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Regulatory Update

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MAS releases Consultation Paper on Proposed Notices for Payments Services under the Payments Services Act

The Monetary Authority of Singapore ("MAS") has issued a consultation paper ("CP") on two anti-money laundering and countering the financing of terrorism ("AML/CFT") notices under the new Payment Services Act (the "PSA") as it gears up to the implementation of the new payment services regime. The new regulatory framework for payment services is intended to provide a more conducive environment for innovation in payment services. The proposed AML/CFT requirements will be similar to the existing ones, while dialing up requirements for certain payment services of perceived higher risk.

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Introduction

The MAS has issued a consultation paper ("CP") on two AML/CFT notices¹ under the new PSA as it gears up to the implementation of the new payment services regime. The new regulatory framework for payment services is intended to provide a more conducive environment for innovation in payment services. Consistent with this intent, the proposed AML/CFT requirements will be similar to the existing ones, while dialing up requirements for certain payment services of perceived higher risk.

As a brief reminder, the PSA covers seven distinct regulated services:

- Account Issuance ("Activity A")
- Domestic Money Transfer ("Activity B")
- Cross-border Money Transfer ("Activity C")
- Merchant Acquisition ("Activity D")
- E-money Issuance ("Activity E")
- Digital Payment Tokens ("Activity F")
- Money-changing ("Activity G")

¹ The notices under consultation are the: (i) "Notice to Payment Services Providers (Specified Payment Services) on Prevention of Money Laundering and Countering the Financing of Terrorism ("SPS Notice"); and (ii) "Notice to Payment Services Providers (Digital Payment Token Service) on Prevention of Money Laundering and Countering the Financing of Terrorism ("DPTS Notice"), collectively (the "Notices").

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At the outset, activities D and E will not be subject to MAS AML/CFT requirements. Activities A, B, C, and G will be subject to MAS AML/CFT standards, and are grouped together under the SPS Notice. The SPS Notice is largely aligned with and will replace MAS' Notices 3001 and PSOA-02². Activity F is separately covered under the DPTS Notice. This differentiation is in line with recent international guidelines for Virtual Asset Services Providers ("VASPs") and the perceived high-risk nature of these activities.

The Notices require Financial Institution ("FI") to implement AML/CFT measures, including:

- identifying, assessing and understanding risk;
- developing and implementing policies, procedures, and controls for both onboarding and ongoing monitoring (including screening and suspicious transaction reporting);
- monitoring and enhancing (if necessary) those policies, procedures, and controls; and
- performing enhanced customer due diligence where higher risks are identified.

The proposed Notices also provide for exempted products and activities, while suggesting several differences from what may have been previous industry practices (e.g., the use of correspondent services and third-party reliance for the digital payment token industry). While the CP in general covers a number of potential regulatory requirements (e.g., requirements for dealing in precious stones and precious metals when done by a FI), the more determined regulatory requirements are discussed below.

Lower-Risk Products and Activities

As noted in a previous consultation paper on the implementation of the PSA, certain products and activities would be deemed lower-risk. These are broken down in the CP in the following table.

Activity	Low risk criteria
Activity A Account Issuance services	Account issuance services issuing payment accounts that: <ul style="list-style-type: none"> a) do not allow physical cash withdrawal; b) do not allow physical cash refunds above S\$100, unless the payment institution performs identification and verification of sender; <u>and</u> c) do not have an e-wallet capacity (i.e. load limit) that exceeds S\$1,000.

² "Notice 3001 Prevention of Money Laundering and Counterfeiting the Financing of Terrorism – Holders of Money-Changer's License and Remittance License" and "MAS Notice PSOA-02 to Holders of Stored Value Facilities on Prevention of Money Laundering and Countering the Financing of Terrorism."

Activity	Low risk criteria
Activity B Domestic Money Transfer services	Services that only allow the user to perform the following transactions: <ol style="list-style-type: none"> a) payment for goods or services <u>and</u> where payment is funded from an identifiable source (being an account with a FI regulated for AML/CFT); b) payment for goods or services <u>and</u> where the transaction is under S\$20,000; <u>or</u> c) payment is funded from an identifiable source <u>and</u> where the transaction is under S\$20,000.
Activity C Cross-Border Money Transfer services	Services where the user is only allowed to pay for goods or services <u>and</u> where that payment is funded from an identifiable source.

There are some exemptions for these products and services. For example, for cross-border wire transfers the FI may conduct simplified customer due diligence, unless the annual cumulative transactions undertaken for a customer exceeds S\$20,000.

AML/CFT Requirements – Third Party Reliance

The criteria for Third Party Reliance (“TPR”) closely follow what is already practiced in the industry. However, MAS has proposed that VASPs, whether local or foreign, are excluded from using third-party reliance in conducting AML/CFT checks. This significantly deviates general industry standards, and presents what may be a very high-bar for certain service providers to overcome.

AML/CFT Requirements – Correspondent Services

The provision of correspondent services very closely mirrors that of what is required under the existing Notice 3001. Normal due diligence and risk mitigating measures would also have to be put in place, including:

- a) assessing the suitability of the financial institution by understanding its AML/CFT controls and that they are adequate and effective;
- b) clearly understanding and documenting the respective AML/CFT responsibilities of each financial institution; and
- c) obtaining approval from the **licensee’s** senior management before providing correspondent account or similar services to a new financial institution or engaging a new financial institution for correspondent account services.

AML/CFT Requirements – Money-changers

As money-changing activity has been identified as posing high ML/FT risk, MAS has proposed that all transactions will require the requesting individual or entity to require full CDD. The current threshold for not performing CDD of up to \$5,000, in cases of unidentifiable sources, will be retained. The exemption from doing CDD has, however, been extended to up till \$20,000, but on if the source of funds is identifiable. While this may not affect brick and mortar money-changers, it will allow more leeway for newer, non-physical, changers.

Taking these thresholds into consideration brings in other unspoken requirements. These include ongoing transaction monitoring and the need to detect instances where customers structure transactions for the purposes of avoiding CDD, such as breaking down a single transaction into two or more transactions.

AML/CFT Requirements – DPT Services

Digital payment token, or "DPT", will now include almost all forms of tokens and providers of such facilities have been deemed as high-risk activities. Digital payment token service providers ("DPTS providers") will include licensees who:

- a) dealing in DPT includes the buying or selling of DPT. This would typically involve the exchange of DPT for fiat currency (e.g. Bitcoin for USD, or USD for Ether) or another DPT (e.g. Bitcoin for Ether); or
- b) facilitating the exchange of DPT means establishing or operating a DPT exchange which allows the buying or selling of any DPT, in exchange for fiat currency or any DPT (whether of the same or a different type).

This effectively includes most, if not all, token exchanges and e-wallets that facilitates transfers of token from one party to another. These activities are currently unregulated by MAS but will the introduction of the PSA, will be required to be licensed and consequently adhere to the notice.

Another development is the requirement that cross-border transfers of DPT should be treated as a cross-border wire transfer. This compels DPTS providers to hold required and accurate originator information and required beneficiary information on DPT transfers, and to immediately and securely provide the above information to beneficiary DPTS providers and counterparts. As a recipient of DPT transfers, they are also required to obtain and hold originator and beneficiary information. This treatment is very similar to how SWIFT transactions are currently handled, and it brings more uniformity to standards on how transactions are being executed. Finally, MAS has also proposed to do away with any specified threshold exemptions on the need for CDD, due to the high risk nature of these transactions. This, coupled with the above mentioned restrictions on third-party reliance, places the CCD burden solely on the DPT service provider.

Conclusion

The CP and accompanying Notices provide one more key glimpse into the final structure of the PSA regime. While still at the consultation stage, much of the propose AML/CFT regime follows current standards in the industry or closely aligns with emerging international norms. As such, it is likely that much of this will make it into the final regulatory notices when promulgated.

Contacts

Mark Jacobsen
Founder
Integrium

T +65 6216 9474
E mark@integrium-sg.com

Liyana Mahirah
Manager
Integrium

T +65 6932 2785
E liyana.mahirah@integrium-sg.com

Fizah Daud
Manager
Integrium

T +65 6932 2785
E fizah.daud@integrium-sg.com