority of a foreign country which is responsible for the supervision of foreign financial institutions in that foreign country;

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“AML/CFT requirement”, or Anti-Money Laundering/Countering the Financing of Terrorism requirement —

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(a) in relation to a foreign country, means a law or regulatory requirement of that foreign country for the detection or prevention of money laundering or the financing of terrorism; or

(b) in relation to Singapore, means a written law, or a regulatory requirement imposed under a written law, for the detection or prevention of money laundering or the financing of terrorism;

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“applicable offence” means a drug dealing offence or a serious offence as defined in the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A);

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“book” includes any record, register, document or other record of information and any account or accounting

record, however compiled, recorded or stored, and whether in written or printed form or on microfilm or any electronic form or otherwise;

“chief executive”, in relation to a financial institution, means any person, by whatever name described, who —

(a) is in the direct employment of, or acting for or by arrangement with, the financial institution; and

(b) is principally responsible for the management and conduct of the business of the financial institution;

“corresponding authority” means a public authority of a foreign country which exercises a function that corresponds to a regulatory function of the Authority under any prescribed written law;

“director”, in relation to a financial institution, includes —

(a) any person, by whatever name described, occupying the position of a director of the financial institution;

(b) a person in accordance with whose directions or instructions the directors of the financial institution are accustomed to act; and

(c) an alternate director, or a substitute director, of the financial institution;

“domestic authority” means a Law Officer, a ministry or department of the Government, or a statutory body (other than the Authority) established by or under a public Act for a public purpose;

“employee” includes an individual seconded or temporarily transferred from another employer;

“enforcement action” means any criminal or civil action taken by a domestic authority against a person for an applicable offence, including the restraining of dealing with, or the seizure or confiscation of, any property in connection with an applicable offence, and the offer of composition of the offence;

“executive officer”, in relation to a financial institution, means any person, by whatever name described, who —

(a) is in the direct employment of, or acting for or by arrangement with, the financial institution; and

(b) is concerned with or takes part in the management of the financial institution on a day-to-day basis;

“financial institution” has the same meaning as in section 27A(6) read with section 27A(7);

“foreign country” means any country or territory other than Singapore;

“foreign financial institution” means an institution that is licensed, approved, registered or otherwise regulated under any law administered by a corresponding authority in a foreign country to carry on any financial activities in that country, or that is exempted from such licensing, approval, registration or regulation for the carrying on of any financial activities in that country;

“information” includes any information, book, document or other record in any form whatsoever (including an electronic form), as well as any container or article containing any information or record;

“insurance agent” has the same meaning as in section 1A of the Insurance Act;

“investigation”, in relation to a domestic authority, means an investigation by that authority to determine if a person has committed or is committing an applicable offence;

“Law Officer” means the Attorney-General, a Deputy Attorney-General, the Solicitor-General, a Deputy Public Prosecutor or a legally qualified member of the Attorney-General’s Chambers;

“office holder”, in relation to a financial institution, means any person acting as the liquidator, the provisional liquidator, the receiver or the receiver and manager of the

financial institution, or acting in an equivalent capacity in relation to that financial institution;

“policy” has the same meaning as in the First Schedule to the Insurance Act;

5 “prescribed written law” means the following Acts and the subsidiary legislation made under those Acts:

(a) this Act;

(b) the Banking Act (Cap. 19);

(c) the Business Trusts Act (Cap. 31A);

10 (d) the Deposit Insurance and Policy Owners’ Protection Schemes Act (Cap. 77B);

(e) the Finance Companies Act (Cap. 108);

(f) the Financial Advisers Act (Cap. 110);

15 (g) the Financial Holding Companies Act 2013 (Act 13 of 2013);

(h) the Insurance Act;

(i) the Money-changing and Remittance Businesses Act (Cap. 187);

20 (j) the Payment Systems (Oversight) Act (Cap. 222A);

(k) the Securities and Futures Act (Cap. 289);

(l) the Trust Companies Act (Cap. 336);

(m) such other Act as the Authority may prescribe by regulations made under section 42;

25 “protected information” means information that is protected from unauthorised disclosure under any prescribed written law;

30 “public authority” includes a financial supervisor established as an independent non-governmental authority under a law of a foreign country;

“supervision” —

- (a) in relation to an AML/CFT authority of a foreign country, means the supervision by the AML/CFT authority of foreign financial institutions carrying on any financial activities in that country for compliance with the AML/CFT requirements of that country applicable to those institutions; or
- (b) in relation to a domestic authority, means the supervision by the domestic authority of persons regulated by it for compliance with the applicable AML/CFT requirements of Singapore;

“supervisory action” —

- (a) in relation to an AML/CFT authority, means any action taken by the authority for or in connection with its supervision of foreign financial institutions; or
- (b) in relation to a domestic authority, means any action taken by the authority for or in connection with its supervision of persons regulated by it.

(2) In this Part, an AML/CFT authority exercises consolidated supervision authority over a financial institution if —

- (a) the financial institution is either —
 - (i) a foreign financial institution established or incorporated in the foreign country of the AML/CFT authority; or
 - (ii) a subsidiary of such a foreign financial institution; and
- (b) the AML/CFT authority carries out consolidated supervision of the foreign financial institution mentioned in paragraph (a)(i) or (ii) (as the case may be), and its subsidiaries, branches, agencies and offices outside that foreign country, for compliance with the AML/CFT requirements of that foreign country that are applicable to the foreign financial institution.

Purposes of this Part

30Y. The purposes of this Part are —

- 5 (a) to enable the Authority to provide information to an AML/CFT authority of a foreign country in connection with the AML/CFT authority's supervision of foreign financial institutions carrying on any financial activities in that country for compliance with the AML/CFT requirements of that country applicable to those institutions, including the taking of supervisory action against them for a contravention of those requirements;
- 10 (b) to enable the Authority to provide information to a domestic authority in connection with —
- 15 (i) an investigation into the commission or an alleged commission of an applicable offence by a person;
 - (ii) an enforcement action against a person for the commission or an alleged commission of an applicable offence; or
 - 20 (iii) a supervisory action against a person regulated by the domestic authority for a contravention of an applicable AML/CFT requirement of Singapore; and
- 25 (c) to enable an AML/CFT authority of a foreign country to carry out an inspection in Singapore of a financial institution over which the AML/CFT authority exercises consolidated supervision authority.

Division 2 — Assistance to AML/CFT authorities

Conditions for provision of assistance to AML/CFT authority

30 **30Z.**—(1) The Authority may, on the request of an AML/CFT authority of a foreign country, provide the assistance referred to in section 30ZA to the AML/CFT authority, if the Authority is satisfied that all of the following conditions are fulfilled:

- (a) the request is received by the Authority on or after the date of commencement of section 5 of the Monetary Authority of Singapore (Amendment) Act 2015;
- (b) the assistance is intended to enable the AML/CFT authority to carry out supervision or take supervisory action; 5
- (c) the AML/CFT authority has given a written undertaking that any information or copy of any information obtained as a result of the request will not be used for any purpose other than a purpose that is specified in the request and approved by the Authority; 10
- (d) the AML/CFT authority has given a written undertaking that the AML/CFT authority will not disclose to a third party any information or copy of any information obtained as a result of the request, unless the AML/CFT authority is compelled to do so by the law or a court of the foreign country, and that the AML/CFT authority will inform the Authority promptly if the AML/CFT authority is so compelled; 15
- (e) the AML/CFT authority has given a written undertaking to obtain the prior consent of the Authority before disclosing any information or copy of any information obtained as a result of the request to a third party, and to make such disclosure only in accordance with such conditions as may be imposed by the Authority; 20 25
- (f) the AML/CFT authority has given a written undertaking to otherwise protect the confidentiality of any information or copy of any information obtained pursuant to the request;
- (g) the request specifies — 30
- (i) the purpose of the request and the nature of the assistance being sought;
 - (ii) the identity of the financial institution which has in its possession the information requested for;

(iii) the relevance of the information requested to the supervision or supervisory action (as the case may be) of the AML/CFT authority; and

(iv) any other information that may assist in giving effect to the request;

(h) the type and amount of information requested for is proportionate to, and is of sufficient importance to, the carrying out of supervision or the taking of the supervisory action by the AML/CFT authority;

(i) the matter to which the request relates is of sufficient gravity;

(j) the AML/CFT authority has given or is willing to give an undertaking to the Authority to comply with a future request by the Authority to the AML/CFT authority for similar assistance;

(k) the rendering of assistance will not be contrary to the national interest or public interest.

(2) Despite subsection (1)(c), (d), (e) and (f), the Authority may provide the assistance sought without any of the undertakings referred to in one or more of those provisions if —

(a) none of the information requested for is protected information; and

(b) the Authority considers it appropriate to provide the assistance in the circumstances of the case.

(3) In considering whether to provide the assistance referred to in section 30ZA to an AML/CFT authority, the Authority may also have regard to the following:

(a) if the request concerns a contravention of an AML/CFT requirement of a foreign country, whether the act or omission that is alleged to constitute the contravention would, if it had occurred in Singapore, have constituted a contravention of any direction or regulation issued or made under section 27A or 27B;

- (b) whether the AML/CFT authority has given or is willing to give an undertaking to the Authority to contribute towards the costs of providing the assistance.

Assistance that may be rendered to AML/CFT authority

30ZA.—(1) Despite the provisions of any prescribed written law or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct, the Authority or any person authorised by the Authority may, in relation to a request by an AML/CFT authority for assistance, transmit to the AML/CFT authority any information in the possession of the Authority that is requested by the AML/CFT authority or a copy of the information.

(2) The Authority or any person authorised by the Authority may, in relation to a request by an AML/CFT authority for assistance —

- (a) order any financial institution or any person who is or used to be a chief executive or director, or an executive officer, employee, agent or office holder, of a financial institution to furnish to the Authority any information requested by the AML/CFT authority which is in the possession or control of the financial institution or person (as the case may be), or a copy of that information, for transmission to the AML/CFT authority; or

- (b) request a domestic authority to furnish to the Authority any information that is requested by the AML/CFT authority, or a copy of that information, for transmission to the AML/CFT authority.

(3) An order under subsection (2)(a) has effect despite any obligation of confidentiality or other restrictions on the disclosure of information imposed by any prescribed written law or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct.

(4) Nothing in this section requires an advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act (Cap. 97) —

(a) to provide or transmit any information, or a copy of any information, that contains; or

(b) to disclose,

a privileged communication made by or to the advocate and solicitor or legal counsel in that capacity.

(5) An advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act, who refuses to provide or transmit any information, or copy of any information, that contains, or to disclose, any privileged communication must nevertheless give the name and address (if known) of the person to whom, or by or on behalf of whom, the privileged communication was made.

Division 3 — Assistance to domestic authorities

Conditions for provision of assistance to domestic authority

30ZB. The Authority may, on the request of a domestic authority, provide the assistance referred to in section 30ZC to the domestic authority, if the Authority is satisfied that all of the following conditions, and all such other conditions as the Authority may determine, are fulfilled:

(a) the request is received by the Authority on or after the date of commencement of section 5 of the Monetary Authority of Singapore (Amendment) Act 2015;

(b) the assistance requested for is intended to enable the domestic authority to carry out any investigation, or take any enforcement action or supervisory action;

(c) the type and amount of information requested for is proportionate to, and is of sufficient importance to, the investigation or enforcement action or supervisory action;

- (d) the matter to which the request relates is of sufficient gravity.

Assistance that may be rendered to domestic authority

30ZC.—(1) Despite the provisions of any prescribed written law or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct, the Authority or any person authorised by the Authority may, in relation to a request by a domestic authority for assistance, transmit to the domestic authority any information in the possession of the Authority that is requested by the domestic authority or a copy of the information. 5 10

(2) The Authority or any person authorised by the Authority may, in relation to a request by a domestic authority for assistance, order any financial institution or any person who is or used to be a chief executive or director, or an executive officer, employee, agent or office holder, of a financial institution to furnish to the Authority any information requested by the domestic authority which is in the possession or control of the financial institution or person (as the case may be), or a copy of that information, for transmission to the domestic authority. 15 20

(3) An order under subsection (2) has effect despite any obligation of confidentiality or other restrictions on the disclosure of information imposed by any prescribed written law or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct. 25

(4) Nothing in this section requires an advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act (Cap. 97) —

- (a) to provide or transmit any information, or copy of any information, that contains; or 30

- (b) to disclose,

a privileged communication made by or to the advocate and solicitor or legal counsel in that capacity.

(5) An advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act, who refuses to provide or transmit any information, or copy of any information, that contains, or to disclose, any privileged communication must nevertheless give the name and address (if known) of the person to whom, or by or on behalf of whom, the privileged communication was made.

Division 4 — Additional provisions for Divisions 2 and 3

Offences under this Part

30ZD.—(1) A person shall be guilty of an offence if the person —

(a) without reasonable excuse, refuses or fails to comply with an order under section 30ZA(2)(a) or 30ZC(2);

(b) without reasonable excuse, refuses or fails to comply with section 30ZA(5) or 30ZC(5); or

(c) in purported compliance with an order under section 30ZA(2)(a) or 30ZC(2) or with section 30ZA(5) or 30ZC(5), furnishes to the Authority any information, or copy of any information, known to the person to be false or misleading in a material particular.

(2) Any person who is guilty of an offence under subsection (1)(a) or (b) shall be liable on conviction —

(a) in any case where the person is an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part of a day during which the offence continues after conviction; or

(b) in any other case, to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

(3) Any person who is guilty of an offence under subsection (1)(c) shall be liable on conviction —

(a) in any case where the person is an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both; or

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(b) in any other case, to a fine not exceeding \$100,000.

Immunities

30ZE.—(1) No civil or criminal liability is incurred by any person for —

(a) providing to the Authority any information or copy of any information, if the person had provided the information or copy with reasonable care and in good faith and in compliance with an order under section 30ZA(2)(a) or 30ZC(2) or with section 30ZA(5) or 30ZC(5); or

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(b) doing or omitting to do any act, if the person had done or omitted to do the act with reasonable care and in good faith and for the purpose of complying with an order under section 30ZA(2)(a) or 30ZC(2) or with section 30ZA(5) or 30ZC(5).

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(2) A person does not breach any restriction upon the disclosure of information imposed by any prescribed written law or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct, if the person makes the disclosure with reasonable care and in good faith and in compliance with an order made under section 30ZA(2)(a) or 30ZC(2) or with section 30ZA(5) or 30ZC(5).

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Authority may provide assistance

30ZF. Despite the provisions of any prescribed written law or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct, the Authority or any person authorised by the Authority may, on the Authority’s own motion, and subject to the satisfaction of such

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conditions as the Authority may determine, transmit any information in the possession of the Authority or a copy of the information, to —

- 5 (a) an AML/CFT authority in connection with any supervision or supervisory action by the AML/CFT authority; or
- (b) a domestic authority in connection with an investigation, an enforcement action or a supervisory action by the domestic authority.

10 *Division 5 — Inspection by AML/CFT authority*

Conditions for inspection by AML/CFT authority

15 **30ZG.**—(1) An AML/CFT authority may, with the prior written approval of the Authority and under conditions of secrecy, conduct an inspection in Singapore of the books of a financial institution in accordance with this section, if all of the following conditions are satisfied:

- 20 (a) the financial institution is one over which the AML/CFT authority exercises consolidated supervision authority, and the inspection is solely for the purpose of such consolidated supervision;
- (b) the AML/CFT authority —
 - 25 (i) is prohibited by the laws applicable to it from disclosing information obtained by it in the course of the inspection to any other person, except when compelled to do so by the laws or a court of the country or territory where it is established; or
 - 30 (ii) has given to the Authority such written undertaking to protect the confidentiality of the information obtained as the Authority may require;

(c) the AML/CFT authority has given a written undertaking to the Authority to comply with such conditions as the Authority may impose under subsection (3);

(d) the AML/CFT authority has provided or is willing to provide similar assistance to the Authority. 5

(2) The Authority may take into account other factors which it considers relevant, besides the satisfaction of the conditions under subsection (1), when deciding whether or not to give its approval under that subsection.

(3) The Authority may at any time, whether before, when or after giving its approval for an inspection under this section, impose conditions on the AML/CFT authority relating to — 10

(a) the classes of information to which the AML/CFT authority may or may not have access in the course of inspection; 15

(b) the conduct of the inspection;

(c) the use or disclosure of any information obtained in the course of the inspection; and

(d) such other matters as the Authority may determine.

(4) An AML/CFT authority may, with the prior written approval of the Authority, appoint any person to conduct the inspection under subsection (1), and in such event, this section (other than this subsection) and sections 30ZH and 30ZI apply to the person, as if a reference to the AML/CFT authority in those sections includes a reference to the person. 20 25

(5) For the purposes of ensuring the confidentiality of any information obtained in the course of an inspection by an AML/CFT authority under this section, each provision set out in a paragraph below applies, with the necessary modifications, to any official of the AML/CFT authority, and any person referred to in subsection (4), as if the official or person were a person set out against that provision in that paragraph: 30

(a) section 47(1) of the Banking Act (Cap. 19) — an officer of a bank in Singapore (as defined in section 2(1) of that Act);

5 (b) section 47(1) of the Banking Act as applied under section 47(10) of that Act — an officer of a merchant bank approved as a financial institution under section 28 of this Act;

10 (c) section 49(1) of the Trust Companies Act (Cap. 336) — an officer of a licensed trust company (as defined in section 2 of that Act) in Singapore.

15 (6) The Authority may, in relation to an inspection by an AML/CFT authority conducted or to be conducted under this section on a financial institution, at any time, by notice in writing to the financial institution impose such conditions or restrictions on the financial institution as the Authority may think fit, and the financial institution must comply with such conditions or restrictions.

Duty of financial institution under inspection

20 **30ZH.**—(1) For the purposes of an inspection under section 30ZG, and subject to subsection (2), the financial institution must —

(a) give the AML/CFT authority access to such of the books of the financial institution; and

25 (b) provide such information (including information relating to the internal control systems of the financial institution) and facilities,

as the AML/CFT authority may require for the inspection.

30 (2) The financial institution need not give the AML/CFT authority access to the books of the financial institution, or provide information or facilities, at such times or at such places as would unduly interfere with the proper conduct of the normal daily business of the financial institution.

(3) Subsection (1) has effect despite any obligation of confidentiality or other restrictions on the disclosure of

information imposed on the financial institution or any of its officers by any prescribed written law or any requirement imposed under any such written law, any rule of law, any contract or any rule of professional conduct.

(4) A financial institution which refuses or neglects, without reasonable excuse, to comply with subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

(5) No civil or criminal liability is incurred by a financial institution or any of its officers in respect of any obligation or restriction referred to in subsection (3) for doing or omitting to do any act, if the act is done or omitted to be done with reasonable care and in good faith and for the purpose of complying with subsection (1).

(6) A financial institution which or any of its officers who, with reasonable care and in good faith, does or omits to do any act for the purpose of complying with subsection (1) is not to be treated as being in breach of any obligation or restriction referred to in subsection (3).

Confidentiality of inspection reports

30ZI.—(1) Except as provided under subsection (2), where a written report has been produced by an AML/CFT authority in respect of a financial institution following an inspection under section 30ZG, and is provided by the AML/CFT authority to the financial institution, the report must not be disclosed to any person by —

- (a) the financial institution; or
- (b) any officer or auditor of the financial institution.

(2) Disclosure of the report may be made —

- (a) by the financial institution to any officer or auditor of that financial institution solely in connection with the

performance of the duties of the officer or auditor, as the case may be, in that financial institution;

(b) by any officer or auditor of the financial institution to any other officer or auditor of that financial institution, solely in connection with the performance of their respective duties in that financial institution;

(c) to the Authority, if requested by the Authority; or

(d) to such other person as the Authority may approve in writing.

(3) In granting approval for any disclosure under subsection (2)(d), the Authority may impose such conditions or restrictions as it thinks fit on the financial institution, any officer or auditor of that financial institution or the person to whom disclosure is approved, and that financial institution, officer, auditor or person (as the case may be) must comply with those conditions or restrictions.

(4) The obligations on an officer or auditor under subsections (1) and (3) continue after the termination or cessation of the employment or appointment of the officer or auditor by the financial institution.

(5) Any person who contravenes subsection (1), or fails to comply with any condition or restriction imposed by the Authority under subsection (3), shall be guilty of an offence and shall be liable on conviction —

(a) in any case where the person is an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in any other case, to a fine not exceeding \$250,000.

(6) Any person to whom the report is disclosed and who knows or has reasonable grounds for believing, at the time of the disclosure, that the report was disclosed to the person in contravention of subsection (1) shall be guilty of an offence and shall be liable on conviction —

(a) in any case where the person is an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or

(b) in any other case, to a fine not exceeding \$250,000.

(7) Where a person is charged with an offence under subsection (6), it is a defence for the person to prove that — 5

(a) the disclosure was made contrary to the person’s desire;

(b) where the disclosure was made in any written or printed form, the person had, as soon as practicable after receiving the report, surrendered, or taken all reasonable steps to surrender, the report and all copies of the report to the Authority; and 10

(c) where the disclosure was made in an electronic form, the person had, as soon as practicable after receiving the report, taken all reasonable steps to ensure the deletion of all electronic copies of the report and the surrender of the report and all copies of the report in other forms to the Authority.”. 15

Consequential amendments to other Acts

6. The provisions of the Acts specified in the first column of the Schedule are amended in the manner set out opposite in the second column. 20

THE SCHEDULE

Section 6

CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

*First column**Second column*

5 1. Banking Act
(Chapter 19, 2008 Ed.)

(a) Section 43

Insert, immediately after subsection (2), the following subsection:

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“(3) To avoid doubt, this section, and sections 44A and 46 in relation to an inspection under this section, do not apply to any inspection by the Authority for a purpose referred to in section 27C of the Monetary Authority of Singapore Act (Cap. 186).”.

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(b) Section 45

Insert, immediately after subsection (6), the following subsection:

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“(6A) To avoid doubt, this section, and section 46 in relation to an inspection under this section, do not apply to any inspection by a parent supervisory authority of the books of any branch or office of a bank in Singapore, if —

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(a) the parent supervisory authority is an AML/CFT authority as defined in section 30X of the Monetary Authority of Singapore Act, and exercises consolidated supervision authority as defined in that section over that bank; and

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(b) the inspection is solely for the purpose of such consolidated supervision.”.

THE SCHEDULE — *continued*

<i>First column</i>	<i>Second column</i>	
2. Financial Advisers Act (Chapter 110, 2007 Ed.)		5
New section 77A	Insert, immediately after section 77, the following section:	
	“Application of this Part	
	77A. This Part does not apply to any request for assistance referred to in section 30Z(1) of the Monetary Authority of Singapore Act (Cap. 186).”.	10
3. Financial Holding Companies Act 2013 (Act 13 of 2013)		15
(a) Section 43	Insert, immediately after subsection (5), the following subsection:	
	“(5A) To avoid doubt, this section, and section 44 in relation to an inspection under this section, do not apply to any inspection by a foreign supervisory authority of the books of any branch or office of a designated financial holding company, if —	20
	(a) the foreign supervisory authority is an AML/CFT authority as defined in section 30X of the Monetary Authority of Singapore Act (Cap. 186), and exercises consolidated supervision authority as defined in that section over the company; and	25
	(b) the inspection is solely for the purpose of such consolidated supervision.”.	30
		35

THE SCHEDULE — *continued**First column**Second column*

(b) New section 53A

Insert, immediately after section 53, the following section:

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“Application of this Part

53A. This Part does not apply to any request for assistance referred to in section 30Z(1) of the Monetary Authority of Singapore Act.”.

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4. Insurance Act
(Chapter 142,
2002 Ed.)

(a) Section 40B

Insert, immediately after subsection (5), the following subsection:

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“(5A) To avoid doubt, this section, and section 40C in relation to an inspection under this section, do not apply to any inspection by a parent supervisory authority of the books of a licensed insurer, if —

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(a) the parent supervisory authority is an AML/CFT authority as defined in section 30X of the Monetary Authority of Singapore Act (Cap. 186), and exercises consolidated supervision authority as defined in that section over the licensed insurer; and

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(b) the inspection is solely for the purpose of such consolidated supervision.”.

30

(b) New section 49AA

Insert, immediately after section 49A, the following section:

“Application of this Part

49AA. This Part does not apply to any request for assistance referred to in section 30Z(1) of the Monetary Authority of Singapore Act.”.

35

THE SCHEDULE — *continued*

<i>First column</i>	<i>Second column</i>
5. Payment Systems (Oversight) Act (Chapter 222A, 2007 Ed.)	5
New section 41A	Insert, immediately after section 41, the following section: “Application of this Part 41A. This Part does not apply to any request for assistance referred to in section 30Z(1) of the Monetary Authority of Singapore Act (Cap. 186).”.
6. Securities and Futures Act (Chapter 289, 2006 Ed.)	15
(a) Section 150B	Insert, immediately after subsection (4), the following subsection: “(4A) To avoid doubt, this section, and section 150C in relation to an inspection under this section, do not apply to any inspection by a foreign regulatory authority of the books of any person, if — (a) the foreign regulatory authority is an AML/CFT authority as defined in section 30X of the Monetary Authority of Singapore Act (Cap. 186), and exercises consolidated supervision authority as defined in that section over that person; and (b) the inspection is solely for the purpose of such consolidated supervision.”.
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THE SCHEDULE — *continued**First column**Second column*

(b) New section 169A

Insert, immediately after section 169, the following section:

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“Application of this Part

169A. This Part does not apply to any request for assistance referred to in section 30Z(1) of the Monetary Authority of Singapore Act.”.

10 7. Trust Companies Act
(Chapter 336,
2006 Ed.)

Section 47

Insert, immediately after subsection (5), the following subsection:

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“(5A) To avoid doubt, this section, and section 48 in relation to an inspection under this section, do not apply to any inspection by a parent supervisory authority of the books, accounts and transactions of any branch or office of a licensed trust company, if —

20

(a) the parent supervisory authority is an AML/CFT authority as defined in section 30X of the Monetary Authority of Singapore Act (Cap. 186), and exercises consolidated supervision authority as defined in that section over that licensed trust company; and

25

(b) the inspection is solely for the purpose of such consolidated supervision.”.

30

EXPLANATORY STATEMENT

This Bill seeks to amend the Monetary Authority of Singapore Act (Cap. 186) for the following main purposes:

- (a) to provide in the Act for the duty of financial institutions to carry out customer due diligence measures for anti-money laundering and countering the financing of terrorism (AML/CFT) purposes, and the keeping of records and information from such measures;
- (b) to enable the Monetary Authority of Singapore (the Authority) to conduct inspections of financial institutions to determine the extent of their compliance with requirements imposed on them for the prevention of money laundering and financing of terrorism, as well as requirements imposed on them for the purposes of complying with decisions of the Security Council of the United Nations;
- (c) to enable the Authority to share information with foreign AML/CFT supervisors;
- (d) to enable the Authority to share information with other Singapore authorities for the investigation or enforcement of money laundering and associated predicate offences and terrorism financing offences, or in connection with a supervisory action against a person for non-compliance with an AML/CFT measure;
- (e) to enable a foreign AML/CFT supervisor exercising consolidated supervision authority to carry out inspections of financial institutions in Singapore.

The Bill also makes consequential amendments to certain other Acts.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 27A (Directions or regulations to discharge Government's international obligations) to include a designated financial holding company under the Financial Holding Companies Act 2013 (Act 13 of 2013), and a credit card or charge card issuer licensed under the Banking Act (Cap. 19), as financial institutions. This clarifies that the Authority may apply to such entities directions and regulations made for the purposes of complying with a decision of the Security Council of the United Nations. It also clarifies that the Authority may apply the directions and regulations made under section 27B for AML/CFT purposes to such entities, as that section incorporates by reference the definition of "financial institution" in section 27A.

Clause 3 amends section 27B (Directions or regulations to prevent money laundering and terrorism financing) to set out in the section itself the duty of a financial institution to carry out customer due diligence measures prescribed by regulations and directions under that section for AML/CFT purposes, and to

maintain records concerning the carrying out of those measures. A failure to do so is a criminal offence.

Clause 4 inserts new sections 27C to 27F to enable the Authority to conduct inspections of financial institutions for compliance with directions and regulations under sections 27A and 27B.

The new section 27C empowers the Authority to conduct an inspection of the books of a financial institution (as defined in section 27A) and of the subsidiaries, branches, agencies and offices outside Singapore of a financial institution incorporated or established in Singapore, to determine if the financial institution has complied with such directions and regulations. If the inspection is carried out because the Authority has reason to believe that the financial institution has contravened or is contravening any such direction or regulation, and the inspection is carried out by a person other than the Authority, then the remuneration and expenses of the person carrying out the inspection is payable by the financial institution.

Under the new section 27D, a failure by the financial institution to produce its books or to provide information or facilities for the inspection, or to procure another person to do the same, is a criminal offence. The obligation by the financial institution to produce the books or provide the information or facilities for the inspection overrides any duty of confidentiality of the financial institution or its officers.

The new section 27E provides for the confidentiality of any resulting inspection report in the hands of the financial institution. The report may be disclosed —

- (a) by the financial institution to any of its officers or auditors solely in connection with the officer's or auditor's duties;
- (b) by any of its officers or auditors to another of its officers or auditors solely in connection with the duties of both the officer or auditor disclosing the report, and the officer or auditor to whom it is disclosed; or
- (c) to any other person approved by the Authority.

The new section 27F enables the Authority to transmit any information obtained from an inspection under the new section 27C to a foreign authority exercising consolidated supervision authority over the financial institution under inspection.

Clause 5 inserts a new Part VC (comprising new sections 30X to 30ZI) for the following purposes:

- (a) to allow the Authority to share information with a foreign AML/CFT supervisor;
- (b) to allow the Authority to share information with a Singapore authority (domestic authority) investigating or enforcing certain offences, or which

are taking supervisory actions against persons for non-compliance with an AML/CFT measure;

- (c) to allow a foreign AML/CFT supervisor with consolidated supervisory oversight of any financial institution in Singapore for AML/CFT purposes, to inspect its books.

The new section 30X defines terms for the purposes of the new Part VC.

The new section 30Y sets out the purposes of the new Part VC.

The new section 30Z lists the conditions under which the Authority will provide assistance to a foreign AML/CFT supervisor for the purpose of its supervision of foreign financial institutions for compliance with AML/CFT requirements.

The new section 30ZA describes the types of assistance that the Authority may provide to a foreign AML/CFT supervisor. These include transmitting information in the Authority's possession to the supervisor, ordering a financial institution or any person with the financial institution to provide the requested information to the Authority for transmission to the supervisor, and requesting a domestic authority to provide the Authority with the information for transmission to the supervisor. The section overrides any duty of confidentiality of the Authority, the financial institution and its officers as regards the information to be provided and transmitted, except legal professional privilege.

The new section 30ZB lists the conditions under which the Authority may provide assistance to a domestic authority for the purpose of investigating or enforcing a drug dealing offence or serious offence as defined in the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A), or taking supervisory action against a person for non-compliance with an AML/CFT requirement.

The new section 30ZC describes the types of assistance that the Authority may provide to a domestic authority. These include transmitting information in the Authority's possession to the domestic authority, and ordering a financial institution or any person with the financial institution to provide the requested information to the Authority for transmission to the domestic authority. The section overrides any duty of confidentiality of the Authority and the financial institution and its officers as regards the information to be provided and transmitted, except legal professional privilege.

The new section 30ZD makes it an offence for a person who does not comply with an order from the Authority for information under the new section 30ZA or 30ZC, or who in purported compliance with such order gives false or misleading information to the Authority. It also makes it an offence for an advocate and solicitor or a legal counsel to refuse to give to the Authority particulars of the person to whom or by whom a privileged communication was made, or who gave false or misleading particulars of the person to the Authority.

The new section 30ZE confers immunities from civil and criminal liability on persons who comply with an order for information under the new section 30ZA or 30ZC, as well as on an advocate and solicitor or a legal counsel who gave to the Authority particulars of the person to whom or by whom a privileged communication was made.

The new section 30ZF allows the Authority or a person authorised by the Authority to provide on the Authority's own motion any information in the Authority's possession to a foreign AML/CFT supervisor, or a domestic authority.

The new section 30ZG lists the conditions under which the Authority may permit a foreign AML/CFT supervisor to inspect the books of a financial institution over which the supervisor has consolidated supervisory oversight for AML/CFT purposes. The supervisor may, with the Authority's approval, appoint other persons to conduct the inspection on the supervisor's behalf.

The new section 30ZH requires a financial institution under inspection to give the foreign AML/CFT supervisor access to the books of the financial institution and provide the supervisor with information and facilities for the inspection. The section also confers on the financial institution and its officers immunity from civil and criminal liability for doing so.

The new section 30ZI provides for the confidentiality of any resulting inspection report by the foreign AML/CFT supervisor, similar to the new section 27E.

Clause 6 makes amendments to various Acts administered by the Authority that are consequential on the introduction of provisions by the Bill governing requests for assistance to and inspections by foreign AML/CFT supervisors, as well as inspections by the Authority. The law governing assistance to a foreign AML/CFT supervisor involving a financial institution regulated by the Authority, and the conduct of inspections by the Authority or foreign AML/CFT supervisor of such financial institution for AML/CFT purposes, will be consolidated in the Monetary Authority of Singapore Act.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
