

BANKING SECRECY OUTSOURCING CONDITIONS

1. In all outsourcing arrangements involving the disclosure of customer information to the service provider, merchant banks shall ensure that the confidentiality of customer information is protected.
2. In selecting a service provider, except when the service provider is the Head Office or the parent bank, merchant banks are to take appropriate due diligence measures, including the assessment of the track record, reputation, financial soundness of the service provider and its ability to safeguard the confidentiality of information entrusted to it. Merchant banks shall document the due diligence measures taken during selection and furnish the records to the MAS upon request.
3. All outsourcing arrangements are to be appropriately documented by means of a written outsourcing agreement. Merchant banks are required to notify MAS of all outsourcing arrangements involving the disclosure of customer information upon entering into the outsourcing agreement.
4. Merchant banks are to take steps to ensure that outsourcing agreements involving the disclosure of customer information are entered into with parties operating in jurisdictions that generally uphold confidentiality clauses and agreements. Such steps should include the obtaining of appropriate legal advice.
5. Where **deposit information** is to be disclosed, merchant banks shall obtain appropriate legal advice in respect of the jurisdiction where the outsourcing function is to be performed. The legal advice should in particular highlight the circumstances under which the deposit information might be required by law to be disclosed by the service provider notwithstanding any obligation of confidentiality assumed by the service provider. Merchant banks shall ensure that such legal advice is kept current and that its customers are adequately apprised of the circumstances under which deposit customer information might be so disclosed.
6. Merchant banks shall disclose information to the service provider only on a need-to-know basis and ensure that the amount of information disclosed is proportionate to the needs of the situation.
7. Merchant banks are required to notify the service provider in writing of the merchant bank's obligations of confidentiality under the Banking Act (Cap. 19) and under the common law.
8. Outsourcing agreements shall include confidentiality clauses which shall address but are not necessarily limited to the following matters:
 - (a) All documents, records of transactions, information processed by or stored with the service provider pursuant to the outsourcing agreement should be made available for review by the merchant bank, by the

internal and external auditors of the merchant bank, or by MAS and its agents upon request.

- (b) Access to information by the employees of the service provider should be limited to those who strictly need to have the information in order to perform their duties.
 - (c) The service provider and its employees should be restricted from further disclosing the information to any other party unless required to do so by law.
 - (d) Any information disclosed should be used strictly for the purpose for which they were disclosed for by the merchant bank.
9. Merchant banks shall ensure that an independent report on the service provider's control environment is prepared annually, highlighting any deficiencies in the internal controls and any breaches of confidentiality that may have occurred. A copy of all such reports is to be submitted by the merchant bank to MAS for information.
10. Merchant banks must be able to terminate the outsourcing agreement in the event that:
- (a) the service provider undergoes a change in ownership, becomes insolvent, goes into liquidation, receivership or judicial management;
 - (b) there has been a breach of confidentiality; or
 - (c) there has been a demonstrable deterioration in the ability of the service provider to safeguard the confidentiality of customer information.
11. Merchant banks should also have in place contingency measures to minimise disruption of its operations should any such outsourcing agreement be terminated.
12. If any of the events in paragraphs (a), (b) or (c) of condition 10 occurs, merchant banks are required to:
- (a) notify MAS of the event;
 - (b) consider whether to terminate the outsourcing agreement;
 - (c) terminate the outsourcing agreement in accordance with its terms, if so directed by MAS in writing.
13. Upon the termination of an outsourcing agreement, merchant banks shall to the fullest extent possible, procure that all documents, records of transactions and information previously given to the service provider are either removed from the possession of the service provider or deleted, destroyed or rendered unusable.
14. Where the service provider is an **overseas regulated financial institution**, a written confirmation is to be given to MAS by the supervisory authority of the

service provider to the effect that:

- (a) MAS and any independent auditors appointed by MAS will be allowed access by the supervisory authority to the merchant bank's documents, records of transactions, information previously given to, stored or processed by the service provider;
- (b) the merchant bank and any auditor appointed by the merchant bank will not be inhibited from inspecting the control environment within the service provider insofar as it relates to the merchant bank's data that is processed by the service provider, and report any findings to MAS;
- (c) the supervisory authority:
 - (i) shall not access any customer information that is in the possession of the overseas regulated financial institution ("the Information") unless access to the Information is required for the sole purpose of carrying out its supervisory functions;
 - (ii) shall give MAS written notification whenever it accesses the Information; and

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- (d) the supervisory authority is prohibited under its laws from disclosing the Information to any other person, or it will safeguard the confidentiality of the Information.

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