

Singapore: MAS to amend Payment Services Act to adopt enhanced Financial Action Task Force standards

The proposed amendments will widen the scope of regulated digital payment token and cross-border money transfer services and activities, and expand MAS powers to prescribe additional conditions on licensees.

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In brief

The Monetary Authority of Singapore (MAS) has recently proposed **amendments to the Payment Services Act (PS Act)**, to (i) expand and align its regulation of virtual asset service providers (VASPs) with the revised Financial Action Task Force (FATF) Standards which address money laundering and terrorism financing (ML/TF) risks inherent to VASPs; (ii) introduce additional requirements to mitigate the ML/TF and proliferation financing risks arising from certain business models where entities in Singapore broker cross-border money transfer transactions; and (iii) further define the ambit of the PS Act and MAS' powers.

The amendments follow MAS' December 2019 consultation, for which MAS has released its **responses to the feedback it received on the consultation** ¹ (Response).

We summarise below the proposed widening of the scope of the PS Act, in relation to Digital Payment Token (DPT) activities and cross-border and domestic money transfer services, as well as the expansion of MAS' powers both (i) to impose additional licence conditions on prescribed DPT service providers, and (ii) as user protection measures on certain DPT service providers.

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¹ See <https://www.mas.gov.sg/-/media/MAS/News-and-Publications/Consultation-Papers/2019-Consultation-Paper-on-Proposed-Amendments-to-PS-Act/Response-to-Feedback-Received-on-Proposed-Amendments-to-the-Payment-Services-Act.pdf>



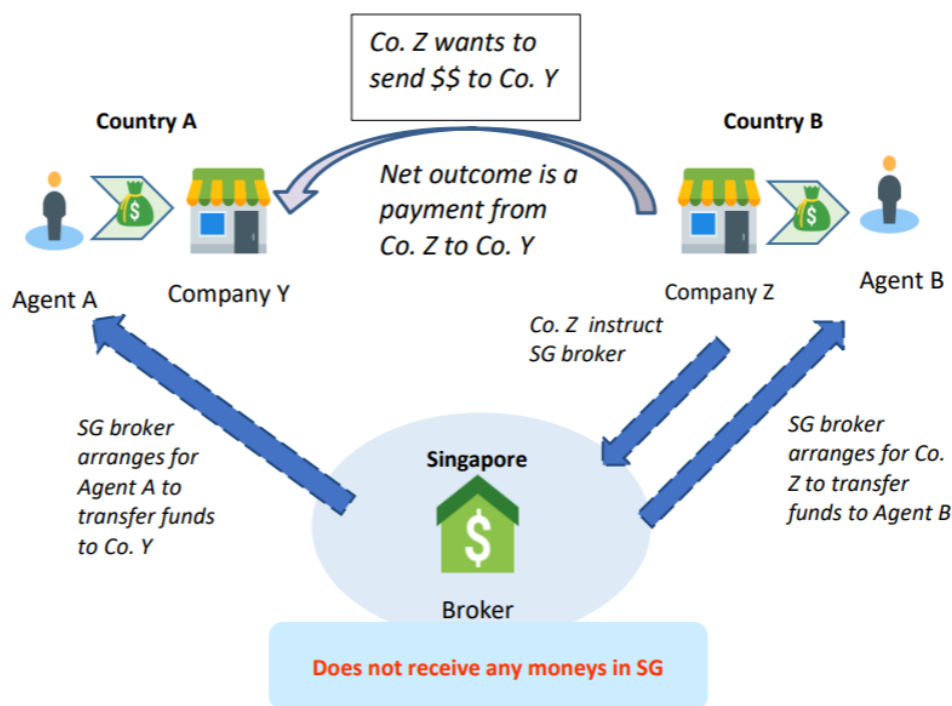
Summary of new provisions

The amendments widen the following PS Act definitions such that persons conducting such activities will be regulated under the PS Act:

- **“Digital Payment Token service”** will now include the following activities of VASPs:
 - accepting (either as principal or agent) DPTs from one DPT account² (in Singapore or abroad) to transmit or to arrange to transmit, the DPT to another DPT account (in Singapore or abroad): this will capture entities that are providing transfer of DPTs as a service, regardless of where the DPT service provider locates its computing or operating systems (including for keeping its accounts and transaction records), but exclude entities/persons solely involved in pure technical activities (e.g. the activity of blockchain mining) or development of software applications;
 - inducing or attempting to induce any person to agree to, or to make an offer for, buying or selling any DPT for money or other DPT: for example an entity which carries on a business of providing brokerage or exchange services, or software applications, which enable users to find counterparties, and actively match orders for buyers and sellers of the DPTs, even without taking possession of the moneys or DPTs;
 - where the DPT is under the service provider’s control, carrying out a customer’s instructions relating to that DPT or an associated DPT: “control” being determined on the ability to control access to any DPT or to execute transactions involving the DPT or control over a private cryptographic key that is associated with any DPT; and
 - safeguarding the DPT or the DPT instrument³: in relation to wallets that hold both moneys and DPTs: the payment service provider should also consider whether the regulated activity of providing custodial wallets under the Securities and Futures Act is scoped to its specified products.
- **“cross-border money transfer service”** will include transmission of money between 2 countries, even though moneys are not accepted or received in Singapore, so long as it is arranged by a payment service provider in Singapore, in order to deal with ML/TF risks and reputational risks to Singapore. A cross-border money transfer service provider which carries on a business in Singapore of providing such services will need to be licensed and subject to MAS’ AML/CFT regulations. In its Response, MAS has provided the following graphical illustration of a cross-border money transfer brokering scenario which will fall within this definition, and this activity will require to be licensed:

² The new term “DPT account” will mean any account, device or facility (whether physical or electronic) that contains DPTs

³ The new term “DPT instrument” will be defined to mean any password, code, cipher, cryptogram, private cryptographic key or similar which will enable a person to control access to one or more DPTs or execute a transaction involving one or more DPTs



Source: MAS

- “**domestic money transfer service**” will apply to all services unless both the payer and payee of such a transaction are financial institutions (where the current definition does not apply if either payer and payee is a financial institution).

In recognition that the DPT sector continues to evolve and the development of new DPTs, including stablecoins, could lead to user adoption of some DPTs gaining traction quickly, MAS’ powers will be expanded to allow MAS to impose additional requirements on DPT licensees:

- user protection measures on certain DPT service providers to ensure the safekeeping of customer assets held by the DPT service provider, where necessary; and
- measures on certain DPT service providers where MAS considers necessary or expedient in the interest of the public or a section of the public, the stability of the financial system in Singapore, or the monetary policy of MAS.

These new powers may include prescribing the following:

- the extent to which assets belonging to a customer may be commingled with other assets also held by that licensee;
- maintaining in a prescribed manner of a prescribed amount or percentage of assets;
- safeguards in the event of insolvency, including insurance against this risk;
- the manner of dealing with customers for the purposes of safeguarding customers’ assets, protecting data and safeguarding DPT instruments;
- disclosure of information to customers;
- monitoring of customers’ DPT accounts and assets;
- standards and processes to safeguard against unauthorised use of customers’ assets and DPT instruments, and to protect against unauthorised use and disclosure of data;
- the amount of DPTs that can be contained or transferred from a DPT account and which a licensee can hold or transfer;
- the exchange of DPTs for Singapore currency;
- the use of moneys collected in exchange for DPTs for any of the licensee’s business activities;



- the use of DPTs for any of the licensee's business activities; and
- any other requirements relating to matters which MAS considers necessary or expedient in the public interest, and taking into account the stability of Singapore's financial systems or MAS' monetary policies.

MAS will also be empowered to prescribe particular classes of licensees or payments services obliged to safeguard money received from customers. In respect of a prescribed payment service, the amendments will allow MAS to prescribe a Major Payment Institution (MPI), instead of the present application to every MPI.

The obligation to ensure that information or documents provided to MAS is not false or misleading will be extended to apply to all persons, and not just individuals as is currently the case.

Key takeaways

VASPs and providers of DPT services which are currently preparing for compliance with the regulatory PS Act framework within the present 6 and 12 months transitional arrangements periods, should also take into account the proposed amendments. We would be happy to advise you further on the specific impact these amendments may have on you.
