**Annex A**

**LIST OF RESPONDENTS TO THE CONSULTATION PAPER ON**

**THE PROPOSED PAYMENT SERVICES BILL**

1. Alibaba.com Singapore E-Commerce Private Limited, and Alipay Singapore E-Commerce Private Limited (for and on behalf of Ant Financial Services Group), who requested for their comments to be kept confidential
2. American Express International Inc., who requested for their comments to be kept confidential
3. Associated Foreign Exchange (Singapore) Pte Ltd, who requested for their comments to be kept confidential
4. Association of Cryptocurrency Enterprise and Startups, Singapore
5. Baker & McKenzie.Wong & Leow, who requested for their comments to be kept confidential
6. Banking Computer Services Pte Ltd, who requested for their comments to be kept confidential
7. Bird & Bird ATMD LLP, who requested for their comments to be kept confidential
8. Clifford Chance Pte Ltd
9. Collyer Law LLC
10. DENKO C&T Pte Ltd, who requested for some comments to be kept confidential
11. Diners Club Singapore Pte Ltd, who requested for some comments to be kept confidential
12. Ezi Technology Pte Ltd
13. First Data Merchant Solutions Pte Ltd, who requested for their comments to be kept confidential
14. Golden Gate Ventures
15. Google Asia Pacific, who requested for their comments to be kept confidential
16. Gpay Network (S) Pte Ltd ("Grab"), who requested for their comments to be kept confidential
17. KLIQ Pte Ltd, who requested for their comments to be kept confidential
18. Kopitiam Investment Pte Ltd, who requested for their comments to be kept confidential
19. Liquid Group Pte Ltd, who requested for their comments to be kept confidential
20. Lykke Corporation, who requested for their comments to be kept confidential
21. Lymon Pte Ltd
22. Mastercard Asia Pacific, who requested for their comments to be kept confidential
23. MoneyGram International, who requested for their comments to be kept confidential
24. Network for Electronic Transfers (Singapore) Pte Ltd, who requested for their comments to be kept confidential.

25. OC Queen Street LLC
26. PayPal Pte Ltd, who requested for their comments to be kept confidential
27. Pulsar Ventures Pte Ltd, who requested for their comments to be kept confidential
28. Red Dot Payment Pte Ltd, who requested for their comments to be kept confidential
29. Remittance Association of Singapore
30. RHT Compliance Solutions
31. SendX Pte Ltd
32. Singapore FinTech Association
33. Singapore Post Limited
34. Eversheds Harry Elias on behalf of Singapore Turf Club
35. SingCash Pte Ltd, Telecom Equipment Pte Ltd, Singtel Mobile Singapore Pte Ltd, collectively known as "Singtel"
36. SingX Ptd Ltd, who requested for some comments to be kept confidential
37. Stahub Ltd
38. Tan Kin Lian
39. The Bank of Tokyo-Mitsubishi UFJ Ltd
40. The Hongkong and Shanghai Banking Corporation Limited, Singapore Branch ("HBAP SGH") and HSBC Bank (Singapore) Limited ("HBSP"), who requested for their comments to be kept confidential
41. TransferWise Singapore Pte Ltd
42. UnionPay International Co. Ltd, who requested for their comments to be kept confidential
43. Visa Worldwide Pte Ltd, who requested for their comments to be kept confidential
44. Western Union Global Network Pte Ltd
45. WEX Asia Pte Ltd and WEX Finance Inc. (jointly 'WEX'), who requested for their comments to be kept confidential
46. Xfers Pte Ltd, who requested for some comments to be kept confidential
47. You Technologies Group (Singapore) Pte Ltd, who requested for their comments to be kept confidential
48. Respondent 1 who requested for confidentiality of identity
49. Respondent 2 who requested for confidentiality of identity.
50. Respondent 3 who requested for confidentiality of identity.
51. 11 respondents requested for full confidentiality of identity and submission.

Please refer to Annex B for the submissions.

**Annex B**

**FULL SUBMISSIONS FROM RESPONDENTS TO THE CONSULTATION PAPER ON PROPOSED PAYMENT SERVICES BILL**

| S/N | Respondent | Response from Respondent |
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| 1 | Alibaba.com Singapore E-Commerce Private Limited, and Alipay Singapore E-Commerce Private Limited (for and on behalf of Ant Financial Services Group) | Respondent wishes to keep entire submission confidential. |
| 2 | American Express International Inc., Singapore Branch | Respondent wishes to keep entire submission confidential. |
| 3 | Associated Foreign Exchange (Singapore) Pte Ltd | Respondent wishes to keep entire submission confidential. |
| 4 | Association of Cryptocurrency Enterprise and Startups, Singapore | **General comments:**<br><br>ACCESS is Singapore's Cryptocurrency and Blockchain Industry Association. ACCESS was founded in May 2014 where we witnessed major trends and changes in this industry. We have over 160 members, of which nearly 100 are corporate members. We hosted a roundtable for members to provide their comments and consequently aggregated summarized all the comments below.<br><br>ACCESS members believe the definitions within the Virtual Currency activities are too wide especially the word "dealing" and "intermediary". The reason why we believe it is too wide is because, the blockchain technology (and cryptocurrency) space is expanding rapidly even as an association we are trying to keep up with the developments. By going to wide, you may not be able to regulate all cases. However, we all agree that activities based regulation is the right way to do it. |

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| | | We have two proposals: (1) Have the fiat<->cryptocurrency exchanges ("exchanges") to be regulated and (2) Re-scope the definition of "intermediary" as most of the activities, from payment services, ICOs to blockchain companies that may incidentally provide, or make use of cryptocurrency payments, which eventually all lead back to the exchanges i.e. (1).<br><br>Once you regulate the exchanges, majority of the cases of ML/TF will be settled. But if you scope it wide with "intermediaries" now, you may even stifle the innovation that is coming into this space. And most important of all, by regulating the exchanges, we hope that all the ones that eventually get a license will have a sustainable bank account as it is in the interest of MAS and the law enforcement agencies as well.<br><br>**Question 1. <u>Activities regulated under the licensing regime</u>**<br><br>What is considered "incidental"? Would incidental include companies like Ebay, Grab and Carousell?<br><br>**Question 2. <u>Scope of e-money and virtual currency</u>**<br><br>ACCESS believes we need clarity with the scope of virtual currency, as there seems to be some inconsistencies with the definitions written in Annex A and B. One member summed it below:<br><br>"In Annex A, crypto currency exchanges are required to be regulated. However, in Annex B, on Page 105, dealing in virtual currencies refers to the buying and selling of virtual currencies but does not include the facilitation of virtual currency. Annex B refers to the proposed bill which is a separate document from this."<br><br>Concerning e-money, we would like to know if a virtual currency ("vc") is both (1) permission-less (i.e. different service providers can integrate the use of this vc and (2) pegged (not backed) to the value of the national currency, what is the virtual money considered as?<br><br>**Question 3. <u>Virtual currency services</u>**<br><br>ACCESS members believe that the concerns of ML/TF are overstated. Cryptocurrencies are pseudonymous, meaning once you know the seed user of a blockchain address, you will know and track all the different transactions he did. When a transaction is completed on a blockchain, it is immutable, and especially with public blockchains, it is public. But you would know who owns the addresses. Hence, that's why we stress MAS should regulate the exchanges first and consequently, ML/TF concerns will be reduced. ACCESS sees the wide and rapid innovation of blockchain companies decentralizing/disrupting centralized services as a bigger regulatory concern than ML/TF. As with banks, one is unable to catch ever single ML/TF case from the beginning, but the exchanges are the central nexus where ML/TF issues occur. |

The largest exchanges here in Singapore already apply strict AML/KYC measures, similar to banks. For example:

[1] If you're an individual, you need to submit your (1) National ID, (2) Proof of Address, (3) OTP and Google Authenticator (4) selfie with national ID and (5) complete a AML questionnaire. Some even ask for income statement once trading reaches a certain threshold.

[2] If you're a company, you have to submit (1) business registration details (2) shareholders with more than 10-20% shares must the above in [1]

Having said that, similar to question (2), we would like clarity on the word "dealing" as we believe it is too wide. As per Annex B and shown below:

"dealing in virtual currency" means—

1. (a) buying virtual currency; or
2. (b) selling virtual currency,

Another concern is that in Annex B:

"providing virtual currency services" means—

1. (a) dealing in virtual currency;
2. (b) facilitating the exchange of virtual currency; or
3. (c) such other service relating to virtual currency as the Authority may prescribe

We are concerned with 3(c), will be there be a process in place to determine, tighten or loosen the definition of virtual currency services?

**Question 4. <u>Limited purpose e-money</u>**

We would like to know if a virtual currency that is denominated and pegged to a national currency is classified as e-money?

**Question 6. <u>Limited purpose virtual currency</u>**

We would like to know if a virtual currency that is denominated in another virtual currency is still classified as e-money?

As a general response to this question, it is very hard to classify which virtual currencies are limited and which are not. A company/start-up may create a cryptocurrency / token that was specific to its product and services. But once it is listed on a cryptocurrency exchange, it is no longer limited (and it is the normal practice to list onto the cryptocurrency exchanges). Hence again, we stress that the exchanges (fiat/cryptocurrency) be regulated first, rather than the wide spectrum of "intermediaries".

**Question 9. Single licence structure**

What standards of AML/CFT will the SPIs be measured against? Are there any uniformly agreed to AML/CFT provisions? ACCESS members are concerned that if it's directly measured against the banking AML/CFT standards, it may be too expensive for the start-ups and may stifle innovation.

**Question 10. Three licence classes**

ACCESS members would like to ask what is meant by "transactions?" Are they fiat<->fiat, or Fiat<->crypto? Crypto<->crypto as well?

ACCESS members also suggest to have the thresholds higher. This is because, unlike traditional businesses where the revenue and float are aligned, many blockchain companies may have more funds to begin with relative to the revenue, be it from initial investments in cryptocurrencies, or raised via ICOs.

**Question 12. Licence and business conduct requirements**

ACCESS members suggest that the directorship rules be aligned with ACRA. ACRA only requires a resident director, in comparison, what MAS is suggesting as mandatory is to have a Singapore Citizen or PR as a director.

As for capital and security deposits, we have members concerned about firstly, the necessity of the security deposit, and secondly, the amount needed to fulfil the capital requirements? Also, what is the intent of the security deposit?

**Question 13. Specific risk migrating measures**

ACCESS members believe that a more granular approach to guidelines for TRM may be more suitable as different blockchain startups have different sorts of technology risks. For example, cryptocurrency exchanges apply KYC procedures similar to banks, but they do not have ATMs like the banks. Hence a blanket TRM can be overly onerous.

**Question 14. AML/CFT requirements**

ACCESS believes it will get more difficult to distinguish what is a bone fide good, especially with reference to digital goods. For example, cryptokitties.co is a platform where people pay in ETH for collectible kitties. Some kitties are priced above 30ETH (today's price US$1000 to 1 ETH). These collectibles can even be given, hence transferred. The next step above this is that people can purchase a right to use it for printing and designs (for example). Hence again, best to regulate the obvious nexus and cases.

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| | | In short, we believe the individuals selling goods online, should be exempted from AML/CFT.<br><br>**Question 17. <u>Disclosure requirement for Standard Payment Institutions</u>**<br><br>Is publishing the disclosure on the website sufficient?<br><br>**Question 18. <u>Interoperability powers</u>**<br><br>What is considered a "simple and standardized experience'? What measures would be introduced?<br><br>What are the degrees of interoperability?<br><br>**Question 19. <u>Technology risk management measures</u>**<br><br>Similar to 18, it is very difficult to justify what is simple, and standardized, sound and robust. What will be guidelines that the startups will be measured against?<br><br>**Question 20. <u>General powers</u>**<br><br>ACCESS members agree that emergency powers should be limited to MPIs. |
| 5 | Baker & McKenzie.Wong & Leow | Respondent wishes to keep entire submission confidential |
| 6 | Banking Computer Services Pte Ltd | Respondent wishes to keep entire submission confidential. |
| 7 | Bird & Bird ATMD LLP | Respondent wishes to keep entire submission confidential. |
| 8 | Clifford Chance Pte Ltd | **General comments:**<br><br>We commend MAS' proposal to introduce an activity-based payments regulatory framework, which will enable a more calibrated approach to be taken on an activity-specific basis, rather than in respect of specific payment systems (as is the case under the Payment Systems (Oversight) Act (Cap. 222A) ("PSOA") and the Money-Changing and Remittance Businesses Act (Cap. 187) ("MCRBA")).<br><br>The proposed approach will mitigate against service providers being subject to unequal treatment due to the need for them to comply with regulatory requirements in respect of the same payment activities under different regulatory regimes, and allow MAS to better |

address emerging risks and changes in the payment services landscape, particularly in view of rapid technological advancements and the advent of FinTech.

We observe that there are similarities between the proposed Payment Services Bill and the licensing requirements set out under the European Union's revised Payment Services Directive ("PSD2"). We note that apart from the licensing requirements, PSD2 also contains requirements relating to transparency (e.g. pre-contractual information requirements, on-going periodic information requirements, and information relating to specific transactions), requirements relating to conduct or operational matters (e.g. maximum execution timeframes, refund rights, liability for defective execution of transactions), as well as requirements advancing the competition agenda (particularly as regards the provision of bank accounts to non-bank payment service providers on a "comply or explain" basis by banks). We respectfully request that MAS clarify if it intends to address these requirements in the form of subsidiary legislation or guidelines, and if so, request that MAS provide industry with adequate time to consider and provide feedback on such proposals.

**Question 1. <u>Activities regulated under the licensing regime</u>**

We broadly agree that the risks and considerations identified by MAS in respect of the provision of retail payment services are relevant to the provision of payment services to the retail public in Singapore.

We note that MAS has in Section 6(1) of the Payment Services Bill indicated that "*a person must not carry on business in providing any type of payment service in Singapore*" unless the person is duly licensed or exempt, and further note that payment service licence applicants are required under Section 7(6) and (7) of the Payment Services Bill to have a permanent place of business or registered office in Singapore. In this connection, we respectfully request that MAS provide guidance as to the ambit of its proposed licensing regime and in particular, how the licensing requirements would apply to entities that provide payment services on a cross-border basis from outside Singapore to persons in Singapore. Would MAS require such payment service providers to subsidiarise or establish a Singapore branch in order to provide services to persons in Singapore? We note that the definition of "*providing virtual currency services*" (but not any other definitions) refer to the carrying on of such activities "*in Singapore or providing such services to persons in Singapore*".

Separately, we note that Section 10 of the Payment Services Bill provides that a person must not "*offer or invite, or issue any advertisement containing offer or invitation to the public or any section of the public in Singapore to provide any type of payment service*" unless he is a licensee, or do this on behalf of a person outside Singapore who is not a licensee. Section 10, as currently drafted, does not expressly contemplate the possibility of exempt persons carrying on such activities. Section 14(2) of the Payment

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| | | Services Bill (which provides that certain provisions shall apply, with the necessary modifications, to an exempt person in respect of its business of providing the relevant payment services as if it were a licensee) also does not include a reference to Section 10. As such, it does not appear that the Section 10 solicitation activities in respect of payment services may be carried on by exempt persons. We respectfully request that MAS make the necessary amendments to Section 10 or Section 14(2) of the Payment Services Bill to allow exempt persons to carry on such solicitation activities.<br><br>We note that MAS has not proposed to regulate the proposed Activity 6 (operating payment systems which facilitate the transfer of funds through processing, switching, clearing, and/or settlement of payment transactions) in the August 2016 consultation paper as a licensable activity under the Payment Services Bill, though MAS has proposed to regulate Activity D (the provision of merchant acquisition services). As a general comment, we would request MAS to consider whether, in circumstances where a payment service provider could, without restriction, act both as the payment switch provider and as the service provider for point of sale and acquiring services, this could give rise to competition and conflict of interest issues. For example, in such circumstances, the payment service provider could grant preferential treatment by preferentially displaying a particular card scheme over other available card schemes or payment methods on payment screens on a point of sale terminal controlled by the provider.<br><br>**Question 2. <u>Scope of e-money and virtual currency</u>**<br><br>We note that the definition of "*virtual currency*" requires that it is a medium of exchange as "*payment for goods or services*" or "*discharges a debt*". Whether an instrument is used as "*payment for goods or services*" or "*discharges a debt*" is a matter of law. As such, we recommend that limb (c) of the definition of "*virtual currency*" be amended to read as follows:<br><br>"*is a medium of exchange accepted by the public or a section of the public, as **<u>if it were</u>** payment for goods or services or the discharge of a debt;*"<br><br>In respect of the definition of "*virtual currency*", we further request that MAS clarify if it intends to capture digital tokens that provide holders with rights to services, such as utility tokens, under such definition. This is because the definition as currently drafted refers to "*any digital representation of value…*", which is broad enough to capture such types of instrument. Depending on MAS' intention, clarifications may need to be made to the definition of "*limited purpose virtual currency*", which includes "*non-monetary customer loyalty / reward points*", which is defined as having a dominant purpose of which is to "*promote <u>the purchase of goods from, or the use of services of</u>, the issuer, or by such merchants as may be specified by the issuer*" (emphasis added). The current definitions could |

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| | | potentially include such utility tokens and not just virtual currency such as Bitcoin and Ether.<br><br>We understand and appreciate MAS' need to distinguish between e-money and virtual currency, which we understand are intended to cover instruments that are stored value facilities and cryptocurrencies, respectively. However, we would flag that the distinction between e-money and virtual currency does not mean that payment services in connection with such instruments do not overlap and/or intertwine. We understand from our clients that, for instance, a cryptocurrency exchange operator could open and operate e-wallets which customers would fund with e-money in order to carry on trading activities in cryptocurrencies, with a view to eventually withdrawing the deposited moneys at a later stage. In this connection, we note that footnote 4 of the Consultation Paper states that "*Cash withdrawals from e-wallets will be prohibited, unless the e-wallet is used solely for Activity C or solely for Activity G, and the withdrawal is solely for the purpose of executing an Activity C or Activity G transaction*". Such restriction on the withdrawal of cash from e-wallets to where the e-wallet is used solely for cross border money transfer services or money-changing services does not tally with existing activities and services in the payments services industry, particularly in the context of cryptocurrency exchanges. It is also unclear to us why cash withdrawals from e-wallets should be limited to where the e-wallet is used solely in connection with Activity C or Activity G, which greatly restricts the ability of customers to withdraw funds deposited in connection with the use of such e-wallets. We respectfully request that MAS remove such restriction from its proposals.<br><br>Separately, our clients have advised that monetary value that is not denominated in fiat currency, but which is pegged by the issuer of such value to fiat currency, should not be considered as e-money for the purpose of the Bill. Extending the definition to include monetary value that is not denominated in fiat currency could potentially broaden the meaning of e-money beyond the scope of instruments intended to be covered by such definition.<br><br>**Question 4. <u>Limited purpose e-money</u>**<br><br>The proposed scope of the limited purpose e-money exclusion is very restricted, if it may be used only within a limited network of franchisees or related companies. The exclusion would not cover, for instance, a shopping mall card or a vending card which could be used to purchase coffee from an on-site canteen. We would expect such instruments to be out of scope for licensing purposes as well.<br><br>With respect to limb (c) of the definition of "*limited purpose e-money*" set out in the Payment Services Bill, we respectfully request MAS to clarify if the reference to "*electronically stored monetary value in any payment account*" is limited to payment accounts in Singapore, or would include payment accounts outside of Singapore. |

**Question 6.** **Limited purpose virtual currency**

In connection with the definition of "*limited purpose virtual currency*" set out in the Payment Services Bill, we respectfully request MAS to clarify the meaning of "*online game*", which is used in the definition of "*limited purpose virtual currency*" and "*in-game assets*".

Please also note our responses to Question 2 above.

**Question 8.** **Excluded activities**

MAS has in paragraph 6 of the Second Schedule of the Payment Services Bill proposed to exclude the provision of certain services by "*technical service providers*" from the scope of regulated payment services. We respectfully request that MAS clarify the types of person that would fall within the meaning of "*technical service provider*". In particular, please could MAS advise if the term is intended to cover "technology" service providers.

**Question 9.** **Single licence structure**

We agree broadly with MAS' proposal to introduce a single licence structure. The proposed single licence structure under which payment services are regulated on an activity-specific basis, rather than an entity-specific basis, will help address the mismatch between the existing legislative framework under the PSOA and MCRBA, and developments in payment service providers and payment services being provided in Singapore today, particularly in view of rapid technological advancements and the advent of FinTech. In particular, the introduction of a single licence structure will mitigate the issue of service providers being subject to unequal treatment due to the need for them to comply with regulatory requirements in respect of the same payment activities under different regulatory regimes.

**Question 10.** **Three licence classes**

The proposed threshold amounts described in paragraph 4.7 of the Consultation Paper are relatively low, and we respectfully request that MAS obtain further industry feedback before finalising such threshold amount. Further, we recommend that MAS prescribe the applicable threshold amounts in a notice or guidelines, which would provide MAS with greater ability to amend such amounts as require to keep pace with the rapidly evolving payment services industry.

We note that MAS has indicated in paragraph 4.8 of the Consultation Paper that where a Standard Payment Institution wishes to upgrade its licence to a Major Payment Institution licence, it would need to apply for a variation of its licence before the applicable thresholds are exceeded. The need for a licence variation to be obtained prior to the thresholds being exceed could inadvertently give rise to the following consequences: (1) a firm could breach the threshold without having

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| | | obtained a Major Payment Institution licence, (2) a firm may have to halt or restrict its business activities, or (3) firms may have to treat the threshold as being much lower (e.g. by applying for the variation much earlier prior to them exceeding the statutory threshold) so as to ensure that they do not accidentally breach the thresholds and to allow for sufficient time to apply to vary their existing licence. As such, we recommend that the requirement to apply for a variation of a payment service provider's Standard Payment Institution licence to a Major Payment Institution licence instead kick in once the threshold has been exceeded, so that payment service providers are required to apply for a variation within a certain period of time from the time of exceedance.<br><br>**Question 12. <u>Licence and business conduct requirements</u>**<br><br>We would highlight to MAS that its proposal that an applicant for a standard payment institution licence or major payment institution licence be required to have a permanent place of business or registered office in Singapore, and to have an executive director who is a Singapore citizen or Singapore permanent resident, could be challenging for a number of applicants to satisfy, and in turn dissuade such payment service providers from setting up in Singapore. Please also see our responses to Question 1 in this regard.<br><br>MAS may wish to consider whether the requirement for an applicant to have an executive director who is a Singapore citizen or Singapore permanent resident could be replaced by a requirement for an applicant to have a Singapore-resident executive director.<br><br>**Question 14. <u>AML/CFT requirements</u>**<br><br>In relation to whether payments made to individuals selling goods on e-commerce platforms should also be considered payments for goods and services to merchants, and thereby potentially be exempted – our view is that the exemption should apply consistently to merchants, regardless of whether they are individuals or entities, based on the same principles. Accordingly, if an individual selling goods on an e-commerce platform meets the criteria of a "*merchant*" which would provide an exemption to payment service provider, the same exemption should be available in relation to payments made to the individual.<br><br>**Question 15. <u>User protection measures</u>**<br><br>We understand from our clients that the imposition of the requirements described in paragraph 5.27(a) to (e) of the Consultation Paper could be prohibitively challenging for certain industry participants to comply with in practice. |

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| | | The float proposed S$5 million threshold is relatively low, and could be easily crossed by a payment service provider, and we respectfully request that MAS obtain further industry feedback before finalising such threshold amount.<br><br>Depending on the specific activities carried on by the payment services provider, it may be difficult for the provider to identify the precise amount of funds that relate to payment services (e.g. where a provider also provides foreign exchange services). As such, we recommend that any proposed float amount be a "reasonable estimate".<br><br>The proposed safeguarding requirements set out in Section 23 of the Payment Services Bill / paragraph 5.27 of the Consultation Paper would be challenging for many non-bank payment service providers to comply with, as full banks and authorised custodians may not be open to providing such services to non-bank payment services providers, which are generally perceived as giving rise to higher ML/TF risks.<br><br>As noted above, we understand from our clients that a cryptocurrency exchange operator could open and operate e-wallets which customers would fund with e-money in order to carry on trading activities in cryptocurrencies. However, with respect to payment service providers that carry on cryptocurrency and other related payment services, many banks and other financial institutions have in today's climate elected to adopt a conservative approach and are reluctant to provide guarantees in respect of, and/or are reluctant to open accounts for, such service providers. As noted in various news articles published in September 2017, a number of banks have also closed their accounts of customers that provide such services.<br><br>We understand that the European legislators have sought to address this difficulty through a provision in PSD2 which mandates banks to provide accounts to non-bank payment services providers on a "comply or explain" basis, and suggest that MAS consider if a similar requirement could facilitate the introduction of any proposed user protection measures.<br><br>We also observe that the customer money and asset rules prescribed in the Securities and Futures (Licensing and Conduct of Business) Regulations ("**SFLCBR**"), which apply to capital markets services licensees, contemplate the possibility of depositing customer moneys in either a trust account or in any other account directed by the customer. It is suggested that a similar approach (i.e., that moneys need not be deposited in a trust account, but could be deposited in an account directed by the customer) be considered for these purposes.<br><br>Insofar as MAS requires customer moneys to be held in trust accounts under Sections 23(1)(iii) and (iv) of the Payment Services Bill, we recommend that language be incorporated to expressly prohibit the commingling of such customer moneys with other funds, to avoid the risk of the trust not being effective. This would also be consistent with |

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| | | the customer money and asset rules prescribed in the SFLCBR, which contain similar language (see Regulations 16 and 26).<br><br>Finally, we note that Section 23(2) of the Payment Services Bill states that a Major Payment Institution must "*record and maintain a separate book entry for each customer in relation to that customer's moneys or assets*". In this regard, we request that MAS confirm that a customer's moneys may be held on a commingled basis with moneys of other customers of the same payment service provider in the same customer account, and that individually segregated accounts need not be maintained for each customer of the payment service provider.<br><br>**Question 16. <u>Personal e-wallet protection</u>**<br><br>We respectfully request that MAS clarify if the personal e-wallet protection would only apply to e-wallets that are used in respect of fiat-denominated e-money, or if such protections would extend to e-wallets used in respect of instruments that are not denominated in fiat.<br><br>**Question 17. <u>Disclosure requirement for Standard Payment Institutions</u>**<br><br>As recognised by MAS in paragraph 5.37 of the Consultation Paper, the requirement to display a physical licence is not particularly practical or helpful in view of the shift towards online business models. We support MAS' recommendation to remove such requirement going forward.<br><br>In connection with the above, we would flag to MAS that the imposition of disclosure requirements should take into consideration the fact that as consumers increasingly access payment services via online / electronic means, the provision of detailed disclosures to consumers may afford less protection to consumers than expected, as many users tend to click through pop up disclosures.<br><br>**Question 21. <u>Exemptions for certain financial institutions</u>**<br><br>The proposed exemption for banks, merchant banks and finance companies should be extended to persons who are exempted under the Banking Act (Cap. 19), Monetary Authority of Singapore Act (Cap. 186), and Finance Companies Act (Cap. 108).<br><br>This would be consistent with the approach adopted in relation to the regulated financial services exclusion, which exempts persons regulated or exempted under the Securities and Futures Act (Cap. 289), Financial Advisers Act (Cap. 110), Trust Companies Act (Cap. 336) and Insurance Act (Cap. 142), that carry out payment services solely incidental to or necessary for their carrying on of regulated activities under these Acts, from the licensing requirements proposed under the Payment Services Bill. |

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| | | **Question 22. <u>Transitional arrangements</u>**<br><br>We note MAS' proposal that Newly Regulated Entities have a six-month grace period to submit their licence application, and respectfully request MAS to confirm that Newly Regulated Entities will continue to be exempted from the licence requirements during the licence application period (from the time the application is submitted, until it is approved or rejected). |
| 9 | Collyer Law LLC | **General comments:**<br><br>We wish to begin by lauding MAS for this forward-looking Bill which will hopefully bring much-needed clarity to the regulatory framework for payment services.<br><br>Our first, general comment relates to the title of the Bill. The activities contemplated in the Bill encompass not only payment services (or even "payments" in the broader sense) but also relate to stored value and alternative forms of money, which may not be used for payments at all, as well as trading and transfer of virtual currencies which cannot be regarded as payments *per se*. A more inclusive title would be "Money and Payment Services Bill"<br><br>We also note that nowhere in the Bill is there a definition of the key terms being used today: blockchain, distributed ledgers or tokens. While we appreciate that this is to ensure that the Bill (and if it is passed, the Act) is future-proof, this may be one Bill where the use of specific terminology is inevitable. When on the cusp of emerging technology, it is important not to fossilise in legislation any term that may quickly become obsolete. At the same time, legislation cannot ignore the language that is being used by the industry to describe the technology that is driving the activities and services that this Bill seeks to regulate. At the very least, the Bill should make or allow for provisions under Clause (section) 104 and 105 to describe and contextualise the technologies that engender the regulated activities.<br><br>Two examples will suffice. A notice or regulations can contain a non-exhaustive list of all the virtual currencies under this Bill. As we note in our response to question 3 below, there is an inherent uncertainty in the definition of "virtual currency" that cannot be resolved until the court or MAS provides some illustrations. The notice or regulation may provide that "The following have been recognised as "virtual currencies" for the purposes of the [Act]: [Bitcoin (BTC), Ethereum (ETH)…]"<br><br>The second example is in respect of "dealing in virtual currency" or "e-money". It is a glaring, albeit possibly deliberate, omission not to refer to virtual currency or e-money created using blockchain or distributed ledger technology. This means that the Bill contemplates such currencies or money being the product of technologies that are not based on the emerging blockchain technology. Because of the unique features of blockchain technology – immutable transaction history, multiple and decentralised verification or authentication, and |

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| | | pseudonymous identities, to name a few – a virtual currency or e-money created with such technology is substantively and in essence different from, say, e-money issued by a single company and used within a closed eco-system. Tempting as it is, the Bill cannot afford to have a one-size fits all approach by ignoring that different technologies relating to the money and payment services will need differentiated treatments.<br><br>*For easy reference, we will be reproducing relevant clauses from the draft Bill in our responses below*.<br><br>**Question 1. <u>Activities regulated under the licensing regime</u>**<br><br>One of the activities to be regulated under the Bill will be providing money-changing services, which is defined as "Buying and selling foreign currency notes". While it is clear that the buying and selling virtual currencies will not be regulated as a money-changing services, what is not clear is whether the exchange of virtual currencies for Singapore dollars or other fiat currencies, and vice versa, should be within the ambit of this definition (we note that such an activity will however come under the definition of "providing virtual currency services").<br><br>Another ambiguity that is now present in the Money-Changing and Remittance Businesses Act, and in this Bill, is whether an exchange of foreign currency as represented in an e-wallet or bank account, as opposed to an exchange of physical currency notes, would be considered money-changing. If a person were to exchange US dollars for Singapore dollars in an SVF for a customer, and not actually deliver Singapore dollars to the customer, but instead allow the customer to transfer his now-exchanged Singapore dollars to a bank account to be withdrawn, would this be considered money-changing. One of the major attributes of money in digital form or virtual currencies is the ease of conversion or exchange, since they are represented by electronic book entries or in ledgers, as opposed to being part of a finite inventory of physical notes and coins. The new Bill should take the opportunity to clarify if an electronic exchange or conversion of currencies (as defined in the Bill) should be regulated.<br><br>**Question 2. <u>Scope of e-money and virtual currency</u>**<br><br>"e-money" means any electronically stored monetary value that is denominated in any currency that—<br><br>(a) has been paid in advance for the purpose of making payment transactions through the use of a payment account;<br><br>(b) is accepted by a person other than the person that issues the e-money; and<br><br>(c) represents a claim on the person that issues the e-money;<br><br>[There are a number of ambiguities in this definition. Limb (a) refers to "monetary value…. that has been paid in advance". Grammatically, |

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| | | it is questionable whether "value" can be "paid in advance". If anything, the verb should be "credited" or "stored".<br><br>Since the e-money has to be denominated in "any currency", this assumes that it must have been fiat currency (legal tender) that had been credited or paid to the issuer. This definition ignores the real possibility that retail outlets and companies are already accepting virtual currencies for stored value. There should be no restriction on a merchant who is prepared to accept fluctuating values of a virtual currency in exchange for an amount of currency in the payment account. Thus, if a merchant accepts 1 BTC for S$20, 000 in the payment account, the amount of S$20, 000 will be fixed in the consumer's payment account, even if BTC falls in value. This is no different from a merchant accepting any foreign currency note in lieu of Singapore dollars that later depreciates in value. Monetary value that is pegged to money other than fiat currency need not be permanently pegged to that alternative – that would be a nightmare to monitor. Instead, it would be enough that there is a fixed and certain rate of exchange on the date and time the alternative currency is converted or credited as monetary value.<br><br>If the intention is for e-money to be protected by safeguarding the float with a bank, this would mean that the e-money can only be for fiat currency. It also pre-supposes a commercial issuer who is responsible for that e-money that it issues. If the issuer is subject to a claim, does it mean that any third party can go to the issuer and demand that the e-money be exchanged for anything of value. In this connection, the concept of a claim is itself unclear. In today's global fiat currency regime not backed by gold or any other commodity, no holder of a currency note can go to the issuer of that note to demand that it be exchanged for anything. If even the central bank / currency commissioners of the world are not subject to a claim on the fiat currency that they issue, how would this apply to commercial issuers?<br><br>"e-money" is also something of a misnomer. The intent seems to be to differentiate it from virtual currency, hence it is included with currency (being legal tender) in the definition of "money". But two definitions are somewhat circular. It may be less confusing to use more words for this term, such as "electronically-issued commercial money" or use an invented word like "electronic commoney" (commercial money) to distinguish it from money issued by a central bank.<br><br>**Question 3. <u>Virtual currency services</u>**<br><br>*"virtual currency" means any digital representation of value that—*<br><br>*(a) is expressed as a unit;*<br><br>*(b) is not denominated in any currency;*<br><br>*(c) 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 a debt;*<br><br>*(d) can be transferred, stored or traded electronically; and* |

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| | | *(e) satisfies such other characteristics as the Authority may prescribe,*<br><br>*but does not include such other digital representation of value that the Authority may prescribe*.";<br><br>[We suggest that limbs (a) to (d) be subject to modifications as may be prescribed. As limb (e) is now worded, it can only add to the preceding characteristics. Some characteristics are generally true but they do not all reflect the economic and legal reality. For instance, in referring to the public, the definition presumably means the public in Singapore. But if the definition is intended to mean the global public, swathes of the public have to be excluded in countries where crypto-currencies are banned as a medium of exchange.<br><br>It is also troublesome to use the term "denominated in any currency". The term "denomination" takes its meaning from the context. In the Currency Act (Cap. 69), the meaning is linked to the physical notes and coins. But this does not mean that virtual currencies can never be denominated in a fiat currency. For example, there is a token being traded known as Tether that is tied to various national currencies (https://tether.to/).<br><br>We strongly urge MAS to publish in a notice or regulations a non-exhaustive list of virtual currencies to complement the definition. The definition can remain and provide the broad characteristics, but to avoid the risk of it being impractical or obsolete, MAS should have the right to modify the definition in regulations rather than hard-coding its elements.]<br><br>"*providing virtual currency services" means—*<br><br>*(a) dealing in virtual currency;*<br><br>*(b) facilitating the exchange of virtual currency; or*<br><br>*(c) such other service relating to virtual currency as the Authority may prescribe,*<br><br>*in Singapore or providing such services to persons in Singapore but does not include such other service relating to virtual currency as the Authority may prescribe.";*<br><br>*"virtual currency exchange" means a place at which, or a facility (whether electronic or otherwise)—*<br><br>*(a) by means of which offers or invitations to exchange, buy or sell virtual currency in exchange for another virtual currency or for any currency are regularly made on a centralised basis,*<br><br>*(b) where the offers or invitations that are made are intended or may reasonably be expected to result, whether directly or indirectly, in the acceptance or making, respectively, of offers to exchange, sell or buy virtual currencies; and*<br><br>*(c) where the persons making the offers or invitations to exchange buy or sell virtual currency are different from the persons accepting the offers or making the offers, to exchange, sell or buy virtual currencies,*<br><br>*but does not include a place or facility used by only one person—* |

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| | | *(i) to regularly make offers or invitations to sell, purchase or exchange virtual currencies; or*<br><br>*(ii) to regularly accept offers to sell, purchase or exchange virtual currencies*;"<br><br>[Limb (a) of the definition of "virtual currency exchange" suggest that such an exchange will exchange virtual currency for fiat currency and vice versa. In practice, all exchanges will have an option to convert fiat currency to a virtual currency, rather than only trade virtual currencies alone. In our view, this is a crucial definition and so is the regulated activity in question. The cross-over of fiat currency into the crypto-currency world is a gateway of monumental importance. From a regulator's perspective, this is the most valuable gateway to conduct AML / CFT checks. Once fiat currency leaves the banking system into the crypto-world, a different set of technologies will be needed to trace the money flow, so before the money disappears over the border, so to speak, there should be a record of money passing through this point.<br><br>Limb (a) also refers to "a centalised basis", which may defeat the purpose of the definition. It is possible that an exchange be decentalised. The NASDAQ for example is the most obvious example of an exchange that is differentiated from the centralized NYSE or AMEX.]<br><br>**Question 6. <u>Limited purpose virtual currency</u>**<br><br>"*limited purpose virtual currency" means the following digital representations of value:*<br><br>*(a) non-monetary customer loyalty points or non-monetary customer reward points;*<br><br>*(b) in-game assets; or*<br><br>*(c) any digital representation of value similar to sub-paragraphs (a) or (b) above,*<br><br>*where each of sub-paragraphs (a) to (c) above—*<br><br>*(i) must not be returnable, transferrable or capable of being sold to any person in exchange for money;*<br><br>*(ii) is a medium of exchange that is, or is intended to be, as the case may be—*<br><br>*(A) used only for payment of or part payment of, or exchange for, goods or services, or both, provided by the issuer of the digital representation of value, or provided by such merchants as may be specified by the issuer; or*<br><br>*(B) used only for the payment of or exchange for virtual objects or virtual services, or any similar thing within, or as part of, or in relation to an online game.*"<br><br>[This definition is highly restrictive and not reflective of the realities of economic transactions. Any rewards or assets may be traded by their |

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| | | owners for cash. This is seen in how artwork, wines, or any number of collectibles are sold via Carousel or eBay. The definition should provide instead that the limited purpose virtual currency is not designed for the purposes of exchanging them for money, while leaving it open to their owners to do what they wish with such assets.<br><br>See too, responses to questions 1 and 8]<br><br>**Question 8. <u>Excluded activities</u>**<br><br>See responses to questions 1 and 6. As noted above, the excluded activity of "dealing in limited purpose virtual currency" will only be meaningful if the definition of "limited purpose virtual currency" is amended to allow for the possibility of disposal of such virtual currency for cash or other assets.<br><br>**Question 14. <u>AML/CFT requirements</u>**<br><br>[This is an area in which we will appreciate more time and opportunities to discuss with MAS, rather than be limited to a response of this nature. AML/CFT requirements are found in notices so working these requirements out should not hold back the drafting of the Bill. If MAS can contact us after the close of the consultation for further discussions, we will be happy to provide more inputs.] |
| 10 | DENKO C&T Pte Ltd | Respondent requested for some comments to be kept confidential<br><br>**Question 2. <u>Scope of e-money and virtual currency</u>**<br><br>**<u>E-money:</u>** money that is stored electronically, for example, on a computer or plastic card, and can be used to pay for products and service.<br><br>**<u>Virtual currency:</u>** Virtual currency, also known as virtual money, is a type of unregulated, digital money, which is issued and usually controlled by its developers, and used and accepted among the members of a specific virtual community.<br><br>**Question 3. <u>Virtual currency services</u>**<br><br>In particular, virtual currency does not have legal tender status in any jurisdiction. Decentralised virtual or "crypto" currencies have received attention as not only a new method of payment but a potential new criminal tool for terrorist financiers and money launderers to move and store criminal funds. FATF identified the potential anti money laundering ("AML") and counter terrorist financing ("CTF") risks of anonymity, lack of a centralised oversight body, global reach and the complex infrastructures as the basis for the cause for concern. The money laundering risk is said to materialise when criminals or |

terrorist financiers use virtual currency to transfer goods or funds anonymously.

**Question 4.** **Limited purpose e-money**

The store value facility falls within the scope of limited purpose e-money will not considered e-money. Payment service provided by any persons in respect of such SVF will not be regulated.

The risks we have identified for e-wallets are Money laundering /Terrorist Financing, technology risk, and safeguarding of e-money float as a form of user protection. Our assessment is that if the use, reach and capability of the e-wallet is sufficiently limited or restricted, the provision of such an e-wallet poses lower risks.

**Question 5.** **Loyalty programs as limited purpose e-money**

We also propose to exclude e-money that is used in loyalty programs. In some loyalty programs, the loyalty rewards are given in the form of e-money. We propose to exclude such e-money from the ambit of the Bill. Australia has a similar carve-out.

**Question 6.** **Limited purpose virtual currency**

We propose to exclude types of virtual currency that are limited in user reach and scope of use as services based on these types of virtual currency pose less of a risk than widely used virtual currency such as Bitcoin and Ether.

**Bitcoin:** A transaction is a transfer of value between Bitcoin wallets that gets included in the block chain. Bitcoin wallets keep a secret piece of data called a private key or seed, which is used to sign transactions, providing a mathematical proof that they have come from the owner of the wallet.

**Ether:** Currency type. Cryptocurrency. The value token of the Ethereum block chain is called ether. It is listed under the code ETH and traded on cryptocurrency exchanges. It is also used to pay for transaction fees and computational services on the Ethereum network.

**Question 7.** **Regulated financial services exclusion**

As The third significant carve out is the regulated financial services exclusion. We have proposed to carve out any payment service that is provided by any person regulated or exempt under the SFA, FAA, TCA and IA that is solely incidental to or necessary for the carrying on of any regulated activity under these Acts. This is to more easily facilitate the provision of financial services under these Acts that are not closely related to payment services.

**Question 9.** **Single licence structure**

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| | | This single licence will permit a licensee to undertake specific activities as set out in its licence. Multiple licences will not be required for different payment activities. If the licensee conducts more payment activities than originally applied for, it must seek MAS' approval to conduct other payment activities, which will be more secure. The licensee is not required to hold separate licences to conduct each payment activity. This, single licence structure is beneficial for licensees.<br><br>We assessed that only the ML/TF risks are currently significant enough to warrant regulation of small payment institutions.<br><br>**Question 10. <u>Three licence classes</u>**<br><br>On the proposed three licence classes we think the threshold approach to distinguishing Standard Payment Institutions and Major Payment Institutions is appropriate.<br><br>**Question 12. <u>Licence and business conduct requirements</u>**<br><br>The directorship and place of business should not be an absolute requirement, instead it could be considered a plus and grant some benefits if they are Singapore related.<br><br>**Question 16. <u>Personal e-wallet protection</u>**<br><br>For personal e-wallets, and whether the wallet size restriction of S$5,000 and transaction flow cap of S$30,000 is suitable. If these restrictions may affect our business.<br><br>**Question 19. <u>Technology risk management measures</u>**<br><br>As mentioned, all can rely on proposed three main Technology risk management regulation:<br><br>(a) Establishing a sound and robust technology risk management framework;<br><br>(b) Strengthening system security, reliability, resiliency, and recoverability;<br><br>**(c)** Deploying strong authentication to protect customer data, transactions and systems.<br><br>**Question 23. <u>Class exemption</u>**<br><br>As MAS is prepared to consider granting class exemptions to entities that fall within the scope of Standard Payment Institutions but do not pose sufficient ML/TF risks. Such class exemptions will not be set out in the Bill, and will instead be prescribed as regulations. These |

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| | | regulations are likely to refer to the relevant AML notices applicable to Standard Payment Institutions. |
| 11 | Diners Club Singapore Pte Ltd | Respondent requested for some comments to be kept confidential<br><br>**Question 6. <u>Limited purpose virtual currency</u>**<br><br>We propose the Virtual Currency exclusion criteria to be based on previous year market cap. For example, the currently Top 10 crypto currency are<br><br>1. Bit Coin<br>2. Ripple<br>3. Ether<br>4. Bitcoin Cash<br>5. Cardano<br>6. NEM<br>7. Stella Lumens<br>8. Litecoin<br>9. IOTA<br>10. Dash<br><br>The criteria for "limited user reach" could be based on previous top ten Market cap for the currency or alternatively if it is below a specified market cap value (say, US $1 Billion) as at the end of the previous year.<br><br>**Question 9. <u>Single licence structure</u>**<br><br>Today most significant risks are from cyber security breaches and loss of customer data. Hence the Standard Payment Institutions should also be regulated to minimum technology risks especially in the area of cyber security like pen test, regular system patching, encryption of customer data etc.<br><br>**Question 10. <u>Three licence classes</u>**<br><br>For the Standard Payment license an additional criteria that needs to be added is<br><br>• Have a customer base of more than 100K registered user.<br><br>**Question 12. <u>Licence and business conduct requirements</u>** |

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| | | The proposed minimum capital $100K should be more clearly defined. It should not be based on the "paid up capital" but on "shareholder's equity" or "shareholder's fund" |
| 12 | EZi Technology Pte Ltd | **Question 16. Personal e-wallet protection**<br><br>EZi Technology Pte Ltd feels that the transaction flow cap of S$30,000 is too low. We currently have a small number of users whose monthly spending exceeds $2,000. As we expand to more merchants and users, we expect this to be more common place. As such, we foresee that the flow cap of $30,000 is insufficient. We propose for the cap to be raised to $50,000. |
| 13 | First Data Merchant Solutions Pte Limited | Respondent wishes to keep entire submission confidential. |
| 14 | Golden Gate Ventures | **General comments:**<br><br>There are many things to unpack here; our comments come from a background of being heavily involved in the startup ecosystem with various investments in innovative payment companies, E-Money as per the MAS definition. Many of these companies are looking to make payment services more efficient by adding to existing systems or replacing legacy systems and solving real life problems through tech solutions.<br><br>In addition, we have extensive insights into the emerging "virtual currencies" space. In our view these virtual currencies provide a lot of opportunity, not only for businesses and consumers but also for countries that take a sensible regulatory approach to them. Japan is a prime example where the legalization of Bitcoin and well-measured regulation is now leading to an estimated 0.3% addition to GDP. Singapore, being an international financial hub, is possibly in an even better position to become a global centre for this industry. And make no mistake; the emergence of virtual currencies and tokens is nothing short of a global revolution. The concept of decentralized virtual currencies or assets is widely misunderstood or misinterpreted by governments, regulators and consumers, due to its rapid growth The industry has gained significant momentum and is far beyond a hype or fad. The recent ban on ICO's and virtual currency in China didn't slow down growth or the number of new projects being launched.<br><br>Hence, Singapore has a unique opportunity to stay at the forefront of innovation. The consultative and mild touch approach is the right one. However, there are some considerations (please see below):<br><br>1) Traditional financial institutions are not neutral to virtual currencies but openly hostile or claim a "wait and see" |

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| | | approach. There are multiple examples of institutions actively refusing business to companies that in some way are involved with virtual currencies, even if these activities are fully compliant with all existing regulations or even go beyond what is required by law. Some of the practices by these large financial institutions (banks in particular) go as far as intentionally excluding company founders or employees from everyday utility financial services at the personal level. In our view, this practice doesn't foster innovation. We understand a significant amount of education needs to take place before there can be more understanding. The Japanese financial industry took a leap of faith and we think it's a step in the right direction to have regulation in place that supports innovation. Besides virtual currency, many financial institutions understand the need to use blockchain as part of their core business, now or in the future.<br>2) Talent: People with deep knowledge of Blockchain technology and as a derivative virtual currencies are rare. For example, we should be treasure the presence of Vitalik Buterin in Singapore. It is people like him who change the world and his Ethereum project is now a 100 Billion Dollar success story. In our opinion it is often still difficult to recruit specific teach talent in Singapore, partly due to a limited domestic market and increasingly due to the difficulty of attracting talent from abroad. There is definitely talent that is considering Singapore as their future home base but for early stage technology companies it can become cumbersome to go through the visa process.<br>3) An already well established and entrenched payment ecosystem. This is a double edged sword; on the one hand Singapore enjoys great penetration of card payments, that being NETS, Credit and Debit cards. So while this provides great convenience to consumers the current industry is also somewhat of an oligopoly, and this is disadvantageous mostly to the merchants who still pay relatively high fees for transaction processing, especially compared to cash. It is therefore unlikely that innovation in the payment space will originate in Singapore, it will most likely come from places with less card penetration and by extension from foreign companies.<br>In addition, and as elaborated on in question 3, we would like to caution against too rigid AML/TF regulations in the virtual currency space as these concerns come mostly from a lack of understanding of the core technology behind virtual currencies combined with the rapid rise of this new currency class. KYC requirements for onboarding platforms should be sensible and mimic requirements applied to traditional brokers These requirements have been tried and tested and can apply to new platforms. |

**Question 1. <u>Activities regulated under the licensing regime</u>**

In our view regulations should only apply when the payment provider is counterparty risk to the consumer or merchant. This is the case with E-Money. This is also to case with Virtual Currencies but ONLY in the case these are being held in an online exchange or 3rd party wallet. The minute the consumer or merchants takes receipt of these currencies they are responsible for their safe keeping.

**Question 2. <u>Scope of e-money and virtual currency</u>**

While we understand the distinction that MAS is making between E-Money and virtual currencies philosophically they are not that different: both are simply a reflection of value that the market attaches to them. Different institutions use a different definition for E-Money. If there is any difference, it's mainly around the fact that E-Money in some cases is centralized. Fiat, like virtual currencies, has no backing, there is no claim on any underlying assets ever since the gold standard was abandoned. Fiat markets are however much more mature and stable as a result making fiat more suitable as a medium of exchange, at least in the short term. Whether a virtual currency is pegged to fiat is irrelevant in our view, there will be a market in virtual currencies that reflect all kinds of pegs, for example a basket of currencies. In the end this is simply another market setting value, in this case the traditional FX markets.

**Question 3. <u>Virtual currency services</u>**

In our view the AML/TF narrative is mostly fueled by traditional financial institutions or lack understanding of the core technology. While it is true that payment addresses can be generated anonymously this system is still inherently more transparent than cash. Virtual currencies should be embraced for their transparency and solutions are already being developed to connect addresses with names in the physical world, once a person is matched to an address his entire history becomes quite easy to track. Our view is that virtual currencies should not be feared and labelled as 100% bad but looked at with common sense. Technology allows for excellent paper trails which can be utilized for AML/TF regulations. The message is not to overregulate and stop innovation but find a sensible balance. . Regulators should look for ways to monitor the capital flows in the virtual currency world.

We do feel that KYC requirements for on boarding platforms such as virtual currency exchanges would be reasonable, similar to KYC requirements for traditional brokers.

**Question 4. <u>Limited purpose e-money</u>**

We agree with these carve outs

**Question 5.** **Loyalty programs as limited purpose e-money**

We agree with these

**Question 6.** **Limited purpose virtual currency**

We agree with these exclusions and encourage MAS to keep this definition broad. “Widely accepted” is not an absolute measure and is open to interpretation. But in general we agree these should not be regulated.

**Question 7.** **Regulated financial services exclusion**

We do not have sufficient insights into these other regulatory frameworks to comment in depth. However, as a general philosophy we feel exemptions should apply to newly created fintech companies, not to larger FI that pose systemic risk.

**Question 8.** **Excluded activities**

We do not have sufficient insights into these other regulatory frameworks to comment in depth. However, as a general philosophy we feel exemptions should apply to newly created fintech companies, not to larger FI that pose systemic risk.

**Question 9.** **Single licence structure**

In our view regulation shouldn’t be solely focuses on ML/TF risks. Although they are an essential part of the regulation there are other considerations such as:

- Enabling young companies to compete with existing corporates/incumbents
- Transparency and empowering end consumers

**Question 10.** **Three licence classes**

In our opinion total transaction volume is a poor measure for the different tiers of licensing, especially in the virtual currency space. Take for example an onboarding ramp like Coinbase in the US or CoinHako in Singapore. In total they process vast amounts of money (way in excess of the threshold in this proposed regulation) but the average transaction value is rather low. In addition, as long as consumers withdraw these virtual currencies there is no further counter party risk. Hence, in our view, their float should be the key indicator for regulation, not the total transaction volume. KYC requirements are sensible for these entities.

**Question 11.** **Designation criteria**

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| | | Any system that becomes systemic should be open to oversight we agree<br><br>**Question 12. Licence and business conduct requirements**<br><br>We do share the concern on the director nationality requirements as we do not see how this is relevant to the business. While it is probably easy to get around these requirements for most businesses it sends a wrong signal to the market as if Singapore is not friendly to foreign businesses.<br><br>**Question 13. Specific risk migrating measures**<br><br>We are concerned with overly burdensome AML measures for smaller fintech companies. See our earlier comments of overly regulating a poorly understood space.<br><br>**Question 14. AML/CFT requirements**<br><br>Sadly, people who mean harm will find ways around most of these proposed regulations. So in our view they would cause more burdens on businesses than they will ever do good in stopping criminal activity. In our view the most important part is the KYC process and a good connection to regulators and law enforcement. People who mean ill should not be allowed access or should be able to be caught.<br><br>We also want to emphasize the use of technology to help with AML requirements. Singapore is home to several startups that have helped financial institutions and merchants deal with fraud detection and AML.<br><br>**Question 15. User protection measures**<br><br>For e-money we agree there should be float protection but are not aware of the costs to companies doing this hence cannot comment further. For virtual currency companies there should not be such requirement or a slimmed down version only as consumers are aware these currencies and their private keys are under their own responsibility.<br><br>**Question 16. Personal e-wallet protection**<br><br>E-wallet protection is reasonable for fiat storage, not for virtual currency storage which is under an individual's responsibility at all times.<br><br>**Question 18. Interoperability powers**<br><br>These are well intended measures but we doubt they will make much difference in practice. We would prefer to see FI's be mandated to |

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| | | work with legitimate fintech and virtual currency businesses and not be allowed to refuse them business on competitive grounds.<br><br>**Question 19. <u>Technology risk management measure</u>**<br><br>We agree and think this can be elaborated upon. Technology risk is real and poorly understood, it also increases exponentially with the size of a business.<br><br>**Question 20. <u>General powers</u>**<br><br>In our view these should be limited to major institutions to avoid lobbying efforts against smaller startups that pose a threat to these powerful institutions.<br><br>**Question 21. <u>Exemptions for certain financial institutions</u>**<br><br>As eluded to earlier we do not have sufficient insights into these other regulatory frameworks to comment in depth. However, as a general philosophy we feel exemptions should apply to newly created fintech companies, not to larger FI that pose systemic risk. If FI enjoy exemptions they should also be mandated to provide utility services to younger startups, not refuse their business based on competitive grounds.<br><br>**Question 22. <u>Transitional arrangements</u>**<br><br>We feel a 1-year period would be more appropriate<br><br>**Question 23. <u>Class exemption</u>**<br><br>We strongly feel exemptions and a regulatory sandbox are needed to support new and innovative companies. In addition, they should be provided the same opportunities with current FI's as more traditional businesses have. |
| 15 | Google Asia Pacific | Respondent wishes to keep entire submission confidential. |
| 16 | GPay Network (S) Pte Ltd. (Grab) | Respondent wishes to keep entire submission confidential. |
| 17 | KLIQ Pte Ltd (M1) | Respondent wishes to keep entire submission confidential |

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| 18 | Kopitiam Investment Pte Ltd | Respondent wishes to keep entire submission confidential. |
| 19 | Liquid Group Pte Ltd. | Respondent wishes to keep entire submission confidential |
| 20 | Lykke Corporation | Respondent wishes to keep entire submission confidential. |
| 21 | Lymon Pte Ltd | **Question 2. <u>Scope of e-money and virtual currency</u>**<br><br><u>Definitions of e-money and virtual currency</u> - *nil*<br><br><u>Monetary value not denominated in fiat currency</u> -<br><br>We are of the view that monetary value not denominated in fiat currency but is pegged by the issuer of such value to fiat currency should be considered e-money, as the act of pegging the monetary value to fiat currency would assign a relative fiat currency value to the monetary value, which has a similar effect to denominating the monetary value in fiat currency.<br><br>We also note that, given that the issuer controls the peg, the issuer is able to affect the value of the currency by adjusting the peg at its discretion. Thus, we support backing such monetary value with a float held by any Major Payment Institution (i.e. the float requirement imposed by MAS on Activity E: E-money issuance) in order to safeguard consumer's interests.<br><br>**Question 9. <u>Single licence structure</u>**<br><br><u>Proposed single licence structure</u> – we note that this approach resembles the current regulatory regime for CMS licence holders, and agree that it is a beneficial approach for potential licensees as they would be able to consolidate all regulatory requirements for different regulated activities under one licence.<br><br><u>Regulating SPIs primarily for AML/CFT risks only</u> - *nil*<br><br>**Question 12. <u>Licence and business conduct requirements</u>**<br><br><u>Proposed capital and security deposit requirements</u> –<br><br>We note that the base capital requirements for various types of CMS licence holders who serve non-retail clients range between S$50,000 to S$250,000, whereas those serving retail range between S$250,000 and S$5,000,000. Given the above, we are of the view that higher capital and security deposit requirements could be imposed on companies who service retail clients, including those companies covered under the licensing regime in the proposed Payments Bill. |

**Question 13. Specific risk migrating measures**

We agree with MAS' proposal in the Consultation Paper.

**Question 14. AML/CFT requirements**

Proposed AML/CFT threshold -

We agree with the threshold to trigger AML/CFT requirements is appropriate at S$20,000, and note that this is congruent with the threshold set out in the MAS AML/CFT Notices.

How payment service providers will distinguish bona fide payment for goods and services from peer-to-peer transactions

We are of the view that payment service providers should conduct the following procedures:

1) AML/KYC during the onboarding process, in order to obtain information on the platform users 2) Subsequently, ongoing monitoring of transactions, as well as analysis of invoices in order to ensure that they are in line with the provider's understanding of the customers

Payments made to individuals selling goods on e-commerce platforms

The AML/CFT procedures described above should be applied to individuals selling goods on e-commerce platforms, in order for payment service providers to be able to detect prevent money laundering transactions disguised as a series of repeated transactions between two users.

**Question 17. Disclosure requirement for Standard Payment Institutions**

Proposed Disclosure Requirement for Standard Payment Institutions

We propose that Standard Payment Institutions should clearly illustrate in a manner as appropriate to their business operations (for example, on their website for an online payment provider), their regulatory status and the scope of regulated activities that they are allowed to provide under the licence they hold.

Requirement to display a licence

We are of the view that it would still be appropriate to continue to display a physical licence for the benefit walk-in customers that are less tech-savvy, or less inclined to verify the payment institution's regulatory status via the Financial Institution Directory.

**Question 19. Technology risk management measures**

We agree with MAS' proposal to extend the guidance under the TRM to include licensees that rely on technology to supply payment services.

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| | | **Question 20. <u>General powers</u>**<br><u>Extension of emergency powers</u><br>We support the extension of emergency powers to all regulated entities under the Bill, which would provide more assurance for retail customers due to the greater allowable scope for regulatory intervention. |
| 22 | Mastercard Asia/Pacific | Respondent wishes to keep entire submission confidential. |
| 23 | MoneyGram International ("MoneyGram") | Respondent wishes to keep entire submission confidential. |
| 24 | Network for Electronic Transfers (Singapore) Pte Ltd | Respondent wishes to keep entire submission confidential. |
| 25 | OC Queen Street LLC | **General comments:**<br>Generally, we propose that:<br>1. MAS should provide clarification when an activity is considered to be provided "in" Singapore – this issue is especially pertinent in online activities for businesses based outside of Singapore. We propose that only businesses operating in Singapore should be considered providing the services in Singapore.<br>2. MAS should provide clarification on the scope of extraterritorial application of the proposed Bill and what would be the sufficient nexus to Singapore for a payment services provider to be caught within the scope of the proposed Bill (c.f. MAS Guidelines on the Application of section 339 of the Securities and Futures Act).<br>3. To apply a truly risk-based approach, the proposed Bill should identify the proper scope of regulated activities and the appropriate risks mitigating measures targeted at each regulated activities. We submit that the current draft of the proposed Bill is overreaching and too wide in respect of the scope of the regulated activities and the risks mitigating requirements.<br>**Question 1. <u>Activities regulated under the licensing regime</u>**<br>We fully support the approach of focusing on activities (as opposed to products) for the purposes of regulation as it has the effect of being technology-neutral. We are also of the view that the scope of activities selected for regulation under the licensing regime is appropriate. |

However, our concern is in respect of the definition and scope of each category of the regulated activities. We submit that as it is currently drafted the definition and scope of the regulated activities are either unclear or too wide.

Our comments in respect of the definition and scope of each of the regulated activities are as follows:

| Regulated Activities | Comments |
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| A | We note that the proposed Bill defines "providing account issuance services" as:<br><br>*(a) issuing a payment account to any person in Singapore; or*<br><br>*(b) providing in Singapore services in relation to any of the operations required for operating a payment account, including—*<br><br>*(i) services enabling money to be placed on a payment account; or*<br><br>*(ii) services enabling money to be withdrawn from a payment account.*<br><br>*other than providing domestic money transfer services.*<br><br>In respect of sub-section (a), we would recommend that MAS clarify whether "in Singapore" refers to the issuing of a payment account (i.e. a Singapore based entity issuing a payment account to any person) or "any person" (i.e. issuing a payment account to any person who resides in Singapore).<br><br>We propose that sub-section (a) should refer to the former (i.e. issuing a payment account in Singapore to any person) as the issuance of payment account to any person who is in (i.e., resides in) Singapore would be too wide and would capture non-Singapore businesses that do not operate in Singapore.<br><br>MAS should also clarify the type of "payment account" that the proposed Bill intends to regulate. The proposed Bill defines "payment account" as:<br><br>*(a) any account held in the name of, or any account with a unique identifier of, one or more payment service users; or*<br><br>*(b) any personalised device or personalised facility,*<br><br>*which is used by a payment service user for the initiation, execution, or both of payment* |

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| | | | | *transactions and includes a bank account, debit card, credit card and charge card.*<br><br>This definition is overly wide and potentially captures a customer account with a business (e.g. a customer account with an online marketplace that which is used to store customers' orders and individual details) that simply links an identifiable payment / funding source, such as a bank account, credit card, and debit card (each of which are given as examples of a "payment account" in the Bill), as a method of payment or as a pay-out method.<br><br>We propose that accounts such as customer accounts with a business should not be considered a "payment account". Examples of such customer accounts include (i) an account opened by a buyer on an online marketplace that allows customer to pay for goods and services by way of bank account transfer, credit card, and debit card; and (ii) an account opened by a seller on an online marketplace that allows a seller to link bank accounts or other identifiable source for the purpose of pay-outs. These types of accounts should not in itself be considered a "payment account" under the proposed Bill. |
| | | | B | The Consultation Paper describes "domestic money transfer services" to include payment gateway services and payment kiosk services. We believe that the inclusion of the provision of payment gateway services and payment kiosk services to be odd, and that the scope of Activity B seems to conflate the role of the technology provider and the business itself. We find that the focus of the regulation should be the business providing the services of domestic money transfer which contract directly with consumers and merchants and not the technology provider (e.g. payment gateway services and payment kiosks services that do not actually provide the actual money transfer services by way of retail to end user customers). This could potentially lead to double regulation.<br><br>We would recommend focusing on regulating the business only.<br><br>Further, we note that the proposed Bill defines "providing domestic money transfer services" as *accepting money for the purpose of executing or arranging for the execution of one or more of the following payment transactions in Singapore, where* |

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| | | | | *the payment service user is not a financial institution—*<br><br>*(a) payment transactions executed from, by way of or through a payment account;*<br><br>*(b) direct debits including one-off direct debits through a payment account;*<br><br>*(c) credit transfers, including standing orders through a payment account; or*<br><br>*(d) accepting any money from any person (A) for transfer to another person's (B) payment account, where both A and B are not the same person.*<br><br>To clarify the scope of Activity B that both the sender and recipient have to be in Singapore, we would recommend amending sub-section (d) to be as follows (proposed amendments in underline):<br><br>*(d) accepting any money <u>in Singapore</u> from any person (A) for transfer to another person's (B) payment account, where both A and B <u>are in Singapore</u> and are not the same person.*<br><br>The proposed amendment will make it clear that the proposed Bill applies only to Singapore businesses that perform domestic money transfer services locally, and excludes non-Singapore entities.<br><br>The proposed amendment will also be consistent with the definition of "providing cross border money transfer services (i.e. *<u>accepting moneys in Singapore</u> for the purpose of transmitting, or arranging for the transmission, of moneys to any person in another country or territory outside Singapore* [emphasis in underline added]). |
| | | | C | We note that the proposed Bill defines "providing cross border money transfer services" as, *whether as principal or agent—*<br><br>*(a) accepting moneys in Singapore for the purpose of transmitting, or arranging for the transmission, of moneys to any person in another country or territory outside Singapore; or*<br><br>*(b) receiving for, or arranging for the receipt by, any person in Singapore, moneys from a country or territory outside Singapore,* |

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| | | | *but does not include such other services that the Authority may prescribe.*<br><br>We would recommend that MAS clarify whether Activity C is intended to capture businesses that operate in Singapore and excludes non-Singapore businesses (i.e. there is no extra-territorial effect in respect of Activity C).<br><br>The current wording of the definition would cover non-Singapore businesses.<br><br>In any event, we propose that the proposed Bill should not have an extra-territorial effect in respect of Activity C and that non-Singapore businesses should not be captured under the proposed Bill. The proposed Bill should only regulate businesses that operate in Singapore. This is because such non-Singapore businesses would usually already be regulated in the jurisdiction in which it operates. Imposing additional licensing requirements would lead to added costs and undue regulatory burden.<br><br>As such, we would recommend that sub-section (b) of the definition of "providing cross border money transfer services" be amended to the following (proposed amendments in underline):<br><br>*(b) receiving <u>in Singapore</u> for, or arranging <u>in Singapore</u> for the receipt by, any person in Singapore, moneys from a country or territory outside Singapore*<br><br>The proposed amendments clarify that that only entities in Singapore that accept moneys from a country outside of Singapore, for the purpose of receiving for, or arranging for the receipt by a Singapore resident falls within the scope of Activity C. |
| | | D | We would recommend clarifying whether this regulated activity covers all models of merchant acquisition services or does it exclude models where the settlement funds do not flow through the relevant institution (e.g. because the settlement funds is passed directly from a scheme member to the merchant and does not go through financial institutions). |
| | | E | We note that the proposed Bill defines “e-money issuance” as *issuing e-money in Singapore or to persons in Singapore*. |

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| | We propose that the proposed Bill should not have an extra-territorial effect in respect of Activity E and that non-Singapore businesses issuing e-money to persons in Singapore should not be captured under the proposed Bill. The proposed Bill should only regulate businesses that operate in Singapore. This is because such non-Singapore businesses would usually already be regulated in the jurisdiction in which it operates. Imposing additional licensing requirements would lead to added costs and undue regulatory burden.<br><br>As such, we would recommend that the definition of "e-money issuance" be amended to the following (proposed amendments in strikethrough):<br><br>*issuing e-money in Singapore ~~or to persons in Singapore~~* |
| F | No comments |
| G | We would recommend clarifying whether this regulated activity is limited to physical "notes" or whether does it cover businesses that processes money-changing services that do not buy or sell physical "notes" (e.g. by way of bank transfers) |

Generally, we would also recommend clarifying the following positions:

(a) Whether each of the regulated activities is meant to be mutually exclusive, or if the MAS foresees an area of overlap between the regulated activities thereby resulting in a scenario whereby an activity may trigger two types of regulated activities.

(b) When an activity is considered to be provided "in" Singapore – this issue is especially pertinent in online activities for businesses based outside of Singapore. We propose that only businesses operating in Singapore should be considered providing the services in Singapore.

(c) The scope of extraterritorial application of the proposed Bill and what would be the sufficient nexus to Singapore for a payment services provider to be caught within the scope of the proposed Bill (c.f. MAS Guidelines on the Application of section 339 of the Securities and Futures Act).

(d) Whether the focus and limitation of the licensing regime to retail activities apply across all of the activities.

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| | | ***The regulation of incidental payment services***<br><br>We strongly believe where the payment services provided by an entity is only incidental to its main business, such entity should not fall within purview of the MAS and the proposed Bill. Only those entities that carry on a business of providing payment services and charge customers for such services should fall within the ambit of the MAS and the proposed Bill.<br><br>For example, the principal purpose of online marketplace platforms is to connect sellers and buyers for goods and services. Whilst they are contracted to collect payments from buyers and remit to sellers, these services are undertaken free of charge and the actual performance of the service is outsourced to licensed payment service providers such as payment gateways and payment processors (e.g. PayPal). Therefore, it is unnecessary to create another regulatory layer on online marketplaces because the payment activities are only incidental to its main business and the payment activities will actually be outsourced to licensed payment providers.<br><br>We are aware that there is a need for certainty in respect of regulation, that all entities providing payment services (albeit related and incidental to other businesses which they carry on) should be licenced.<br><br>Nonetheless, on balance, we propose that where the payment activities of an entity is only incidental to its main business, such entities should not be regulated. This is especially so if the payment activities of such entity are strictly confined to other businesses which they carry on.<br><br>**Question 2. <u>Scope of e-money and virtual currency</u>**<br><br>The Payment Services Bill defines "e-money" as:<br><br>*Any electronically stored monetary value that is denominated in any currency that – (a) has been paid in advance for the purpose of making payment transactions through the use of a payment account; (b) is accepted by a person other than the person that issues the e-money; and (c) represents a claim on the person that issues the e-money; but does not include any deposit accepted in Singapore accepted in Singapore, from any person in Singapore, by a person in the course of carrying on (whether in Singapore or elsewhere) a deposit-taking business*.<br><br>We understand the first part of the definition to mean that e-money is regarded as value denominated (ascribed a value) in fiat currency, but is not fiat currency. This is because the e-money is not issued by the MAS directly (see Illustration 2 of the Consultation Paper). Accordingly, a claim against an issuer of e-money would be an action in damages, rather than debt.<br><br>The MAS may wish to clarify whether it intends for e-money to be claimed as a debt, rather than damages.<br><br>This confusion arises because of the exclusionary part of the definition, which specifically excludes deposits accepted by persons in |

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| | | the course of carrying on a deposit-taking business. This is further exacerbated by the definition of "money" as including currency and e-money.<br><br>The express exclusion of deposits, but not other possible forms of e-money, from the definition, implies that: (1) such excluded deposits would ordinarily fall within the scope of e-money, and as a result, an action to recover these deposits would have been framed as one for debt, rather than damages; and (2) certain forms of e-money can be recovered against the issuer by way of an action in debt.<br><br>Further clarification from the MAS on this point would be helpful.<br><br>In our view, the definition of e-money should be restricted to as value denominated (ascribed a value) in fiat currency, but is not currency. The consequence of restricting e-money in this manner is that such e-money can only be recovered by way of an action in damages but not in an action for a debt. This can be clarified by modifying the definition of e-money as follows (with proposed changes in underlines):<br><br>*Any electronically stored monetary value that is denominated in any currency, but which is not currency, that – (a) has been paid in advance for the purpose of making payment transactions through the use of a payment account; (b) is accepted by a person other than the person that issues the e-money; and (c) represents a claim in damages on the person that issues the e-money; but does not include any deposit accepted in Singapore accepted in Singapore, from any person in Singapore, by a person in the course of carrying on (whether in Singapore or elsewhere) a deposit-taking business*.<br><br>In respect of the scope of virtual currency, in the Consultation Paper, MAS states that "virtual currency" is defined as any digital representation of value that is not denominated in any fiat currency and is accepted by the public as a medium of exchange, to pay for goods or services, or discharge a debt. This definition covers the more widely known virtual currency such as Bitcoin or Ether.<br><br>It is however unclear whether such definition would include "utility tokens". For ease of reference, briefly, utility tokens are a type of cryptographic token issued by the issuer of the token and intended and/or designed to be used as a means to access or utilise the issuer's platform. Even though utility tokens are intended to be used only on the issuer's platforms, utility tokens are also frequently traded on virtual currency exchanges and hence have fluctuating values depending on the supply and demand of said utility tokens (not dissimilar to other widely known virtual currency such as Bitcoin and Ether). With such values tagged to the utility tokens, such utility tokens could also potentially be used as medium of exchange, to pay for goods or services, or discharge debt, provided that the recipient or creditor agree to accept such utility tokens as such medium of exchange or tools of payment.<br><br>As such, utility tokens could potentially fall within the proposed definition of "virtual currency" as utility token is a digital |

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| | | representation of value that is not denominated in any fiat currency and is potentially accepted by the public as a medium of exchange, to pay for goods or services, or discharge a debt, albeit a smaller percentage of the public as compared to other widely-known virtual currency (as evident from its fluctuating value under virtual currency exchanges).<br><br>The above uncertainty becomes more significant in light of the high activity of ICOs and the issuance of utility tokens, that are subsequently listed on virtual currency exchanges.<br><br>Therefore, we propose that the MAS clarifies whether or not utility token fall within the scope of "virtual currency" or would otherwise fall within the scope of "limited purpose virtual currency".<br><br>The MAS may also wish to consider the following alternative definitions:<br><br>(a) The Financial Action Task Force ("**FATF**") has an alternate, wider definition of virtual currency which the MAS may wish to consider. The FATF defines "virtual currency" as "*a digital representation of value that can be digitally traded and functions as (1) a medium of exchange; and/or (2) a unit of account; and/or (3) a store of value, but does not have legal tender status … in any jurisdiction. It is not issues nor guaranteed by any jurisdiction, and fulfils the above functions only by agreement within the community of users of the virtual currency*".[1]<br><br>(b) The FATF further sub-divides virtual currencies into three different categories: (1) centralised, convertible virtual currencies (*e.g.* WebMoney); (2) centralised, non-convertible virtual currencies (*e.g.* World of Warcraft Gold); and (3) decentralised, convertible currencies (*e.g.* Bitcoin).<br><br>(c) Using the FATF's definition as a starting point, the Australian Government Attorney-General's Department has proposed that digital currencies should have the following (cumulative) elements:[2] (1) the currency is a digital representation of value that possesses a functional aspect of money (*e.g.* a store of value or medium of exchange); (2) the currency is not issued by a central bank or public authority, nor attached to a legally established currency; and (3) the currency has two-way convertibility which allow it to |

[1] Financial Action Task Force, "Virtual Currencies: Key Definitions and Potential AML/CFT Risks" (June 2014).

[2] Australian Government Attorney-General's Department, "Regulating digital currencies under Australia's AML/CTF regime" (December 2016).

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| | | be transferred, stored or traded electronically for real-world goods, services and fiat currency.<br><br>By including the last element, the Australian Government Attorney-General's Department intends to exclude non-convertible digital currencies from its AML/CFT regulations, and only intends to regulate digital currencies which are convertible into fiat currency.<br><br>In respect of the query on whether monetary value that is not denominated in fiat currency but is pegged by the issuer of such value to fiat currency should also be considered e-money, we believe that it is not because these are usually considered a form of securities (e.g. contracts for difference) that are already regulated under the Securities and Futures Act.<br><br>**Question 3. Virtual currency services**<br><br>We support the proposal to limit the scope of virtual currency services to those that process funds or virtual currency and exclude marketplace and social media that merely act as medium for information exchanges.<br><br>Similar to the Australian position, we take the view that non-convertible digital currencies which cannot be transferred, stored or traded electronically for real-world goods, services and fiat currency should not be regulated.<br><br>**Question 4. Limited purpose e-money**<br><br>Paragraph 3.21 of the Consultation Paper states that MAS proposes to carve out value stored on e-wallet that is, or is intended to be used only in Singapore and satisfies certain characteristics.<br><br>We believe that limiting the scope of "limited purpose e-money" to e-money that is intended to be used only in Singapore is too restrictive.<br><br>We propose that the requirement for the e-money to be used only in Singapore be removed and that it should be sufficient as long as e-money is used for payment or part payment of the purchase of goods/services of the issuer or for payment or part payment of the purchase of goods/services from a limited network of goods of service providers who have a commercial arrangement with the issuer.<br><br>**Question 5. Loyalty programs as limited purpose e-money**<br><br>We observe that criteria (b) (i.e. the dominant purpose to promote the purchase of goods and services by such merchants as may be specified by the issuer) and (d) (i.e. used for the payment of goods and services) could potentially mean that the e-money can be used to pay a wide range of merchants. This could potentially be subject to abuse and result in an uneven playing field between exempted and regulated e-money.<br><br>We would recommend clarifying and/or limiting the number of merchants under this criteria for the purposes of limited purpose e-money. |

**Question 6.** **<u>Limited purpose virtual currency</u>**

Please refer to our comments above to Question 2.

Additionally, in the Consultation Paper, MAS states that MAS has identified that in-game assets and loyalty points should be excluded provided that they are, among other things, not (a) returnable, (b) transferable, or (c) capable of being sold to any person in exchange for money.

We observe that that criteria (b) and (c) may be common features in online games, especially "massively multiplayer online games" ("**MMOG**"). In MMOGs, players may be able to freely transfer in-game assets between themselves, and it is common for players to sell such in-game assets in exchange for money in real life.

The current criteria could potentially require the regulation of many online games.

We would recommend clarifying the scope of in-game assets as limited purpose virtual currency and/or considering excluding in-game assets from the scope of virtual currency.

We take the view that these in-game assets should be excluded from the definition of "virtual currency". Notwithstanding that these in-game assets can be transferred or exchanged for fiat currency, the transfer of such in-game assets usually takes place on a secondary market on a peer-to-peer basis, and such transfers are typically not sanctioned by the game operator. In essence, these are, at best, non-convertible digital currencies.

Further, the risk that these in-game asset transfers can be used for money laundering or terrorism financing is low, given their non-convertibility and unsanctioned nature. Bearing in mind that the MAS's chief concern with virtual currencies is with the risk of money laundering or terrorism financing, we consider that it is not necessary to regulate these in-game assets.

Additionally, we would recommend clarifying whether the transfer of in-game assets between different games is permissible.

**Question 7.** **<u>Regulated financial services exclusion</u>**

No comment.

**Question 8.** **<u>Excluded activities</u>**

We note that Part 1 of the Second Schedule of the proposed Bill provides excluded payment service no. 1 as:

*Payment transactions between the payer and payee executed through a commercial agent authorised to negotiate or conclude the sale or purchase of goods or services on behalf of the payer or the payee, but does not include payment transactions executed on an online marketplace.*

We believe that a distinction should not be made for online marketplaces as long as it falls within the description of such excluded activity (i.e. Payment transactions between the payer and payee

executed through a commercial agent authorised to negotiate or conclude the sale or purchase of goods or services on behalf of the payer or the payee). Hence, we propose the deletion of the express exclusion of marketplace as follows (proposed amendment in strikethrough):

*Payment transactions between the payer and payee executed through a commercial agent authorised to negotiate or conclude the sale or purchase of goods or services on behalf of the payer or the payee~~, but does not include payment transactions executed on an online marketplace.~~*

**Question 9. Single licence structure**

We support the proposal to regulate Standard Payment Institutions primarily for ML/TF risks only. This is in line with the aim of promoting Singapore as a FinTech hub and also to promote innovation.

**Question 10. Three licence classes**

From the perspective of the proposed risk-based approach, we submit that there is not sufficient granularity in respect of the proposed threshold to determine the licence classes. That is to say that MAS is taking a broad brush approach in evaluating the transaction volume across all regulated activities to determine whether an entity should be licensed as a Standard Payment Institution or Major Payment Institution.

It is our position that MAS should reconsider applying different transaction volume thresholds for different regulated activities to determine the size of the payment service provider, and therefore the class of license the payment service provider should hold.

Referring to Section 7(5)(a) of the proposed Bill (Application for licence), in determining the average monthly transaction volume, we submit that it is not appropriate to aggregate the volume of one regulated activity with another regulated activity because each regulated activity has a different risk profile. For example, we believe that the ML/TF risk of “merchant acquisition services" is considerably lower than that of "virtual currency services".

To truly apply a risk-based approach in the proposed Bill, we propose that MAS must account for the different risk profiles of each regulated activity and apply a different threshold. For lower risk activities such as "merchant acquisition services", the threshold to be a Major Payment Institutions should be higher. Conversely, for higher risk activities such as providing "virtual currency services", the threshold to be a Major Payment Institution should be lower.

For example, if an entity provides "merchant acquisition services" with an average monthly transaction volume of $100,000 and "virtual currency services" with an average monthly transaction volume of $2,900,000 – this would bring the entity above the $3million threshold to be a Major Payment Institution, which require the entity impose certain safeguards for funds in transit. We submit that it would be overly burdensome for MAS to require the entity to apply

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| | | measures to safeguard funds in transit for the merchant acquisition services despite the low risk and low volume activity for the "merchant acquisition services". Had the entity only provided merchant acquisition services, it would have been considered a Standard Payment Institutions only and it would not have been required to undertake funds-in-transit safeguarding measures.<br><br>Whilst we agree with MAS that the sum of funds that the payment service provider handles should determine its size, MAS must consider the sum of funds in light of the risk profile of the regulated activity.<br><br>With regard to Section 7(5)(b) of the proposed Bill (Application for licence), it would be impossible to carry on a business in e-money issuance without providing account issuance services as well. Both activities go hand in hand and cannot be offered without the other. E-money can only be issued to a user if the user has a payment account. E-money can only be stored if the user has a payment account. Therefore, we propose that Section 7(5)(b) be deleted.<br><br>**Question 11. <u>Designation criteria</u>**<br><br>We note that that due to the potentially broad definition and scope of "payment system", many new payment methods (that are evolving and cutting edge) could inadvertently be caught. Hence, we would recommend that the MAS clarify what is the intention and/or scope in respect of "payment system [that] is widely used in Singapore".<br><br>In addition, as various 'over the top' or 'overlay' products develop (e.g. mobile or proxy payments), we would also recommend that the MAS clarify its position in respect of certain products that operate over existing rails like GIRO, as these 'over the top' or 'overlay' products may not in and of themselves be payment systems.<br><br>**Question 12. <u>Licence and business conduct requirements</u>**<br><br>No comments, save for emphasising that the MAS should clarify whether non-Singapore businesses operating outside of Singapore would be caught by the proposed Bill and when an activity is considered to be provided "in" Singapore – this issue is especially pertinent in online activities for businesses based outside of Singapore. Further, MAS to clarify scope of extraterritorial application of the proposed Bill and what would be the sufficient nexus to Singapore for a payment services provider to be caught within the scope of the proposed Bill (c.f. MAS Guidelines on the Application of section 339 of the Securities and Futures Act).<br><br>We would highlight that if the intention is to require foreign businesses that provide payment services to Singaporean residents to incorporate a permanent place of business in Singapore and obtain a license under the Bill in order to continue providing such services, such a requirement is too onerous on global business where Singapore payment transactions constitute only a small percentage of their global business.<br><br>**Question 13. <u>Specific risk migrating measures</u>** |

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| | | We support the proposed approach of imposing specific risk-mitigating measures only on licensees that carry out the relevant regulated activity. We believe that this is more targeted (does not impose a blanket requirement on businesses) and could save businesses compliance costs.<br><br>**Question 14. <u>AML/CFT requirements</u>**<br><br>Paragraph 5.13 of the Consultation Paper states that where a licensee confines its business model to conduct certain services assessed to be low risk, no AML/CFT requirements will apply to such a licensee.<br><br>If a licensee has a business model that is wider than just providing these low risk services, no AML/CFT requirements should apply to that licensee conducting the low risk services, even though the licensee performs other payment activities. For example, a licensee performs Activities B (with low risk features) and C – in this case, the licensee need not perform KYC checks on its customers in respect of Activity B (with low risk feature), though it is required to perform KYC checks on its customers in respect of Activity C.<br><br>Additionally, we submit that the some of the low risk features identified in respect of Activities A, B and C stated under Table 3 are either unnecessary or too wide.<br><br>In respect of Activity A (account issuance services), we believe that opening a payment account *per se* does not pose any ML/TF risks. ML/TF risk is triggered only when a customer attempts to make a payment or receives a payment It is immaterial what the capacity of the e-wallet is because at the time of account opening, there is no e-money in the e-wallet. Hence, requiring businesses to conduct KYC checks on customers at the account opening stage is unnecessary and would hinder business because customers may drop off due to poor user experience. As such, we propose that the feature of e-wallet capacity of $1,000 (feature (c) of Activity A) be removed.<br><br>In respect of Activity C (cross border money transfer services), it is stated under sub-section (a) that where the licensee confines its business model to services where the payment service user is only allowed to pay for goods/services and where the payment is funded from an identifiable source (i.e. service provided to buyer/sender), no AML/CFT requirements will apply. Invariably, businesses would want to provide services to seller/recipients as well.<br><br>Hence, we propose that licensees that provide payment services that allow payment service users to receive payments for goods/service funded by an identifiable source that can be withdrawn to an identifiable source (e.g. bank account) should also be considered low risk.<br><br>Further, if an entity has a business model whereby it provides services to buyers (with funding from identifiable source, and hence low risk) and sellers as described above, we would recommend that MAS clarify if AML/CFT requirements would be imposed on businesses in |

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| | | respect of sellers only or whether AML/CFT requirements would extend to both services (i.e. to buyers and sellers).<br><br>We believe that both services (i.e. to buyers and sellers) are low risk and no AML/CFT requirements should be imposed on either of these services. This is primarily because if money coming in from buyer is from an identifiable source (and hence low risk), it should follow that money going out to an identifiable source of the seller (e.g., a bank account) should be of low risk as well and hence should not be subject to AML/CFT requirements.<br><br>Alternatively, we propose that AML/CFT requirements should only apply to services provided to sellers/recipients.<br><br>In respect of the distinction between payments for goods or services vs peer to peer transactions, we can distinguish between the two by determining if there is consideration. In a payment for goods/service, the consideration is the provision of goods/service in exchange for cash. In a P2P transaction, there is no consideration.<br><br>We agree that payments made to individuals selling goods on e-commerce platforms should be considered payments for goods and services, and thereby be exempted from AML/CFT requirements. The risk in this respect is low as the relevant licensees entities supporting such payment are already subject to the AML/CFT requirements.<br><br>**Question 15. User protection measures**<br><br>Generally, we note that the user (float) protection measures are sensible and consistent with international market practice. However, the use of insurance or guarantees is rarely used in practice as there has been very limited interest on the supply side by insurers and banks.<br><br>We have no comment in respect of the first and second queries.<br><br>In respect of the third query, we propose that it would be more appropriate to have the e-money float comprise of e-money that is primarily for use within Singapore.<br><br>**Question 16. Personal e-wallet protection**<br><br>We submit that the proposed amounts (i.e. wallet size restriction of $5,000 and transaction flow cap of $30,000) are overly restrictive. We observe that e-money users / consumers nowadays do purchase high value goods and services (of more than $30,000) using e-money (e.g. travel accommodations, flights, luxury items, etc.). Further, consumers do make such high value purchases frequently. Hence, limiting the amount of wallet size restriction to $5,000 and transaction flow cap to $30,000 is not practical.<br><br>We propose that there should not be a limit in respect of the wallet size and the transaction flow cap. In the alternative, users should have the discretion to adjust the limits.<br><br>**Question 17. Disclosure requirement for Standard Payment Institutions** |

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| | | We would recommend that the Standard Payment Institutions be made to expressly disclose that they are Standard Payment Institutions regulated by the MAS and that the float it holds and funds it processes are not protected under the MAS regulations. The disclosure should also expressly contain certain risks associated with such exemptions of user protection measures (e.g. that the e-money in the end users account could potentially be lost and not claimable) and that by utilising the Standard Payment Institutions services and/or platforms, the end users are accepting such risks.<br><br>We are also of the view that there is no need to retain the requirement to display a licence as set out in section 14 of the MCRBA. Many businesses now operate online (i.e. they do not have physical brick and mortar branches/stores that customers can frequent). We submit that that requiring such online businesses to physically display their licenses is impractical and archaic.<br><br>**Question 18. <u>Interoperability powers</u>**<br><br>Some solutions to support inter-operability would be by way of straight-through processing, e.g. the use of XML 20022 format and IBANs or other unique identifiers, charging principles. Though, we note that these would be more relevant and directed at the inter-bank space.<br><br>**Question 19. <u>Technology risk management measures</u>**<br><br>The Consultation Paper states at paragraph 5.46 that "Technology risk management requirements will be imposed on other licensees if they become significant players in Singapore". This contradicts with the position taken at paragraph 5.43 of the Consultation Paper that "MAS will extend the existing guidance on technology risk management to apply to licensees that rely on technology to supply payment services. Kindly clarify.<br><br>**Question 20. <u>General powers</u>**<br><br>We support the position that emergency powers should be extended to all regulated entities for consistency with other MAS-administered legislation.<br><br>**Question 21. <u>Exemptions for certain financial institutions</u>**<br><br>We agree that certain financial institutions should not require separate licensing for these activities, however, it should be made clear that the relevant risk mitigating measures (e.g. user protection) would nonetheless still apply to these exempted entities.<br><br>**Question 22. <u>Transitional arrangements</u>**<br><br>We would recommend increasing the grace period to eighteen months (18) months, from the current proposed six (6) months grace period. Six (6) months grace period is too short for businesses, especially global businesses to comply with the proposed Bill. To comply with the proposed Bill, global businesses will require sufficient lead time for the following (among others):<br><br>(a) for product development; |

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| | | (b) for migration of contracting entity and back end systems; and<br><br>(c) to integrate a more robust AML program, adopt user protection and technology risk management measures to address the major regulatory risks identified in the Bill.<br><br>Our proposal of extending the grace period to eighteen (18) months considering the need to global businesses to restructuring and reorganize. The provision of more than six (6) months grace period is in line with the practice of other jurisdictions (e.g. in the recent implementation of the Payment Systems and Stored Value Facilities Ordinance 2015, the Hong Kong Monetary Authority (HKMA) provided a one (1) year transitional period for payment service providers).<br><br>**Question 23. <u>Class exemption</u>**<br><br>We are in support of the proposed class exemption for Standard Payment Institutions. However, we believe that the class exemption should not be limited to Standard Payment Institutions but be extended to certain Major Payment Institutions that can demonstrate that they do not pose ML/TF risks. |
| 26 | PayPal Pte Ltd. (3PL) | Respondent wishes to keep entire submission confidential. |
| 27 | Pulsar Ventures Pte Ltd | Respondent wishes to keep entire submission confidential. |
| 28 | Red Dot Payment Pte Ltd | Respondent wishes to keep entire submission confidential. |
| 29 | Remittance Association of Singapore | **General comments:**<br><br>Remittance is an important part of the payment cycle. As such, we urge the MAS consider the intricacies of the remittance industry in respect of these regulatory changes.<br><br>In particular, as to the proposed Payments Council, the Remittance Association has no representation in the Payment Council. The Remittance Association would appreciate for the Payment Council to obtain feedback from the Association before advice is provided to MAS.<br><br>**Question 1. <u>Activities regulated under the licensing regime</u>**<br><br>Generally, the scope of activities appears reasonable and appropriately classified/defined. However, the term "incidental payment services" may require clearer definition (particularly if these are related to intercompany or intragroup payments). |

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| | | The risks and considerations identified for retail payment activities also appear reasonable. However, if user funds are hacked or lost due to fraud, are there provisions allowing claims for the loss of such funds or any dispute resolution, and if so what are these provisions?<br><br>**Question 3. <u>Virtual currency services</u>**<br><br>We agree that virtual currencies are particularly vulnerable to money laundering and terrorist financing risk. We support the proposal for virtual currency services provider to comply with AML/CFT requirements.<br><br>We believe that licensees should be subjected to the same level of regulatory obligation regardless of the type of products. For example, the risk of failure for remittance firm and virtual currency service providers are similar and hence the risk mitigating measure for both products should be the same as well.<br><br>Virtual currency services should include cryptocurrencies as it gains further traction in Singapore. This will create a level playing field for companies that do not offer virtual currencies.<br><br>We propose that virtual currencies (including cryptocurrencies) providers be subjected to the same regulatory requirements as firms that conduct other regulated activities in the Payment Services bill.<br><br>**Question 5. <u>Loyalty programs as limited purpose e-money</u>**<br><br>We agree with MAS that loyalty programs should not be considered as e-money given that the usage is limited.<br><br>**Question 7. <u>Regulated financial services exclusion</u>**<br><br>Care should be taken to ensure that the proposed excluded regulated financial services firms are subjected to the same regulatory obligations in their relevant applicable legislation as those under the proposed Bill. This will ensure that the risk mitigating measures are not compromised even if they are excluded.<br><br>It will also ensure that there is a level playing field between firms that require and firms that are excluded from holding a license under the proposed Bill.<br><br>**Question 9. <u>Single licence structure</u>**<br><br>We support initiatives that facilitate the streamlining of license applications or variation of license as it will save time and administrative costs for both MAS and the licensee. We believe that a single license structure will support the streamlining objective. To further achieve the said objective, we would also suggest automating the application/variation process. |

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| | | We require clarification on how MAS intends to transition existing licensees to the new regime. Will MAS be issuing fresh licenses to existing licensees or will they have to apply for fresh licences on their own accord?<br><br>We also require clarification as to whether there will be long processing periods if an entity were to apply to undertake new activities. Further, will MAS be issuing further guidelines in respect of the specific criteria to be met for conducting each activity?<br><br>We raise concern as to the applications made by Newly Regulated Entities covered under 6.13 of the Consultation Paper. If new market entrants are to receive a grace period to cover the time taken for the assessment of a licence application and can participate during this interim period, then it must be made clear that such applicants must comply with all the existing regulations during the interim period. We also suggest that this be viewed as a "probationary license period" than an exemption of license. Further, we do not support any period for new market entrants to operate without a license application, if this is what is being contemplated. A minimum requirement for operation must be a license application.<br><br>We raise concern that Standard Payment Institutions as defined should retain no regulated requirements around user protection in the form of security deposits (and technology risk management requirements) for the following reasons:<br><br>First:<br><br>1. While the scale of this risk may be in part aligned with value of funds (both in terms of remittances and wallet) and so may be decreased by a financial measure, it is still viewed as material and a risk that should be appropriately mitigated by all industry players including Standard Payment Institutions.<br><br>2. The financial hurdle proposed would still leave material exposure in terms of direct financial impact (potentially to the most vulnerable subset of users) and the impact to the industry as a whole in terms of reputation. Further, as these licensees will potentially participate in Activity C (specifically outbound remittances), this reputational damage could affect Singapore's international reputation.<br><br>Second, how will MAS ensure transparency as to the maximum monthly values for the standardised licensees to ensure class change requests precede any breach in the proposed hurdle (the measures to define the movement between Standard to Major class therefore appears problematic)?<br><br>Clarity is required for the calculation of the monthly average for financial threshold for Major Payment Institutions in section 7(5)(a) of the Bill (examples or illustrations would be useful), and in particular, whether or not this is commensurate with the requirement of safeguarding of relevant moneys in section 23 of the Bill, under which the security deposit is based on actual monies received from its customers for provision of the relevant payment services. |

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| | | We suggest that a further differentiated Standard License class be offered as between domestic and cross-border payment activities. The former presents a different level of risk than the latter due to the robust nature of the Singapore environment and the local nature of participating entities.<br><br>**Question 10. <u>Three licence classes</u>**<br><br>Please see Responses to Question 9 above.<br><br>We understand that the payment transactions and e-money float thresholds in the UK are 3 million Euros and 5 million Euros respectively. We believe that there must be a balance between overregulating and ensuring Singapore's competitiveness as a financial hub. As such, we propose that the financial thresholds for payment transactions and e-money float be increased to SGD 5 million and SGD 8 million respectively.<br><br>One possible consideration is to do away with the distinction between Standard and Major Payment Institutions. The separation of the classes based on the threshold approach results in different monitoring levels as closer supervision is said to be required for larger institutions having access to larger customer funds. However, larger institutions may have limited customers while the proposed standard payments institution may have a large pool of customers, although transaction size may be relatively small. Additional risks may arise in respect of the large pool of customers and frequency of transactions.<br><br>In this regard, smaller payment providers may be exposed to AML risks and arguably should be monitored alike for purposes of consumer confidence. Doing away with the distinction will help smaller payment providers to be able to market and expand without the concern of having to verify its threshold status from time to time.<br><br>**Question 12. <u>Licence and business conduct requirements</u>**<br><br>It may be onerous for foreign payment services firm setting up business in Singapore to have a Singapore Citizen or Singapore Permanent Resident as its executive director. We suggest that the existing requirement of allowing Employment Pass holders to act as executive directors be retained.<br><br>The proposed capital and security deposit for any payment institution should be proportionate and allow for a level playing field for all entities.<br><br>While encouraging start-ups and foreign fintech businesses into Singapore is a consideration, focus should also be placed on the risks that these businesses are exposed to.<br><br>Creating a level playing field with the existing 'traditional licensees' will also encourage greater innovation. Existing licensees already have a network, system and a database built over the years and it will be much easier and quicker to introduce and market the new technology |

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| | | amongst their customers as compared to the tech start-ups, which may still be on the learning curve.<br><br>As to the requirement on security deposit, it appears that under MCRBA, additional security may be prescribed in respect of each additional place of business (s10(1)). This provision appears to be absent from the proposed Bill (s22(1)).<br><br>In relation to safeguarding of moneys received from customers (section 23 of proposed Bill),<br><br>due to the functional nature of the business (remittances) funds would already have been placed with the beneficiary financial institution in the majority of cases on or before the next business day. In this regard, the definition of "business day" should be clarified to include "business day" in the host country and/or in Singapore. At what stage of the transaction process are the moneys to be released? Clarity is needed on which 'relevant moneys' are to be secured in this manner, whether this includes funds already placed with the beneficiary FI.<br><br>A distinction should be drawn between entities operating only locally and entities which provide cross-border services as well.<br><br>**Question 13. <u>Specific risk migrating measures</u>**<br><br>We agree with the risk-based approach.<br><br>**Question 14. <u>AML/CFT requirements</u>**<br><br>Clarity is needed on the difference between the AML/CFT requirements applicable under this new regime and under the old regime. There appears to be a misconception amongst some members that under the proposed Bill, no AML/CFT requirements will apply if the business model is restricted to low risk transactions.<br><br>Treatment for payments made to individuals via any e-commerce platforms should not be specifically excluded as payments for goods and services. Their exclusion from AML/CFT requirements opens an easy avenue for abuse.<br><br>Further, MAS Notice 3001 (3001 Notice) requires that remittance businesses seek exemptions or approval from MAS to deviate from the 3001 Notice. MAS Notice PSOA-N02, however, does not impose the same requirement. We seek clarity on the approach MAS will take, whether institutions may take a risk-based approach to support their AML/CTF controls, as the PSOA-N02currently allows, or the circumstances in which a payment institution must seek approval or exemptions from MAS. An example of this is the integration of MyInfo and whether a payment institution can implement this without specific approval from MAS.<br><br>**Question 15. <u>User protection measures</u>** |

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| | | **Funds in trust**<br><br>We welcome the implementation of consumer protection measures to help build trust with customers. The proposed safeguarding measures are flexible and reasonable. However, many firms rely on partner banks to support the provision of their services. We recommend MAS consider issuing a policy notice to banks to support financial inclusion of remittance providers, so as to promote access to trust services for safeguarding, and in a manner that does not require the bank to perform due diligence on each customer of the firm. This process has a high compliance cost and duplicates due diligence efforts.<br><br>**Funds in transit**<br><br>We request MAS provide clarity on the extent of safeguarding funds-in-transit provisions. Do the in-transit provisions apply to funds received, or, funds to be paid out, both, or, neither? The implementation of safeguarding until funds are paid out may have an adverse operational impact. We are of the view protection should not be extended unless funds are held, for example, on e-money issuance. Per Q16, however, customers should be made aware of the risks and their rights with respect to the service they purchase.<br><br>We believe that the proposed safeguards should not apply to Activities B and C. The remittance company will not have any control of the funds once the money has been released for an outward remittance transaction. The entire remittance process may involve more than one intermediary bank.<br><br>Under the proposed safeguards, it appears that the safeguarding institution will be held liable and exposed to losses if the funds are held and not returned by the intermediary bank.<br><br>**Question 16. <u>Personal e-wallet protection</u>**<br><br>Clarity is required as to whether incoming remittance payments into the payment accounts of remittance agents are considered as payments under personal e-wallet. If so, we suggest that the definition of e-wallet be tweaked such that remittance payment users will not have a wallet size restriction and transaction flow cap.<br><br>The proposal also states caps are to be enforced as funds are not backed by the deposit insurance scheme. We ask MAS consider extending the scheme to cover account and emoney issuance, up to 50k in Singapore denominated funds, as they are for bank deposits.<br><br>Should this approach not be appropriate, as eMoney issuance is not a deposit, the proposed safeguarding and float measures would be sufficient to protect client money. For example, in Australia and the UK, non-cash payments and electronic money must be placed in a trust in a timely manner. Further, appropriate disclosures are made to consumers to make them aware of the risk on account opening and via advertising. Measures such as these promote transparent and |

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| | | prudent handling of customer money whereas caps serve to restrict utility.<br><br>**Question 17. <u>Disclosure requirement for Standard Payment Institutions</u>**<br><br>We believe that licensees should be subjected to the same level of regulatory obligation regardless of the size of the remittance firm. Smaller firms arguably are exposed to a higher failure risk compared to a major payment institution. In this regard, consumers should receive at least similar level of protection compared to major payment institution.<br><br>Whilst we do not believe that there should be any differentiation in regulatory obligation, we agree with the requirements for disclosure if MAS deems otherwise.<br><br>There are fundamental concerns with creation of 2 tiered institutions offering the same services but under different regulatory requirement structures aligning to overall objectives of achieving a level playing field for industry participants.<br><br>Any disclosures would therefore need to contain appropriate levels of disclosure not only stating the lack of regulatory controls imposed on customer transactions especially on user protection but also that the industry does have participants that afford far greater protections and that these protections are imposed and oversighted by the MAS as primary industry regulator. The disclosure information should include information that the standard payment institution is not required to comply with user protection measures stipulated by MAS and payment services users are advised to do their own due diligence before transacting.<br><br>Further care should be taken in ensuring end consumers of services have appropriate levels of understandings of the potential risk any discloser should be industry consistent i.e. defined by the MAS and broad enough to ensure consumer has a full view of the facts, couched in a frame that would be easily understood by a majority of consumers and provided in language that will match the most likely first language for the majority of consumers (with English being a base in view of the language of Singapore statute and regulation and specifically the proposed bill).<br><br>With regards to the need to display license, if consumers can identify the licensees online, there should be no need to display a license. However, as the industry moves to more digital modes of function the physical display of license is still viewed as a useful consumer reference point and we believe there is nothing to warrant the removal of this requirement. This is further supported by the opinion that there remain unlicensed participants within the industry and removal of this requirement would only serve those improperly conducting activities to be encouraged. |

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| | | Additionally, as we move to more digital means of servicing customer needs the need to have some form of digital license display is also seen as advantageous, perhaps a simple display statement such as 'this service provided by XYZ Pte Ltd is a licensed service offering under MAS granted license reference No xxxx'.<br><br>**Question 18. <u>Interoperability powers</u>**<br><br>We seek clarity from MAS on the extent and intended purpose of the powers to compel major payment institutions to participate in a common platform. Each institution must have comfort on the ML/TF risk posed before being compelled to accept funds from multiple sources. We ask that MAS consider allowing institutions to decline based on ML/TF or operations risk.<br><br>**Question 19. <u>Technology risk management measures</u>**<br><br>We understand the importance of technology risk management measures. We agree that the failure of the licensee's systems that are not operating at a scale of DPS is unlikely to have financial stability implications on Singapore. We also agree that the provisions in the PDPA are sufficient for protecting customer information. Given that MAS will monitor the licensees and have the power to direct the relevant licensee to review and strengthen its technological controls and process, we are of the view that the requirement in the proposed bill and PDPA suffices.<br><br>MAS may nevertheless consider drafting an industry specific Payments Code of Practice to make the technology risk management and data protection provisions more accessible to the remittance industry.<br><br>**Question 21. <u>Exemptions for certain financial institutions</u>**<br><br>For exempted financial institutions, we believe that they should be subjected to the same regulatory obligations as the one suggested in the proposed bill. This will ensure that the risk mitigating measures are not compromised even if they are excluded.<br><br>It will also ensure that there is a level playing field between firms that require and firms that are exempted from holding a license under the Payment Service Bill.<br><br>**Question 22. <u>Transitional arrangements</u>**<br><br>Clarity is required on what is required of existing regulated entities to transition smoothly to the new Bill. Will MAS be issuing fresh licenses to existing entities on its own initiative? |

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| | | Unlicensed remittance firms should cease operation immediately and apply for a new license. Unlicensed firms are not required to undertake any regulatory requirements and hence, consumers receive no protection. In addition, unlicensed firms are not required to perform AML/CFT measure and hence they process a higher money laundering and terrorist financing risk.<br><br>As for current remittance firm that falls below the $3 million threshold, we would propose moving them as a standard payment license automatically as well. Clarity is required as to whether and how they will be automatically designated as opposed to making fresh applications to MAS.<br><br>With regards to sufficient lead time, we believe that a period of 12 months is more appropriate. Firms (especially global firms) need time to review their existing system processes. Global firms have systems that are more complex and may require more time to tweak their internal processes and systems.<br><br>Any new participants to the Industry during the proposed 'Transitional arrangements' should be licensed/approved under the existing requirements so as to ensure maintenance of existing standards of regulation and the industry wide 'level playing field'.<br><br>We repeat the above concern raised regarding 6.13 of the Consultation Paper.<br><br>**Question 23. <u>Class exemption</u>**<br><br>Regardless of size and business model, we are of the view that all payment service providers should be licensed and subject to the same level of regulatory obligation as long as they conduct a regulated activity. This will ensure a level playing field for all participants in the payment industry.<br><br>We raise concern as to any proposed risk-based class exemption for Standard Payments Institutions are strongly challenged based on the following key points:<br><br>1. Proposed exemptions would impede the provision of a level playing field for the industry for participants operating the same financial products.<br><br>2. The risk exemptions proposed under the current financial hurdle would represent material risk to the entities themselves and to the industry as a whole especially in respect to its reputation which in the case of Activity C could extend to Singapore's international reputation |
| 30 | RHT Compliance Solutions | **General comments:**<br><br>RHT Compliance Solutions conducted a roundtable discussion with industry members/financial institutions around the substantive issues raised in the Consultation Paper. The roundtable was attended by 130 attendees from 35 companies on 1 December 2017. Participants comprised representatives from the payment industry, including |

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| | | remitters and cryptocurrencies intermediaries, and other financial institutions.<br><br>While we are broadly supportive of the proposals, we urge MAS to further consider the implications of some suggestions raised in the Payment Services Bill Consultation Paper (the "**CP**"). Our comments on the questions posed in the CP are set out below and incorporate, where appropriate, inputs received from the roundtable participants.<br><br>**Question 1. <u>Activities regulated under the licensing regime</u>**<br><br>The participants welcome MAS' proposed revision to the list of regulated activities under the Payment Services Bill, which streamlines the definitions to prevent overlaps. The removal of payment account aggregators is well-received by participants who felt that this activity was too broad and did not have a direct payments nexus with consumers.<br><br>In respect of Activity D on Merchant Acquisition Services of the proposed activities, we seek clarification on whether merchant aggregators would fall under this activity. Merchant aggregators do not necessarily process or handle money in respect of the payment transactions. Without funds flowing through such service providers, there is therefore little or no direct payments nexus. The participants are of the view that it would not be necessary to regulate such service providers as they do not pose risks of processing funds, and regulating them will increase burden and costs to the industry.<br><br>As regards the risks and considerations of the regulated activities, one of the participants highlighted that **all** regulated activities must be subject to Anti-Money Laundering and Countering the Financing of Terrorism ("**AML/CFT**") requirements. This is because regardless of the type of activities, all institutions are already subject to the more generic regulations under Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act and Terrorism (Suppression of Financing) Act. Hence, to safeguard Singapore's reputation as an international financial centre, MAS should consider regulating all proposed activities for money laundering and terrorism financing ("**ML/TF**") risks.<br><br>**Question 2. <u>Scope of e-money and virtual currency</u>**<br><br>In respect of Activity F on Virtual Currency Services, we find the definition of virtual currency services to be unclear. Specifically, on the definition of dealing in virtual currency, we seek clarification on whether the intent is expressly only for the "buying and selling of virtual currencies" and whether lending-based dealings of virtual currencies have been contemplated.<br><br>We would like to seek clarification on whether the definition only applies to businesses who facilitate the buying and selling of virtual currencies or if it also extends to individuals who buy or sell virtual currency. The proposed definition appears overly broad and implies |

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| | | that retail users buying and selling virtual currencies for personal consumption would also fall under the definition, and consequently subject to regulatory requirements. We believe regulating individuals is not the intent of MAS, and we urge MAS to tighten the definition of dealing in virtual currencies.<br><br>We wish to also highlight that dealings in virtual currencies are predominantly peer-to-peer transactions in nature and recorded on the blockchain. However, there are also developments in off-chain settlement of virtual currencies where transactions are recorded outside the blockchain and which would require a third party to perform the settlement for the parties to the off-chain transaction. To this end, we also seek MAS' clarification on the definition of "intermediary" in the context of dealing in virtual currencies and the regulatory treatment of aforementioned.<br><br>We note MAS' intentions to regulate centralised exchanges facilitating the exchange of virtual currency. We would like to highlight that there may be increasing use of decentralised exchanges which do not hold assets or funds. We seek clarification on whether MAS intends to regulate such decentralised exchanges. In addition, there is also new cryptocurrency technology called atomic swaps that enables two parties to exchange different cryptocurrencies/tokens without the intervention of a third-party, resulting in peer-to-peer order matching. To this end, we seek MAS' clarification whether such a technology/activity, which does not involve a trusted third party of centralised exchange, would fall under the definition of virtual currency services.<br><br>**Question 3. <u>Virtual currency services</u>**<br><br>We are of the view that the ML/TF risks of virtual currencies are relatively low and concerns of these risks should take into consideration the mitigating factors and not be overstated. Specifically, the technology behind cryptocurrencies requires transactions to be recorded on blockchains that are public, transparent and permanent, this provides for a comprehensive audit trail that would allow for easier enforcement. International enforcement action against launderers using Bitcoin on the deep web (Silk Road) was facilitated by the audit trail captured on the blockchain. In prescribing AML/CFT requirements, MAS should consider these factors, take a balanced approach and not impose onerous requirements on virtual currencies service providers.<br><br>Related to this point, as cryptocurrency exchanges and intermediaries are brought under MAS' regulatory umbrella, it will be timely for MAS to revisit the issue of de-risking, by banks, of cryptocurrency-related clients. There have been several incidents of banks shutting out cryptocurrency players from applying for bank accounts (with no assessment of their risk profile), or shutting down bank accounts (with no reasons given). We feel that such practice should cease, as it results in financial exclusion, is against the spirit of the FATF requirements, and could have a perverse effect in driving transactions |

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| | | underground. This does not augur well for Singapore's image as a hub for FinTech. Quite a few industry players at the Roundtable requested for a more active involvement by the MAS in eradicating this problem.<br><br>The industry is supportive of MAS in having a calibrated AML/CFT regime for crypto currencies but the continuing derisking practice of banks will negate any benefits of a well-regulated crypto currency industry in Singapore. We therefore look forward to an MAS response on this significant matter of concern to the industry.<br><br>**Question 4. <u>Limited purpose e-money</u>**<br><br>We seek clarification on reasons for considering e-money issued by a public authority to be of low ML/TF risks and consequently the rationale for carving it out from AML/CFT regulations. Additionally, we seek clarification on the rationale for carving out, from the regulations, e-money whose monetary value is guaranteed by a public authority. Such a guarantee provides consumers and merchants with protection of funds against default only and does not reduce ML/TF risks.<br><br>**Question 5. <u>Loyalty programs as limited purpose e-money</u>**<br><br>We are supportive of the proposed exclusion of the loyalty programs with the stated characteristics.<br><br>**Question 6. <u>Limited purpose virtual currency</u>**<br><br>We agree with the proposed exclusion.<br><br>**Question 7. <u>Regulated financial services exclusion</u>**<br><br>We understand that several types of financial institutions have been excluded from being regulated under the Payment Services Bill as they do not pose sufficient risk to warrant regulation. We proposed that OTC brokerages be included in the exclusions as they may provide payment services as an incidental part of their business.<br><br>**Question 8. <u>Excluded activities</u>**<br><br>We agree with the proposed excluded activities, and have no further comments.<br><br>**Question 9. <u>Single licence structure</u>**<br><br>We welcome the proposal of having appropriate regulatory treatments for payment institutions of different size.<br><br>**Question 12. <u>Licence and business conduct requirements</u>** |

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| | | We understand MAS' intent to prescribe the requirement of having a person to be present at the permanent place of business or registered office is to allow for issues or complaints from consumers to be addressed effectively. We seek MAS' clarification on whether such a role can be outsourced to a third-party service provider, e.g. a local corporate secretary. It will also be progressive if the Bill would allow for the deployment of technology such as the use of chatbots to take on the role of addressing issues or complaints in lieu of employing someone for this purpose.<br><br>Respondents also raised concerns that the requirement to have an Executive Director who is either a Singaporean or PR would be restrictive for foreign firms seeking to enter the Singapore market. We therefore seek MAS' consideration on having a grace period to meet this requirement only after which the payment institution reaches operational capability.<br><br>**Question 14. <u>AML/CFT requirements</u>**<br><br>We welcome MAS' approach in prescribing certain transactions to be assessed as low ML/TF risk, so as not to overburden entities carrying out low risk transactions. However, we would like to highlight one of the transactions under Activity B on Domestic Money Transfer Services – payment for goods or services and where the transaction is under S$20,000. While the monetary value is not high, there is still the risk of ML/TF risk if the volume of such transaction is high. There are concerns that payment service providers may rely on this criterion to circumvent being regulated for ML/TF risks.<br><br>**Question 15. <u>User protection measures</u>**<br><br>Participants welcome MAS' proposal to allow e-money issuers to adopt different measures in safeguarding the e-money float. Some of the options e-money issuers can adopt include seeking full banks to provide the undertaking to be fully liable for the float or for the float to be guaranteed by any full bank. However, in these options, MAS has proposed for full banks or authorised custodian to be responsible for the safeguard of the float. As we have received feedback from wholesale banks that they may be interested in providing safeguarding services to the payment service providers, and we would like MAS to consider expanding the types of institutions allowed to safeguard the float to include the wholesale banks and trust companies.<br><br>Some participants in the e-money business raised the difficulties they have faced when approaching full banks to guarantee the e-money float in their Stored Value Facilities. Many of the banks expressed reluctance to do so, or impose challenging operational procedures such as wet signatures for every transaction. We urge MAS to consider how with the introduction of the proposed licensing regime, banks would not rule out bank guarantees as it would otherwise put |

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| | | the e-money providers out of business with the lowering of the current $30M threshold.<br><br>**Question 16. <u>Personal e-wallet protection</u>**<br><br>We understand MAS' intents to prescribe a limit on the capacity of personal e-wallet as such accounts are not protected under the Deposit Insurance and Policy Owners' Protection Schemes Act. However, there are concerns raised by the participants that both the maximum wallet size and annual flow cap were too restrictive, and would limit the type of activities the payment service providers may carry out on behalf of its users. To this end, the participants would like MAS to consider removing this limit or introducing other safeguards in lieu of the maximum load capacity.<br><br>**Question 21. <u>Exemptions for certain financial institutions</u>**<br><br>We note that there is no exemption for deposit-taking institutions for Activity E on e-money issuance. This means that if a deposit-taking institution is to issue e-money, it will, amongst other requirements, be subject to the user protection measures, specifically the safeguarding of e-money float. To this end, MAS already allows for a full bank to be fully liable for, guarantee, or set up trust account for, the e-money float of any e-money issuer. It follows that there should therefore not be a need for full banks who are themselves e-money issuers, to be subject to this requirement since their involvement would provide sufficient protection to consumers. We would like to clarify if that is indeed MAS' intention.<br><br>**Question 22. <u>Transitional arrangements</u>**<br><br>We welcome the proposed transitional durations which are helpful to the industry as they become regulated entities under the new regime. |
| 31 | SendX Pte Ltd | **Question 2. <u>Scope of e-money and virtual currency</u>**<br><br>It will be difficult to differentiate between the terms e-money and virtual currency in everyday circumstances, given the close correlation between the terms in lay perception. Further, not all virtual currency transactions will be anonymous in nature-it is quite possible to have users identify themselves and follow KYC processes. For example, most if not all of the leading exchanges follow fairly stringent and detailed KYC processes. The fact that new technologies and the nature of blockchain protocols allow for greater transparency and auditing of transactions as well as better ways of identity representation, should be taken into consideration. These will have real and positive impact on KYC, accounting and auditing processes. For instance, self-sovereign digital identity processes can bring greater efficiency and resilience to KYC processes. The ready availability of immutable ledgers results in significant reduction of reconciliation cost and greater ease of book keeping. It is suggested |

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| | | that the rules being framed should allow sufficient flexibility to reward willing actors who wish to follow advanced processes of identification and transparency.<br><br>It is our opinion that balance held in a wallet, that is denominated at the same time both in fiat currency terms and non-fiat currency terms clearly to the end-user and any other party of interest, and where the issuer pegs the value of the virtual currency to fiat, should be considered as e-money. One assumes here that SVF is being replaced by emoney, in which case a fiat-pegged virtual currency held as fiat-pegged stored value in a wallet, is not at all different from e-money. Since the end-user of the wallet already undergoes KYC and there are existing restrictions around the provenance of inward flow of funds into wallets, it is reasonable that SVF=emoney=virtual currency in this specific case.<br><br>**Question 3. <u>Virtual currency services</u>**<br><br>Scope of virtual currency should include virtual currency issuance. The issuance of virtual currency inside Singapore, so long as such virtual currency is pegged to fiat and this is clearly displayed and demonstrated, should be treated as e-money issuance. The interchangeability of one virtual currency with one another, so long as it is done via a regulated exchange, should be allowed. Exchanging virtual currencies which are for domestic use only within Singapore and are pegged to fiat, should be allowed freely on the same lines as e-money (with reasonable limits) within a domestic market, without subjecting these to any further restrictions. Exchanging a domestic virtual currency pegged to fiat to a virtual currency that is used outside Singapore and is pegged to a recognized, legal fiat currency (the list can be defined) should be allowed via regulated exchange.<br><br>**Question 4. <u>Limited purpose e-money</u>**<br><br>We request that limited purpose e-money should include stored value facilities which have not needed to be regulated under the existing rules, even if such SVF can be used across multiple merchants. We further request that the acceptance of such emoney services be exempt from any additional licensing, if the e-money provider enables acceptance of his/her emoney service at merchants through a specific app or terminal (provided that app or terminal is not used for accepting any non emoney payments).<br><br>**Question 12. <u>Licence and business conduct requirements</u>**<br><br>For small start—ups, the capital and security deposit requirements are too onerous. This will restrict such activities only to large companies and constrain innovators, especially professionals and students who wish to start their own companies, from doing so. Given the rapidly shifting job environment, we believe this may have a negative effect as many individuals in the FI and related industries |

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| | | seek to make new beginnings-many of these individuals may be Singaporean and senior PMETs. It may be useful to note that such requirements have not been there for non-regulated SVFs till today and that has allowed small and individual start-ups to at least have a chance to commence business. It is our submission that if the area of work is in e-money or virtual currency which is equivalent to existing non-regulated SVF, such requirements should be waived. If a small company wants to run services like remittance or an exchange, it should be subject to significantly lower amounts of capital and deposit, preferably a deposit only.<br><br>**Question 21. <u>Exemptions for certain financial institutions</u>**<br><br>It is our request that SVFs which continue to have less than 1000 SGD of stored value, are accepted across merchants and are restricted to non-cross border transactions, and have value stored in fiat-pegged virtual currencies, should be exempt from licensing and treated as non-licenced emoney. There are already quite stringent rules which restrict their activities. This will allow small entrepreneurs and new innovation-led companies, especially Singaporean start-ups, to find their feet and grow. The upside to the innovation economy from this may be considerable.<br><br>**Question 22. <u>Transitional arrangements</u>**<br><br>It is our earnest request that SVF holders, including those not regulated under the current framework, be permitted a period of 12 months for transition to the new applicable rules. |
| 32 | Singapore FinTech Association | **Question 1. <u>Activities regulated under the licensing regime</u>**<br><br>In general, the scope of activities selected for regulation under the licensing regime is appropriate, and the risks and considerations identified for retail payment services are suitable. However, the members of the SFA (the "**members**") believe that regulating incidental payment services could inappropriately broaden the scope of certain payment activities, and that payment services solely in relation to the payment for goods and services should be excluded from the scope of activities subject to the licensing regime.<br><br><u>Regulation of incidental payment services</u><br><br>Currently under the Money-Changing and Remittance Businesses Act (Cap. 187 of Singapore) ("**MCRBA**"), entities need only be licensed if they carry on business in money-changing or remittance business. The Singapore High Court recently observed that the MCRBA was intended by the Singapore Parliament to prohibit the business of accepting moneys for transmission to persons outside Singapore rather than the mere act to that effect (*Chinpo Shipping Co (Pte) Ltd v Public Prosecutor* [2017] SGHC 108). Further, it is well-established in common law that transactions undertaken only incidentally to the |

provision of other services generally do not establish the requisite degree of system and continuity to constitute a "business" and thus trigger MCRBA licensing requirements.

Conversely, under the Payment Systems (Oversight) Act (Cap. 222A of Singapore) ("**PSOA**"), regulatory obligations are triggered for a person/entity merely by virtue of such person/entity holding a stored value facility ("**SVF**") – i.e. there is no need for the holder of an SVF to carry on a business in holding an SVF. This accords with the parliamentary intent behind the PSOA, which was to promote safety and efficiency in payment systems and SVFs.

The members submit that the approach under the current framework is appropriate, and should be maintained under the Bill. The Bill as currently drafted (section 6(1)) proposes that market participants will need to carry on business in one or many payment services to trigger a licensing requirement for the particular payment service. However, the Bill continues to provide in section 6(2) that "a person is deemed to be carrying on business in providing a payment service if the provision of the payment service is incidental to any other business which he carries on, whether it is related or not, to the other business which he carries on". The members submit that this section 6(2) of the Bill may inappropriately broaden the scope of proposed Activities B (*Domestic money transfer services*), C (*Cross border money transfer services*) and G (*Money-changing services*).

It would be beneficial if the MAS could clarify the extent to which incidental payment services will be caught under the new regulatory framework, and it is submitted that the better approach would be to maintain the calibrated approach that currently operates under the MCRBA and the PSOA.

<u>Activities B and C – payments for goods and services</u>

It would be beneficial for the MAS to clarify whether it intends to regulate persons who undertake domestic and cross border money transfer services solely for the purpose of paying for goods and services. In its consultation paper of August 2016 (the "**August CP**"), the MAS noted that it did not intend for the scope of Activity 3 (*Providing Money Transmission and Conversion Services*) to include payments purely for goods and services. Activity 3 from the August CP broadly tracks across to Activities B and C. The members submit that providing payment services solely in relation to the payment for goods and services should not trigger licensing obligations under the new framework, as this could inappropriately extend the scope of the licensing regime. Failing to carve out payments solely in relation to goods and services could, for example, result in ride-hailing companies and food-delivery companies needing to hold a payments services licence, when the AML and other risks arising from such industries are low (e.g. due to very low values of separate transactions).

**Question 2.** **<u>Scope of e-money and virtual currency</u>**

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| | | The members agree that it is helpful to set out separate statutory definitions of e-money and virtual currency in the Bill, as they are separate concepts posing different risks and should be regulated differently. However, the members believe that certain areas of the definitions require clarification so as to avoid unintended consequences and to more closely accord with industry understanding of these terms.<br><br><u>Differentiating e-money and virtual currency from securities</u><br><br>As the MAS has clarified, digital tokens may constitute securities depending on the tokens' characteristics. The members would like to clarify if the MAS intends to differentiate e-money and virtual currency from securities, so as not to subject entities to two different regulatory frameworks. While the MAS intends to exclude from regulation a payment service that is provided by any person regulated or exempt under the SFA, FAA, TCA and IA that is solely incidental to or necessary for the carrying on of any regulated activity under these Acts, it may be difficult to argue that dealing in e-money/virtual currency is solely incidental to an entity's dealing in securities if the definitions overlap. It may therefore be useful to state in the definitions of e-money and virtual currency that securities are excluded.<br><br><u>Tokens that are "backed by" the value of fiat currency</u><br><br>The members raised the point that, in addition to where monetary value is "pegged to" the value of fiat currency, there are also tokens that are "backed by" the value of fiat currency. For example, USDT (issued by Tether) is a cryptocurrency token pegged to the US dollar, which is fully backed by assets in the company's reserve account. It is arguable that tokens that are either "pegged to" or "backed by" the value of fiat currency should constitute e-money.<br><br>**Question 3. <u>Virtual currency services</u>**<br><br><u>Token offerings</u><br><br>The members would like the MAS to clarify whether a token offering will constitute a sale of virtual currency, so as to constitute the licensable activity of dealing in virtual currency. While an argument could be made that one-time or infrequent offerings will not be by way of business, this means that frequent token offerings may attract licensing under the Bill.<br><br>This issue also applies where a token constitutes "securities" under the Securities and Futures Act (Cap. 289 of Singapore) – the token offering may constitute the licensable activity of dealing in securities.<br><br>Regardless of whether the tokens are securities, there is a possibility that token issuers may be required to be licensed. The members strongly believe that it may be onerous to require a start-up attempting to raise money with a token offering to be licensed, especially as it will have to comply with a capital requirement of S$100,000. This may have a deleterious effect on financial innovation. |

This issue is exacerbated if the MAS is planning to regulate all tokens offerings (as dealings in virtual currencies) regardless of whether they are securities. As stated in our response to question 2 above, it is not clear if the MAS intends to differentiate e-money and virtual currency from securities. The MAS may thus wish to take this opportunity to clarify the scope of virtual currency services in order to avoid overlapping regulation for token offerings.

Virtual currency exchange

The payment service of "providing virtual currency services" includes "facilitating the exchange of virtual currency", which in turn means the establishment or operation of a virtual currency exchange. If the MAS intends to impose regulations on such a virtual currency exchange, the members suggest that such regulations should not be as extensive as those applying to securities exchanges and futures exchanges as the systemic risk of securities exchanges and futures exchanges is likely greater than that of a virtual currency exchange.

**Question 4. Limited purpose e-money**

The members support excluding from regulation e-money that is, or is intended to be used only in Singapore and is used for payment or part payment of the purchase of goods from the issuer or use of services of the issuer, or both. Such e-money is used by businesses to drive sales and there is a low risk of ML/TF. If such businesses are required to obtain a licence for issuing such e-money, this will pose an onerous regulatory burden on what is essentially an incidental business strategy that poses low risk to consumers.

**Question 7. Regulated financial services exclusion**

As stated in our response to question 2, it is unclear if this exclusion can be relied upon where e-money and virtual currency may also constitute securities, such that an entity issuing e-money or offering virtual currency services is already regulated under the Securities and Futures Act (Cap. 289 of Singapore). This is because there is a requirement for such payment service to be solely incidental to or necessary for the carrying on of any regulated activity.

**Question 8. Excluded activities**

The excluded activities include "payment transactions between the payer and payee executed through a commercial agent authorised to negotiate or conclude the sale or purchase of goods or services on behalf of the payer or the payee". It would be helpful if the MAS could further elaborate on the rationale and scope of this exclusion.

**Question 9. Single licence structure**

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| | | The members believe that it is beneficial that an entity conducting several activities only needs one single licence as that reduces compliance costs. It will benefit both the payments industry and consumers if the various payment activities and the entire payment ecosystem are brought under a single framework. The modular nature of the various regulated payment services allows greater flexibility to payment service providers if they wish to expand or reduce their product offering – they will not have to undergo a new licensing process. This modular system is very similar to the licensing process for capital market services licensees under the Securities and Futures Act (Cap. 289 of Singapore), and the members believe that such approach will work similarly well.<br><br>The consultation paper states that if a payment services licensee conducts more payment activities than originally applied for, it must seek the MAS' approval to conduct other payment activities. Would such approval process to vary the licence be shorter than the licensing process? If so, how much shorter?<br><br>The members respectfully submit that the MAS should be careful not to apply a one-size-fits-all approach in imposing licensing requirements. For example, the MAS could reconsider the S$100,000 capital requirement as the members strongly believe that this requirement may be difficult for a start-up to comply with at a nascent stage.<br><br>**Question 10. <u>Three licence classes</u>**<br><br>The members agree that such a tiered system will reduce the compliance and regulatory burden on start-ups in their nascent stage. The imposition of a minimum standard will also protect consumers from loss of funds and cyber security and technology risk. It will benefit consumers by bolstering interoperability, and will protect Singapore's financial system from ML/TF risks.<br><br>However, the members believe that the threshold of accepting, processing, or executing a monthly average of transactions above S$3 million in a calendar year for a Major Payment Institution may be too low. It may be more accurate to consider the amount of trading fees made by a payment service provider. For example, a company may accept, process, or execute a monthly average of transactions above S$3 million in a calendar year, but its trading fees may be very low. If so, the imposition of extensive requirements applicable to a Major Payment Institution may be unduly onerous for such a company.<br><br>Furthermore, the members would like to clarify the rationale for classifying a payment service provider as a Major Payment Institution if it holds an average daily e-money float above S$5 million in a calendar year. The current regime only imposes extensive conduct of business requirements on an "approved holder" of "widely accepted SVFs" (i.e. if the aggregate stored value held by a holder of the SVF exceeds S$30 million). The proposed S$5 million threshold appears much lower in comparison, and may therefore lead to overregulation of e-money issuers. |

**Question 11. Designation criteria**

The members suggest that the MAS use this opportunity to provide further guidance on when the MAS will designate a payment system. For example, when would a disruption in the operations of the payment system be considered to (i) trigger, cause or transmit further disruption to participants or systemic disruption to the financial system of Singapore or (ii) affect public confidence in payment systems or the financial system of Singapore?

Furthermore, the proposed new designation criteria of "for competition reasons" is very broad, and it is particularly important to clarify what this means. What criteria would the MAS use to decide this, particularly given that designated entities will be subject to a significantly more onerous compliance regime?

It would be helpful if the MAS could clarify how much notice would be given to a designated entity to comply with the regime.

**Question 12. Licence and business conduct requirements**

The members note that Singapore has made significant investment in innovation and the FinTech sector. The members believe that the licensing requirement for an overseas company to establish a local branch is appropriate, as it will allow for the effective regulation of a foreign entity (which can bring in innovative ideas beneficial to the payment ecosystem and consumers) without requiring the establishment of a Singapore company, which will increase operating costs.

However, the members expect that additional requirements above those required by the Companies Act (Cap. 50 of Singapore) will be a deterrent and will discourage regional start-ups and international FinTech companies from seeking a base in Singapore. The requirement for an applicant to have at least one Singapore citizen or Singapore Permanent Resident executive director could be prohibitive for start-ups with small teams at the start of running their business. The members suggest that the MAS consider a flexible approach, such as allowing for a local non-executive director or a local director with an Entre/Employment Pass, in line with the existing standard for establishing a local company.

The members strongly believe that, at the start of the life cycle of a company, a large security deposit requirement for a Major Payment Institution is problematic.

**Question 14. AML/CFT requirements**

Non-face-to-face KYC

The members suggest that the MAS take this opportunity to provide further guidance on requirements in respect of non-face-to-face KYC. Currently, such measures are required to be at least as stringent as those that would be required to be performed if there was face-to-

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| | | face contact. For example, would digital KYC using existing and future technology (e.g. Skype and biometric authentication) be permitted? This point is a recurring one in practice, and it would be very useful if the MAS provides further clarity.<br><br><u>Approval from the MAS</u><br><br>The members note that there is a key difference between PSOA-N02 Notice to Holders of Stored Value Facilities on Prevention of Money Laundering and Countering the Financing of Terrorism ("**PSOA-N02 Notice**") and MAS Notice 3001 on Prevention of Money Laundering and Countering the Financing of Terrorism - Holders of Money-Changer's Licence and Remittance Licence ("**MAS Notice 3001**").<br><br>Under MAS Notice 3001, money-changers and remittance businesses have to seek approval from the MAS before (i) establishing an account relationship with, or undertaking a relevant business transaction without an account being opened for, a customer without face-to-face contact with the customer, (ii) performing simplified CDD measures and/or (iii) relying on a third party to perform CDD measures. PSOA-N02 Notice does not impose the same requirement.<br><br>The members seek clarity on the approach the MAS will take in imposing AML/CFT measures on payment service providers. Will they be allowed to take a risk based approach to justify their controls, as the PSOA-N02 Notice currently allows (e.g. integration of MyInfo without specific approval from the MAS)? If that will not be the case, the members suggest that further clarity be given of the circumstances in which a payment service provider must seek approval from the MAS.<br><br>**Question 15. <u>User protection measures</u>**<br><br><u>E-money float</u><br><br>The members note that it is possible for a payment service provider to have a strong nexus to Singapore other than having an e-money float comprising e-money that is issued in Singapore to persons ordinarily resident in Singapore. The members recognise that the Singapore residency status requirement aims to protect Singapore residents; however, it does not necessarily protect Singapore's reputation. For example, a company could be based in Singapore with 1% of e-money issued to Singapore residents and the rest issued to users outside of Singapore. If the company does not have to maintain a float for such monies, and the company subsequently goes insolvent, this will have a negative effect on Singapore's reputation as a safe financial centre. As such, restricting the e-money float to only e-money that is issued in Singapore to persons ordinarily resident in Singapore may be insufficient. One suggestion could be that a percentage (for example, 20%) of e-money offered to non-Singapore residents should be safeguarded by a float.<br><br><u>Funds in trust</u> |

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| | | The members welcome the implementation of consumer protection measures to help build trust with customers. The proposed safeguarding measures are flexible and reasonable; however, many FinTech firms rely on partner banks to support the provision of their services. The members recommend that the MAS consider issuing a policy notice to banks to support financial inclusion of FinTech and e-wallet providers, so as to enable access to trust services for safeguarding in a manner that does not require the bank to perform due diligence on each customer of the payment institution. This process has a high compliance cost and duplicates due diligence efforts.<br><br><u>Funds-in-transit</u><br><br>The members suggest that the MAS provide clarity on the extent of safeguarding funds-in-transit provisions. It would be helpful for the MAS to clarify whether the in-transit provisions apply to funds received, or, funds to be paid out, or, both. The implementation of safeguarding funds until they are paid out may have an adverse operational impact.<br><br>**Question 16. <u>Personal e-wallet protection</u>**<br><br><u>Wallet size restriction</u><br><br>The members believe that the e-wallet size restriction of S$5,000, which is described as a protection measure, may restrict consumers, rather than protecting them. The members suggest that this issue may be addressed in ways other than the imposition of a size limit.<br><br>The proposal states that the restrictions on personal e-wallets are imposed because the funds in e-wallets are safeguarded by another financial institution and not by deposit insurance under the Deposit Insurance and Policy Owners' Protection Scheme (the "**Scheme**"). The members ask that the MAS consider extending the Scheme to cover account and e-money issuance, up to S$50,000 (to the extent denominated in Singapore dollars).<br><br>Should the MAS believe this approach to not be appropriate, the proposed safeguarding and float measures would be sufficient to protect client money rather than imposing such restrictions on personal e-wallets. For example, in Australia and the UK, non-cash payments and electronic money must be placed in a trust in a timely manner. Further, appropriate disclosures are made to consumers to make them aware of the risk on account opening and via advertising. Measures such as these promote transparent and prudent handling of customer money, whereas restrictions on personal e-wallets serve to restrict utility.<br><br>More broadly, these restrictions on personal e-wallets may make Singapore less attractive for innovative FinTech products and encourage vendors to look elsewhere in the region to commence business.<br><br><u>Transaction flow cap</u> |

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| | | The members note that there are some very active traders in the market and therefore members are seeing volumes of transactions which exceed the transaction flow cap of S$30,000. The transaction flow cap may therefore be too low for the industry.<br><br>**Question 18. <u>Interoperability powers</u>**<br><br>It would be beneficial if the MAS could provide factors to clarify when someone will need to comply with interoperability measures, and any further guidance on this area.<br><br>The members seek clarity from the MAS on the extent and intended purpose of the powers to compel Major Payment Institutions to participate in a common platform.<br><br>Each institution must have comfort on the ML/TF risk posed before being compelled to accept funds from multiple sources. The members suggest that the MAS may consider allowing institutions to decline to participate in a common platform if they can demonstrate to the MAS that this will pose ML/TF and/or operational risk.<br><br>**Question 19. <u>Technology risk management measures</u>**<br><br>The members note that the expected level of availability and recovery for non-DPS institutions will be the same standard as is required for the Personal Data Protection Act (No. 26 of 2012). The MAS may consider drafting an industry specific Payments Code of Practice to make the technology risk management and data protection provisions more accessible to start-ups.<br><br>**Question 22. <u>Transitional arrangements</u>**<br><br>The members would appreciate an indication from the MAS of a target date by when the new payments framework would be operationalised, if it goes ahead as proposed.<br><br>**<u>General comments</u>**<br><br>The members would like the MAS to clarify how the proposed Bill fits in with the National Payments Council. For example, as the National Payments Council is proposed to advise and make recommendations to the MAS on payments-related policies, does the National Payments Council also advise the MAS on the proposed Bill?<br><br>It would be beneficial for the MAS to clarify its approach to unknown and unclaimed funds for payment service providers. For example, the MAS may wish to provide an account or service for e-money issuers to pay in funds that are not claimed for a certain period of time. This will ensure that payment service providers (including account issuers) are not holding funds and undertaking risk unnecessarily. |

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| 33 | SINGAPORE POST LIMITED | **Question 1. <u>Activities regulated under the licensing regime</u>**<br><br>Singapore Post Limited ("SingPost") supports the regulation of activities under the licensing regime. However, such regulations if adopted should be based on a risk-based approach.<br><br>SingPost would like to propose that incidental payments, including e-payments meant for specific services and goods relating to services and goods provided by a merchant for whom the specific payment is made for and the payment of regulatory penalties/composition fees be excluded.<br><br>SingPost currently operates a collection and payment infrastructure through an omnichannel ecosystem comprising post offices, kiosks, Web & Mobile. These collections and payments include the following:<br><br>• such as collections of bill payments of services (IRAS, AMEX, SCB, etc.)<br>• cash deposits/cash withdrawals on behalf of banks at post offices<br>• Top-up of prepaid hand-phone credits<br>• Top-up of gaming cards<br>• payment of insurance premiums<br><br>SingPost currently charges only a nominal fee, primarily to defray operating costs and expenses.<br><br>For retail payments where the amounts are usually lower and are for targeted purposes only, SingPost is of the view that as there are currently checks for example, on the source of funds e.g. through the AML/CTF regime by financial institutions as well as through legislations such as that governing money remittances, it is not necessary to impose further regulatory requirements on retail payments per se. Hence, to include AML/CFT, User protection, interoperability, and Technology risk with mitigation measures will be too onerous for business.<br><br>**Question 2. <u>Scope of e-money and virtual currency</u>**<br><br>The definitions of e-Money and virtual currency are in line with industry understanding of these terms.<br><br>**Question 4. <u>Limited purpose e-money</u>**<br><br>SingPost is of the view that scope of limited purpose e-money exclusion should be sufficient to carve out most type of stored value transactions. SingPost would like however to clarify whether there should be a further review on transactions captured within (a) to (c) below under the proposed licensing regime.<br><br>a. Use – limited or restricted purpose |

b. Reach – where the transaction is cross-border outside of Singapore

c. Capability – load and transfer limits

d. e-Payments relating to loyalty programs

For example:

- Purchases of goods with payment via cash, NETS and Credit Cards
    - postal items such as stamps, first day covers, premium stamps gifts, PostPac Cartons & envelopes
- Collection on behalf for large organisations and government agencies
    - bill payments of agency services LTA, IRAS, CPF, ICA, MOM, Telcos and Singapore Power (for utilities)
    - Penalties imposed by identified corporations/regulatory bodies
- Collection of deposits and withdrawals of monies by customers from their own bank account at licensed withdrawal points and in Post Offices
- Top-ups services
    - Prepaid mobile cards.
    - International Calling cards
    - Overseas Mobile Top-up Service to 11 countries.
    - Gaming services.
    - eWallet Top-up services: Load limit of $100 per top-up and a cap limit of $1,000 per account @ PO counter.
    - eWallet Top-up services: No limit in Load and Cap. Use for paying utilities (across border), mobile, electricity, water, goods and services from partner merchants.

The issuers or principal licensees of eWallet are regulated under activity A. Hence, such top-up services by SingPost of the service providers carry low risk.

**Question 9.** **<u>Single licence structure</u>**

SingPost supports this proposition for a single licence structure. This approach would be beneficial as this would reduce the compliance costs and ease the burden of doing business. Similarly, such cost considerations would apply to the regulation of Standard Payment Institutions primarily for ML/TF risks only.

**Question 11. Designation criteria**

Clarification of impact – in terms of losses of funds, customer information or system unscheduled downtimes of systems.

**Question 13. Specific risk migrating measures**

SingPost supports the proposition for specific risk mitigating measures targeted at licensees for relevant risk attendant activity as this would lower the compliance costs associated with an efficient running of the licensed activity.

Over-burdening the business with regulatory compliance will impede an entrepreneurial culture which is vital to the survival of many businesses, particularly the SMEs.

**Question 14. AML/CFT requirements**

SingPost supports the propositions of no AML/CFT requirements for services assessed to be low risk transactions and limited purposes of "payment for goods and services" to beneficiary that is a merchant.

The following may be used to distinguish bona fide payment for goods and services from peer-to-peer transactions as follows:

- Mode of Payments

  Payment for goods and services by Cash, NETS, credit cards or mobile wallet (e.g. Apple Pay)

  Peer-to-Peer flow of funds by Cash or electronic transfer of funds (e.g. PayNow)

- Supporting documents

  For Buyer to merchant by Invoices, Delivery orders and Receipts for goods and services

  For Sender to Beneficiary for peer-to-peer flow of funds by SMS notification e.g. PayNow transfer with electronic receipt of transfer details.

SingPost support this proposition of exemption to the individual selling goods and services on e-commerce platforms to encourage entrepreneurship. Such transactions are for payment of goods and services with limited purposes and from identifiable sources.

**Question 15. User protection measures**

Currently, SingPost bears the cost of licenses and its related security deposits for General Post Office, 56 Post offices and off-site locations of 300 Kiosks. There is a one-time set up cost to open a designated account with established bank for the flow daily funds into separate account for settlement with Western Union and to ring-fence the

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| | | funds in Singapore for consumer protection from other creditors in event of insolvency. In addition, transaction charges apply to remittances.<br><br>Options for funds in transit are fixed deposits. For examples UOB and DBS Bank offers fixed deposits for business on a daily basis.<br><br>For unpaid funds in Remittance services, options include investment in government bonds and/or low risk unit trusts with capital guarantee.<br><br>E-money issue for use locally and globally should have equal protection. This would instil confidence in customers to transact as their funds are protected from insolvency of the licensee.<br><br>**Question 16. <u>Personal e-wallet protection</u>**<br><br>SingPost support this proposition and agrees with the proposed limits.<br><br>As a reference, consumers are currently able to perform top-ups of prepaid mobile, pay bills (goods, services and utilities across borders) through the SingPost network of post offices. Our other services include:<br><br>SLIDE: limit of $100 per top-up and a cap limit of $1,000 per account @ PO counter.<br><br>Paycent: No load limit & cap limit for top-up. Service was launched in SAM Kiosk. Service would be launched in iSAM at a later date.<br><br>We would like to point out the issuers or the main licensees should be regulated under the proposed activity A.<br><br>**Question 17. <u>Disclosure requirement for Standard Payment Institutions</u>**<br><br>SingPost support this proposition for the protection of consumers and to encourage growth of small firms and innovation by removing unnecessary compliance burden other than those relating to AML/CFT risks. The disclosure of information to consumers that the float it holds and funds it processes would create customer awareness of the risks involved. As long as the proposed statutory limits are not breached, SingPost is of the view that it is best left to individual licensees to manage their own float and the funds that it wants to process.<br><br>Accordingly, there should be no need to retain the requirement to display a licence as the licensee should incorporate such requirements as part of its terms of business with the consumer.<br><br>**Question 18. <u>Interoperability powers</u>** |

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| | | SingPost would suggest using Customer's unique Identification and Contact details e.g. mobile number would achieve interoperability of payment solutions in Singapore.<br><br>**Question 20. General powers**<br><br>SingPost is of the view that emergency powers should be limited to Major Payment Institutions and DPS operators and settlement institutions as these entities which pose risks to financial stability or impact confidence in financial systems.<br><br>**Question 22. Transitional arrangements**<br><br>Lead time of one year would be suitable to build/acquire compliance capabilities in systems, hiring and training of front-line staff and compliance personnel and to establish policies, processes and procedures for compliance. |
| 34 | Singapore Turf Club | **Question 3. Virtual currency services**<br><br>Singapore Turf Club is satisfied with the non-inclusion of electronically stored monetary value accepted exclusively by the issuer under the proposed bill as the risk of ML/TF with such a facility is low.<br><br>**Question 4. Limited purpose e-money**<br><br>Singapore Turf Club is satisfied that the use of e-money to purchase services from the issuer has a limited user reach and the ML/TF risks are low. |
| 35 | SingCash Pte Ltd<br>Telecom Equipment Pte Ltd<br>Singtel Mobile Singapore Pte Ltd | **Question 1. Activities regulated under the licensing regime**<br><br>We believe that the introduction of the Bill is timely and will seek to level the playing field in the payment services market.<br><br>In terms of the services proposed for licensing, we have comments and refer the MAS to the comments below. In particular, we have provided comments on services that should be included for exemption or where clarity would be further appreciated in our response to Q8.<br><br>**Question 2. Scope of e-money and virtual currency**<br><br>We support the segregation of e-money and virtual currency in the definitions and the proposal to licence the virtual currency services providers in the way set out in the consultation.<br><br>**Question 3. Virtual currency services** |

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| | | We believe Money Laundering and Terrorism Financing (**ML/TF**) risks are high as pointed out in the Consultation and therefore providers of virtual currency should be subject to Anti-Money Laundering / Countering the Financing of Terrorism (**AML/CFT**) regulations. Given the virtual nature of the currencies, the anonymity and risks involved in masking identities for channelling and laundering funds using VC, we propose that stringent AML/ CFT provisions be applied.<br><br>**Question 4. <u>Limited purpose e-money</u>**<br><br>We agree with the proposal. The limited purpose e-money should ideally cover what is known as the current set of single purpose stored-value facilities (**SVFs**) where the SVF used to pay for goods and services offered by the SVF holder itself.<br><br>The MAS might wish to extend the exclusion of limited purpose e-money to cases where the e-money is also used to pay for goods and services not offered by the SVF holder but where this facility is limited in scale. E.g. out of all the 10 goods and services, only 10% of them are not offered by the SVF holder.<br><br>**Question 7. <u>Regulated financial services exclusion</u>**<br><br>Whilst the MAS has proposed carving out persons offering a payment service on grounds that the service are incidental to the key services under the SFA, FAA, TCA and IA, we are concerned there is no specific measure to identify how the payment service is incidental to the key services offered by these persons. To carve them out completely would not be appropriate till there is some clarity on how best to measure it.<br><br>**Question 8. <u>Excluded activities</u>**<br><br>***<u>Provide exemptions or exclude payments for goods and services</u>***<br><br>We note that the description of low-risk services includes cross-border transfer of funds for payments of goods and services and where the payment is funded from an identifiable source of funds and /or domestic funds transfer for goods and services with some limitations, e.g. where the source of funds is identifiable.<br><br>Therefore, it appears that the MAS intends for any payments of goods and services to be a licensable service under the proposed framework. We note that the MAS may wish to reconsider this as the exclusions will largely only address payment services offered by banks and large financial institutions and /or cases where the funds are linked to a bank account. The MAS may want to provide some flexibility for smaller firms to innovate without a corresponding regulatory requirement to be licensed, e.g. in cases of cross-border transfer of funds that can be clearly authenticated to be for goods and services of up to a specific monetary value per transaction, regardless of source of funds. |

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| | | We also refer the MAS to our response and comments to Q10 and Q13 below.<br><br>***<u>Clarity required for billing and payment services</u>***<br><br>The MAS has indicated that the following services are subject to licensing under the new framework: Activity B for local funds transfer services in Singapore including payment gateway services and payment kiosk services and Activity D for Merchant Acquisition services which include contracting with merchants to accept and process payment transactions, resulting in transfer of money to a merchant.<br><br>There are cases where organisations who have an existing billing or contractual relationship with customers are also taking on the role of billing and collecting payments on behalf of their partners or other retailer merchants/vendors.<br><br>As an example, telcos today bill and collect on behalf of Premium Rate Services providers. Billing organisations may also bill and collect on behalf of other merchants including online or brick and mortar merchants. It is not clear to us whether the MAS regards these billing organisations as Payment Service providers for the purpose of the new payment framework. Given that these parties are simply drawing on their existing billing infrastructure and mechanisms [which are used primarily to bill and collect for their own services] to bill other parties' goods and services, these should be excluded from the proposed framework.<br><br>***<u>Other merchant acquisition services</u>***<br><br>Similarly, other parties who engage in Activity D – merchant acquisition services – could be licensed in future. It is also not clear to us what the MAS envisages in terms of specific licensing conditions applicable to this activity. We understand the MAS is still looking into this and we would appreciate it if the MAS provides an opportunity for the industry to review and comment on the possible conditions before they are implemented.<br><br>***<u>Settlement services</u>***<br><br>Similarly, the description of services B, D and C[3] appear to cover all cases of fund transfers whether the transfer is between individuals or for goods and services. We note that there are cases of companies or entities in the payment value chain that facilitates settlement of funds between entities [and these parties do not contract with the retail customers]. For example, payment service providers may rely on payment processors to settle with the local or overseas merchants or local or overseas partners. It is not clear whether these require licensing or are exempted. |

[3] Cross border transfer of funds

**Question 9.** **Single licence structure**

The single licence structure is supported.

**Question 10.** **Three licence classes**

Whilst there are grounds for distinguishing payment institutions based on scale, we note that the thresholds for identifying who is a Major Payment Institution may in fact be set at levels that are too stringent. The current framework sets out widely-accepted SVF holders to be those running floats (multi-purpose) of S$30 million and above whilst the proposed thresholds in the Bill are S$3 million (average per day) or S$5 million (average per month). This means that parties aspiring to be Standard Payment Institutions will necessarily be stifled in their growth as they have to keep their float sizes small and in fact stunt the growth.

It is also not clear whether the MAS provides for one institution (within the scope of a licence) to provide for multiple sets of similar services. For example, there could be 2 sets of e-money offers, with different features. One could have extremely limited type of services with low AML/CFT risks. Another could have more features. The 2 are distinguishable from each other. However, the proposed Bill does not appear to provide flexibility to an institution. It is recommended that the MAS retains flexibility such that offers with limited risks are not subject to the same level of regulation and are not covered in such a way as to render the institution a Major Payment Institution.

Hence, we propose that the MAS may wish to raise the threshold for distinguishing what is a Standard vs Major Payment Institution; for instance, until the institution hits the current limit of S$30 million, they remain Standard Payment Institutions. This also assists in incentivising institutions to grow without concern about being subject to onerous regulation.

Second, we ask that the threshold exclude the offers that are of low AML/CFT risk. This would correspond with the general principle that a Major Payment Institution will be those that include offers with higher AML/CFT risks. This allows institutions to have some level of flexibility in designing the offers they want to make available.

**Question 12.** **Licence and business conduct requirements**

The licence and business conduct requirements outlined in the Consultation document [5.3 (a) to (c)] are reasonable.

However, the MAS may wish to grant exemptions for security deposits if the institution can demonstrate certain outcomes, e.g. fully-incorporated Singapore companies, minimum capital requirement is more than the required amount, guarantees provided by owner or shareholders.

**Question 13. Specific risk migrating measures**

***Review thresholds for Activities B and C***

We appreciate the MAS proposal to impose less regulatory requirements on those services that pose lower ML/FT concerns. However, the MAS has used an approach that potentially sweeps services into buckets of high vs low ML/TF concerns.

For example, in Activity C, all cross border transfers that do not involve an identifiable source of funds is not considered low risk. Similarly, the identifiable source of funds requirement apply in Activity B.

The MAS can consider setting monetary thresholds for these 2 in Activities B and C. So low monetary transfers using -non-identifiable source of funds should not be considered high risk. Similarly, the Bill prohibits cash withdrawal from an e-wallet account, unless the account is used solely for cross-border money transfer / money-changing services and purpose of cash withdrawal is to perform either one of such. Licensees that contravene this prohibition will be fined.

***Definition of Identifiable Source of Funds to be expanded***

The MAS should consider a more flexible definition for identifiable source of funds. As it is, the definition today in the PSOA N02 requires that the funds originate from largely bank accounts offered by Singapore financial institutions. This limits the source of funds to largely credit card payments, cheques as well as internet banking payments.

Furthermore, there are still unbanked segments in the consumer market and local banks largely do not offer internet banking facilities to the low-earning communities like domestic workers. By default, and not through any fault of the institutions, offering services to these customers and the fact that they have to rely on cash as source of funds would mean the Payment Institution offers a high risk service.

We note that these thresholds, which restricts/prohibits certain sources of funds or cash withdrawals completely actually limit the way in which customers can use and access the wallet. Our views are presented in the following paragraphs.

The MAS can consider other forms as identifiable source of funds, e.g. where the customer opts to be billed for a service by a recognised billing organisation (e.g. utility companies, telephone billing organisation) would mean the customer is happy to be identified and recorded as a legal entity. Alternatively, the MAS could also consider to include an option under identifiable sources of funds which provides an exception for other modes with reduced monetary threshold to serve as mitigation or risk-management. Egg a secondary identifiable source being an account with a public-listed entity, a public utility firm or a telephone billing organisation registered in

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| | | Singapore and where the funds injected could be capped at approximately half or lower than the wallet limit.<br><br>***Permit cash withdrawal***<br><br>Again, we are concerned that the proposed Payment Services Bill will in fact discriminate against those FIs who serve communities that are unbanked. We note that the MOM has been actively encouraging FW employers to dispense salaries to FW employees via e-payment, where there is formal tracking and accounting. FWs who are unbanked or whose employers are not Internet banking-savvy may hence receive salary payments via other non-bank electronic means, such as e-wallets. Cashing out from such a medium is a valid use case for unbanked FWs; while they tend to remit a large part of their earnings to families back home, in the course of their stay in Singapore, they may use funds in their e-wallets to top up mobile plans, make in-app payments and withdraw portions as cash for other expenses.<br><br>Building consumer confidence in using e-payments includes ensuring sufficient liquidity of funds in e-wallets, and hence the ability to cash out when the FW so requires is key. We therefore request the MAS to permit cash withdrawal for customers who have undergone CDD by the e-wallet issuer and with cash withdrawal thresholds applied – e.g. capped at the e-wallet capacity (load limit) per month; AML/CFT requirements will continue to apply on the licensee.<br><br>***Clarifications needed***<br><br>The definitions for activities in B appear to place monetary limits on transactions. We seek clarification that these limits are on a per transaction basis.<br><br>**Question 14. AML/CFT requirements**<br><br>Please see our response to Q13.<br><br>***Distinguishing bona fide payments for goods and services from peer-to-peer transfers***<br><br>We ask that where the institution can supply proof that a payment to an individual is a payment for goods and services, then the MAS can consider granting an exemption. For example, providers can denote different payment categories and show proof or explanations of due diligence or the necessary due diligence programmes by either the provider itself or its intermediary on the recipient to justify that they are merchants.<br><br>***Allowing flexible CDD approaches***<br><br>In outlining the low-risk and high –risk services, the MAS has indicated that where any service does not fit the criteria involved in Table 3, then AML/CFT measures have to be carried out. Given that the current AML/CFT measures are outlined in different notices (i.e. the MAS No. 3001 and the PSOA N02), we ask that the MAS considers allowing for more flexible AML/CFT conditions particularly if only one |

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| | | specific aspect of the service happens to be identified as 'high-risk'. We cite again the example cited in our response to Q10 – where an institution (within the scope of a licence) has 2 sets of e-money offers, with different features. One could have extremely limited type of services with low AML/CFT risks and another has higher risk. Under such circumstances, the AML/CFT requirements should not be stretched to cover all the customers but only those who happen to take up a high risk service and only in relation to that particular high risk service.<br><br>**Question 15. User protection measures**<br><br>We feel that if there is a need to protect any e-money float, the requirements should apply to all institutions except those offering limited purpose e-money services. It should not be a case that a Major Payment Institution should be subject to these requirements.<br><br>Nonetheless, the additional safeguarding options proposed by the MAS in 5.27 are acceptable. Similarly, we agree with the safeguarding options to apply to e-money offered to only residents in Singapore and for use primarily in Singapore.<br><br>**Question 16. Personal e-wallet protection**<br><br>We agree with the wallet limit. However, the MAS may wish to review the S$30,000 limit usage every 12 months. This may in fact limit the ability of the institution to retail services and features.<br><br>**Question 17. Disclosure requirement for Standard Payment Institutions**<br><br>We refer the MAS to our response in Q15 – the flexibility should also be accorded to Major Payment Institution.<br><br>We support the lifting of the need to display licences at premises<br><br>In relation to the others, please refer to our separate submission on this.<br><br>**Question 18. Interoperability powers**<br><br>Whilst inter-operability is important, it is not clear to us what the MAS deems and how it determines that a Major Payment Institution must join or inter operate with a common platform, e.g. when a wallet grows large enough to cover a substantial population of users such that they effectively become mainstream and will be expected to interoperate with other mainstream payment accounts. Many factors need to be further fine-tuned and clarified for parties to give effective views. For example, it is important to know how and what the MAS considers mainstream and what would be substantial in the eyes of the public or the MAS. Hence, it is premature to set out laws requiring inter-operability without first reviewing some of the specifics. We ask that the MAS consults in detail on this. |

**Question 19. Technology risk management measures**

Our views are similar to those we have outlined for inter-operability. We agree that best practices in the technology risk management guidelines (**TRMG**) are required to ensure that technology risks are properly managed. However, the approach should balance security and stability with regulatory burden(s) and ensure that the balance does not tip towards one or the other.

We note for example that in addition to the existing criteria that MAS takes into account prior to designating a payment system and applying these obligations on the operator / settlement institution, MAS has included a new consideration in the Bill – "where the payment system is widely used in Singapore or its operations may have an impact on the operation of one or more payment systems in Singapore, it is necessary to ensure efficiency or competitiveness in any of the services provided by the operator of the payment system".

It is not clear what "widely used" means in respect to the payment system of a Major Payment Institution, the size of impact required to warrant such a designation and to what extent TRM obligations would apply (these need to be clarified for further review). There is always the risk that popular opinion or popular views would appear to render that a system is major and impactful enough to warrant these obligations, without due consideration of the actual size of the system and its impact. Therefore, we believe this also needs further clarification and consultation.

**Question 20. General powers**

Given that a critical DPS failure or sudden insolvency of a DPS operator / settlement institution is likely to cause significant financial disruption and heavy impact on public confidence, it warrants that MAS holds emergency powers to intervene and take swift action to minimise the adverse effects on participants connected to the DPS, if the DPS operator / settlement institution fails to comply with an MAS-issued direction in a timely manner.

However, system issues or insolvency of Major Payment Institutions who are not DPS operators / settlement institutions are unlikely to materially disrupt Singapore's financial sector. Furthermore, the MAS has already excluded key FIs which play a significant role in providing services to the community, i.e. the banks. With the limitations placed on the payment service providers [resulting in the scale of their services and businesses being smaller than banks] and the consumer protection mechanisms already proposed by the MAS, we believe there are already sufficient measures to mitigate the risks of Major Payment Institutions without the need for emergency powers extending to the Major Payment Service Providers.

**Question 21. Exemptions for certain financial institutions**

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| | | Please refer to our responses to Q7 and Q10.<br><br>**Question 22. <u>Transitional arrangements</u>**<br>Agree<br><br>**Question 23. <u>Class exemption</u>**<br>Please refer to our responses to Q7 and Q10. |
| 36 | SingX Pte Ltd | **Question 4. <u>Limited purpose e-money</u>**<br>E-Money, by definition, is to encourage digital payments and e-commerce. Therefore, could E-money ALSO be used for local/international e-commerce purchases? Risks of either fraudulent transactions or erroneous transactions could be limited by restricting either transaction size or merchant category<br><br>**Question 9. <u>Single licence structure</u>**<br>A Single license structure is a great initiative and will go a long way in promoting innovations in payments<br>Clause 4.2 states that if a licensee conducts more payments activities than originally applied for, it must seek MAS approval to conduct other payment activities. Given an existing licensee will be grouped into one of three license classes, is seeking fresh MAS approvals for new activity really necessary?<br><br>**Question 10. <u>Three licence classes</u>**<br>We feel that the bar for Major Payments Institutions at processing volumes of > $3M per month or e-money float of S$ 5 M is way too low. This could result in the MAS governing a majority of the existing licensees besides making it more onerous for new Fintechs companies like ours<br><br>**Question 12. <u>Licence and business conduct requirements</u>**<br>We would request the MAS to consider either capital requirement or security deposit. Not both please<br>These measures will certainly encourage businesses to set up in Singapore. The Singapore Government should be seeking a quid pro quo arrangement, with other countries, requesting them to offer the same ease of set up for Singapore companies who have overseas expansion plans<br><br>**Question 15. <u>User protection measures</u>** |

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| | | This will make it very difficult for Fintech companies like ours. First it is very difficult to either get a bank to guarantee float or open a trust account. Second it adds significantly to costs and will adversely impact our core value proposition i.e. cheaper, faster and more convenient payment solutions<br><br>We are also unclear on what in transit protection measures mean? Have there been instances of money lost in transit which suggest such a measure is needed? We are also unclear on the associated capital requirements or the costs of providing in transit protection.<br><br>We keep client money in a segregated client account and clearly state that than we cannot use this money for our operating expenses. Funds in the client account survive the payment company being liquidated. The only debits we are allowed to make to this account are (i) float put in by us (ii) transaction fees due to us<br><br>We feel that there should be ONE common operating standard for all consumers (regardless of whether they are Singapore residents) and for all payments (local or cross border) after mitigating fraud and erroneous transactions<br><br>**Question 16. <u>Personal e-wallet protection</u>**<br><br>Currently wallets are limited to load capacity of S$ 5000 and a maximum transfer amount of S$ 30,000 per year. Given most payments take place either instantly or in a maximum time span of 1-2 days, is the maximum transfer amount cap of S$ 30,000 really relevant?? We feel that the consumer interest is adequately protected by the S$ 5000 load capacity<br><br>If possible could the load capacity be varied by type of consumer…. example HNWIs being allowed higher loads? |
| 37 | StarHub Ltd | **General comments:**<br><br>StarHub appreciates the opportunity to comment on the Authority's proposals. We agree that the payment services landscape has changed considerably in recent years, with new and innovative business models being introduced into the market. It is therefore opportune for the Authority to review its existing payment services frameworks.<br><br>We acknowledge that there will be regulatory risks and concerns that the Authority will need to address in its proposed framework. However, we would strongly encourage the implementation of a "light-touch" regulatory regime on the majority of providers in the market, whose payment services are limited in scope and scale. Adopting a permissive regulatory framework will be pro-consumer, as it encourages market entry, healthy competition, and facilitates customer choice.<br><br>Conversely, a heavy-handed regulatory approach will have a cooling effect on innovation and risk-taking, and will create significant |

barriers to market entry. Stringent regulatory obligations should therefore only be imposed on organisations which carry out systemically important payment activities, and where a disruption to these organisations could trigger significant disruptions to financial systems in Singapore.

Further details can be found in our comments below.

**Question 1. <u>Activities regulated under the licensing regime</u>**

StarHub has no comments on the proposed scope of activities. In-line with our comments above on the adoption of a light-touch regulatory regime, we agree that incidental payment services should not be regulated by the Authority.

We also agree with the risks and considerations identified, but would caution that stringent regulatory requirements should only apply to organisations which provide systemically-important payment activities.

**Question 4. <u>Limited purpose e-money</u>**

We fully agree that low risk and limited purpose e-money services should not be regulated by the Authority. This is a pro-consumer approach which reduces compliance costs for service providers, allowing them greater flexibility, and the ability to focus their efforts on improving the service quality provided to their customers.

In addition, the Authority has also proposed that e-wallet value "used only within … related companies" will qualify for exclusion. We would appreciate the Authority's confirmation of StarHub's understanding of the following three scenarios:

Assumptions: StarHub offers two types of e-wallets, one which can only be used for StarHub-only services (Type A e-wallet) and one which can be used for both StarHub services and services from third-party merchants (Type B e-wallet).

(Scenario 1): As the Type B e-wallet can be used to pay for services from third-party merchants (including transferring value to a third-party e-wallet), the Type B wallet will not qualify for the exclusion;

(Scenario 2): Assume that the Type A e-wallet can transfer value to the Type B e-wallet. As both e-wallets are provided by StarHub, the Type A wallet will still qualify for the Authority's exclusion; and

(Scenario 3): Assume that the Type A wallet can transfer value to a third party e-wallet. As the third party e-wallet is not provided by StarHub, the Type A e-wallet will not qualify for the Authority's exclusion.

**Question 5. <u>Loyalty programs as limited purpose e-money</u>**

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| | | We agree that loyalty programs should not be considered financial products. However, we see less concerns if the loyalty program is used for the payment or part-payment of financial products, for example, allowing customers to use loyalty points to offset their insurance payments.<br><br>This allows loyalty program providers to partner with a wider variety group of organisations, and will greatly benefit users of the loyalty program.<br><br>Therefore, we do not recommend a strict prohibition against loyalty programs having tie-ups with financial product providers. Rather, the onus should be on the financial services provider to continue complying with its existing regulatory requirements (e.g., "know-your-customer" requirements), before allowing the customer to use their loyalty points for the service.<br><br>**Question 9. <u>Single licence structure</u>**<br><br>We agree that a single licence structure would provide simplicity for service providers in the market. StarHub also agrees with the Authority's proposal to regulate Standard Payment Institutions primarily for ML/TF risks only.<br><br>**Question 10. <u>Three licence classes</u>**<br><br>We would disagree with the threshold for classification of Major Payment Institutions. The proposed threshold of S$5 million for the "average daily e-money float" represents a significant reduction from the existing S$30 million threshold specified under the Payment Systems (Oversight) Act (the "PS(O)A"). We have seen no indication that the current S$30 million threshold has failed to protect consumers or the market, and we submit that there is no compelling reason for such a dramatic decrease.<br><br>Reducing the threshold to S$5 million will result in the Authority subjecting a much wider part of the market to regulatory oversight, which will significantly increase compliance costs for service providers. This could result in a significant disruption to their day-to-day operations, negatively impacting their businesses, and ultimately their customers.<br><br>We would therefore respectfully submit that the threshold for "average daily e-money float" be set at S$30 million, for consistency with the PS(O)A.<br><br>In terms of the "monthly average of transactions" figure of S$3 million, we respectfully submit that this figure should exclude transactions for the payment services providers' own services (if any). For example, if an operator offers an e-wallet that allows users to purchase that operator's own services as well as third-party services, the volume monitored for the "monthly average of transactions" |

figure should exclude all transactions related to purchase of the operator's own services.

We understand that the Authority's primary concern is to protect e-money that may be widely used (rather than confined to individual service providers). Therefore, transactions involving the service providers' own services (if any) should reasonably be excluded.

**Question 11. Designation criteria**

We note the Authority's intent to designate payment systems to be regulated for competition reasons. However, it is important to clarify how such a designation would actually work, and what criteria would be employed by the Authority to carry out this designation.

We believe that such designation should only be carried out in very limited circumstances, based on strict criteria. Having an ad-hoc framework for designation would create significant uncertainty in the market, and has the real potential of stifling risk-taking and innovation.

**Question 13. Specific risk migrating measures**

We agree with the Authority's approach. However, as highlighted in our response to Question 10 above, the threshold for the classification of Major Payment Institutions is too low, and should be retained at the current S$30 million level stipulated in the PS(O)A so as to avoid over-regulation.

**Question 17. Disclosure requirement for Standard Payment Institutions**

We agree with the Authority's proposal that Standard Payment Institutions should not need to comply with requirements relating to the safeguarding of e-money float and funds in transit. We believe that the disclosure requirements for Standard Payment Institutions will suffice to allow customers to make an informed choice.

As mentioned above, we believe that the majority of payment service providers should fall under the Standard Payment Institutions category, and it is imperative that the Authority review its current threshold for Major Payment Institutions.

**Question 18. Interoperability powers**

We would appreciate the following clarifications on the Authority's proposals to mandate interoperability between payment system providers:

- The Authority has proposed to mandate access to certain payment systems on "fair and reasonable commercial terms". Will these terms be commercially negotiated, or will they be mandated by the Authority?

- Will payment system providers be required to provide details of their intellectual property to other providers to facilitate access? If not, how will the Authority ensure that interoperability can occur?
- If there are any disputes between operators, what will be the dispute resolution framework?
- The Authority has stated that it may require Major Payment Institutions to participate in a common platform to achieve interoperability. Who will pay for and develop this common platform? Will there be any funding for the Major Payment Institution to connect to this platform?
- The Authority has stated that it may mandate Major Payment Institutions to adopt a common standard. Again, who will develop this standard, and will there be any funding for Major Payment Institutions to adhere to the common standard?

**Question 19. <u>Technology risk management measures</u>**

We agree that technology risk management regulation should only be imposed on Designated Payment Systems ("DPS"). As a point of clarification, we would like to understand whether there are tangible thresholds (e.g., in terms of customers served, or value of transactions) the Authority would adopt in deciding how to classify DPS. This would provide much-needed clarity to the industry.

**Question 20. <u>General powers</u>**

Today, various Government agencies already require their licensees to seek approval for changes in shareholding and management.

We are concerned that the Authority is also seeking to introduce similar requirements in the proposed Bill. This may mean that operators who are licensed across multiple regimes will have to comply with multiple obligations to seek approvals for shareholding / management changes. This increases the regulatory compliance costs on operators, and creates additional uncertainties and delays.

We would urge the Authority to work closely with other agencies to adopt a "whole-of-government" approach to minimise the regulatory burden imposed on its licensees. Rather than having organisations submit multiple requests to different agencies, there should only be a single point of submission within the Government.

**Question 22. <u>Transitional arrangements</u>**

We agree with the 6-month timeline for organisations to submit a licence application to the Authority. However, we respectfully suggest that the Authority provide newly licensed organisations a 12-month period for compliance to the new Bill.

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| 38 | Tan Kin Lian | **Question 1. <u>Activities regulated under the licensing regime</u>**<br><br>I will confine my views to e-money kept in a SVF. An operator of a SVF should be required to apply for a licence from MAS. One condition of the licence should be that all the money in the SVF should be kept in a trust account with a bank and the SVF should provide to an auditor, appointed by MAS, access to view the total balance in all accounts in the SVF and to confirm that there is a matching balance in the trust account on a daily basis. I suggest that the auditor should be appointed by MAS, rather than the SVF.<br><br>There is a need to carry out a system integrity check to ensure that the transactions and totals disclosed to the auditor are the true figures. This can be done at the initial stage and can be done at any time that the auditor deems to be necessary.<br><br>Some SVF can apply to be exempted from the audit requirement. This exemption can be decided by MAS based on merit.<br><br>I suggest that a similar requirement be imposed for money transfer services and money changing services. However, I am not familiar with the actual operational constrains. My view on this matter is not firm.<br><br>**Question 2. <u>Scope of e-money and virtual currency</u>**<br><br>I suggest that all forms of e-money and virtual money should be covered under the regulation, including crypto-currency and merchant loyalty points. MAS should have the authority to determine the implementation date for each category of e-money or virtual currency and to exempt certain SVF from the requirements of the regulation.<br><br>For example, MAS may decide to defer the regulation of merchant loyalty points to a later date or to require only large scale merchant loyalty points to be regulated.<br><br>If a merchant wishes to issue loyalty points, they should set aside the means to administer the program fairly and transparently to its customers.<br><br>**Question 3. <u>Virtual currency services</u>**<br><br>I would not worry too much about the risk of money laundering and terrorist financing using e-money. The criminals would probably find it easier to carry cash in suitcases where there is no trail on the money flow.<br><br>**Question 4. <u>Limited purpose e-money</u>**<br><br>This exclusion is useful. |

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| | | **Question 5.** **<u>Loyalty programs as limited purpose e-money</u>**<br><br>If the loyalty program has value exceeding a certain threshold, it should be regulated like e-money.<br><br>**Question 18.** **<u>Interoperability powers</u>**<br><br>It is highly desirable to have a clearing house to allow e-money payments to be made across different platforms or SVF. This will allow a customer with an e-wallet hosted by X to pay to a merchant with an e-wallet hosted by Y.<br><br>The clearing house should also handle the accounting between the different platforms or SVF. The balances should be cleared through the trust account owned by the platforms or SVF.<br><br>When the clearing house is in operation, payments using the e-wallets and QR codes will become convenient for customers and merchants.<br><br>At the initial stage, the transactions made through the clearing house should be free and be funded by MAS. This will put the e-wallet payments on the same footing as cash, which is now free to the customers and the merchants. There is a hidden cost in the time required to withdraw and deposit cash, but this is often ignored by the customers and merchants.<br><br>After a year or so, it should be possible for the clearing house to impose a transaction fee of not more than 0.3% of the amount. At that time, MAS should also allow the banks to impose a small fee for cash deposit and withdrawal to level the playing field for cash and non-cash payments.<br><br>Another advantage of the clearing house is that the risk of loss of money in transit is virtually eliminated.<br><br>MAS should impose a requirement that all money in transit should be made through the clearing house.<br><br>**Question 21.** **<u>Exemptions for certain financial institutions</u>**<br><br>I do not see the need for certain financial institutions to be exempted. If the operate an e-wallet or act as a SVF, they should be required to apply for a license and meet the same requirements as other operators. |
| 39 | The Bank of Tokyo-Mitsubishi UFJ, Ltd | **Question 2.** **<u>Scope of e-money and virtual currency</u>**<br><br>There is a growing prevalence among providers of different platforms for ecommerce and transport (e.g. Grab, Carousell, Qo10 etc) issuing their own proprietary credit or money that is pegged to fiat currency. In almost all respects, there is no difference between e-money and this monetary value in the app. Given the increasing cross-border nature and potential reach of these apps if they expand beyond the |

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| | | Singapore market, regulating and designating these in-app monetary value as e-money would be considered prudent.<br><br>**Question 3. Virtual currency services**<br><br>The current scope as defined seems suitable for the purpose of ML/TF.<br><br>**Question 4. Limited purpose e-money**<br><br>The scope of the limited e-money exclusion seems to be sufficient. The risk is in effectively policing situations where initial ambit of the e-money is restricted but scope is gradually expanded over time and the issuer does not seek to report such expanded use in a timely manner or even be fully aware of the regulations they will be subject to in expanding the reach or scope of the e-money.<br><br>**Question 15. User protection measures**<br><br>Given the possible flows of e-money within an issuer's eco-system be the e-money issued in Singapore or aboard, that might ultimately end up in the e-wallet of a Singapore resident, option (b) seems to delineate the right scope in terms of the float available in all the e-wallets of Singapore residents. |
| 40 | The Hongkong and Shanghai Banking Corporation Limited, Singapore Branch ("HBAP SGH"); HSBC Bank (Singapore) Limited ("HBSP"). | Respondent wishes to keep entire submission confidential. |
| 41 | TransferWise Singapore Pte Ltd | **General comments:**<br><br>We welcome the MAS continued consultation on the development of the Payment Services Bill and support activity-based regulation designed with future needs in mind.<br><br>Innovation in regulatory technology (regtech) is evolving at speed to address emerging risks in financial crime. We urge the MAS to take an outcomes-based approach, allowing firms to design and integrate regtech so long as appropriate internal assessments are undertaken |

as to how the technology achieves a compliant outcome and risk is managed.

Such a framework allows for innovation to thrive in a regulated environment, with checks and balances provided through audit and regulatory oversight of the ecosystem by MAS.

**Question 12. Licence and business conduct requirements**

We believe it is possible to manage a payments business across jurisdictions, so a local Director structure should not be a requirement. However, if this is not feasible, the most efficient Director structure is to mirror the existing requirements to set up a company in Singapore, for example, retaining the allowance for Employment Pass holders to act as an Executive Director.

As an online business, we aim to provide customer support for issues and complaints at all times of day, not just during business hours. We believe ensuring rules that enable online businesses to operate across jurisdictions means we can better serve our customers in Singapore.

**Question 14. AML/CFT requirements**

We encourage the MAS to codify an outcomes-based approach in the proposed Bill, such that firms can implement regulatory technology and simplified due diligence without the requirement to seek approval for each change.

For example, integration with the MyInfo database would require approval under MAS Notice 3001 prior to implementation. Further, there is a discrepancy for firms who wish to consider simplified due diligence allowed for in MAS Notice PSOA-N02 but cannot implement changes as these are not allowed under MAS Notice 3001 without approval. The activity based framework will take a welcome step towards addressing this discrepancy.

Overall, we urge the MAS to consider an AML/CFT framework that focuses on the outcome of AML/CFT regulation rather than prescriptive checks. Further to this, a risk-based audit process conducted by MAS, rather than a routine annual review completed by a designated independent auditor, is likely to result in a more meaningful check and balance on the systems and controls used to manage risk and identify customers.

A focus on the outcome, that is, having the best tools to fight financial crime at the right time, is of the utmost importance. This can be achieved through a framework that emphasises risk management and one that allows firms more scope to determine what data points to interrogate and when to deploy regtech innovation.

**Question 15. User protection measures**

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| | | Ensuring good outcomes for customers is the core of our mission, so we are very supportive of effective consumer protection measures.<br><br>*Float and funds in transit*<br><br>We believe that more detailed consultation would be appropriate on the question of where and at what point safeguarding occurs.<br><br>We believe placing reliance on banks to hold funds in trust introduces unnecessary costs for licensees. It is more efficient and safer for customers to segregate funds and place them directly into a settlement account with the MAS. Although the risk is small of a bank defaulting, this risk still exists and consumers are therefore more effectively protected if safeguarding can take place in central bank money. Should segregation be required at a bank or other financial institution, provisions must be made to ensure firms have access to segregation accounts. Experience in other jurisdictions shows that banks have little incentive to offer services to payments companies who they see as competitors, and therefore this will create barriers to entry for companies attempting to comply with the safeguarding provisions by failing to obtain these services from banks.<br><br>It is unclear whether the proposed in-transit provisions apply to funds received, or, funds to be paid out, or, both. The implementation of safeguarding until point of payout may have an adverse impact. For example, double-safeguarding, where the same funds are safeguarded twice, onshore, and offshore, at the point of payout. We believe it would be valuable to engage in further discussion on these issues with firms before final rules are developed, to ensure lessons are learned from unintended consequences arising in other jurisdictions.<br><br>*E-Money float*<br><br>We believe that e-money should be defined by issuance rather than by primary use. This is consistent with other non-cash payment regimes, such as Australia. The definition could be enhanced by changing the focus from the issuee, that is, persons ordinarily resident in Singapore, to the issuer, who is the licensed Singapore entity. So, the e-money float comprises e-money that is issued by the licensed Singapore entity.<br><br>**Question 16. <u>Personal e-wallet protection</u>**<br><br>The outcome of the proposed measures may restrict utility of e-money wallets rather than achieve the goal of protecting users. The existing stored value facility regime does not impose caps on wallet size or transaction flow. We do not believe new risks have been introduced which would support the introduction of caps, such as those in the proposed Bill.<br><br>Caps create malalignment between Singapore and other e-money regimes, such as the UK and Australia which do not have any such caps. To protect users, Australia takes a two pronged approach: client money protection and consumer disclosures. Users are best |

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| | | protected by being informed about the financial product they are purchasing and their rights in the terms of use, and through clear disclosures made on advertising.<br><br>Client money protection (safeguarding) measures in Australia require non-cash payment funds held to be segregated in a trust account in a timely manner. Also, for the last 6 years, the UK has required firms to safeguard customer funds which has proven to be an effective tool to protect stored value.<br><br>Measures such as these promote transparent and prudent handling of customer money whereas caps serve to restrict utility. We are more than happy to provide additional data in support the MAS consultation process. |
| 42 | UnionPay International Co., Ltd. | Respondent wishes to keep entire submission confidential. |
| 43 | Visa Worldwide Pte Limited | Respondent wishes to keep entire submission confidential. |
| 44 | Western Union Global Network Pte Ltd | **General comments:**<br><br>This is a very good initiative by MAS to ensure regulations cover the Payment activity instead of specific Payment products. This modular approach, in addition to allowing different current products to be included under the ambit of the regulation, could go a long way in also covering future payment solutions.<br><br>**Question 1. <u>Activities regulated under the licensing regime</u>**<br><br>In our opinion, incidental payment services should not be regulated specifically for utility bill payments, or payments to financial institutions, registered ecommerce platforms. If there is a need to have a guideline for payments for goods (domestic and cross border), it would make sense to allow for less stringent controls below a certain threshold even if funded with cash, especially for C2B payments. The purpose of these transactions is known, so if the amounts are low they should be considered as posing low risk of ML/TF.<br><br>**Question 3. <u>Virtual currency services</u>**<br><br>MAS may want to consider regulation similar to account issuance services to identify customer even for general use of virtual currencies (for example - purchase of goods or services)<br><br>**Question 10. <u>Three licence classes</u>** |

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| | | Section 4.8 indicates that a Standard Payment Institution should apply for a variation (to a Major Payment Institution) before the thresholds are breached. To avoid daily monitoring of the threshold, it would be appropriate if a grace period of 3 months is provided for applying for the variation from when the threshold is breached.<br><br>**Question 14. <u>AML/CFT requirements</u>**<br><br>MAS would exclude the application of AML/CFT controls for Domestic MT funded with card/bank account and not exceeding 20K Singapore Dollars. However, Cross-Border MT would require ID verification at $1. There is an opportunity to align with US and EU regulations that allow low amount transactions to be conducted without ID verification when funded electronically (i.e. credit/debit card or bank account) since the underlying account may already have been KYC'd. Also the access to funds would have also have been verified by the financial institution prior to authorisation of debit.<br><br>Similarly, MAS should exclude AML / CTF obligations for individual domestic or cross-border remittance transactions directly credited to debit/bank account as the underlying account is anyway subject to AML/CTF requirements.<br><br>E-commerce platforms generally have a robust onboarding mechanism to identify sellers (individuals/companies) of goods (This could be made a mandatory requirement for the e-commerce platforms). For payments for goods (domestic and cross border) and services (Utility bill, ecommerce transactions, repayment of loan to financial institutions, payment for hospital/travel/study expenses, it would make sense to allow for less stringent controls below a certain threshold even if funded with cash, especially for C2B payments. The purpose of these transactions is known, so if the amounts are low they should be considered as posing low risk of ML/TF. |
| 45 | WEX Asia Pte Ltd and WEX Finance Inc. (jointly 'WEX') | Respondent wishes to keep entire submission confidential. |
| 46 | Xfers Pte Ltd | Respondent wishes to keep some comments confidential:<br><br>**Question 1. <u>Activities regulated under the licensing regime</u>**<br><br>We are heartened that MAS has revised the scope of activities and to have articulated the 4 risks that it is trying to prevent.<br><br>We propose for the definition of "providing cross border money transfer services" be narrowed by the following two ways:<br><br>(a) Excluding agents of FIs or agents of Payments Service Providers licenced for cross border transfers – the proposed definition wording of "whether as principal |

or agent" is very wide, and over-includes agents of FIs or cross border transfer licensees. This is especially the case if the agent is already licenced for another activity under the Payment Services Bill. For example, if a payment kiosk (licenced for domestic money transfer) (e.g. AXS payment kiosk) acts as an agent to collect payments for a cross border transfer licensee (e.g. Western Union), it would be over-inclusive to require the payment kiosk entity to get licenced for cross border transfer too. Consumers using the kiosk would know that they are dealing with Western Union because of the text or logo displayed on the kiosk before they click to pay and confirm the remittance.

(b) Excluding:

i. transmission of money to overseas merchant Payment Service Users; or

ii. receiving of money from overseas to a local merchant Payment Service User,

that result from providing merchant acquisition services. These settlement payments are incidental to providing merchant acquisition services, and as such, we recommend that such payments should not be regulated. This is congruent with

We agree that incidental payment services should not be regulated (as stated in paragraph 9 of the Second Schedule of the proposed bill) especially if the entity is already regulated by MAS under other statutes (e.g. SFA, FAA, TCA, IA), because this would add to greater compliance cost and burden due to a single business activity/product having to be concurrently regulated by multiple different statutes and regulations.

We propose to expand this incidental payment service exclusion to entities that are licensed for other activities under this proposed Payment Service Bill. In the merchant acquisition example above, when the merchants or users are overseas, the payment settlement process would invariably involve cross border transfers, and this should be treated differently from personal remittances (e.g. workers sending money home).

**Question 2.** **Scope of e-money and virtual currency**

We agree that the definition of e-money is in line with our industry understanding.

In our opinion, virtual currency pegged to the value of fiat currency should be considered as e-money. One example of such a virtual currency is Tether (https://tether.to/), which pegs 1 USD-Tether to 1 USD, and they market it publicly as such. If pegged virtual currencies are not considered e-money, it would result in a gap in user protection because the "issuer" or the entity backing the peg would

not be required to safeguard any float because they would, at most, only be offering virtual currency services (activity F).

**Question 5. Loyalty programs as limited purpose e-money**

We propose that the loyalty programme e-money in paragraph 3.22 be narrowed in scope to prevent circumventing the general e-money issuance regulations. This can be done by adding the following characteristics of loyalty programme e-money into the list in paragraph 3.22:

- (for the avoidance of doubt) It cannot be bought from the issuer or merchant; only issued because of purchasing goods or using services of the issuer or other such merchants. This is in line with 3.22(b) that the dominant purpose is to promote the purchase of goods from the issuer.
- The value of the loyalty programme e-money issued must not exceed the total price of the goods or services purchased.

**Question 7. Regulated financial services exclusion**

We agree in principle that incidental payment services by entities regulated or exempt under SFA, FAA, TCA, and IA should be excluded otherwise this would add to greater compliance cost and burden due to a single business activity/product having to be concurrently regulated by multiple different statutes and regulations.

We suggest that MAS issues further guidance on what constitutes "incidental" payment services. This current broad level exemption with an overly broad definition of "incidental" might result in these regulated entities offering what is essentially payment services just by tweaking their existing products. For example, a licenced insurer (e.g. AIA) may have a product (e.g. an annuity or policy cash bonus) that pays out in the form of an "AIA dollars" (denominated in SGD), which can be withdrawn or spent at their network of merchants. This would in effect be an e-money issuance even though it is arguable that it is incidental to their annuity policy business of paying regular income streams to policyholders.

**Question 9. Single licence structure**

We support the single modular license structure because it's a more streamlined approach that allows businesses to add or remove different activities as their business products or services changes according to market demands. This also allows the laws to be updated modularly to be more responsive to new payment activities in the future which may not fall under any of the 7 existing regulated activities.

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| | | We are mindful that while the impact is smaller, SPIs may present technology risks as well. MAS may consider a simplified version of the technology management guidelines for SPIs.<br><br>**Question 10. <u>Three licence classes</u>**<br><br>We agree with the 3 licence classes and the threshold approach for SPI vs MPI.<br><br>We hope MAS can issue further guidance in the calculation of the $3m transaction threshold to prevent double-counting, especially for licensees of multiple activities – for example, referring to Illustration 1 in paragraph 3.8 of the consultation paper, there might potentially be double-counting of transaction amounts if (**Scenario A**) the Payer pays from her e-wallet into an overseas Merchant's e-wallet (trxn 1). If the Merchant later chooses to withdraw the money to his overseas bank account, this might be counted as a "cross border money transfer" (trxn 2) because of the unnecessarily wide definition of cross border money transfer. This results in double counting for what is essentially a single purchase transaction. (We have also responded earlier to this in Q1 on excluding such cross border money transfers). In contrast, (**Scenario B**) if the Merchant had accepted settlement directly into his overseas bank account instead of the e-wallet, it would only have constituted one transaction even though both Scenario A & B are economically similar.<br><br>**Question 11. <u>Designation criteria</u>**<br><br>We agree in principle to MAS' power to designate systemically important payment systems and understand the key concerns of systemic risk or loss of public confidence caused by the payment system's disruption.<br><br>We seek MAS' clarification as to whether MPI licensees may be subject to such designation under s. 43 of the proposed Bill and realise that they now have a lot more obligations to fulfil.<br><br>We understand that the intent is for MAS to have the power to regulate payment systems that would otherwise not fall within the existing retail payment services (in paragraph 4.11), and we also observe that the existing designated payment systems include GIRO, MEPS, FAST, and USD & SGD cheque clearance systems.<br><br>However, it poses some uncertainty as to whether an MPI may suddenly be designated because it doesn't appear to be mutually exclusive. As a precedent, we note that NETS (POS) was designated in Payment Systems (Oversight) (Designated Payment Systems) Order 2011 – which would under the proposed Bill likely be an MPI for domestic money transfers and merchant acquisition services.<br><br>Additionally, this uncertainty is exacerbated by the use of the catch-all provision in s. 43(d), where MAS is empowered to designate if it is "in the interests of the public to do so". It is unclear what segment of the population is sufficient to constitute "public". Further, the scope |

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| | | of the "interests" of the public is unclear: does it include privacy interests of the public? Does it include convenience to the public, including ease of use?<br><br>As the powers of MAS in (1) designating a payment system (s. 43); and (2) imposing conditions and restrictions (s. 45) are broad, it is recommended that MAS take the following into consideration while imposing conditions:<br><br>• The operational capacity of the payment system that will be designated; and<br><br>• Any adverse impact to the business of the payment system that will be designated.<br><br>We recommend that the retail payment service licensing be mutually exclusive from designation under s. 43 because: (1) the intention of designation is to regulate payment systems that fall outside the licensing criteria; and (2) MAS already has powers to impose or vary conditions of a payment service licence under s. 7(9).<br><br>**Question 13. <u>Specific risk migrating measures</u>**<br><br>We agree that specific risk mitigating measures should apply only to licensees that carry out that particular specific Activity.<br><br>Taking this granular risk mitigation approach, we seek clarification from MAS for cases where a payment service licensee conducts multiple Activities, that only the corresponding risk mitigation measures would apply for specific products and not for the entire range of products of the licensee. For example, if the licensee offers 2 services: (a) payment disbursal service (under domestic money transfer service); and (b) online payment gateway (under merchant acquisition service), then the licensee's interoperability obligations should only apply to the online payment gateway business because it's a merchant acquisition service, and should not apply to the payment disbursal service.<br><br>**Question 14. <u>AML/CFT requirements</u>**<br><br>We welcome MAS' guidance on low risk features, and would seek MAS clarification on whether the AML/CFT measures would apply to the licensee's entire business if only one part of the business exceeds the limits whereas other parts do not.<br><br>We believe that AML/CFT measures should apply only in respect to the licensee's products/services that exceed the low risk thresholds. For example, it is common in our e-wallet industry that users can sign up for a "guest" account easily without having to give an intrusive level of personal data to the e-wallet provider right from the start. In turn, we as e-wallet providers will limit the features of these "guest" accounts (e.g. imposing the $1k load limit, and imposing other spending limits, etc.). If the user wishes to unlock these limits, they can then upload their identity documents for us to perform CDD on |

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| | | them. This is the ideal user flow and it shouldn't be the case that AML/CFT measures should apply to the entire licensee's business such that "guest" accounts must undergo CDD just because the "unlocked" account can exceed these low risk features.<br><br>Next, we suggest that payment service providers can distinguish payment for goods and services from peer-to-peer transactions at the stage of user onboarding declarations, and then during sample testing of transactions. A user is asked to state his purpose for using the platform, and his transactions are monitored to ensure that his transaction behaviour is consistent with his purpose. We may also request the user to send us invoices in order to continue providing them the payment service.<br><br>In principle, we agree that individuals' (non-incorporated/non-registered entities) sale of goods or services should be considered as "payment for goods or services" in Table 3 in paragraph 5.13. This is in line with the rise of the freelancer economy in Singapore (http://www.straitstimes.com/singapore/manpower/freelance-jobs-in-singapore-on-the-rise). Even before this article, ACRA has recognised this segment of freelancers and allows individuals to do business without having to register a sole proprietorship if they only use their full name in doing business (s. 4(1)(a) of the Business Names Registration Act 2014).<br><br>**Question 15. User protection measures**<br><br>We are concerned about the new safeguarding provisions, especially now that the e-money float limit is decreasing from $30m to $5m.<br><br>We agree with MAS' approach of allowing the residency status to be decided between the User and the licensee because of the increasing global mobility of people today. We think that the alternative (a) & (b) would only cause more confusion and uncertainty to the industry players.<br><br>It is easier to just determine the residency status right at the start of account opening, and we can add in some process for the user to inform us of change of residency status rather than to be subject to the uncertainty of whether a particular user is "ordinarily resident" at a certain point in time. Today, the concept of "ordinarily resident" becomes quite dynamic because people may be posted overseas for prolonged periods of time (let's say more than 183 days) and they may continue to use their e-wallets for transacting even while overseas. It would not be fair to deprive these users of protection just because they were seconded overseas for more than 6 months.<br><br>Additionally, while the "use within Singapore" limb works well for fully domestic payment systems, it introduces some uncertainty for international transactions when one party is in Singapore and the other party is overseas. Having to inquire on whether a particular transaction is based in Singapore or overseas or whether the subject matter is in Singapore or overseas, or even inquiring on the governing |

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| | | law of the underlying contract is too intrusive and cumbersome to be conducted by the licensee.<br><br>**Question 16. <u>Personal e-wallet protection</u>**<br><br>We strongly urge MAS to remove the e-wallet limits from the Bill because a hard limit would severely restrict the features that could be offered to users of an e-wallet, and hamper further innovation in the uses of the e-wallet<br><br>If the objective underlying this measure was consumer protection, then this purpose is already being fulfilled by the MPI fund safeguarding measures. If the objective was to protect vulnerable users (page 4 of the Policy Highlights), then a calibrated approach based on the users' age could be implemented rather than imposing a blanket limit on every other user.<br><br>If MAS is still concerned with the risks of a licensee's business model or e-wallet features, it can impose a case-by-case and calibrated limits on licensees under s. 7 of the Bill. This enables MAS to balance the objectives of promoting innovation, protecting consumers, limiting systemic risk and staying apace with the rapidly changing sector, by exercising its discretion rather than codify a monetary limit that will only serve to add friction to the development of innovative products or businesses in the years to come.<br><br>As a side note, removing this limit also levels the playing field between non-bank payment service providers and the banks – please see our responses in Q21 for more details.<br><br>**Question 17. <u>Disclosure requirement for Standard Payment Institutions</u>**<br><br>We agree that SPIs should display a consumer advisory on their website. This can be displayed on the sign-up pages and top up pages, similar to the existing requirements for SVFs under PS(O)R reg. 12. This will promote transparency in this space and build consumer confidence, making them more willing to adopt new technology. Consequently, smaller payment firms will have to expend fewer resources in allaying sceptical consumers' concerns and communicating MAS' regime.<br><br>The license number and SPI license status should also be displayed on the front page.<br><br>No comments on the money-changers' displaying of physical licenses.<br><br>**Question 18. <u>Interoperability powers</u>**<br><br>We support MAS' goal in unifying the e-payment system so that consumers of one major payment system can easily pay a merchant using another payment system instead of having to open multiple payment accounts from different payment providers. |

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| | | The only concern is on how to handle a case where the operator of a payment system may impose commercially unviable expenses to an incoming MPI, and the MPI has no choice but to pay it because it was directed by MAS to enter into an arrangement with that operator.<br><br>Separately, we propose two additional means that the MAS may consider to achieve interoperability:<br><br>• First, to streamline the customer signup process by allowing MPIs access to "MyInfo" (https://www.singpass.gov.sg/myinfo/intro). As customers start using more payment providers, each of these providers may have their own obligations to perform CDD. A customer may then encounter CDD processes and to upload their personal information multiple times along the path to secure one specific product/transaction. MAS should encourage the centralisation and access-controlled sharing (via the user's consent) of the user's personal information so that MPIs have a reliable source of data, and users do not have to upload their data multiple times and risk multiple leak points. It'll also make it easier for personal details updating for both the users and the MPIs. Additionally, MAS should consider expanding the third-party institutions that can be relied on for CDD to include other MPIs (under paragraph 9.1 of the MAS Notice PSOA-N02). This will make the customer's sign up experience more seamless.<br><br>• Secondly, we suggest that MAS should consider permitting non-bank payment service providers with access to the FAST/GIRO network under the s. 52 access regime, and to allow open access direct debit authorisation. This is already happening in Eurozone under the PSD2 regulation coming into effect Jan 2018, where non-bank payment service providers have direct access to the SEPA payment network, and can directly debit the consumers' bank accounts after online authorisation. The paper-based GIRO direct debit authorisation forms that the local banks require pale in comparison to what this open banking access regime can accomplish. This will introduce greater innovation to domestic consumer payments, and increase payment acceptance options for merchants.<br><br>**Question 19. Technology risk management measures**<br><br>We agree in principle that technology risk should be addressed and mitigated for MPIs. However, we seek MAS's confirmation that it will assess an MPI's measures and compliance with the guidelines taking into consideration the size, resources and risks of that MPI.<br><br>The TRM seems skewed towards banking operations and activities, rather than a smaller start-up. We would appreciate if MAS could adapt the requirements to apply to smaller, resource-constrained payment service companies to mitigate the same risks. |

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| | | We seek further clarification from MAS on how industry players should assess their compliance with certain sections of the TRM (e.g. storage resiliency, system reliability, availability and recoverability) in the event that they are using industry-leading cloud computing providers such as Amazon Web Services or Microsoft Azure cloud.<br><br>**Question 20. <u>General powers</u>**<br><br>We are concerned about the wide wording of the conditions under s. 80(1) that can trigger the MAS to take action (especially the part that MAS' opinions can trigger it even if it has not in fact happened).<br><br>We appreciate that MAS will exercise such powers "judiciously" and "only when necessary", and to give us some context, it will be very helpful if MAS can provide us the number of times and entities that MAS has exercised such powers in other MAS-administered legislations in the past.<br><br>**Question 21. <u>Exemptions for certain financial institutions</u>**<br><br>We support MAS' current granular approach in granting exemptions based on the specific payment activity, in contrast with older legislations where blanket exemptions were given (e.g. s. 99(1) of the SFA).<br><br>To level the playing field, MAS should remove the personal e-wallet limits in s. 24(1) (in line with our response to Q16) because this creates an unfair advantage that payment accounts issued by the bank would essentially be unlimited – either by their exemption, or by simply classifying it as a "bank deposit account" rather than a "payment account" under the Payment Services Bill.<br><br>**Question 22. <u>Transitional arrangements</u>**<br><br>We would appreciate if MAS can extend this transitional period to at least 1-1.5 years for MPIs, because this allows more time for the industry participants to acclimatise to the new AML/CFT changes (if any), TRM guidelines and funds safeguard operational procedures. In particular, arranging for fund safeguards will prove to be challenging because the banks and trust companies may not have made such products widespread enough at a competitive rate.<br><br>The service providers that are hit the hardest are the prospective MPI licensees that are: (1) currently unregulated (e.g. merchant acquisition); or (2) do not currently require MAS' approval (e.g. SVFs under $30m but above the MPI float threshold) because they will have to re-examine their entire business model and processes, and then to implement changes to ensure compliance, all the while continuing to provide payment services to their existing users.<br><br>**Question 23. <u>Class exemption</u>** |

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| | | We support MAS' approach in granting class exemptions, in addition to case-by-case exemptions, to better promote innovation and reduce the time-to-market for new payment business models. It will be helpful for the industry if MAS could state the reasons for exempting a class of entities or specific entities.<br><br>We suggest that MAS makes it a standard condition for entities relying on such exemptions to clearly display: (1) what exemptions they are relying on; and (2) that customer funds are not protected under MAS regulations on their front page and websites, in line with the proposed disclosure requirements for SPIs in Q17. |
| 47 | You Technologies Group (Singapore) Pte Ltd. | Respondent wishes to keep entire submission confidential. |
| 48 | Respondent 1 | **Question 1. <u>Activities regulated under the licensing regime</u>**<br><br>We refer to this quote<br><br>"Activity A Account issuance services Issuing payment accounts that: (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; and (c) Do not have an e-wallet capacity (i.e. load limit) that exceeds S$1,000.<br><br>Activity B Domestic money transfer services Services that only allow the payment service user to perform the following transactions: (a) Payment for goods or services and where payment is funded from an identifiable source (being an account with a FI regulated for AML/CFT); (b) Payment for goods or services and where the transaction is under S$20,000; or (c) Payment is funded from an identifiable source and where the transaction is under S$20,000.<br><br>Activity C Cross border money transfer services Services where the payment service user is only allowed to pay for goods or services and where that payment is funded from an identifiable source."<br><br>We propose<br><br>Activity A – A higher load limit as taking into account future inflation and cost of goods, S$1,000 can hardly be of much use for larger purchases i.e. a furniture set, video games, etc. We recommend S$5,000 instead<br><br>Activity B - Increase transaction to S$50,000 for SMEs and individuals who are not vulnerable. For example, companies with paid up capital of $1M and above. Individuals with high net income – IRAS tax returns above >$200k<br><br>Activity C – To further define payment services to also include investments and micro-financing and not just goods/services |

**Question 2.** **Scope of e-money and virtual currency**

Definition off virtual currency is appropriate but the application to regulate all 7,000 + over crypto currencies together of different value and circulation is over-regulation

**Question 3.** **Virtual currency services**

We direct you to this quote

"MAS will therefore introduce AML/CFT requirements to be imposed on virtual currency intermediaries that deal in or facilitate the exchange of virtual currencies for real currencies: (a) Dealing in virtual currency, which is the buying or selling virtual currency. This involves the exchange of virtual currency for fiat currency (e.g. Bitcoin for USD, or USD for Ether) or another virtual currency (e.g. Bitcoin for Ether)."

The scope of virtual currency services for AML/TF is not practical as it is not possible to deal with virtual to virtual currency swaps with a need for identification.

- Many decentralized exchanges exist example Etherdelta/Shapeshift, etc. and this makes Singapore based fintech uncompetitive or forces them to move offshore
- Right now the bill seems to overly regulating of virtual currencies with low volume and capitalization
- Our company intends to own and offer for trading such virtual currencies after the bill is enacted

**Question 9.** **Single licence structure**

We would like to comment that single license may deter small start-ups from applying. We propose a sub class for single license for startups with no paid up capital requirements and security deposits

**Question 10.** **Three licence classes**

As with our reply in question 9, we would like to propose a sub-class to benefit start-ups with no paid up capital requirements and security deposits

**Question 16.** **Personal e-wallet protection**

As proposed about expanding the single class structure – business with high volume low wallet size should be accommodated.

**Question 17.** **Disclosure requirement for Standard Payment Institutions**

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| | | No need to display license in this digital age<br><br>**Question 19. <u>Technology risk management measures</u>**<br>Lighter regulation for dimplier systems and smaller licensees<br><br>**Question 20. <u>General powers</u>**<br>Only to major payment institutions and DPS with greatest impact of failure only<br><br>**Question 21. <u>Exemptions for certain financial institutions</u>**<br>Too much exemptions increase risk to the FIs. It also allows large FIs to crowd out small start-ups with their bigger spend<br><br>**Question 22. <u>Transitional arrangements</u>**<br>Six month is too short for smaller entities. 12 months would be more appropriate. |
| 49 | Respondent 2 | **Question 1. <u>Activities regulated under the licensing regime</u>**<br>We agree with the scope of activities selected for regulation under the licensing regime and the risks identified by MAS for each type of activity. We also agree with the carve-outs in the Schedules to the Bill.<br>We agree with MAS on excluding incidental or necessary payment activities carried out by any person regulated or exempted under the Acts mentioned in section 3.18 of the consultation paper as it is important that the Bill does not increase the burden on companies by regulating the same or similar area under different multiple acts, and that the Bill applies only to payment services where a payer pays a third-party payee. We encourage MAS to better detail the boundaries of what constitutes a related or incidental payment service.<br><br>**Question 2. <u>Scope of e-money and virtual currency</u>**<br>We believe that the definitions of e-money and virtual currency require further clarification.<br>We agree with the part that fiat money should be included as one type of e-money. However, the current suggestion by MAS in defining e-money to as fiat currency, while virtual currency is defined to be everything else, risks inaccurately classifying certain types of holdings, for example, tangible physical assets whose value is specified in weight, as e-money.<br>In suggesting the catch-all that everything else, but fiat currency, is virtual currency, asset types whose value is specified in weight risk |

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| | | being caught under the virtual currency category under the proposed framework, which would be inaccurate and misleading in our opinion.<br><br>Fiat money is defined as a currency without intrinsic value established as money by government regulation. The proposed Payments Services Bill specifically states that "currency" means currency notes and coins which are legal tender in Singapore or a country or territory other than Singapore.<br><br>It would be useful if MAS could clarify how a claim in a physical asset would be classified. Upon reflection, would MAS maintain that a balance in a physical good or asset be defined as a virtual currency? Or should claims on physical assets denominated in weight be added to the definition of e-money, thus avoiding them being defined as virtual currency by default?<br><br>Without this distinction drawn, assets which are not added to the definition of e-money could risk being classified by default as a virtual currency, which would be unfitting in our opinion.<br><br>**Question 3. <u>Virtual currency services</u>**<br><br>With MAS' primary regulatory concern being that virtual currencies may be abused for ML/TF purposes, the definition of virtual currency services is not appropriate as it risks catching everything that is not denominated in fiat currency, not only virtual currencies. We encourage MAS to more clearly define what a virtual currency is rather than relying on it being everything that is not a fiat currency.<br><br>**Question 4. <u>Limited purpose e-money</u>**<br><br>We agree with MAS that the scope of the limited purpose e-money exclusion is sufficient to carve out most, but not all (we refer to our comments for question 2), relevant types of stored value where user reach is limited and that the ML/TF risks are low.<br><br>This exclusion is essential as the regulation would otherwise inadvertently include many retailers that allow customers to hold a balance with them for future purchases of goods as such holding of balances/e-wallets, where the option to hold balances is a by-product that enhances the company's existing business rather than being used for transaction or remittance purposes.<br><br>**Question 5. <u>Loyalty programs as limited purpose e-money</u>**<br><br>We agree with MAS definition of a loyalty program.<br><br>**Question 6. <u>Limited purpose virtual currency</u>**<br><br>We agree that MAS definition of Limited Purpose Virtual Currency covers most types of virtual currencies that should be excluded. However, as pointed out in our comments for question 2 and |

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| | | question 3, the definition of virtual currency services is not appropriate as it risks catching everything that is not denominated in fiat currency, not only virtual currencies.<br><br>**Question 8. <u>Excluded activities</u>**<br><br>As mentioned in our comments for question 2 and question 3, defining e-money as fiat currency, and virtual currency as everything else as a catch-all, potentially incorrectly classifies certain activities. There are plenty of assets that have been used as money, as stores of value and as units of account historically and traditionally which have existed long before the recent arrival of virtual currency. The definitions for e-money and virtual currency therefore need to be more clearly defined so that virtual currency does not inadvertently include claims of tangible physical assets whose value is denominated in weights.<br><br>**Question 15. <u>User protection measures</u>**<br><br>One of the objectives of the Bill was to level the playing field between banks and other payment operators. At present, banks are exempted from obtaining a separate licence to conduct payment activities and given that banks are able to operate under a fractional reserve banking system with a total capital adequacy ratio of 10% in Singapore, requiring payment licensees to hold 100% segregated reserves would discriminate against payment operators while favouring banks. |
| 50 | Respondent 3 | **General comments:**<br><br>We think that most of the bill is written primarily for companies with services aiming at the B2C/individual space. We would like to ask MAS whether there are any upcoming separate guidelines for companies whose primary focus is corporates and the B2B space.<br><br>**Question 2. <u>Scope of e-money and virtual currency</u>**<br><br>We find the definitions and classifications well thought out and in line with the view of most of the industry players.<br><br>**Question 9. <u>Single licence structure</u>**<br><br>We think that the principles for a single licence structure are sound. However, with the steady increase of FinTech companies entering the payments sphere, we think that there should be some distinctions between technologically driven companies as opposed to companies with low technology adoption rate. |

Companies which have high-tech infrastructures have a more robust system in place to combat risk. This is evident from various parts of the business process:

- Onboarding process
    - High-tech companies: Digital/e-KYC with external database checks (for e.g. WorldCompliance)
    - Traditional companies: Paper photocopy of ID/Google search
- Handling of sensitive data and transaction information
    - High-tech companies: Digital book-keeping with proper classification, access is secured, and data is encrypted, abide by international standards of handling financial data (for e.g. PCI DSS compliant)
    - Traditional companies: Numerous shelves of binder files with many paper documents
- Compliance and internal audit measures
    - High-tech companies: Interactive training programmes done digitally, with some even employing AI and machine learning as risk/compliance assistants to reveal deeper links and identify suspicious transactions
    - Traditional companies: Labour intensive and manual process, and susceptible to malicious activities

**Question 10. <u>Three licence classes</u>**

We think that the thresholds (monthly average transaction S$3 million in a calendar or average float above S$5 million) is relatively low. Reference can be taken from the current S$30 million threshold to distinguish SVFs from WA-SVFs.

We would like to seek clarification on wallets with multi-currency floats. Will there be separate thresholds for such wallets?

**Question 12. <u>Licence and business conduct requirements</u>**

We would like to seek clarification if there any provisions for digital books stored on cloud servers. Nowadays, a lot of companies store digital copies of transactions on cloud servers like Microsoft Azure or Amazon Web Services.

Also, we would like to seek clarification if local copies (stored on physical laptops/storage devices) would count towards as “storing at permanent place of business”.

**Question 14. <u>AML/CFT requirements</u>**

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| | | We think that the low risk amount of e-wallet load limit (S$1,000) is rather restrictive in comparison to the S$20,000 threshold for the other activities listed (B & C).<br><br>We think that payments made to individuals selling goods on e-commerce platforms should be considered as payments for goods and services, but with a lower threshold.<br><br>**Question 15. <u>User protection measures</u>**<br><br>We think that safeguarding of S$5 million is too onerous. As it is, FinTech companies are already facing problems setting up bank accounts to begin with. Requiring a bank to guarantee this amount (or the other methods as prescribed) is an insurmountable challenge.<br><br>We would like to suggest that MAS takes on this role of a central custodian. As client protection is one of the key concerns, MAS is in the best position to carry out such a custodial function. This central account can be interest free, and it also helps MAS gather data and information on transaction and liquidity flow of the economy to reduce systemic risks. Additionally, there will be an additional layer of protection in aid of AML & CFT. This will be similar to the central clearing house set up by the PBOC in China.<br><br>**Question 16. <u>Personal e-wallet protection</u>**<br><br>We think that this limit is too small. Locally, PayNow's transaction limit is linked to your corresponding bank account's daily transaction limit (for example UOB S$20,000, All other banks S$50,000). In India, UPI is based on the IMPS limit which is 2 lakhs (around S$4,000) per transaction, with no daily limit.<br><br>One use case we see our wallet being used in the future is for parents who want to send money to their children who are studying overseas. One such lump sum transaction for school fees and living expenses could be in excess of S$30,000.<br><br>We suggest a default daily limit of S$5,000-S$10,000 for individuals, which may be increased upon request and approval.<br><br>**Question 18. <u>Interoperability powers</u>**<br><br>We would like to highlight India's UPI as an example of a catalyst to encourage digital payments. From its inception in Aug 2016, the total transaction volume flowing through the system has increased to more than 1500 times in Dec 2017.[4] |

[4] https://www.npci.org.in/product-statistics/upi-product-statistics

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| | | India is only second to China in terms on Fintech adoption rate at 52% based on EY's 2017 Fintech Adoption Index.[5]<br><br>**Question 19. <u>Technology risk management measures</u>**<br><br>We think that strict adherence to PDPA is good practice and should be reinforced.<br><br>**Question 23. <u>Class exemption</u>**<br><br>We think that the proposed class exemption is well thought out and will encourage development and innovation especially from small start-ups.<br><br>***Additional Qns to ask:**<br><br><u>**Page 12 Footer 4** of the consult: Cash withdrawals from e-wallets will be prohibited, unless the e-wallet is used solely for Activity C or solely for Activity G, and the withdrawal is solely for the purpose of executing an Activity C or Activity G transaction respectively.</u><br><br>In the future, we foresee a use case where our users will withdraw cash from ATMs overseas while travelling. What is the rationale behind prohibiting cash withdrawals from e-wallets? |

[5] http://www.ey.com/Publication/vwLUAssets/ey-fintech-adoption-index-2017/$FILE/ey-fintech-adoption-index-2017.pdf