

Client Alert

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MAS Consults on Proposed Payment Services Regulations

On 10 April 2019, the Monetary Authority of Singapore (**MAS**) issued a [consultation paper on the Proposed Payment Services Regulations \(Consultation Paper\)](#)¹. You may read our previous alerts on the [features of the version of the Payment Services Bill released for public consultation](#), and the subsequent [updating notes](#) describing the changes after the MAS issued its response to the consultation feedback.

In order to achieve the objectives of the Payment Services Act 2019 (**PSA**), the MAS intends to prescribe the following three sets of regulations and one order:

- a) Payment Services Regulations (**PS Regulations**);
- b) Payment Services (Exemptions for a limited period of time) Regulations;
- c) Payment Services (Singapore Dollar Cheque Clearing System and Inter-Bank GIRO System) Regulations; and
- d) Payment Services (Designated Payment Systems) Order.

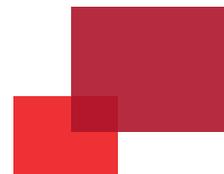
This client alert will focus on the PS Regulations, which is intended to be the main regulations for licensees and regulated persons under the PSA. In particular, the PS Regulations will focus on the licence requirements, business conduct requirements, requirements for designated payment system (**DPS**) entities, as well as exemptions under the PSA.

MAS also plans to publish the proposed Anti-Money Laundering / Countering the Financing of Terrorism (**AML/CFT**) notices applicable to licensees in the upcoming weeks.

Licence Requirements

	Standard Payment Institution licence	Major Payment Institution licence	Money-Changing licence
Directors	The PSA provides that there must be at least one executive director who is a Singapore citizen or permanent resident. The PS Regulations have broadened the executive director nationality requirement, such		

¹ You may access the Consultation Paper and the draft regulations on the MAS website: <http://www.mas.gov.sg/News-and-Publications/Consultation-Paper/2019/Consultation-Paper-on-Proposed-Payment-Services-Regulations.aspx>
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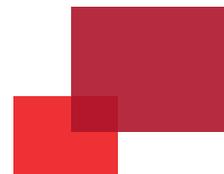
	that an executive director who is a Singapore employment pass holder will be able to meet this requirement provided that the applicant company has at all times at least one director who is a Singapore citizen or Singapore permanent resident.		
Minimum financial requirements (at time of application and ongoing)	<p>If the applicant is incorporated in Singapore, base capital must not be less than \$100,000</p> <p>If the applicant is a foreign company, its net head office funds must not be less than \$100,000</p>	<p>If the applicant is incorporated in Singapore, base capital must not be less than \$250,000</p> <p>If the applicant is a foreign company, its net head office funds must not be less than \$250,000</p>	
Lapsing of licence	<p>The licence will lapse if the:</p> <ul style="list-style-type: none"> • Licensee has not commenced business in at least one of the payment services authorized to be provided for continuous period of 6 months; • Licensee has ceased to carry on business in providing all of the payment services authorized to be provided and has not resumed business in any of those payment services for a continuous period of 6 months; or • Licensee (except for digital payment token services) does not accept, process or execute any payment transactions for a continuous period of 6 months. 		
Variation of licence	<p>Where the standard or major payment institution is authorized to provide more than one payment service, it must lodge with the MAS to remove any payment service that:</p> <ul style="list-style-type: none"> • it has not commenced business in for a continuous period of 6 months since the grant of the licence; and/or • it has ceased to carry on business in and has not resumed business in for a continuous period of 6 months. 		



Conduct of Business Requirements for Major Payment Institution Licensees

The PS Regulations elaborates on and prescribes the business conduct requirements that will apply to major payment institution licensees, in addition to those set out in the PSA.

	Requirements
Security Deposit	<p>The prescribed amount for the security deposit for major payment institution licensees is:</p> <ul style="list-style-type: none">a) \$100,000 (if the average, over a calendar year, of the total value of all payment transactions that are accepted, processed, or executed by the licensee in one month, does not exceed S\$6 million, for any one payment service it provides); orb) S\$200,000 (in all other cases).
Safeguarding customer monies	<p>The PS Regulations has also prescribed certain financial institutions which are considered "safeguarding institutions".</p> <ul style="list-style-type: none">a) For a major payment institution that intends to safeguard relevant money by an undertaking, a merchant bank or finance company will also be considered a safeguarding institution under section 23(2)(a) and 23(4)(a) of the PSA.b) For a major payment institution that intends to safeguard relevant money by a guarantee, a merchant bank, finance company, or financial guarantee insurer will also be considered a safeguarding institution under section 23(2)(b) and 23(4)(b) of the PSA.c) For a major payment institution that intends to safeguard relevant money by segregation of funds, a bank, merchant bank or finance company will also be considered a safeguarding institution under section 23(2)(c) and 23(4)(c) of the PSA. <p>The PS Regulations have clarified that major payment institution licensees that segregate funds in accordance with section 23(2)(c) and 23(4)(c) of the PSA must not commingle customer monies with other funds.</p> <p>The PS Regulations also prescribe additional requirements for the major payment institution license, including but not</p>



	limited to: <ul style="list-style-type: none">a) assessing and satisfying itself of the suitability of the safeguarding institutionb) obtaining an acknowledgement from the safeguarding institution that the safeguarding methods are for the purposes of compliance with section 23 of the PSA; andc) keeping records in relation to the assessment of the safeguarding institution's suitability for at least 5 years.
Restrictions on personal payment accounts that contain e-money	Pursuant to the PS Regulations, the amount of e-money contained in the personal payment account(s) issued by the major payment institution must not exceed S\$5,000, and the amount of e-money transferred in any period of 1 year from the personal payment account(s) must not exceed S\$30,000.

Requirements for DPS Entities

The PS Regulations sets out the requirements imposed on DPS entities, some of which have been ported over from the existing Payment System (Oversight) Regulations.

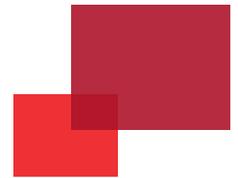
These requirements pertain to the:

- a) provision of information to MAS;
- b) submission of periodic reports;
- c) application to MAS for appointment of CEO and directors of DPS operators;
- d) business continuity requirements; and
- e) criteria to determine whether there is a failure to discharge duties or functions by the CEO or directors of DPS operators and settlement institutions.

Exemptions

The PS Regulations also sets out the following exemptions:

1. **Exemption for hotel operators in respect of money-changing service:**
The provision of money-changing services that is solely incidental to the business of keeping or managing a hotel will not require a money-changing licence.



2. **Exemption from the requirement to hold a standard payment institution licence:** An exemption may be granted for an entity that only conducts payment services that carry low money laundering (**ML**) or terrorism financing (**TF**) risks, within the standard payment institution payment transaction or e-money float threshold, and which complies with the prohibitions in sections 19, 20(1) or 20(2) of the PSA.
3. **Exemption for certain domestic money transfer service providers:** A person who has in force a licence that entitles the person to carry on a business of providing domestic money transfer service will not require a licence for providing cross-border money transfer service when the person accepts money in Singapore, for the purpose of transmitting the money in Singapore to a person who has in force a licence that entitles the person to carry on a business of providing cross-border money transfer service.
4. **Exemption from the prohibition against solicitation:** Any person exempt under section 100 of the PSA is exempt from the prohibition against solicitation.

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Implementation Timeline

The MAS invites comments from financial institutions, potential licensees and regulated entities under the PSA, businesses and other interested parties on the proposed PS Regulations and its proposals in the Consultation Paper.

The consultation period ends on 10 May 2019.

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