

Singapore: MAS consults on changes to subsidiary legislation related to amendments to the expanded scope of licensable activities under the Payment Services Act

In brief

On 8 May 2023, the Monetary Authority of Singapore ("**MAS**") issued Consultation Paper P004-2023 proposing changes to subsidiary legislation to address, among others, the regulatory requirements applicable to payment services that will soon become licensable under the Singapore Payment Services Act 2019 ("**PSA**"). Such payment services include, among others:

- (a) facilitating the transmission of digital payment tokens ("**DPTs**") from one account to another;
- (b) custodial services for DPTs;
- (c) facilitating the exchange of DPTs where the service provider does not come into possession of the money or DPTs involved;
- (d) domestic money transfers where financial institutions are either the payer or the payee (which were previously carved out);
- (e) cross-border money transfer services which involve the facilitation of transfers of money between persons in different jurisdictions, even where the money does not flow through Singapore

(the "**Newly Scoped-In Services**").

The MAS also proposes to make some technical amendments to the Payment Services Regulations 2019 ("**PSR**") and Notices to the PSA which will be of general application to licensees, as well as to introduce new regulations on transitional exemptions.

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Key proposed amendments and regulations

We summarise the key proposed amendments and regulations below.

<p>Amendments to the PSR</p>	<p>Amendments for PSPs providing the Newly Scoped-In Services</p> <ul style="list-style-type: none"> • Requirements that currently apply to licensees that provide domestic money transfer services, cross-border money transfer services and DPT services will apply as-is to licensees and exempt payment service providers ("PSPs") for the Newly Scoped-In Payment Services. • However, safeguarding requirements will not apply to a Major Payment Institution ("MPI") where it is arranging for the transmission of money from any country or territory to another country or territory (whether as principal or agent), provided that: <ul style="list-style-type: none"> (a) both the payer and payee are foreign persons; (b) the relevant money is not accepted or received by the MPI in Singapore; and (c) the MPI informs all foreign persons in writing that the money the MPI receives from or on account of the foreign person is not safeguarded under the PSA.
<p>Amendments to Notices PSN01 and PSN02</p>	<p>Amendments for PSPs providing the Newly Scoped-In Services</p> <ul style="list-style-type: none"> • All AML/CFT requirements in Notices PSN01 and PSN02 will apply to all Newly Scoped-In Payment services. <p>Amendments for PSPs in general</p>

<p>(Notices on AML/CFT requirements)</p>	<ul style="list-style-type: none"> • Singapore-incorporated PSPs must have group-wide AML/CFT measures, including on sharing information for CDD/ ML/TF risk management within the group. Further: <ol style="list-style-type: none"> (a) if the PSP has a branch or subsidiary in a host country or jurisdiction known to have inadequate AML/CFT measures or in relation to which the FATF has called for countermeasures, the group policy must be strictly observed by the management of the branch or subsidiary; (b) where the AML/CFT requirements in the host country or jurisdiction of a branch or subsidiary differ from those in Singapore, require the branch or subsidiary to apply the higher of the two standards, to the extent permitted by the law of the host jurisdiction. • PSN02 will be extended to impose requirements relating to agency arrangements to DPT service providers too. This refers to agents that are appointed by the DPT PSP to assist in providing the DPT service, i.e. the agent does not provide DPT services to the DPT PSP but provides them to third parties on behalf of the DPT service provider. • The introduction of a new exemption from wire transfer requirements under PSN01 for: <ol style="list-style-type: none"> (a) the wire transfers that flow from a transaction carried out using a charge card, credit card, debit card, prepaid card or electronic wallet for the purchase of goods or services; (b) where both the charge card, credit card, debit card, prepaid card, or electronic wallet number and the name of the issuer of such charge card, credit card, debit card, prepaid card or electronic wallet, accompany the transfer; and (c) the charge card, credit card, debit card, prepaid card or electronic wallet is not used as a payment system to effect a person-to-person wire transfer.
<p>Amendments to Notice PSN04 (Notice Submission of Regulatory Returns)</p>	<p>Amendments for PSPs providing the Newly Scoped-In Services</p> <ul style="list-style-type: none"> • The extension of data collection requirements under PSN04 to include additional fields relating to the Newly Scoped-In Payment Services, where applicable. <p>Amendments for PSPs in general</p> <ul style="list-style-type: none"> • The extension of data collection requirements under PSN04 to include: <ol style="list-style-type: none"> (a) additional data relating to breakdowns on the number of higher risk customers, transaction value and volume and account statistics; and (b) collection of statistics on exposure to anonymity-enhancing technologies.
<p>Amendments to Notice PSN07 (Notice Conduct)</p>	<p>Amendments for PSPs providing the Newly Scoped-In Services</p> <ul style="list-style-type: none"> • Some general conduct requirements in PSN07 (such as display of exchange rates and fees, and information to be set out in receipts) will apply to the Newly Scoped-In Services. <p>Amendments for PSPs in general</p> <ul style="list-style-type: none"> • Longer transmission of money timeframes will be allowed where: <ol style="list-style-type: none"> (a) the PSP is providing a payment service to corporate customers; and (b) the contractual agreement between the PSP and the corporate customer provides for a longer time for money to be transmitted.
<p>Amendments to Notice PSN08 (Notice on Disclosures and Communications)</p>	<p>Amendments for PSPs providing the Newly Scoped-In Services</p> <ul style="list-style-type: none"> • The revision of risk warning statements in Annex A1, A2, A3 and A4 of PSN08 to accommodate the new DPT services. <p>Amendments for PSPs in general</p> <ul style="list-style-type: none"> • Amendments to the risk warning statements to require licensed DPT service providers to clarify the extent to which DPT service providers are regulated under the PSA, and to make clear that DPT service providers are not regulated in respect of services provided in relation to other cryptocurrency-related products (e.g., trading of DPT derivatives).
<p>New Payment Services (Exemption for</p>	<ul style="list-style-type: none"> • There will be an exemption from licensing requirements under the PSA for six months following the commencement of the PS(A)A for persons that are: <ol style="list-style-type: none"> (a) newly regulated under the PSA; and

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(b) currently licensed under the PSA, who have to vary their licence to include domestic money transfer service, cross-border money transfer service or DPT service, resulting from the proposed amendments to the scope of payment services. Persons who are already licensed to provide domestic money transfer services, cross-border money transfer services or DPT services need not vary their licence if they intend to or are already providing the Newly Scoped-In Services. (collectively, the "**Affected Persons**").

- The conditions for the exemption are as follows:
 - (a) the Affected Persons have commenced business on or before the commencement date of the PS(A); and
 - (b) the Affected Persons have notified MAS of the date on which they commenced the business within 30 days after the commencement date of the PS(A)A.
- MAS is also considering imposing additional requirements on Affected Entities during the period of their exemption. In particular, MAS is considering:
 - (a) requiring an Affected Person to obtain the services of an external auditor to conduct an audit on the controls addressing key risk areas and submit the report to MAS, such an external auditor being one with up-to-date experience auditing licensed payment service providers and other financial institutions licensed under other Acts administered by MAS, e.g., the Banking Act or the Securities and Futures Act; or
 - (b) requiring an Affected Person to obtain the services of an independent third party to assess and confirm the adequacy of compliance policies and procedures to meet obligations under the PSA, such a third party being one with up-to-date experience in advising or auditing the controls of licensed payment service providers and other financial institutions licensed under other Act administered by MAS.
- If an Affected Person has applied for a licence or applied to vary its existing licence to provide the Newly Scoped-In Services on or before the end of the 6-month period, the end date of the exemption period will be extended to the date on which the licence application or variation is approved, refused or withdrawn.

Implementation

The MAS seeks consultation on this paper by 12:00 AM on 8 June 2023. If you have any feedback or questions, please let us know.

The above is not intended to be exhaustive or to constitute legal advice.

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