

FINTECH

Singapore



Fintech

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Quick reference guide enabling side-by-side comparison of local insights into fintech innovation and government / regulatory support; regulatory bodies and regulated activities; cross-border regulation; regulation of sales and marketing and of changes of control; financial crime; peer-to-peer and marketplace lending; artificial intelligence, distributed ledger technology and crypto-assets; data protection and cybersecurity; outsourcing and cloud computing; intellectual property, competition, tax and corporate immigration considerations; and recent trends.

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FINTECH LANDSCAPE AND INITIATIVES

General innovation climate

What is the general state of fintech innovation in your jurisdiction?

Singapore provides a conducive fintech ecosystem with supporting regulations, customer demand, strong investments and the potential for high returns. The government considers a vibrant fintech sub-sector key to Singapore's vision for a Smart Financial Center – a subset of the Smart Nation initiative.

According to a survey by Boston Consulting Group, companies based in Singapore raised about S\$656 million in the first quarter of 2021, up 355 per cent from the year before. Fintech funding in Singapore has been on an upward trajectory over the past years. From 2016, funding grew at an annual rate of 47 per cent to about S\$1.4 billion in 2020.

Based on the Innovation page of the Monetary Authority of Singapore (MAS), there are currently more than 1,000 fintech start-ups operating in Singapore, and there are more than 40 innovation labs in Singapore. The Singapore FinTech Association, the industry association, has enabled the development of the ecosystem by facilitating collaboration between market participants and stakeholders. There are various grants for startups looking to start a business in Singapore.

Law stated - 09 June 2021

Government and regulatory support

Do government bodies or regulators provide any support specific to financial innovation? If so, what are the key benefits of such support?

MAS is a member of the Global Financial Innovation Network (GFIN), which was formally launched in January 2019 by an international group of financial regulators and related organisations. The GFIN is committed to supporting financial innovation in the interests of consumers and helping innovative firms navigate between countries as they look to scale new ideas. A cross-border testing pilot programme was launched in 2019 to allow firms to simultaneously trial and scale new technologies in multiple jurisdictions, gaining real-time insight into how a product or service might operate in the market.

As of November 2019, MAS had signed 33 fintech cooperation agreements with other countries, including Abu Dhabi, Australia, China, Canada, France and the United Kingdom, to foster closer cooperation on fintech and to promote innovation in financial services in their respective markets.

MAS released a consultation paper on 14 November 2018 to propose the creation of predefined sandboxes, known as Sandbox Express, to complement the existing FinTech Regulatory Sandbox launched in 2016. The proposed predefined sandboxes would enable firms to embark on experiments more quickly without needing to go through the existing bespoke sandbox application and approval process, if the intended activities entail risks that are generally low or could be reasonably contained within the specific predefined sandbox with its predetermined boundaries, expectations and regulatory reliefs.

MAS has encouraged engagement with the industry and has been open to discuss the support it can provide in forms such as financial support, training and mentorship. In 2016, MAS opened a fintech innovation lab, Looking Glass@MAS, to provide a platform for the fintech community to connect, collaborate, and co-create with one another, and MAS also regularly publishes sets of data as application programming interfaces (APIs) on its website to encourage and facilitate development of innovative solutions.

MAS has also launched the Financial Sector Technology and Innovation scheme to support innovation initiatives in the finance industry. Under the scheme, MAS set aside S\$225 million over five years for the development of fintech, to

attract financial institutions to establish their research and development and innovation hubs in Singapore, to support the construction of industry-wide technological infrastructure to deliver innovative integrated services and to catalyse financial institutions to develop creative solutions promoting growth, efficiency and competitiveness.

MAS, the Securities and Futures Act (Chapter 289) (SFA) and AMTD established a S\$6 million MAS-SFA-AMTD FinTech Solidarity Grant during the covid-19 period to support Singapore-based fintech companies amid the challenging business climate caused by the covid-19 pandemic. The Grant will help the fintechs manage their cashflow better, support them in generating new businesses, and provide greater support for fintechs to pursue growth strategies.

Law stated - 09 June 2021

FINANCIAL REGULATION

Regulatory bodies

Which bodies regulate the provision of fintech products and services?

Generally, the provision of fintech products and services is predominantly regulated by the Monetary Authority of Singapore (MAS), Singapore's central bank and financial regulatory authority. Particular aspects relating to competition and data privacy issues may be specifically regulated by the Competition and Consumer Commission of Singapore and the Personal Data Protection Commissioner. The Intellectual Property Office of Singapore has also launched a fintech fast-track initiative to expedite the file-to-grant process for fintech patent applications.

MAS has launched various initiatives pertaining specifically to fintech, such as the FinTech and Innovation Group and FinTech Regulatory Sandbox. MAS has also promulgated regulations relating to aspects of fintech. Many payment companies, digital asset exchanges and other fintech ecosystem entities also fall within the scope of the Payment Services Act 2019, which is regulated by MAS.

Law stated - 09 June 2021

Regulated activities

Which activities trigger a licensing requirement in your jurisdiction?

Depending on the nature and scope of services or products offered, licensing requirements under the Securities and Futures Act (Chapter 289) (SFA) or the Financial Advisers Act (Chapter 110) (FAA) , or both, may apply.

The following activities are regulated under the SFA:

- dealing in capital markets products;
- advising on corporate finance;
- fund management;
- real estate investment trust management;
- product financing;
- providing credit rating services; and
- providing custodial services.

The following activities are regulated under the FAA:

1. advising others, either directly or through publications or writings, and whether in electronic, print or other form,

concerning any investment product, other than:

1. in the manner set out in (2); or
2. advising on corporate finance within the meaning of the SFA;
2. advising others by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning any investment product; and
3. arranging any contract of insurance in respect of life policies, other than a contract of reinsurance.

The licensing requirements under the SFA and the FAA have extraterritorial effect. Section 339 of the SFA and section 90 of the FAA provide that where a person does an act partly in and partly outside Singapore, which, if done wholly in Singapore, would constitute an offence against any provision of the SFA or the FAA (as the case may be), that person shall be guilty of that offence as if the act were carried out by that person wholly in Singapore, and may be dealt with as if the offence was committed wholly in Singapore. In addition, section 339 of the SFA also provides that where a person does an act outside Singapore that has a substantial and reasonably foreseeable effect in Singapore and that act would, if carried out in Singapore, constitute an offence under the relevant provisions of the SFA, that person shall be guilty of that offence as if the act were carried out by that person in Singapore, and may be dealt with as if the offence were committed in Singapore.

The activity most relevant to fintech businesses is likely to be 'dealing in capital markets products' under the SFA. 'Dealing in capital markets products' means (whether as principal or agent) making or offering to make with any person, or inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to acquiring, disposing of, entering into, effecting, arranging, subscribing for, or underwriting any capital markets products. 'Capital markets products' means any securities, units in a collective investment scheme, derivatives contracts, spot foreign exchange contracts for the purposes of leveraged foreign exchange trading, and such other products as MAS may prescribe as capital markets products.

In addition to the above licensing requirements, where a fintech business undertakes banking business, such as receiving money on current or deposit accounts, this business is required to be licensed as a bank by MAS pursuant to the Banking Act (Chapter 19). Similarly, if the fintech business undertakes the business of moneylending or promotes doing so, it will require a licence pursuant to the Moneylenders Act (Chapter 188), unless it is an excluded moneylender or an exempt moneylender.

Since 29 January 2020, the Payment Services Act (No. 2 of 2019) (the PS Act) has come into force. Under the PS Act, where a fintech business carries on a business of providing any type of payment service in Singapore, it must have a licence that entitles it to do so in respect of that type of payment service or be an exempt payment service provider with respect to that type of payment service. Each of the following services is a payment service for the purposes of the PS Act:

- account issuance;
- domestic money transfer;
- cross-border money transfer;
- merchant acquisition;
- e-money issuance;
- digital payment token; and
- money-changing.

In general, licensing requirements may differ depending on the nature and scope of activities contemplated, and advice should be sought on the specific circumstances of any particular case.

Consumer lending

Is consumer lending regulated in your jurisdiction?

Under Singapore law, the offering and provision of consumer lending is not distinguished from primary lending. Lending (consumer lending and primary lending) is a regulated activity in the jurisdiction and is governed by the Moneylenders Act (Chapter 188) of Singapore.

The Moneylenders Act requires that all loans made available in Singapore are by licensed moneylenders or excluded moneylenders. Examples of excluded moneylenders are:

- any person regulated by MAS under any other written law who is permitted or authorised to lend money or is not prohibited from lending money under that other written law;
- any person who lends money solely to his or her employees as a benefit of employment;
- any person who lends money solely to accredited investors within the meaning of section 4A of the SFA of Singapore; and
- any person carrying on any business not having as its primary object the lending of money in the course of which and for the purposes whereof he or she lends money.

Law stated - 09 June 2021

Secondary market loan trading

Are there restrictions on trading loans in the secondary market in your jurisdiction?

The acquisition of a (funded) loan receivable and the holding of that loan receivable does not constitute moneylending unless, following the acquisition, additional loans are extended.

Secondary market loan intermediation is not a regulated activity, provided that it does not involve any lending or deposit taking and provided that loans are not in the form of securities.

Law stated - 09 June 2021

Collective investment schemes

Describe the regulatory regime for collective investment schemes and whether fintech companies providing alternative finance products or services would fall within its scope.

Broadly, 'collective investment schemes' are arrangements in respect of any property that exhibit the following features:

- the participants do not have day-to-day control over the management of the property (Control Limb);
- the property is managed as a whole by or on behalf of a manager (Management Limb) or the contributions of the participants, or both, and the profits or income out of which payments are to be made to the participants are pooled (Pooling Limb); and
- the purpose or effect (or purported purpose or effect) of the arrangement is to enable participants to participate in or receive profits, income, or other payments or returns arising from the acquisition, holding, management, disposal, exercise, redemption or expiry of, any right, interest, title, or benefit in the property or any part of the property or to receive sums paid out of such profits, income, or other payments or returns (Purpose Limb).

Previously, it was a requirement that both the Management Limb and the Pooling Limb be satisfied. However, following certain amendments to the laws in October 2018, arrangements can now qualify as a 'collective investment scheme' if they fulfil either the Management Limb or the Pooling Limb, or both, in addition to the Control Limb and Purpose Limb.

Generally, unless an exemption applies, it is an offence to make an offer of units in a collective investment scheme to the Singapore public unless the scheme is authorised or recognised by MAS and the offer is made in or accompanied by an SFA-compliant prospectus.

It is possible that certain fintech activity could involve a collective investment scheme where the business concerned is managing assets on behalf of participants who have invested through a fintech platform. Careful analysis of the specific circumstances and the way in which the platform permits investors to participate will be required to determine whether it constitutes a collective investment scheme.

Law stated - 09 June 2021

Alternative investment funds

Are managers of alternative investment funds regulated?

Managing the property of or operating a collective investment scheme or undertaking on behalf of a customer (whether on a discretionary authority granted by the customer or otherwise) is regulated as 'fund management' under the SFA if it involves:

- the management of a portfolio of capital markets products; or
- the entry into spot foreign exchange contracts for the purpose of managing the customer's funds, but not including real estate investment trust management.

Accordingly, unless an exemption applies, managers of alternative investment funds generally require a licence to conduct business involving these activities.

Law stated - 09 June 2021

Peer-to-peer and marketplace lending

Describe any specific regulation of peer-to-peer or marketplace lending in your jurisdiction.

There are no specific regulations applicable to peer-to-peer or marketplace lending in Singapore. Fundraising from the public through lending-based crowdfunding, or peer-to-peer lending, is regulated by MAS under the SFA and the FAA. Therefore, such activity might constitute a regulated activity that requires a licence, but much will depend on the precise model.

Furthermore, in Singapore, any invitation to lend money to an entity is deemed to be an offer of debentures, which is a type of security. The entity offering the debentures is required to prepare and register an SFA-compliant prospectus with MAS unless an exemption applies.

Law stated - 09 June 2021

Crowdfunding

Describe any specific regulation of crowdfunding in your jurisdiction.

There are specific regulations applicable to crowdfunding in Singapore. These regulations apply to securities-based crowdfunding operators and lending-based crowdfunding.

Generally, securities-based fundraising from the public through equity-based crowdfunding is regulated by MAS under the SFA and the FAA. Therefore, such activity might constitute a regulated activity that requires a licence, but much will depend on the precise model.

Such a licensed crowdfunding operator must comply with the controls and disclosures required of it under the MAS Circular No. CMI 27/2018 (issued 23 August 2018) (the Securities-Based Crowdfunding Circular). Under the Securities-Based Crowdfunding Circular, an operator must:

- disclose to investors the scope of due diligence that it has performed on issuers;
- institute policies and procedures to handle issuer defaults (particularly lending-based operators);
- put in place a proper business cessation plan; and
- if offering auto-allocation tools, have a proper governance and management framework over the design, monitoring, testing and operation of the tools.

As for lending-based crowdfunding in particular, it is specifically regulated by the MAS's FAQ on Lending-Based Crowdfunding (issued 8 October 2018). While the FAQs do not introduce new rules, the FAQs do clarify the applicability of the SFA or the FAA to lending-based crowdfunding.

If applicable, the SFA would require a lending-based crowdfunder to register a prospectus with MAS, unless exempted. It would only be exempted if the crowdfunding offer is:

- a personal offer (made only to pre-identified entities) below S\$5 million per 12-month period;
- a private placement to 50 or fewer investors within a 12-month period; or
- an offer made only to institutional or accredited investors.

The SFA would also require the operator to obtain a capital markets services licence. Separately, if the operator provides financial advice to interested investors, the operator would also need to comply with the requirements of the FAA.

The FAQs also clarify that crowdfunding with promissory notes are not exempted from the requirements under the SFA. Some of the peer-to-peer lending companies in Singapore engage with MAS-regulated trustees to hold escrow funds.

Law stated - 09 June 2021

Invoice trading

Describe any specific regulation of invoice trading in your jurisdiction.

To the extent that an invoice is purchased, without risk of being recharacterised as a loan for the purposes of the Moneylenders Act, with true sale there is no specific regulation on the buying and selling of invoices. This is common in factoring and invoice discounting arrangements.

However, if invoices are opened to the public and crowdfunded, the operator of the trading platform will need to follow certain regulations, including the SFA, FAA, the Securities-Based Crowdfunding Circular and the MAS's FAQ on Lending-Based Crowdfunding. The extent to which each of these regulations apply will depend on the precise nature of the crowdfunding scheme and the manner in which it is carried out.

Law stated - 09 June 2021

Payment services

Are payment services regulated in your jurisdiction?

Payment services include a wide range of activities, such as taking cash deposits, making cash withdrawals, executing payment transactions, issuing or acquiring payment instruments, issuing and administering means of payment, money remittance, making payments sent through the intermediary of a telecoms, IT system or network operator, or even providing stored value facilities.

Since 29 January 2020, certain payment services are now regulated in Singapore under, inter alia, the PS Act. These regulated payment service activities are:

- account issuance;
- domestic money transfer;
- cross-border money transfer;
- merchant acquisition;
- e-money issuance;
- digital payment token; and
- money-changing

To carry on the business of providing any of the above-mentioned payment services, the entity will require one of three types of licence: money-changing, standard payment institution or major payment institution.

Different regulatory conditions apply to each type of licence, with the extent of regulatory conditions increasing from standard payment institutions to major payment institutions. For instance, major payment institutions must safeguard customer money with an undertaking by a bank or prescribed financial institution, a guarantee by a bank or prescribed financial institution or segregate customer money in a trust account maintained by a bank or prescribed financial institution. On the other hand, standard payment institutions are not subjected to these safeguarding measures, although they must alert customers so they can make informed decisions.

Correspondingly, each type of licence authorises the licensee to conduct different types and different quantum of each type of payment service. For example, licensees holding a money-changing licence may only conduct money-changing services. By contrast, standard payment institutions may conduct any type of payment service, so long as the monthly transactions for any activity type do not exceed S\$3 million, the monthly transactions for two or more activity types do not exceed S\$6 million and, where relevant, the total amount of daily outstanding e-money does not exceed S\$5 million. By extension, major payment institutions may conduct any type of payment services, and the quantum limits applicable to standard payment institutions do not apply.

The PS Act includes provisions to mitigate the risks of loss of customer monies, money laundering and terrorism financing risks, fragmentation and lack of interoperability across payment solutions, and technology risks including cyber risks. MAS has also proposed technology risk management requirements, including cybersecurity risk management guidelines.

Under the Payment Services (Amendment) Bill 2021 passed on 4 January 2021, amendments relating to anti-money

laundering and countering terrorist financing (AML/CTF), cross-border money transfer services and digital payment token (DPT) services have been introduced. The scope of digital payment token services has been significantly amended. MAS has stated that it intends to grant a six-month exemption to entities that are newly regulated under the PS Act, as well as to existing PS Act-licensed entities that have to change their licences as a result of the amendments

Law stated - 09 June 2021

Open banking

Are there any laws or regulations introduced to promote competition that require financial institutions to make customer or product data available to third parties?

MAS has published a comprehensive application programming interface (API) playbook in its bid to encourage more banks to participate in open banking. This document outlines and standards framework for:

- API governance;
- API lifecycle governance;
- governance of API risk; and
- regulatory considerations for partner API operating models.

The result of MAS's push towards open banking can be clearly seen with businesses such as Citibank, DBS, OCBC, Standard Chartered and payments service provider NETS running their own Open API portals comprising over 272 API sets.

MAS has also implemented the Financial Industry API Register, which is updated semi-annually and designed to serve as the initial landing site for Open APIs in the Singaporean finance industry. These APIs fall under the following functional categories:

- product APIs that provide information on financial product details, rates and branch or ATM locations;
- sales and marketing APIs for product sign-ups, sales or cross-sales and leads generation;
- servicing APIs for managing customer profiles or account details and customer queries or feedback;
- transaction APIs that support customer instructions for payments, funds transfers, settlements, clearing, trade confirmations and trading;
- other APIs for common services, such as authentication, authorisation, reporting, market data and compliance; and
- regulatory APIs that enable extraction of data sets related to the financial industry as a whole.

On 14 May 2020, the Personal Data Protection Commission and the Ministry of Communications and Information launched a public consultation paper where it proposed to introduce a new Data Portability Obligation to give individuals greater choice and control over their personal data, prevent consumer lock-in and enable switching to new services. Data portability allows individuals to request an organisation to transmit a copy of their personal data to another organisation.

Law stated - 09 June 2021

Robo-advice

Describe any specific regulation of robo-advisers or other companies that provide retail customers with automated access to investment products in your jurisdiction.

Robo-advisers and other companies that provide retail customers with automated access to investment products in Singapore are regulated under the SFA or the FAA, or both, and must adhere to the MAS's Guidelines on Provision of Digital Advisory Services (CMG-G02) (the Advisory Guidelines), including the requirement to be appropriately licensed unless they qualify for relevant exemptions.

However, as MAS is keen not to stifle digital innovation, the Advisory Guidelines provide for a lower bar for licensing in certain circumstances. For example, digital advisers that seek to offer fund management services to retail investors will be eligible for licensing even if they do not meet the SFA corporate track record requirements, provided they meet other specified safeguards.

Under the Advisory Guidelines, digital advisers will be exempted from the FAA requirement to collect the full suite of information on the financial circumstances of a client, such as income and financial commitments. This is on the condition that they put in place measures to mitigate the risks of providing unsuitable investment recommendations owing to limited client information.

While MAS is making it easier for digital advisers to set up in Singapore, the business model carries unique risks, such as faulty algorithms and cyber threats. To mitigate these risks, the Advisory Guidelines set out MAS's expectations for digital advisers to establish robust frameworks to govern and supervise their algorithms, as well as to manage technology and cyber risks.

Law stated - 09 June 2021

Insurance products

Do fintech companies that sell or market insurance products in your jurisdiction need to be regulated?

The marketing and sale of insurance products are regulated under the Insurance Act (Chapter 142) of Singapore and the FAA.

Law stated - 09 June 2021

Credit references

Are there any restrictions on providing credit references or credit information services in your jurisdiction?

Credit bureaus are recognised by the MAS under the Banking Act (Chapter 19) of Singapore to collect and disclose credit data to their members. A credit bureau bill was passed in Parliament on 9 November 2016 but has not yet come into force. Once in force, there will be a framework in place to subject credit bureaus to formal supervision by the MAS as credit bureaus collect increasing (and more specifically detailed) amounts of data to facilitate more comprehensive credit assessments by their members. The bill will also allow consumers the right to access, review and rectify their credit records. The provision of credit ratings (opinions primarily regarding the creditworthiness of entities other than individuals, governments or securities) is also regulated under the SFA.

Law stated - 09 June 2021

CROSS-BORDER REGULATION

Passporting

Can regulated activities be passported into your jurisdiction?

No.

Law stated - 09 June 2021

Requirement for a local presence

Can fintech companies obtain a licence to provide financial services in your jurisdiction without establishing a local presence?

It is unlikely that the Monetary Authority of Singapore would grant a licence to an entity for carrying on business in any regulated activity if that entity did not have a local presence.

Law stated - 09 June 2021

SALES AND MARKETING

Restrictions

What restrictions apply to the sales and marketing of financial services and products in your jurisdiction?

This will depend on many factors, including but not limited to, the regulatory status of the financial institution (eg, whether the financial institution is licensed or exempt and the type of licence held or exemption being relied upon) and the types of services and products being marketed. Depending on the facts, different rules and restrictions may need to be taken into account, including, for example, clientele restrictions.

Advice should be sought on the specific circumstances of any particular case.

Law stated - 09 June 2021

CHANGE OF CONTROL

Notification and consent

Describe any rules relating to notification or consent requirements if a regulated business changes control.

Different consent requirements apply to the acquisition of different types of regulated businesses. In general, where a person is to become a holder of a specified percentage of a regulated entity or will control a specified percentage of voting rights of that entity, prior consent must be obtained from the relevant regulatory authority.

In all cases, advice should be sought as to the applicable requirements and the process for obtaining consent.

Law stated - 09 June 2021

FINANCIAL CRIME

Anti-bribery and anti-money laundering procedures

Are fintech companies required by law or regulation to have procedures to combat bribery or money laundering?

Under the Payment Services Act, digital payment token service providers that facilitate the exchange of or that deal in digital payment tokens (DPT), commonly known as digital currencies or cryptocurrencies, will have to be licensed. The Monetary Authority of Singapore (MAS) has issued a consultation on an anti-money laundering and combating the financing of terrorism (AML/CFT) notice for regulating DPT services.

In its consultation paper, MAS reiterated that it considers DPT transactions to carry higher inherent money laundering and terrorism financing (ML/TF) risks owing to the anonymity, speed and cross-border nature of the transactions, a view that is consistent with the position taken by the Financial Action Task Force in its standards for virtual asset services providers.

MAS intends to require that AML/CFT measures also be applied for providers that facilitate the transfer of DPT or provide custodian wallet services, and asks for suggestions on other types of DPT-related services that could also pose ML/TF risks.

The AML/CFT requirements will make licensees obliged to take appropriate steps to identify, assess and understand their ML/TF risks, and develop and implement policies, procedures and controls for the effective management of these risks.

This includes policies, procedures and controls in relation to customer due diligence, transaction monitoring, screening, suspicious transactions reporting and record-keeping. Enhanced measures should be performed where higher ML/TF risks are identified.

The requirements also include monitoring the implementation of policies, procedures and controls, and enhancing them if necessary.

Law stated - 09 June 2021

Guidance

Is there regulatory or industry anti-financial crime guidance for fintech companies?

There is no specific guidance for fintech companies, but there is guidance for regulated companies and banks that would apply to fintech businesses that are regulated similarly.

Specifically for digital asset exchanges, the Association of Cryptocurrency Enterprises and Start-ups Singapore has developed a 'Code of Practice' under its Standardisation of Practice In Crypto Entities initiative.

Law stated - 09 June 2021

PEER-TO-PEER AND MARKETPLACE LENDING

Execution and enforceability of loan agreements

What are the requirements for executing loan agreements or security agreements? Is there a risk that loan agreements or security agreements entered into on a peer-to-peer or marketplace lending platform will not be enforceable?

Loan agreements governed by Singapore law and evidencing appropriate consideration for the loan can be executed in the form of agreements by signatories of the respective parties having due authority.

Moneylending in Singapore is a regulated activity under the Moneylenders Act of Singapore and, accordingly, any person or entity lending money to a person or entity in Singapore must either be licensed in Singapore, exempted or excluded. Any lending to individuals resident in Singapore would customarily require a licence.

The execution requirements for a Singapore law security agreement will depend on the form of security agreement. However, most Singapore law security agreements will be executed in the form of a deed to ensure that no challenge can be made on the grounds of consideration or owing to the form of property being secured. The execution requirements for deeds allow for three options:

- signing by a director of the company and a secretary of the company;
- signing by at least two directors of the company; or
- signing by a director of the company in the presence of a witness who attests the signature.

The enforceability of peer-to-peer (P2P) loan agreements and security agreements will depend on the precise model being applied. However, as a general observation, provided that any P2P model complies with any regulatory requirements as outlined above in Singapore (and in any other relevant jurisdiction), there should be no specific issues regarding the enforceability of the loan agreement or security agreement in Singapore.

Law stated - 09 June 2021

Assignment of loans

What steps are required to perfect an assignment of loans originated on a peer-to-peer or marketplace lending platform? What are the implications for the purchaser if the assignment is not perfected? Is it possible to assign these loans without informing the borrower?

A legal assignment by way of security of the rights of the lender of a loan under a P2P or marketplace lending platform, under which the purchaser of that loan would be entitled to directly sue the borrower for repayment of the debt under the loan, requires notice of this assignment by way of security to be given by the assigning lender to the borrower under the loan agreement.

The ability to transfer rights and obligations in a loan under Singapore law (whether in respect of a P2P or marketplace lending platform or otherwise) will depend on the terms of the loan.

In the absence of any specific provisions regarding transfer of both rights and obligations of a lender's position in a loan in the loan agreement, the borrower's consent would be required to transfer the lender's rights and obligations under a loan (although, in the absence of any express provisions to the contrary, an assignment of a lender's rights only (and not the lender's obligations) would not require the giving of notice to, or the receipt of consent from, the borrower although any lack of notice may affect the nature of any assignment by way of security of these rights).

It is quite common, however, for specific transfer provisions to be included in loan agreements to allow a lender to transfer its rights and obligations in their position in a loan to a third party without borrower consent. Customarily, criteria will be specified as to what constitutes an eligible transferee. Except in certain structures, it would be necessary to notify the borrower of the transfer in order for the transfer to take effect even in circumstances where borrower consent was not required.

Any transfer would also need to comply with any related restrictions imposed under the terms of the loan agreement and under regulations applicable to particular classes of borrower.

In connection to any assignment of a lender's rights under a loan by way of security, where notice of the assignment by way of security is not given by the assigning lender to the borrower under the loan agreement, the security assignment would, in ordinary circumstances (and subject to due execution and other formalities), be characterised as an equitable assignment. An equitable assignment is still characterised as a security interest. However, any action by the purchaser to enforce rights under the loan agreement needs to be taken by the lender on behalf of the purchaser. This may delay the taking of action and have an impact on recoveries.

In the case of an equitable assignment, it may be possible to have a notice of security assignment executed by the lender prior to any enforcement action being taken and held, by the purchaser, pending any enforcement event occurring, at which time the notice of assignment could be delivered to the borrower, giving rise to a legal security assignment.

Any assignment, by way of security or otherwise, will be subject to the general provisions of the loan agreement, including, without limitation, confidentiality restrictions, restrictions on the granting of security or transfers to third parties. As such, loan agreements for P2P or marketplace lending platforms that contemplate ease of assignment or transfer must be drafted to ensure that any such restrictions are kept to a minimum or excluded to the extent possible and subject to regulatory constraints applicable to lending to specific classes of borrowers.

Law stated - 09 June 2021

Securitisation risk retention requirements

Are securitisation transactions subject to risk retention requirements?

The Monetary Authority of Singapore Notice 637 (the MAS Notice) (last revised on 31 March 2020) requires a reporting bank (being a bank incorporated in Singapore) to ensure that the originator of the credit claims or receivables being securitised retains a material net economic exposure and demonstrates a financial incentive in the performance of these assets following their securitisation. As such, the reporting bank is required to ensure that this originator does retain such applicable risk in the exposures.

Pursuant to MAS Notice 637, reporting banks are also subject to maximum retention thresholds in respect of securitisation exposures to the extent that this reporting bank is looking to apply regulatory capital relief in respect of these exposures, as set out in more detail in MAS Notice 637.

Law stated - 09 June 2021

Securitisation confidentiality and data protection requirements

Is a special purpose company used to purchase and securitise peer-to-peer or marketplace loans subject to a duty of confidentiality or data protection laws regarding information relating to the borrowers?

Possibly. In addition, loan agreements may contain confidentiality provisions that any purchaser, including any special purpose company, is bound by. These would need to be carefully reviewed or drafted as part of any securitisation structure.

Law stated - 09 June 2021

ARTIFICIAL INTELLIGENCE, DISTRIBUTED LEDGER TECHNOLOGY AND CRYPTO-ASSETS

Artificial intelligence

Are there rules or regulations governing the use of artificial intelligence, including in relation to robo-advice?

The Monetary Authority of Singapore (MAS) has issued a set of principles to promote fairness, ethics, accountability and transparency (FEAT) in the use of AI and data analytics in finance. Known as the FEAT Principles, the document provides guidance to firms offering financial products and services on the responsible use of AI and data analytics, to strengthen internal governance around data management and use.

MAS has said that this is intended to foster greater confidence and trust in the use of AI and data analytics, as firms increasingly adopt technology tools and solutions to support business strategies and in risk management.

With regard to robo-advice, MAS has issued the Guidelines on Provision of Digital Advisory Services (the Advisory Guidelines) to facilitate the provision of robo-advice in Singapore. Digital advisers that seek to offer fund management services to retail investors will be eligible for licensing even if they do not meet the Securities and Futures Act (SFA) corporate track record requirements, provided they meet other specified safeguards.

Under the Advisory Guidelines, digital advisers will be exempted from the Financial Advisers Act (FAA) requirement to collect the full suite of information on the financial circumstances of a client, such as income and financial commitments. This is on the condition that they put in place measures to mitigate the risks of providing unsuitable investment recommendations owing to limited client information.

While MAS is making it easier for digital advisers to set up in Singapore, the business model carries unique risks, such as faulty algorithms and cyber threats. To mitigate these risks, the Advisory Guidelines set out MAS's expectations for digital advisers to establish robust frameworks to govern and supervise their algorithms, as well as to manage technology and cyber risks.

In May 2020, MAS announced the first phase of its Veritas initiative. Veritas outlines a framework for the responsible adoption of AI and data analytics by financial institutions. MAS will commence with the development of metrics to measure the fairness of deployment of this technology. MAS has identified credit risk scoring and customer marketing as the first two workstreams in which it would like to introduce the metric.

Law stated - 09 June 2021

Distributed ledger technology

Are there rules or regulations governing the use of distributed ledger technology or blockchains?

There are no specific regulations or guidelines in relation to the use of distributed ledger technology (DLT) in Singapore. MAS has been encouraging the industry to look at DLT in relation to the financial system in Singapore. For example, in early 2017, MAS announced the successful conclusion of the proof-of-concept project to conduct domestic interbank payments using DLT, and in late 2017 an industry consortium led by MAS and the Association of Banks in Singapore released source-codes of successful DLT prototypes publicly to encourage innovation in interbank payments.

Law stated - 09 June 2021

Crypto-assets

Are there rules or regulations governing the use of crypto-assets, including digital currencies, digital wallets and e-money?

Singapore's parliament has passed the new Payment Services Act (the PS Act) to regulate digital payment token services. This currently covers dealing (buying and selling) digital payment tokens, and facilitating the exchange of digital payment tokens. However, under the Payment Services (Amendment) Bill 2021 passed on 4 January 2021, amendments relating to anti-money laundering and countering terrorist financing (AML/CTF), cross-border money transfer services and digital payment token (DPT) services have been introduced. The scope of digital payment token services has been significantly amended to include the following:

- An entity providing DPT transfers as a service in Singapore will need to be licensed, regardless of where the DPT service provider locates its computing or operating systems, including for keeping its accounts and transaction records. However, MAS has clarified that it does not seek to regulate entities or persons that are solely involved in purely technical activities such as blockchain mining or the development of software applications.
- Entities involving in safeguarding that have control will need to be licensed. 'Control' in this case refers to whether the DPT service provider has the ability to control access to any DPT or to execute transactions involving the DPT.
- Entities that facilitate the exchange of DPTs will also need to be licensed, and service providers that induce or attempt to induce any person to enter into or to offer to enter into any agreement for or with a view to buy or sell DPTs in exchange for money or other DPTs will be included under this category. Examples of such services include the provision of brokerage or exchange services, or software applications that enable users to find counterparties and actively match orders for buyers and sellers of DPTs, without taking possession of the money or DPTs.

The powers of MAS to make regulations imposing additional requirements on DPT service providers have been strengthened. MAS may now introduce measures requiring DPT service providers to implement user protections. These regulations could relate to the safeguarding of customer assets held by the DPT service provider, the prescription of the amount or percentage of customer assets held by the DPT service provider, or the disclosure obligations of the DPT service provider to customers.

In addition, MAS has the power to impose measures on prescribed DPT service providers, when necessary or expedient in the interest of the public or a section of the public, Singapore's financial stability or MAS monetary policy.

MAS has stated that it intends to grant a six-month exemption to entities that are newly regulated under the PS Act, as well as to existing PS Act-licensed entities that have to change their licences as a result of the amendments

Law stated - 09 June 2021

Digital currency exchanges

Are there rules or regulations governing the operation of digital currency exchanges or brokerages?

Yes, digital currency exchanges or brokerages that allow token trading constituting capital markets products will need to seek MAS's approval, recognition or exemption under the SFA.

Additionally, under the PS Act, digital payment token service providers that facilitate the exchange of or that deal in digital payment tokens, commonly known as digital currencies or cryptocurrencies, will have to be licensed.

Law stated - 09 June 2021

Initial coin offerings

Are there rules or regulations governing initial coin offerings (ICOs) or token generation events?

The regulation in Singapore of tokens offered in initial coin offerings (ICOs) depends on the nature of the tokens offered. Utility tokens that only provide membership or access to a service or payment tokens that are only used as a means of payment for goods or services (such as bitcoin) are not at present regulated. Digital payment tokens are regulated under the PS Act. However, if a digital token constitutes a capital markets product (eg, securities, futures contracts and contracts or arrangements for purposes of leveraged foreign exchange trading), the offer or issue of these digital tokens will be regulated under the SFA and (in certain cases) the FAA. For example, digital tokens may represent ownership or a security interest over an issuer's assets or property. These tokens may, therefore, be considered an offer of shares or units in a collective investment scheme (as defined in the SFA). Digital tokens may also represent a debt owed by an issuer and be considered a debenture under the SFA.

In this regard, MAS has issued 'A Guide to Digital Token Offerings' (updated May 2020), which provides general guidance on the application of the securities laws administered by MAS in relation to offers or issues of digital tokens in Singapore. MAS recommends that all issuers of digital tokens, intermediaries facilitating or advising on an offer of digital tokens and platforms facilitating trading in digital tokens should seek independent legal advice to ensure they comply with all applicable laws, and consult MAS where appropriate.

On 24 May 2018, MAS warned eight digital token exchanges in Singapore not to facilitate trading in digital tokens that are securities or futures contracts without MAS's authorisation. It also warned an ICO issuer to discontinue the proposed offering of its digital tokens in Singapore (the tokens in question would be considered as securities under the SFA and the offer had been made without a MAS-registered prospectus). While it is unclear how much was raised from investors in Singapore, the ICO issuer has since ceased the offer and is taking remedial actions to comply with the local laws and regulations, including returning all funds received from Singapore-based investors. Ultimately, MAS's position in respect of digital token exchanges and ICOs is indicated clearly in the following statement: 'We do not see a need to restrict them if they are bona fide businesses. But if any digital token exchange, issuer or intermediary breaches our securities laws, MAS will take firm action.'

Under the new PS Act, entities will require licences to provide payment services, including the issuance of electronic money and digital payment tokens. Based on the definition of digital payment token as well as e-money found in the PS Act, many tokens in the market today can be viewed as either e-money or digital payment tokens, and any service provider who issues tokens falling within these categories through an ICO can be deemed as providing a digital payment token service or e-money issuance by the PS Act.

There is an exception applicable for tokens that have a limited purpose (ie, non-monetary consumer loyalty or reward points, in-game assets or similar digital representations of value that cannot be returned to the issuer or sold, transferred or exchanged for money).

Law stated - 09 June 2021

DATA PROTECTION AND CYBERSECURITY

Data protection

What rules and regulations govern the processing and transfer (domestic and cross-border) of data relating to fintech products and services?

There are no legal requirements or regulatory guidance relating to personal data that are specifically aimed at fintech businesses. However, fintech companies must have regard to Chapter 6 on Online Activities of the Personal Data

Protection Commissioner's (PDPC) Advisory Guidelines on the PDPA for Selected Topics.

The PDPC has recently announced new initiatives to facilitate the movement and use of data to support innovation, and strengthen accountability among organisations. The first is the PDPC's response note to the public consultation on proposed data portability and data innovation provisions, as part of the review of the PDPA. The proposed data portability provision will provide individuals with greater control over their personal data and enable greater access to more data by organisations to facilitate data flows and increase innovation, while the proposed data innovation provision makes it clear that organisations can use data for appropriate business purposes without individuals' consent.

The second is the PDPC's introduction of new guides, such as: the Guide on Active Enforcement, as part of its drive for organisations to shift from compliance to accountability; an updated Guide to Managing and Notifying Data Breaches under the PDPA, to help organisations manage and respond to data breaches more effectively; and a new Guide to Notification, which illustrates good notification practices for organisations to comply with their Notification Obligations under the PDPA .

On 1 February 2021, certain key amendments to the PDPA, as well as accompanying subsidiary regulations, came into force. This round of amendments will introduce significant change to the existing data protection regime in Singapore, which bring it closer in line with higher global standards. They include the following.

Collection, use and disclosure of personal data without consent is now permitted in the event that this is in the general legitimate interests of the organisation

To rely on this broad exemption, an organisation must:

- identify the legitimate interest;
- conduct an assessment to identify any adverse effect on the individual and implement reasonable measures to reduce any such effects; and
- disclose reliance on the legitimate interests exception.

Business Improvement exception

Organisations may use personal data of users without their consent where:

- improving, enhancing or developing new goods or services;
- improving, enhancing or developing new methods or processes for business operations in relation to the organisations' goods and services;
- learning or understanding behaviour and preferences of individuals; or
- identifying goods and services that may be suitable for individuals, or personalising and customising goods and services for such individuals.

Law stated - 09 June 2021

Cybersecurity

What cybersecurity regulations or standards apply to fintech businesses?

While there is a new cybersecurity law, the Cybersecurity Act 2018 , that came into force in August 2018, it is unlikely to directly affect unregulated fintech start-ups as it is intended to regulate systems involved in the provision of essential

services within Singapore. The Cybersecurity Act provides an overarching legislative framework for the regulation of owners of critical information infrastructure and cybersecurity service providers.

With regard to regulated fintech companies, the Monetary Authority of Singapore (MAS) issued a consultation in March 2019 seeking feedback to expand the Technology Risk Management Guidelines to include guidance for the following:

- technology risk governance and oversight;
- best practices for software development;
- additional guidance for new technologies (ie, application programming interfaces, smart electronic devices and virtualisation); and
- effective cyber surveillance, secure software development, adversarial attack simulation and management of cyber risks posed by the internet of things.

In September 2018, MAS also sought to strengthen the rules on cyber security through its Notice on Cyber Hygiene in view of the deepening cyber threat landscape and to further strengthen the overall cyber resilience of financial institutions. It intends to eventually prescribe a set of legally binding essential cyber security practices that financial institutions must put in place to manage cyber threats, which could include:

- addressing system security flaws in a timely manner;
- establishing and implementing robust security for systems; and
- deploying security devices to secure system connections.

Law stated - 09 June 2021

OUTSOURCING AND CLOUD COMPUTING

Outsourcing

Are there legal requirements or regulatory guidance with respect to the outsourcing by a financial services company of a material aspect of its business?

On 5 October 2018, the Monetary Authority of Singapore (MAS) issued revised Guidelines on Outsourcing . Various industry guidelines on outsourcing have also been issued by the Investment Management Association of Singapore and the Association of Banks in Singapore.

The MAS Guidelines on Outsourcing set out risk management practices to be complied with when a regulated entity has entered into any outsourcing or is planning to outsource its business services to a service provider (whether this outsourcing is done on an intra-group or a third-party basis, or a material or non-material basis). Certain key requirements in the Outsourcing Guidelines include maintaining an Outsourcing Register and ensuring that all outsourcing contracts are written agreements containing the minimum prescribed clauses. The Outsourcing Guidelines also detail the responsibilities of the board and senior management in this regard (eg, approving a risk evaluation framework, setting a suitable risk appetite statement, laying down appropriate approval authorities, assessing management competencies to develop sound and responsive outsourcing risk management policies and procedures that are commensurate with the nature, scope and complexity of the outsourcing arrangements).

On 18 December 2020, the MAS issued a consultation paper that proposes imposing certain requirements in respect of the outsourcing of relevant services by banks or merchant banks. These relevant services are those that either:

- are or were performed by a bank or merchant bank prior to it obtaining or receiving the relevant service;
- are commonly performed by banks and merchant banks in Singapore; or

- have been specified by the MAS.

The following key requirements are imposed on outsourced relevant services.

- Banks and merchant banks are to maintain a register of all outsourced relevant services obtained or received from service providers, whether or not material, if the outsourced relevant service is or is intended to be for a duration of more than one year. The register is to be submitted to the MAS at least semi-annually or upon request.
- Material ongoing outsourced relevant services will be subject to the full set of requirements set out in the consultation (ie, management of risks posed to the bank or merchant bank, evaluation of service providers, incorporation of certain terms in outsourcing agreements, measures to protect customer information disclosed to service providers, restrictions on use of sub-contractors by service providers, audit requirements, and other additional requirements if such service is obtained or received from an overseas regulated financial institution).
- In relation to outsourced relevant services that involve the disclosure of customer information, a subset of the requirements in the consultation focusing on the protection of customer information will be imposed. These requirements will apply regardless of whether the outsourced services are material or ongoing, or whether customer consent has been obtained for the disclosure of customer information. Such outsourced services are also to be included in the register mentioned in the prior point.

The MAS will also require banks and merchant banks incorporated in Singapore to implement a group policy on outsourced relevant services to ensure that all its branches comply with the requirements in the consultation. The consultation period ends on 29 January 2021.

Law stated - 09 June 2021

Cloud computing

Are there legal requirements or regulatory guidance with respect to the use of cloud computing in the financial services industry?

Yes, financial institutions regulated by MAS should have regard mainly to the MAS Guidelines on Outsourcing. MAS considers cloud services operated by service providers to be a form of outsourcing. In this respect, MAS also considers that the types of risks in cloud services that confront institutions are not necessarily distinct from that of other forms of outsourcing arrangements. Accordingly, institutions should still perform the necessary due diligence and apply sound governance and risk management practices required by the Outsourcing Guidelines when subscribing to cloud services.

Nevertheless, to the extent that cloud services have certain typical characteristics, such as multi-tenancy, data commingling and the higher propensity for processing to be carried out in multiple locations, institutions should take measures to address those risks, bearing in mind the materiality of those risks specific to each institution. In this regard, the institution would have to deal with risks associated with data, to ensure the service provider can identify and segregate customer data, and robust access controls to protect customer information.

Law stated - 09 June 2021

INTELLECTUAL PROPERTY RIGHTS

IP protection for software

Which intellectual property rights are available to protect software, and how do you obtain those rights?

Computer programs (and preparatory design materials for computer programs) are protected by copyright as literary works under the Copyright Act (Chapter 63). Copyright arises automatically as soon as the computer program is recorded. Registration of copyright is not required and is not possible in Singapore.

If the software code has been kept confidential it may also be protected as confidential information. No registration is required.

Patents for software (source code) are not currently applicable for patent registration and protection. The Intellectual Property Office of Singapore (IPOS) has issued the Examination Guidelines for Patent Applications at IPOS, which takes the view that 'claims to software that are characterised only by source code, and not by any technical features, is unlikely to be considered an invention on the basis that the actual contribution would be a mere presentation of information'.

Law stated - 09 June 2021

IP developed by employees and contractors

Who owns new intellectual property developed by an employee during the course of employment? Do the same rules apply to new intellectual property developed by contractors or consultants?

Copyright created by an employee in the course of his or her employment is automatically owned by the employer unless otherwise agreed.

An invention made by an employee belongs to the employer if it was made in the course of the normal duties of the employee or in the course of duties falling outside his or her normal duties, but specifically assigned to him or her, and the circumstances in either case were such that an invention might reasonably be expected to result from the carrying out of his or her duties; or if the invention was made in the course of the duties of the employee and, at the time of making the invention, because of the nature of his or her duties and the particular responsibilities arising from the nature of his or her duties, he or she had a special obligation to further the interests of the employer's undertaking.

Except in certain narrow circumstances, copyright or inventions created by contractors or consultants in the course of their duties are owned by the contractor or consultant unless otherwise agreed in writing.

Law stated - 09 June 2021

Joint ownership

Are there any restrictions on a joint owner of intellectual property's right to use, license, charge or assign its right in intellectual property?

Yes, unless amended by agreement, joint owners of a copyright hold their shares as tenants in common. Any use, licence, charge or assignment of the copyright must, therefore, be done by the joint owners as a whole or by one of the joint owners with the consent of the other joint owners.

However, this position is different for patents notwithstanding that these co-owners hold the ownership of the patent as tenants-in-common. Except where the statutory provisions have been amended by agreement between the joint owners, the Patents Act provides that a co-owner is entitled to do any otherwise infringing act for his or her own benefit, by him or herself or by his or her agents, without requiring the consent of (or the need to account to) any of the other co-owners.

Nevertheless, a co-owner may not, without the consent of the other co-owners, grant a licence under the patent or assign or charge a share in the patent.

Law stated - 09 June 2021

Trade secrets

How are trade secrets protected? Are trade secrets kept confidential during court proceedings?

Confidential information can be protected against misuse, provided the information in question has the necessary quality of confidence, is subject to an express or implied duty of confidence, or no registration is necessary (or possible). Confidential information can be kept confidential during civil proceedings with the permission of the court.

Law stated - 09 June 2021

Branding

What intellectual property rights are available to protect branding and how do you obtain those rights? How can fintech businesses ensure they do not infringe existing brands?

Brands can be protected as registered trademarks in Singapore. A brand can also be protected under the common law tort of passing-off if it has acquired sufficient goodwill.

Certain branding, such as logos and stylised marks, can also be protected by design rights and may also be protected by copyright as artistic works.

The IPOS trademark database can be searched to identify potentially problematic trademarks that have been registered or applied for.

It is highly advisable for new businesses to conduct trademark searches to check whether earlier registrations exist that are identical or similar to their proposed brand names. It may also be advisable to conduct internet searches for any unregistered trademark rights that may prevent the use of the proposed mark.

Law stated - 09 June 2021

Remedies for infringement of IP

What remedies are available to individuals or companies whose intellectual property rights have been infringed?

Remedies include:

- preliminary and final injunctions;
- damages or an account of profits;
- delivery up or destruction of infringing products;
- disclosure orders; and

- costs.

Law stated - 09 June 2021

COMPETITION

Sector-specific issues

Are there any specific competition issues that exist with respect to fintech companies in your jurisdiction?

There is a competition regime in Singapore that applies to all entities carrying out business in Singapore unless otherwise exempted. There are no particular aspects of this regime that would affect fintech businesses disproportionately to other businesses.

Law stated - 09 June 2021

TAX

Incentives

Are there any tax incentives available for fintech companies and investors to encourage innovation and investment in the fintech sector in your jurisdiction?

At present, there are no tax incentives specifically targeted at fintech companies. However, new start-up companies in general can benefit from a tax exemption scheme. All companies are eligible for the exemption except companies whose principal activity is investment holding and companies that undertake property development for sale, investment or both. To qualify for the exemption, an eligible company must:

- be incorporated in Singapore;
- be tax-resident in Singapore for the relevant tax year of assessment; and
- have its share capital held by no more than 20 persons (all of whom must be individuals) throughout the period of that tax year of assessment, where at least one shareholder is an individual holding at least 10 per cent of the shares in the company, typically a founder.

The exemption applies for the company's first three consecutive tax years of assessment. With effect from tax year of assessment 2020, companies will benefit from a reduced 75 per cent exemption from tax on the first S\$100,000 of normal chargeable income and then a 50 per cent exemption on the next S\$100,000 of normal chargeable income.

Under the Angel Investors Tax Deduction Scheme, investors who are able to commit a minimum of S\$100,000 of investment to a qualifying start-up can, subject to approval and satisfaction of certain conditions, benefit from a tax deduction of 50 per cent of the amount of their investment at the end of a two-year holding period. This scheme lapsed after 31 March 2020, and investors can no longer obtain new approvals or renewal of the 'angel investor' status for any period commencing after 31 March 2020. However, angel investors will continue to enjoy tax deduction in respect of qualifying investments made during the period of the approved status, subject to existing conditions of the scheme.

For institutional investors, section 13H of the Income Tax Act (S13H) allows approved venture capital and private equity funds to benefit from zero-rated tax relief for up to 10 years in respect of gains from the divestment of approved portfolio holdings, dividend income from approved foreign portfolio holdings and interest income arising from approved foreign convertible loan stock. In addition, the Fund Management Incentive (FMI) gives an approved fund management company tax relief at a concessionary rate of 5 per cent for a period of up to 10 years in respect of both

management fees and performance bonus received from an approved venture capital fund. To benefit from both S13H and FMI, the venture capital or private equity funds and fund management companies must, at a minimum, be incorporated and based in Singapore and otherwise approved or licensed by the Monetary Authority of Singapore to conduct their activities.

Law stated - 09 June 2021

Increased tax burden

Are there any new or proposed tax laws or guidance that could significantly increase tax or administrative costs for fintech companies in your jurisdiction?

Yes; the Goods and Services Tax Act was amended in 2020 to require overseas digital service providers with a yearly global turnover of more than S\$1 million, which sell more than S\$100,000 worth of digital services to customers in Singapore in a 12-month period, to register for and charge goods and services tax (GST).

With effect from 1 January 2020, the Inland Revenue Authority of Singapore has required these digital services providers, who are registered under this Overseas Vendor Registration regime, to charge GST on their sale of digital services to Singapore consumers.

Law stated - 09 June 2021

IMMIGRATION

Sector-specific schemes

What immigration schemes are available for fintech businesses to recruit skilled staff from abroad? Are there any special regimes specific to the technology or financial sectors?

The rules on hiring staff from abroad apply to all companies operating in Singapore; prior to applying for an Employment Pass, companies will need to advertise the vacancy on the National Jobs Bank for at least 14 days unless a specific exemption applies.

The Economic Development Board launched Tech.Pass, a targeted programme to attract founders, leaders and technical experts with experience in established or fast-growing tech companies, so as to contribute to the development of Singapore's tech ecosystem. Tech.Pass will allow pass-holders flexibility in the participation of activities such as starting and operating a business, being an investor, employee, consultant or director in one or more Singapore-based companies, mentoring start-ups and lecturing at local universities.

Law stated - 09 June 2021

UPDATE AND TRENDS

Current developments

Are there any other current developments or emerging trends to note?

On 28 June 2019, the Monetary Authority of Singapore (MAS) announced that it will issue up to five new digital banking licences, welcoming applications from both traditional banking groups and non-bank players. The move has been recognised as marking the next chapter in Singapore's banking liberalisation journey.

In early December 2020, MAS announced that four entities were awarded digital banking licences.

While digital banks offer the same banking services as traditional banks, they operate without a physical setup, enabling customers to control their finances from their computers or smartphones. MAS awarded the licences to:

- a consortium of Singapore Telecommunications Ltd (Singtel) and Grab Holding Inc (Grab);
- Sea Limited;
- Ant Financial; and
- a consortium of Greenland Financial Holdings Group Co Ltd, Linklogis Hong Kong Ltd, and Beijing Co-operative Equity Investment Fund Management Co Ltd.

There are two types of digital banking licence – digital full bank licence (DFB) and digital wholesale bank licence (DWB).

The DFB licence enables an entity to offer deposits, loans and investment products through its online platform. DFB licence-holders can only serve retail and corporate banking services while DWB licence-holders can only serve businesses, namely small and medium enterprises (SMEs).

MAS expects the four digital banks to commence operations by early 2022. This is the first time Singapore has approved setting up wholly digital banking operations.

Law stated - 09 June 2021

Coronavirus

What emergency legislation, relief programmes and other initiatives specific to your practice area has your state implemented to address the pandemic? Have any existing government programmes, laws or regulations been amended to address these concerns? What best practices are advisable for clients?

On 31 March 2020, MAS, together with the Association of Banks in Singapore, the Life Insurance Association, the General Insurance Association, and the Finance Houses Association of Singapore, announced a package of measures to help ease the financial strain on small and medium-sized enterprises (SMEs) caused by the covid-19 pandemic. A second package was also announced on 30 April 2020.

The package will support SMEs with access to bank credit and insurance cover. First, MAS announced that SMEs may opt to defer principal payments on their secured term loans up to 31 December 2020, subject to banks' and finance companies' assessment of the quality of the SMEs' security. SMEs will also be able to extend the tenure of their loans by up to the corresponding principal deferment period if they wish.

Second, MAS also announced that banks and finance companies may apply for low-cost funding through a new MAS Singapore Dollar Facility for loans granted under Enterprise Singapore's SME Working Capital Loan scheme and Temporary Bridging Loan Programme.

Third, MAS announced that corporates, including SMEs, holding general insurance policies that protect their business and property risks may apply to their insurer for instalment payment plans.

Additionally, on 8 April 2020, MAS rolled out a S\$125 million covid-19 support package to bolster the financial and fintech sectors and buttress their recovery and future growth. The package features three broad pillars:

- support for worker costs (in the form of a Training Allowance Grant, jobs support scheme and salary subsidy for polytechnic graduate hires);
- support for operational costs (including a Digital Acceleration Grant designed specifically for fintech companies, a 90 per cent course fee subsidy and discounts on rental costs); and

- support for access to business opportunities (six months free access to the API Exchange (APIX), a digital self-assessment tool and a Digital Acceleration Grant for financial institutions).

Finally, on 13 May 2020, the MAS announced the launch of a S\$6 million MAS-Singapore FinTech Association-AMTD Fintech Solidarity Grant to support Singapore-based fintech firms amid the challenging business climate. The Grant comprises two components. First, as part of the S\$1.5 million Business Sustenance Grant, eligible Singapore-based fintech firms can receive a one-time grant for up to S\$20,000 to cover day-to-day working capital expenditures, such as salaries and rental costs. The short-term assistance will help fintech firms sustain their operations and retain their employees. Second, as part of the S\$4.5 million Business Growth Grant (BGG), eligible Singapore-based fintech firms can receive up to S\$40,000 for their first Proof of Concept (POC) with financial institutions on the APIX platform and S\$10,000 for each subsequent POC, subject to a total cap of \$80,000 per firm for the entire duration of the grant. The BGG will also provide funding for the salaries of undergraduate interns, capped at S\$1,000 per month per intern.

This situation is subject to change. The latest information on the MAS response to covid-19 can be accessed at: www.mas.gov.sg/regulation/covid-19.

Law stated - 09 June 2021

Jurisdictions

	Australia	Piper Alderman
	Belgium	Simmons & Simmons
	Brazil	Machado Meyer Advogados
	Canada	Stikeman Elliott LLP
	China	Simmons & Simmons
	Denmark	Plesner Advokatpartnerselskab
	Egypt	Soliman, Hashish & Partners
	France	Kramer Levin Naftalis & Frankel LLP
	Germany	Simmons & Simmons
	Gibraltar	Ince
	Hong Kong	Simmons & Simmons
	India	Kochhar & Co
	Indonesia	SSEK Legal Consultants
	Ireland	Matheson
	Japan	Anderson Mōri & Tomotsune
	Kenya	Bowmans
	Liechtenstein	NÄGELE Attorneys at Law
	Malta	Ganado Advocates
	Mexico	Nader Hayaux & Goebel
	Netherlands	Simmons & Simmons
	New Zealand	Anderson Lloyd
	Pakistan	Asma Hamid Associates
	Singapore	Simmons & Simmons
	South Africa	Bowmans
	Spain	Simmons & Simmons

 Switzerland	Niederer Kraft Frey
 Taiwan	Lee and Li Attorneys at Law
 Turkey	SRP Legal
 United Arab Emirates	Simmons & Simmons
 United Kingdom	Simmons & Simmons
 USA	Seward & Kissel LLP
 Vietnam	YKVN