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MAS Proposes Amendments to Subsidiary Legislation to Operationalise Revisions to Payment Services Act

Introduction

On 8 May 2023, the Monetary Authority of Singapore ("**MAS**") issued a consultation paper ("**Consultation Paper**") on proposed amendments to the Payment Services Regulations 2019 ("**PSR**"), existing notices applicable to payment service providers ("**Notices**"), and new proposed Regulations on exemptions for a specified period, in order to operationalise the amendments to the Payment Services Act 2019 ("**PS Act**") that were passed under the Payment Services (Amendment) Act 2021 ("**Amendment Act**") when they come into effect.

By way of background, the Payment Services (Amendment) Bill was passed on 4 January 2021 and subsequently gazetted as the Amendment Act. On the date the Amendment Act comes into effect ("**Appointed Date**"), the Amendment Act will make several key changes to the PS Act. In particular, the scope of payment services regulated under the PS Act will be expanded, as the current definitions of "digital payment token ("**DPT**") service", "domestic money transfer service" and "cross-border money transfer service" will each be expanded. The Amendment Act will also make other changes to the PS Act to align with the enhanced standards adopted by the Financial Action Task Force ("**FATF**") Standards applicable to DPT service providers to address money laundering ("**ML**") and terrorism financing ("**TF**") risks. You may read more about the key amendments to the PS Act in our earlier Legal Update [here](#). For background, please refer to the consultation paper on the proposed amendments to the PS Act (available [here](#)) and MAS' Response to feedback received on the consultation paper (available [here](#)).

Financial institutions, entities that are not presently regulated under the PS Act but will be regulated, and licensees who will need to vary their licences as a result of the amended scope of payment services should review the proposals carefully. Comments on the Consultation Paper must be submitted by **8 June 2023**.

This Update highlights the key proposals in the Consultation Paper.



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Key Proposed Amendments to PSR, Notices and New Payment Services (Exemption for Specified Period) Regulations 2023

Exemption of MPI from safeguarding requirements under the PSR subject to certain conditions

Existing requirements under the PSR that apply to licensees providing domestic money transfer services, cross-border transfer services and DPT services, will apply as-is to licensees and exempt payment service providers that carry on business in providing the newly scoped-in payment services.

With regard to safeguarding requirements for cross-border money transfer transactions where both the payer and payee are overseas persons, MAS is of the view that where a cross-border money transfer service has no strong nexus to Singapore, a major payment institution ("**MPI**") can be exempted from the safeguarding requirements under section 23 of the PS Act in respect of the relevant moneys received by the MPI when the MPI arranges for the transmission of money from any country or territory to another country or territory (whether as principal or agent). This exemption will be subject to certain conditions:

- both the payer and payee are foreign persons;
- the relevant money is not accepted or received by the MPI in Singapore; and
- the MPI must inform all foreign persons in writing that the money the MPI receives from or on account of the foreign person is not safeguarded under the PS Act.

Amendments to AML/CFT requirements in PSN01 and PSN02

Amend the scope of PSN01 and PSN02 to apply the AML/CFT requirements in these Notices to the newly scoped-in payment services

PSN01 sets out anti-money laundering/countering the financing of terrorism ("**AML/CFT**") requirements that apply to licensees providing a specified payment service¹ and exempt payment service providers², and PSN02 sets out AML/CFT requirements that apply to licensees who provide DPT services.

MAS is of the view that all AML/CFT requirements in PSN01 and PSN02 remain applicable to the newly scoped-in payment services. As such, MAS proposes to amend:

- PSN01 to reflect the broader definition of "cross-border money transfer service", and clarify that the wire transfer obligations apply to the service of arranging for the cross-border wire transfer of funds.
- PSN02 to reflect the broader definition of "DPT service" and clarify that the value transfer obligations apply to the service of arranging for the value transfer or one or more DPTs.

¹ A specified payment service means any of the following services: account issuance service; domestic money transfer service; cross-border money transfer service; and a money-changing service.

² Persons exempt under section 13(1) of the PS Act where such a person offers a specified product defined in PSN01.

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Imposing requirement on licensees and exempt payment service providers under the PS Act which are incorporated in Singapore to develop and implement group-wide AML/CFT policies

MAS explained that these requirements are currently imposed on other financial institutions and are also applicable to payment service providers because they may also operate in financial groups. This will ensure a consistent approach to managing group-wide ML/TF risks that payment service providers may be exposed to arising from their operations.

The specifics of the requirements will depend on the adequacy of the AML/CFT requirements of the host country/jurisdiction where the licensees or exempt payment service providers under the PS Act have a branch or subsidiary, for instance:

- Where the host country or jurisdiction is known to have inadequate AML/CFT measures or in relation to which the FATF has called for countermeasures, the licensees or exempt payment service providers under the PS Act must ensure that the group policy on AML/CFT is strictly observed by the management of that branch or subsidiary.
- Where the AML/CFT requirements in the host country or jurisdiction differ from those in Singapore, the licensees and exempt payment service providers under the PS Act must also require that their overseas branch or subsidiary apply the higher of the two standards, to the extent permitted by the law of the host jurisdiction.

Introduce requirements relating to agency arrangements of DPT service providers in PSN02

Currently, payment service providers under PSN01 must comply with certain requirements before the payment service providers may appoint an agent ("**agency requirements**") (see paragraph 14 of PSN01) to assist with the provision of payment services. MAS proposes to impose the same agency requirements on DPT service providers which are subject to PSN02 in respect of their agency arrangements (see new proposed paragraph 12A of PSN02), in respect of agents appointed to assist in the provision of DPT services. This contemplates agency arrangements where the agent does not provide the DPT service to the DPT service provider but rather to third parties on behalf of the DPT service provider.

Exempt specific wire transfers for the purchase of goods and services from requirements set out in paragraph 15 of PSN01 ("wire transfer requirements")

MAS proposes to exclude 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 from the wire transfer requirements in the situation where the payment information (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) accompanies the wire transfers. This is in line with the FATF Standards, and the payment information allows the funds to be traced through the transfer to the originator and beneficiary more easily, if required. The exclusion will NOT apply when a charge

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card, credit card, debit card, prepaid card or electronic wallet is used as a payment system to effect a person-to-person wire transfer.

Extension of data collection requirements under PSN04

The reporting requirements under PSN04 will apply to the newly scoped-in payment services. Additionally, to enhance MAS' surveillance of ML/TF risk profile of licensees, MAS proposes to include additional data fields, for instance, additional data relating to breakdowns on the number of higher risk customers and reporting on exposure to anonymity-enhancing technologies.

To give existing entities and new licensees time to enhance their systems to collect and report the additional data, MAS proposes a six-month transition period from the Appointed Date for the revised PSN04 to take effect. During the six-month transition period, all licensees must continue to comply with the reporting requirements under the existing PSN04.

Provide flexibility for transmission of money timeframes for certain payment services in respect of corporate customers under PSN07

PSN07 covers general conduct requirements. MAS proposes to amend the various requirements under PSN07 to apply to the newly scoped-in payment services.

In respect of requirements on transmission of money timeframes for certain payment services, MAS took into account industry feedback that certain business models only involve corporate customers and operate on a delayed payment basis (for instance, the licensee and the customers agree that the customer is paid on a monthly basis). Therefore, to provide more flexibility for the payment service provider dealing with corporate customers, MAS proposes to allow a longer timeframe for money to be transmitted where such longer timeframe has been agreed in writing between the payment service provider and the corporate customers, and seeks views on whether this proposal should only apply to corporate customers. The requirements setting out the timeline for transmission of money will not be applicable for DPT services.

Enhance disclosure requirements under PSN08

PSN08 covers disclosure requirements. MAS proposes to require licensed DPT service providers to clearly inform customers of the extent to which the DPT service providers are regulated under the PS Act and to make it clear to customers the services that the DPT service providers provide which are not regulated (e.g. trading of DPT derivatives). The risk warning statements in PSN08 will be revised so that customers are better informed of the unregulated status of certain services.

New Payment Services (Exemption for Specified Period) Regulations 2023

Six-month exemption period for affected persons

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MAS also proposes to provide a six-month transition licence exemption period following the Appointed Date for entities that are:

- newly regulated under the PS Act (i.e. previously not regulated under the PS Act); and
- currently licensed under the PS Act, who have to vary their licence to include domestic money transfer service, cross-border money transfer service or DPT service, as a result of the expanded scope of payment services,

collectively, "**affected persons**". To be exempted, the affected persons must have commenced business before the Appointed Date and have notified MAS of the date on which they commenced the business within 30 days after the Appointed Date. For clarity, the exemption will NOT apply to persons who are already licensed to carry on business in domestic money transfer services, cross-border money transfer services, or DPT services, as the case may be, and who also carry on business in the newly scoped-in domestic money transfer services, cross-border money transfer services or DPT services respectively.

This six-month exemption period is similar to the exemption period for DPT services when the PS Act first commenced in 2020. If an affected person applies for a licence or applies to vary its existing licence to provide the newly scoped-in payment services on or before the end of the six-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. However, if an affected person does not submit a relevant application within the six-month period, the affected person will not be able to rely on the exemption and must cease operating the regulated payment services six months after the Appointed Date.

Additional requirements on affected persons to obtain assurances to satisfy obligations as licensees under the PS Act

During the time that applications of affected persons are being reviewed, MAS is considering requiring the affected persons to put in place certain measures to address key risk areas such as ML/TF, technology risk and/or safeguarding arrangements.

In addition, as part of the application by an affected person, MAS is considering imposing additional requirements on the affected person to obtain independent third-party assessments and positive confirmations of a defined set of key controls to be submitted together with its application.

Concluding Words

If you have any queries on the above development or would like to submit any feedback to the Consultation Paper, please feel free to contact our team members below who will be happy to assist.

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For details of the proposed amendments, please refer to the Consultation Paper and the various Annexes, available [here](#) (on the MAS website at www.mas.gov.sg).

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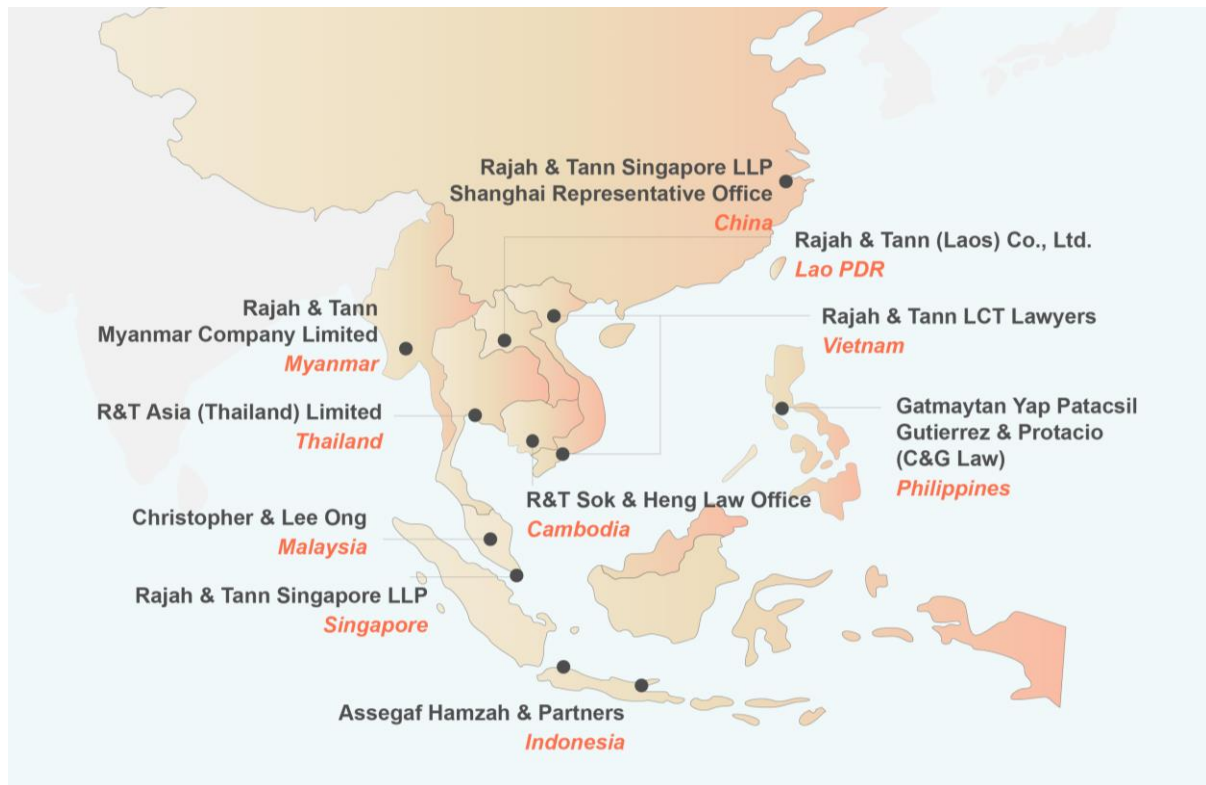
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