

Client Alert

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Update: Payment Services Bill introduced in Parliament

Following a public consultation on the Payment Services Bill (**PSB**) in November 2017, the PSB was introduced in Parliament on 19 November 2018. The Minister for Education, Ong Ye Kung, on behalf of Mr Tharman Shanmugaratnam, Deputy Prime Minister and Minister-in-charge of the Monetary Authority of Singapore (**MAS**), has [moved the PSB for First Reading in Parliament](#).

Where we earlier issued an alert on [The Proposed Payment Services Bill and How It Might Affect You](#), we are now pleased to update you on the [changes proposed by MAS after considering consultation feedback](#).

For your ease of reference, we have attached the original tables and summaries below and highlighted the updates in red.

Background and summary

The PBS addresses the following 7 types of payment services:

- account issuance service;
- domestic money transfer service;
- cross border money transfer service;
- merchant acquisition services;
- e-money issuance service;
- digital payment token service; and
- money-changing service.

The PBS empowers MAS to regulate each of the above payment services for the following key risks and concerns:

- money-laundering and terrorism financing (**ML/TF**);
- loss of funds owed to consumers or merchants due to insolvency;
- fragmentation and limitations to interoperability; and
- technology and cyber risks.

For more details on the version of the PSB released during the consultation process, please refer to our earlier [Client Alert: MAS Consults on Proposed Payment Services Bill](#).

As was proposed in the consultation paper, the PSB will:



- combine regulations over various types of payment services currently in the Payment Systems (Oversight) Act (**PSOA**) and the Money-Changing and Remittance Businesses Act (**MCRBA**) ;
- comprise two parallel regulatory frameworks. :
 - **Designation Framework for Significant Payment Systems:** to regulate operators, settlement institutions and participants of these designated payment systems for financial stability reasons as well as for efficiency reasons.
 - **Licensing Framework for Payment Service Providers:** to regulate the above 7 types of payment services and require providers of such payment services to hold a PSB licence, appropriately calibrated according to the risks that specific payment services pose for different business models, and this facilitates innovation.
- contain Key Risk Mitigating Provisions such as:
 - safeguarding customer monies from its insolvency;
 - interoperability powers to allow third-party access; and
 - MAS powers to impose technology risk and cyber security risk management requirements.

Please note that MAS has also issued the [E-Payments User Protection Guidelines](#), which complement the PSB and existing regulations on banking services, to take effect from 31 January 2019.

How Your Businesses Will Be Regulated Under The New Framework (Updated)

Activity Type	Current Regulatory Framework	PSB at first reading
<p>Operation of Payment Systems</p> <p>e.g. receiving funds from one entity for transmission to another entity, providing merchant acquisition services, operation of payments accounts, etc.</p>	<p>Payment system may be designated as a designated payment system under the PSOA, but this is unlikely unless the system can cause significant impact to the payments or financial system of Singapore.</p> <p>More commonly, such businesses are likely to be licensed as remittance businesses under the MCRBA. However, licensing requirements apply only to outbound remittance (i.e. accepting moneys in Singapore for the purposes of transmitting to persons outside Singapore) and not inbound remittance (i.e. accepting moneys outside Singapore for the purposes of transmitting to persons within Singapore).</p> <p>Please also see providing merchant acquisition services, and operation of e-wallets below.</p>	<p>MAS will continue to have the power to designate and regulate payment systems which can cause significant impact to the payments or financial system of Singapore, and also where it is necessary to ensure efficiency or competitiveness of the operation of payment systems in Singapore.</p> <p>Remittance businesses will now be regulated as providing cross-border money transfer services. Licensing requirements will extend to both outward and inward remittance businesses, as well as domestic money transfer services, i.e. accepting moneys for the purposes of executing or arranging for execution of certain payment transactions in Singapore, which will now be regulated as providing domestic money transfer services.</p> <p>MAS' original consultation had excluded cross border money transfer service providers who do not accept or receive moneys in Singapore. However, it has come to MAS' attention that there may be business models that are based in Singapore but facilitate the "brokering" of remittance transactions between entities</p>



		<p>outside of Singapore (i.e. moneys are not necessarily accepted or received in Singapore). MAS may review the regulatory scope of the PSB to mitigate the ML/TF risks associated with such business models.</p> <p>For domestic money transfer services, a grace period of 12 months from the commencement date of the PSB will be granted as this is a newly regulated service.</p> <p>For cross border money transfer services, a grace period of 12 months will be allowed for entities that perform only inward remittance. No grace period will be granted for entities that perform outbound remittance to avoid any gap in AML/CFT regulation arising from the transition from the MCRBA to the PSB.</p> <p>Please also see providing merchant acquisition services, and operation of e-wallets below.</p>
<p>Providing Merchant Acquisition Services</p> <p>e.g. providing point of sale terminal or online payment gateway to accept and process payments on behalf of the merchant.</p>	<p>Merchant acquisition services per se are not regulated unless they fall within one of the other regulated activities, such as remittance business.</p>	<p>Such activities will now be regulated as providing merchant acquisition services i.e. contracting with a merchant to accept and process payment transactions which results in the transfer of money to the merchant. This is regardless of whether the payment service provider comes into possession of money in respect of the payment transactions.</p> <p>A grace period of 12 months</p>



		<p>from the commencement date of the PSB will be granted as this is a newly regulated service.</p>
<p>Operation of Stored Value Facility</p> <p>e.g. issuing of stored value such as gift cards, credits, etc.</p>	<p>Operation of stored value facilities i.e. operation of facilities purchased or acquired to be used as a means of making payment for goods or services up to the amount of stored value and where payment for goods or services is made by the operator of the stored value facility rather than the user, is regulated under the PSOA.</p> <p>Operators holding more than SGD 30 million in stored value and which are not single purpose stored value facilities need to obtain approval from MAS. Other operators need to comply with certain notification requirements to MAS, and may need to comply with certain customer due diligence and anti-money laundering requirements.</p>	<p>Such activities will now be regulated as e-money issuance i.e. issuing electronically stored monetary value that is denominated in any currency that has been paid in advance for the purpose of making payment transactions through the use of a payment account, is accepted by a person other than the person that issues the e-money, and represents a claim on the person that issues the e-money. This does not, however, include deposits accepted in the course of carrying on deposit-taking business, which is separately licensable under the Banking Act.</p> <p>MAS will expand the limited purpose e-money exclusion to e-money that can only be used for payment or part payment of goods or services provided by merchants within the physical premises operated, owned or managed by the issuer (or its related corporations or associated companies). Such an e-money issuer will not be required to hold a licence under the PSB to issue that e-money provided that the e-money also meets certain conditions such as carrying low ML/TF risks.</p> <p>One of the conditions is that the user is not contractually entitled to a refund. While the user is not contractually entitled to a refund, the issuer of such</p>



		<p>limited purpose e-money may choose on a goodwill basis to provide a refund to the user. In that case, to mitigate ML/TF risks, the issuer is required to identify and verify the user where a cash refund is above SGD100. The amount of e-money contained in any user account cannot exceed SGD1,000.</p>
<p>Operation of E-Wallet e.g. issuing of payment accounts, including accounts used to hold stored value</p>	<p>Operation of an e-wallet per se is not regulated unless it falls within one of the other regulated activities, such as remittance business or operation of a stored value facility.</p>	<p>Such activities will now be regulated as providing account issuance services i.e. issuing a payment account (which is an account used by a user for the initiation, execution or both of payment transactions), or providing services in relation to the operations required for operating a payment account.</p> <p>MAS will not mandate payment institutions to only offer one account per user. MAS will instead clarify in the Bill that where a customer has multiple accounts with the same Major Payment Institution, all of his accounts will need to be aggregated for the purposes of complying with the caps i.e. “per user, per payment institution” basis, with the following exceptions/modifications:</p> <ul style="list-style-type: none">a) Bearer instruments will be exempted from the aggregation requirement;b) Where the accounts have load limit of less than or equal to SGD1,000 each, the licensee only needs to aggregate them if they have the same unique



		<p>customer identifier, e.g. customer's email address. In this respect, the payment institution is not required to collect additional information to verify the user; and</p> <p>c) MAS will have the flexibility to exempt other types of accounts from the aggregation requirement on a case-by-case basis, if there are good grounds for doing so.</p> <p>A grace period of 12 months from the commencement date of the PSB will be granted for account issuance services provided that AML/CFT conditions are met.</p>
<p>Operation of Virtual Currencies (now called digital payment tokens) Exchange Platform, Buying or Selling Digital Payment Tokens</p>	<p>Currently, the operation of a platform for the sale, purchase or exchange of digital payment tokens, or the carrying on of business in buying or selling digital payment tokens are not regulated. Digital payment tokens refer to any digital representation of value expressed as a unit, that is not denominated in any currency, is a medium of exchange accepted by the public or a section of the public as payment for goods or services or the discharge of debt, and can be transferred, stored or traded electronically.</p> <p>However, do take note of the distinction between digital payment tokens and digital coins or other virtual goods representing</p>	<p>Such activities will now be regulated as providing digital payment token services, which includes dealing in digital payment tokens and facilitating the exchange of digital payment tokens.</p> <p>Money is defined in the Bill to include e-money but excludes digital payment tokens and any excluded digital representation of value. The ordinary meaning of money would also include digitised fiat currency. MAS will refine the definition of e-money in the PSB to clarify that e-money includes electronically stored monetary value that is pegged by the issuer to any fiat currency.</p> <p>However, where the value of the electronically stored monetary value is determined by the market, for example through the trading of the</p>



	<p>other underlying assets, which attract separate regulatory requirements. Our earlier client alert on initial coin offerings can be found here.</p>	<p>electronically stored monetary value on an exchange, such electronically stored monetary value is not e-money and instead may be digital payment tokens.</p> <p>In addition, MAS is considering and may issue guidance on the distinction between e-money and deposits if necessary to add clarity to this area.</p> <p>MAS will consider issuing guidance on the scope of in-game assets with reference to existing games if necessary. In-game assets are virtual assets that can be acquired in the process of participation in an online game. These assets are generally to facilitate participation in the game but do not usually have any tangible value outside of that environment. In-game assets that are returnable, transferrable or capable of being sold to any person in exchange of money are not within the scope of the exclusion. The dealing in such in-game assets will be regulated if the assets fall within the definition of digital payment tokens.</p> <p>For e-money issuance services, a grace period of 12 months from the commencement date of the PSB will be granted provided that the e-money float held does not exceed SGD30 million being the threshold for widely accepted stored value facilities under the PS(O)A.</p> <p>For digital payment token</p>
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		<p>services, a grace period of 6 months from the commencement date of the PSB will be granted in view of the potentially higher ML/TF risks that the activity poses.</p> <p>Again, do take note that persons issuing, dealing or facilitating the exchange of digital coins or other virtual goods representing other underlying assets may continue to be subject to separate regulatory requirements under other applicable laws.</p>
Money-changing Business	<p>The business of buying or selling foreign currency notes is licensable under the MCRBA as a money-changing business.</p>	<p>Such activities will continue to be regulated as providing money-changing services.</p> <p>No grace period will be granted for money-changing services to avoid any gap in AML/CFT regulation arising from the transition from the MCRBA to the PSB.</p>

Licence structure and licence classes (Updated)

Licence class type	Scope of permitted activity	Safeguarding options
Money-Changing licence	<ul style="list-style-type: none"> ▪ May only provide money-changing services ▪ A money-changing licensee must apply to MAS to vary its licence to carry out other regulated activities 	
Standard Payment Institution licence	<p>May provide any regulated service under the Payment Services Bill up to the following thresholds:</p> <ol style="list-style-type: none"> 1. Accepting, processing, or executing a monthly average of transactions (including all payment transactions) up to 	<p>While MAS will retain the proposed disclosure requirements for Standard Payment Institutions (specific disclosure requirements set out in the subsidiary legislation), MAS will remove the requirement on the display of</p>



Licence class type	Scope of permitted activity	Safeguarding options
	<p>SGD3 million in a calendar year (money-changing transactions do not count towards this threshold); or</p> <p>2. Holding an average daily e-money float up to SGD5 million in a calendar year. MAS will thus simplify the calculation of the threshold that determines the appropriate licence class</p> <p>A standard payment institution that wishes to upgrade its licence to a major payment institution licence will need to apply for a variation of licence before the thresholds are breached. MAS notes that Standard Payment Institutions may experience unexpected surges in payment transactions. To alleviate this issue, MAS will amend the Bill to allow Standard Payment Institutions a reasonable grace period to apply for a licence upgrade, if the thresholds in (1) and (2) above are exceeded. This grace period will be set out in the subsidiary legislation. In this regard, entities are expected to track the cumulative volumes and apply for the necessary licence upgrade before the end of the calendar year. MAS will consult on the specific measures in 2019 in proposed subsidiary legislation.</p> <p>Standard Payment Institution licensees will be required to disclose clearly to consumers that the e-money float held and funds processed by a Standard Payment Institution are not safeguarded under MAS regulations. The specific disclosure requirements will be published for consultation on subsidiary legislation.</p>	<p>physical licences. MAS will propose further disclosure requirements in the subsidiary legislations.</p>



Licence class type	Scope of permitted activity	Safeguarding options
Major Payment Institution licence	<ul style="list-style-type: none"><li data-bbox="724 338 1109 426">▪ May provide any regulated service under the Payment Services Bill without limitation	<p data-bbox="1125 338 1482 615">Major Payment Institutions that provide domestic money transfer services, cross border money transfer services or merchant acquisition services, or issue e-money will be required to safeguard the relevant e-money float or funds in transit by having the equivalent amount:</p> <p data-bbox="1125 653 1482 905">(a) covered by an undertaking from any bank in Singapore (including wholesale banks) or prescribed financial institution (including merchant banks and finance companies) to be fully liable to the customer for such moneys;</p> <p data-bbox="1125 942 1482 1031">(b) guaranteed by any bank in Singapore or prescribed financial institution;</p> <p data-bbox="1125 1068 1482 1472">(c) deposited in a trust account in such manner as may be prescribed by MAS (including holding customer monies (or amount equivalent to customer monies) on trust in a segregated account with any bank in Singapore, merchant bank or finance company, such customer monies in the segregated account not be commingled with other funds.); or</p> <p data-bbox="1125 1509 1482 1598">(d) safeguarded in such other manner as may be prescribed by MAS.</p> <p data-bbox="1125 1635 1482 1829">MAS will require that e-money float be safeguarded on a T0 basis. This is in-line with standards under the PS(O)A as well as standards in Australia and Hong Kong for stored value.</p>



Licence and business conduct requirements

Directors: MAS will broaden the executive director nationality requirement to include such other class of persons as may be prescribed, if the applicant for a licence satisfies such conditions as may be prescribed. Details of the proposed measure will be set out in the consultation on subsidiary legislation.

Minimum capital requirements: MAS will increase the minimum capital requirement for Major Payment Institutions to SGD250,000 while retaining the amount at SGD100,000 for Standard Payment Institutions. The capital requirements will be set out in subsidiary legislation. At the same time, this increase in capital requirements will be accompanied by a change in capital component from paid up capital to base capital to better reflect the financial standing of the licensee.

Control of shareholding: Approval from MAS will only be necessary before a person acquires a stake of at least 20% in the licensee. No approval is necessary for acquisition at the 5% and 12% stage, as the activities of PSB licensees are of a different nature from that of operators of designated payment systems. For the latter, they are still required to meet the three stage approval criteria.

No consumer lending: Licences issued under the Payment Services Act are intended solely for the regulation of payment activities. It is not MAS' intent to allow licensees to conduct consumer lending. The PSB will accordingly clarify that an entity licensed under the PSB is not allowed to carry on the business of granting any credit facility to any individual in Singapore.

The PSB will also clarify that licensees carrying on e-money issuance are not permitted to on-lend the moneys received from customers as payment for e-money, or to use these moneys or any interest earned on these moneys, to finance, wholly or to any material extent, any business carried on by the licensee. This prohibition is important to differentiate e-money issuers from deposit-taking institutions.

Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) Measures (Updated)

Activity	ML/TF	User Protection	Interoperability	Technology Risk
Activity A Account issuance services	AML/CFT requirements for certain providers	Protection of Access to funds	Access Regime, Common Platform, Common standards	Technology Management Guidelines apply e.g. technology risk governance, user authentication, data encryption,
Activity B	AML/CFT requirements for	Safeguarding of Funds in	-	



Domestic money transfer services	certain providers	Transit		fraud monitoring and detection, protection against distributed denial of service attacks.
Activity C Cross border money transfer services	AML/CFT requirements for certain providers	Safeguarding of Funds in Transit	-	MAS plans to issue a Notice on Cyber Hygiene that will apply to all licensees, including Standard Payment Institutions and Money-Changing Licensees. The Notice stipulates requirements that will help FIs strengthen their cyber resilience and guard against common and pervasive cyber-attacks.
Activity D Merchant acquisition services	- Noting from the feedback received that there are significant practical challenges in making sure that such individuals are genuine merchants (i.e. without applying customer due diligence measures on the individuals themselves), MAS will not be extending the exemption to payments made to individuals for goods and services at this time. This takes into consideration the potential ML/TF risks that may arise, particularly in the cross border space, if the legitimacy of such transactions cannot be reliably	Safeguarding of Funds in Transit	Access Regime, Common Platform, Common standards	



	determined.			
Activity E E-money issuance	-	Safeguarding of Float	-	
Activity F Digital payment token services	AML/CFT requirements for all providers	-	-	
Activity G Money-changing services	AML/CFT requirements for all providers	-	-	

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