

Client Alert

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For more information, please
contact:

Stephanie Magnus
+65 6434 2672
Stephanie.Magnus@bakermckenzie.com

Liew Ying Yi
+65 6434 2531
YingYi.Liew@bakermckenzie.com

MAS Consults on Proposed AML/CFT Notices for Licensed Payment Services Providers

With the impending coming-into-force of the Payment Services Act (**PSA**), the Monetary Authority of Singapore (**MAS**) recently issued a [consultation paper on the new notices to payment services providers on anti-money laundering and countering the financing of terrorism \(Consultation Paper\)](#)¹.

MAS proposes two new anti-money laundering and countering the financing of terrorism (**AML/CFT**) notices:

- Notice to Payment Services Providers (Specified Payment Services) on Prevention of Money Laundering and Countering the Financing of Terrorism (**PS Notice 01**); and
- Notice to Payment Services Providers (Digital Payment Token Service) on Prevention of Money Laundering and Countering the Financing of Terrorism (**PS Notice 02**),

together superseding and updating AML/CFT requirements presently applicable to the stored value facilities and remittance services regulated under the Payment Systems (Oversight) Act (**PS(O)A**) and the Money-Changing and Remittance Businesses Act (**MCRBA**), and introducing AML/CFT requirements on some of the newly licensed payment services under the PSA.

As noted in our earlier Client Alerts, the payment services currently regulated as payment systems under the PS(O)A and MCRBA, as well as other presently-unregulated payment services, will be brought under the licensing regime to be introduced by the PSA (which will repeal the PS(O)A and MCRBA) and its implementing Payment Services Regulations.

You may read our previous alerts on:

- the [features of the version of the Payment Services Bill released for public consultation](#);
- the subsequent [updating notes](#) describing the changes after the MAS issued its response to the consultation feedback; and
- the [proposed licensing and conduct regulations to implement the Payment Services Act](#).

¹ You may access the Consultation Paper and the draft Notices on the MAS website: <http://www.mas.gov.sg/News-and-Publications/Consultation-Paper/2019/Consultation-Paper-on-the-Proposed-AMLCFT-Notices-to-Payment-Services-Providers.aspx>



AML/CFT Requirements for PSA-licensed activities

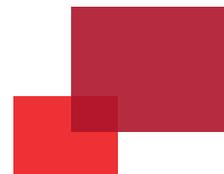
The proposed AML/CFT requirements map the 6 activity types as categorised by MAS for PSA-licensed services, as follows:

- (A) account issuance services;
- (B) domestic money transfer services;
- (C) cross-border money transfer services;
- (D) merchant acquisition;
- (E) e-money issuance;
- (F) digital payment token services (**DPT**); and
- (G) money-changing services.

In line with international practices, MAS has proposed that no AML/CFT obligations will be imposed for merchant acquisition and e-money issuance services.

MAS proposes the following AML/CFT risk coverage for payment services licensees:

	PS Notice 01	PS Notice 02
Application	<ul style="list-style-type: none">• account issuance,• domestic money transfer,• cross-border money transfer, and• money-changing.	transactions under DPT services (in line with the standards adopted by the Financial Action Task Force (FATF) in relation to virtual asset services providers (VASPs))
	Supersedes the current rules applicable to money changers and remittance licence holders and holders of stored value facilities	Noting ongoing revisions to these FATF, MAS intends to amend legislation and issue AML/CFT Notices to scope in and regulate for AML/CFT requirements the service providers that provide one or both of the following for or on behalf of customers: <ul style="list-style-type: none">• transfer of DPTs; or• provision of custodian wallets.

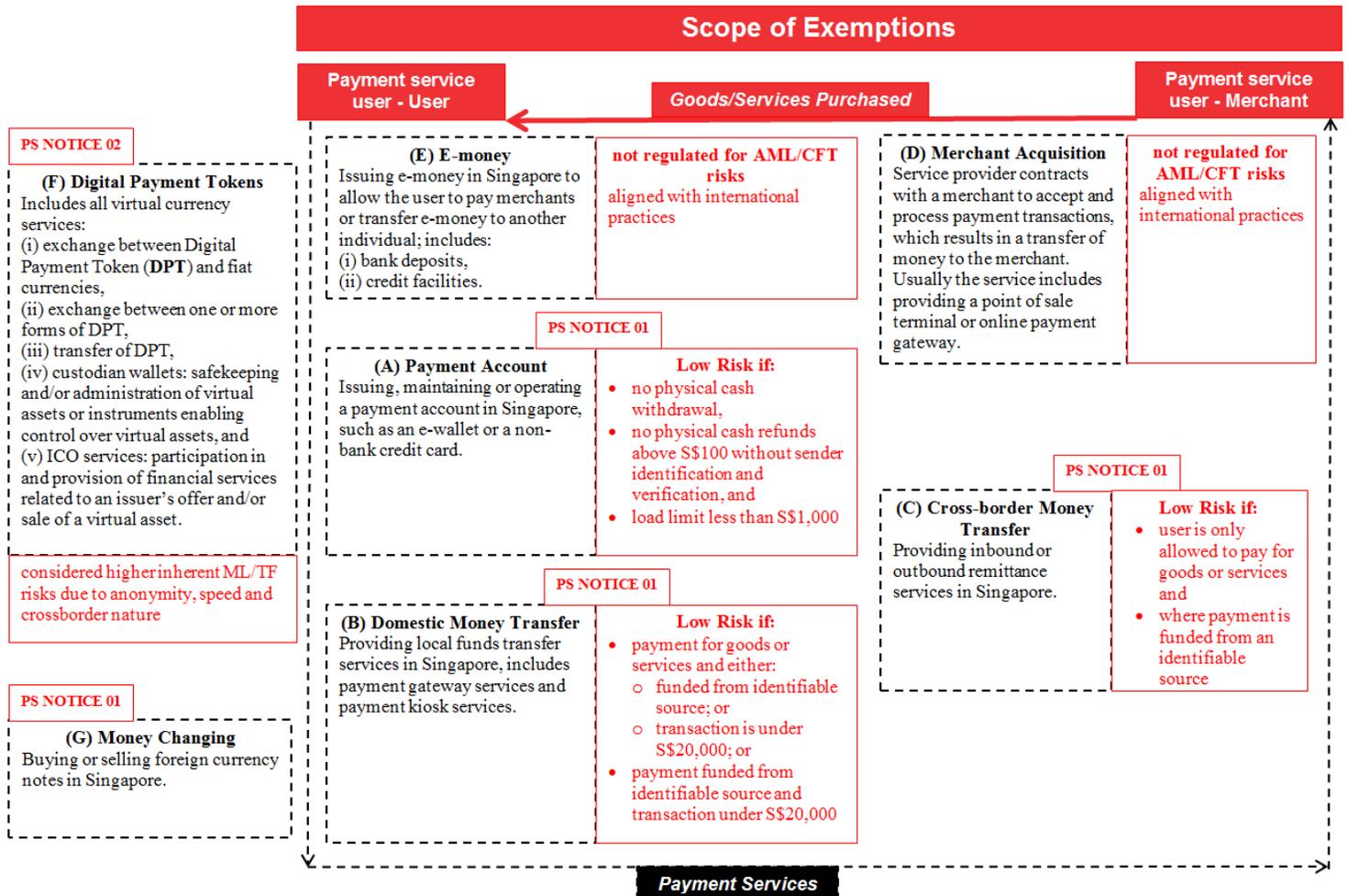


		The MAS will issue a further public consultation on these by end-2020.
Exemptions	<ul style="list-style-type: none">licensees which provide only low risk activities are exempt from full compliance of PS Notice 01; (<i>see diagram below on low risk activities and exemptions</i>)licensees which provide services beyond the low risk activities need to ensure that all activities comply with AML/CFTs; andlicensees provided more than low risk activities may still have certain limited exemptions in relation to "exempted products" (<i>see below</i>)	no exemptions as MAS considers DPT services to carry higher inherent ML/TF risks due to the anonymity, speed and crossborder nature of these transactions.

Where a licensee, in addition to existing activities, offers additional product(s) where the activities in relation to such product is confined to low risk criteria (*see diagram below*) only (**Exempted Products**), there are exemptions from AML/CFT measures in relation to customer due diligence (**CDD**), foreign currency exchange transactions, issuance of bearer negotiable instruments and cash payouts, agency arrangements and wire transfers in relation to the Exempted Product(s) only. However, such licensee must still:

- be subject to all AML/CFT requirements in PS Notice 01 in relation to its regulated activities generally;
- be subject to the AML/CFT requirements in PS Notice 01 except that it need not comply with certain AML/CFT measures in relation to the Exempted Product(s) only, which relate to: CDD; foreign currency exchange transactions; issuance of bearer negotiable instruments and cash payouts; agency arrangements; and wire transfers;
- apply its AML/CFT risk mitigation measures on an enterprise-wide basis (including developing and implementing policies, procedures and controls to ensure that any low risk activities); and

- (d) continue to ensure that appropriate records are maintained in order to demonstrate that all low risk activities comply with the aforementioned criteria.



AML/CFT and CDD Requirements in PS Notice 01 and PS Notice 02

Broadly, the AML/CFT requirements include:

- taking appropriate steps to identify, assess and understand their ML/TF risks;
- developing and implementing policies, procedures and controls -including those in relation to the conduct of CDD, transaction monitoring, screening, suspicious transactions reporting and record keeping, in accordance with the relevant MAS Notices - to enable them to effectively manage and mitigate the risks that have been identified;



- monitoring the implementation of those policies, procedures and controls, and enhancing them if necessary; and
- performing enhanced measures where higher ML/TF risks are identified, to effectively manage and mitigate those higher risks.

Some proposals to note are:

Simplified CDD

Notably, licensees carrying out account issuance services, domestic money transfer services, cross-border money transfer services and DPT services need not first obtain MAS' prior approval in order to conduct simplified CDD and may do so where:

- the licensee is satisfied, upon the overall analysis of risks, that the ML/TF risks are low; or
- the services provided to such customer are cross border wire transfers conducted solely for the payment of goods and services to merchants, and the transactions are funded from an identifiable source,

and provided that other conditions are met, e.g. it continues to conduct screening and ongoing monitoring of business relations.

However, simplified CDD will not be permitted where:

- the annual cumulative transactions undertaken for a customer exceeds S\$20,000;
- the customer is a person with higher risk characteristics; or
- there is suspicion of ML/TF involved.

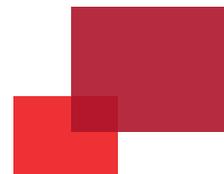
That said, the MAS stresses the need to ensure that the relevant simplified CDD measures need to be properly documented and records well-maintained as MAS may still review these as part of their supervisory process.

Third Party Reliance

MAS will permit licensees to rely on a third party to perform certain elements of the CDD measures (in relation to on-boarding KYC) required by the PS Notices e.g. identifying the customer, beneficial owner and understanding the purpose and nature of the business relationship, provided that certain conditions are met. However, MAS intends to preclude licensees from third party reliance on VASPs, whether local or foreign., taking into account the higher ML/TF risks posed.

PS Notice 02: AML/CFT Requirements for DPT Services

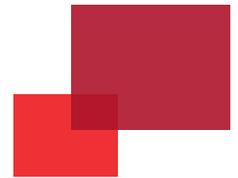
There are some differences in relation to the AML/CFT requirements applicable to DPT services and we highlight below some key points the MAS is inviting feedback on:



- (a) whether all value transfers of DPT should be considered cross-border in nature, and whether the FATF's wire transfer requirements are applicable to DPT transactions: PS Notice 02 will oblige licensees that facilitate the sending of DPTs to obtain and hold required and accurate originator information and required beneficiary information on DPT transfers, immediately and securely submit the above information to beneficiary DPTs providers and counterparts (if any), and make the information available on request to appropriate authorities. Where licensees are the recipients of DPT transfers (whether on behalf of the customer or otherwise), the licensee should obtain and hold required originator information as well as required and accurate beneficiary information on DPT transfers, and make these available on request to appropriate authorities.
- (b) whether CDD should be conducted from the first dollar for DPT transactions, even in the case of occasional transactions: although the largely internet-based nature of DPT transactions suggests that DPT providers would typically establish an account with the customer in order to proceed with transactions, for instances of occasional transactions however (e.g. where DPTs are sold through ATM machines), MAS proposes to require CDD to be conducted from the first dollar, i.e. there is no threshold for such transactions, below which CDD need not apply.
- (c) whether any other customer-specific information that is relevant in the context of DPT transactions could be made applicable to potentially supplement or substitute existing identifiers for CDD purposes: to better identify a customer for the DPT sector (who may be an individual or a legal person), MAS has proposed additional customer-specific information to be collected that could potentially supplement or substitute the customer-specific information required to be collected under PS Notice 01 and PS Notice 02, such as:
- DPT Sending/ Receiving Addresses (as source of funds);
 - receipts/documentation on original purchase of cryptocurrency from an exchange or similar intermediary;
 - transaction details in relation to original purchase of DPT – i.e. number (hash) of transaction, value of transaction (e.g. 2 Bitcoins), timestamp, fee (cost of transaction), size of transaction (in bytes), funds balance history in the address, message recorded in transaction;
 - reasons for purchase of DPT; and
 - reasons for current transaction, if applicable.

Transitional Provisions

MAS indicated that for existing holders of stored value facilities currently regulated under PSOA-N02 and who will be regulated as providing account issuance



services going forward, the MAS will issue a temporary exemption for the period of 12 months from complying with the new requirements. However, the requirements under PSOA-N02 will still need to be complied with in that interim period.

Implementation Timeline

The MAS invites comments from financial institutions, potential licensees and regulated entities under the PSA, businesses and other interested parties on its proposals in the Consultation Paper. If you have any feedback or queries, please do not hesitate to reach out to us.

The consultation period ends on 5 July 2019.

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