

# RESPONSE TO FEEDBACK RECEIVED

December 2019

## Proposed Payment Services Notices on Prevention of Money Laundering and Countering the Financing of Terrorism

MAS

Monetary Authority of Singapore

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## **1 Preface**

1.1 On 6 June 2019, MAS consulted on the key proposals in the Proposed Payment Services Notices on Prevention of Money Laundering and Countering the Financing of Terrorism. MAS proposed to issue two sets of new notices to payment service services providers on anti-money laundering and countering the financing of terrorism ("**AML/CFT**"), pursuant to the Monetary Authority of Singapore Act (Cap. 186) ("**MAS Act**"). The new AML/CFT Notices ("**PS Notices**") will consolidate and update requirements applicable to activities currently regulated under the Payment Systems (Oversight) Act (Cap. 222A) ("**PS(O)A**") and the Money-Changing and Remittance Businesses Act (Cap. 187) ("**MCRBA**"). MAS will also introduce requirements on newly regulated payment services under the Payment Services Act ("**PS Act**").

1.2 MAS received more than 40 responses to the consultation. The consultation period closed on 5 July 2019 and MAS would like to thank all respondents for their contributions. The list of respondents is in **Annex A** and the full submissions are included in **Annex B**. The Annexes are accessible at this [link](#).

## **2 Overview of Feedback**

2.1 The response to the overall AML/CFT framework proposed for the PS Act was largely positive. The 11 proposals set out in our June 2019 Consultation (“**Consultation**”) were generally well received by the majority of respondents. 6 proposals received strong support, 3 proposals received good support and 2 proposals received moderate support.

2.2 MAS has reviewed all the feedback received and taken them into consideration. The final PS Notices have been published and are available on the MAS website (links to: [PSN01](#) and [PSN02](#)).

2.3 Comments that are of wider interest, together with MAS’ responses, are set out in this document. MAS will also provide additional clarifications to the PS Notices requirements within the respective accompanying Guidelines to the AML/CFT Notices which will be published in the next few weeks (“**Guidelines**”).

2.4 For reference purposes, the proposals are listed below with the original question number and the topic of the question. Each question has been extracted from the Consultation and set out in the relevant Part of this response document (“**Response**”). The clarifications to the feedback received are summarised in the order that the relevant questions appear in the Consultation paper.

### **a) Question 1: Scope of regulated activities**

- i. Where a MAS regulated payment services provider performs non-payment related business activities that carry money laundering and terrorism financing (“**ML/TF**”) risks, MAS will consider the need to regulate and impose AML/CFT requirements on the payment services provider for such non-payment related activities. The requirements, if imposed, would be to mitigate the additional ML/TF risk exposure generated by the non-payment activities
- ii. “Payments for goods and services” refers to transactions involving any monetary value that is, or is intended to be, used for the payment or part payment of goods or services to merchants.
- iii. Payments made to individuals, whether local or foreign, will not qualify under the “payment for goods and services” low-risk exemption.

### **b) Question 2: Alignment with FATF Standards**

- i. MAS agrees with the FATF’s approach to scope in virtual asset activities which members of the global standard setting body has, at this time, collectively assessed to present higher ML/TF risks. To prevent regulatory arbitrage and preserve Singapore’s standing as a well regulated jurisdiction, MAS will implement the enhanced FATF Standards applicable to digital payment token services (“**DPTS**”) providers.

**c) Question 3: AML/CFT Requirements for Offering of Exempted Products**

- i. A PS Act licensee (“**Licensee**”) is deemed as offering an “exempted product” when the product complies with the relevant MAS-defined low risk criteria set out in PS Notice 01 (see definition of “Exempted Product” in PS Notice 01) on an on-going basis.
- ii. A payment service provider that offers *only* exempted products would not be subject to the AML/CFT requirements in the PS Notices, and would be exempt from the requirement to hold a standard payment institution licence under the PS Act.
- iii. A Licensee offering any exempted product will have to demonstrate that it has applied its AML/CFT risk mitigation measures on an enterprise-wide basis. This includes developing and implementing policies, procedures and controls to ensure that any low risk payment activities it may conduct are kept within the low risk parameters on an on-going basis.

**d) Question 4: Simplified Due Diligence (“SCDD”)**

- i. To perform SCDD, Licensees must be able to adequately assess that the ML/TF risk associated with the business relations is low.
- ii. MAS will not permit Licensees to perform SCDD on customers that are payment services providers at this point in time.
- iii. MAS will maintain a S\$20,000 cumulative threshold for SCDD to be performed on customer wallets operated by Licensees.

**e) Question 5: Third Party Reliance**

- i. MAS will not allow Licensees to rely on other PS Act Licensees or any foreign payment services provider to perform certain specified CDD measures, at this point in time.
- ii. MAS does not prohibit the application of any suitable non-face-to-face (“**NFTF**”) CDD measures, so long as the FI has assessed it to be appropriate to mitigate its ML/TF risks.
- iii. Licensees will have to perform a risk-appropriate level of CDD on their customers. Insofar as the customer of a DPTS provider is another DPTS provider, CDD should be performed on that DPTS provider.

**f) Question 6: Correspondent Account Services**

- i. Correspondent Account Services requirements will be applicable to all Licensees. MAS will amend the draft PS Notices to reflect changes based on the feedback received.

**g) Question 7: Bearer Instruments and Cash Payouts**

- i. MAS will maintain the restrictions on cash payouts, which currently exist under Notice 3006.

**h) Question 8: Cross-border Transfer**

- i. In line with the FATF standards, MAS will treat all Digital Payment Token (“DPT”) transfers as cross-border in nature.

**i) Question 9: Wire Transfer Requirements for DPT Services**

- i. Licensees engaged in DPT services will be required to comply with value transfer requirements, which are similar to wire transfer requirements currently applicable to cross-border transfers in fiat currency.
- ii. There is a variety of solutions that are available or being developed. To remain technology neutral, MAS will not prescribe how Licensees ought to comply with value transfer requirements in PS Notice 02. However, MAS will provide further clarification in the Guidelines to PS Notice 02 on our supervisory expectations for the conduct of value transfers by regulated DPTS providers.
- iii. With regard to reasonable measures to be taken for customer identification and verification, MAS expects Licensees to apply AML/CFT measures that are commensurate to the ML/TF risks posed.

**j) Question 10: Designated Threshold**

- i. MAS will not specify a threshold for occasional transactions and will maintain the requirement for CDD to be conducted on all DPT transactions regardless of the amount. This is in view of the ML/TF risks posed. MAS is prepared to review this position in future.

**k) Question 11: CDD Information**

- ii. MAS agrees that the proposed alternative CDD information should supplement, rather than substitute existing required CDD information. MAS will provide further guidance on the use of alternative CDD information for DPT services in the Guidelines to PS Notice 02, taking into account the inputs received.

### 3 Payment Services Notices: Overview and Scope

#### Scope of Regulated Activities for AML/CFT requirements

**Question 1. Scope.** MAS seeks comments on the proposal in paragraph 2.3 to additionally impose AML/CFT requirements on payment services providers for such other business activity that is subject to AML/CFT requirements by another regulatory authority in Singapore but where payment services providers have been exempted from the application of such requirements under the regulatory authority.

3.1 The majority of respondents were supportive or had no comment on the proposal in Question 1. A few respondents expressed views that where non-payment activities are subject to the AML/CFT requirements under other relevant laws and regulations, there was no need for an overlay of additional AML/CFT requirements by MAS.

3.2 Several respondents sought clarifications on the extent to which (i) MAS would regulate non-payment services activities of payment services providers and (ii) whether such regulation would be within MAS' purview.

3.3 One respondent suggested for MAS to consider whether the proposal might result in an un-level playing field between payment services providers who are required to comply with the MAS notices and unlicensed or exempted entities conducting the same activities. Another respondent asked if MAS could provide an indicative list of non-payment services that may require notification prior to the commencement of operations or conduct of such activity.

3.4 A respondent requested that MAS provide more clarity on how payment services providers should substantiate that a payment is for goods and services. Another respondent sought clarification whether the low-risk criterion of "payment for goods and services" in the PS Notices would exclude payments to foreign individuals carrying on business outside Singapore.

#### **MAS' Response**

3.5 Regulation of payment services providers for non-payment activities: **Where a MAS regulated payment services provider performs non-payment related business activities that carry ML/TF risks, MAS will consider the need to regulate and impose AML/CFT requirements on the payment services provider for such non-payment related activities.** The requirements, if imposed, would be to mitigate the additional ML/TF risk exposure generated from the non-payment activities. Consequently, where non-payment related activities are regulated by MAS for AML/CFT, it follows that other AML/CFT regulators of such non-payment activities would exempt the MAS regulated entities from their respective regulations. These regulators will continue to regulate non-payment activities of entities not regulated by the MAS. This approach provides a level playing field across all entities operating such services whether regulated by MAS or another AML/CFT regulator. It is an offence to carry out a regulated activity without a licence from the relevant regulator.

3.6 **An example of a non-payment services activity which MAS intends to regulate is the dealing in precious stones and precious metals (“PSPM”).** MAS intends to propose AML/CFT requirements on PSPM transactions conducted by payment services providers and other MAS regulated financial institutions (“FIs”). MAS will consult on the requirements to be imposed in due course.

3.7 **Given the wide variety and fast evolving nature of the payment services industry, it would not be advisable nor practical for MAS to provide an indicative list of non-payment activities.** Such a list would be quickly outpaced by market developments and it would also carry the risk of being wrongly perceived as exhaustive in nature. MAS encourages respondents who may require clarification on their business activities to seek an independent legal opinion on whether any business activities would fall under the PS Act, or other relevant AML/CFT regulations.

3.8 Payments for goods and services: **This refers to transactions involving any monetary value that is, or is intended to be, used for the payment or part payment for goods or services to merchants.** The payment services provider should be able to ascertain to a high degree of certainty that the transactions are being made *only* for the intended purposes of such payments, and not for peer-to-peer transactions. This may be achieved using either technological or contractual means. MAS expects all payment services providers to put in place mitigating measures to detect and prohibit transactions that are not payments for good and services.

3.9 Exempting payments to individuals: **Payments made to individuals, whether local or foreign, will not qualify under the “payment for goods and services” low-risk exemption.** MAS had, in November 2017, consulted whether to consider individuals selling goods and services online on an e-commerce platform as merchants. While some respondents supported the proposal, a substantial number of respondents disagreed on the basis that it would be impossible to reliably ascertain whether such transfers were actual payments for goods and services or peer-to-peer transfers. MAS clarified in the November 2018 Consultation Response that we would not allow payments made to individuals to be considered as payments for goods and services at this time because of the ML/TF risks that may arise, particularly in the cross-border space, if the purpose of such transactions cannot be reliably determined.

#### Digital Payment Token Services

**Question 2. Alignment with FATF Standards.** MAS seeks comments on the proposed requirements in paragraph 2.8, in relation to transfer of DPT and custodian wallet services. MAS also welcomes suggestions on other types of DPT-related services that a DPTS provider could be involved in and which may pose ML/TF risk, necessitating application of AML/CFT measures as well.

3.10 Most respondents were supportive or had no comment on the proposal in Question 2. While more than a third of the respondents felt that full alignment with the FATF requirements



was desirable, a few respondents sought clarification on whether MAS intended to regulate all the scoped-in items featured within the June 2019 FATF Guidance<sup>1</sup>. Another respondent viewed that a risk-based approach could be more appropriate for DPT services, to allow industry players to adopt relevant AML/CFT risk measures based on the nature of their business, technology and size of the entity.

### **MAS' Response**

3.11 Alignment with FATF Standards: **MAS agrees with the FATF's approach to scope in virtual asset activities, which members of the global standard setting body have at this time collectively assessed to present higher ML/TF risks. To prevent regulatory arbitrage and preserve Singapore's standing as a well regulated jurisdiction, MAS will implement the enhanced FATF standards applicable to DPTS providers.** Hence, MAS intends to amend the PS Act and PS Notices to scope in the service providers that conduct any of the following activities for AML/CFT requirements—(i) transfer of DPTs; and (ii) provision of custodian wallets for or on behalf of customers<sup>2</sup>. In line with the FATF Standards, MAS also intends to set out that any entity which offers DPT services (whether offered in Singapore or otherwise) and is incorporated in Singapore will require a licence under the PS Act, and consequently be subject to AML/CFT requirements under our PS Notices. MAS expects to issue the public consultation in December 2019 on the proposed legislative amendments to effect the above by end-2020.

3.12 For the avoidance of doubt, as set out in MAS' *Guide to Digital Token Offerings*<sup>3</sup>, intermediaries who facilitate offers or issues of digital tokens are subject to regulation by MAS if the digital tokens are capital markets products under the Securities and Futures Act (Cap. 289). Capital markets products include any securities, units in a collective investment scheme, derivatives contracts and spot foreign exchange contracts for purposes of leveraged foreign exchange trading.

### Offering of Exempted Products

**Question 3. AML/CFT Requirements for Offering of Exempted Products.** MAS seeks comments on the proposed requirements applicable to payment services providers offering

<sup>1</sup> FATF Guidance on a Risk-Based Approach for Virtual Assets and Virtual Asset Service Providers [<https://www.mas.gov.sg/regulation/external-publications/fatf-guidance-for-a-risk-based-approach-for-vas-and-vasps>]. This FATF document is written to support jurisdictions and regulated entities to implement the relevant FATF Standards.

<sup>2</sup> Where DPTS providers also facilitate the transfer of DPT or provide custodian wallet services as part of their business, they will be required to apply the AML/CFT measures to mitigate the risks posed by such services, in line with the global FATF Standards.

<sup>3</sup> A Guide to Digital Token Offerings [<https://www.mas.gov.sg/regulation/explainers/a-guide-to-digital-token-offerings>]

Exempted Products as set out in paragraphs 2.14 to 2.18. *(Please refer to paragraph 3.3 of the draft PS Notice 01)*

3.13 The majority of respondents were supportive or had no comment on the proposal in Question 3. Four respondents requested for additional clarification on the differentiation between 'exempt entity' and 'exempt product'. One respondent noted that the proposal could imply that processes and procedures would have to be put in place to further mitigate ML/TF risk, even where the Licensee has separately conducted a risk assessment to confirm that its products are low risk.

#### **MAS' Response**

3.14 Differences between 'Exempted Product' and 'Exempted Entity': **A Licensee is deemed as offering an "exempted product" when the product complies with the relevant MAS-defined low risk criteria set out in PS Notice 01 (see definition of "Exempted Product" in PS Notice 01) on an on-going basis.** The term "product" refers to a facility which is offered by a payment services provider to its customers in relation to one or more specified payment services<sup>4</sup> under the same terms and conditions. A Licensee may offer one or more products to its customers as part of its business.

3.15 A payment service provider that offers only exempted products would not be subject to the AML/CFT requirements in the PS Notices. In addition, such an entity would be an "exempted entity" exempt from the requirement to hold a standard payment institution licence under the PS Act<sup>5</sup>.

3.16 Offering of Exempted Products by Licensee: **A Licensee offering any exempted product will have to demonstrate that it has in place processes and procedures to verify and ensure that the exempted product(s) meet the low-risk criteria on an on-going basis.**<sup>6</sup> Therefore, the Licensee shall continue to comply with all other AML/CFT requirements, including complying with recording keeping and other Notice requirements<sup>7</sup>. In recognition of the low-risks posed by such

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<sup>4</sup> Please refer to the definition of "specified payment services" in paragraph 2.1 of the PS Notice 01.

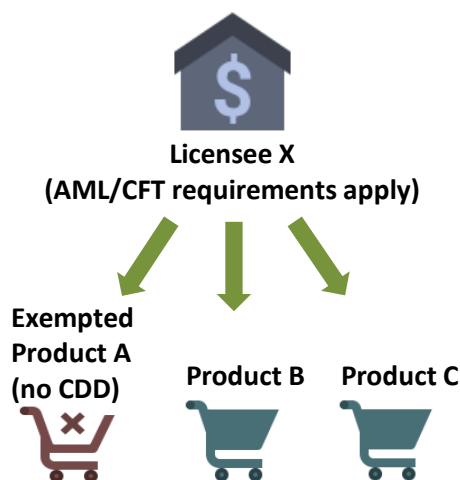
<sup>5</sup> The exemption is subject to the conditions stated under regulation 30 of the Payment Services Regulations

<sup>6</sup> MAS may request to review these processes and procedures, as well as transaction records and other information related to the offering of the exempted product, as part of our supervisory process.

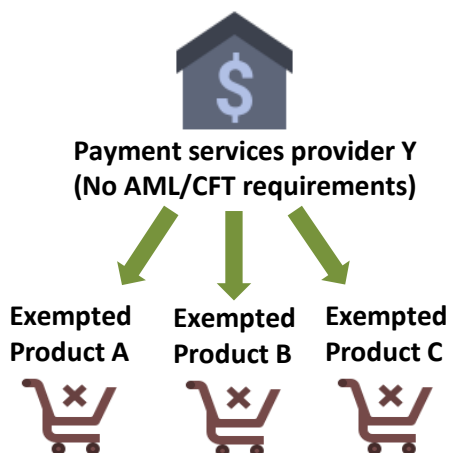
<sup>7</sup> The licensee must continue to comply across its business (which may include the Exempted Product(s) and any other activities generally) with the provisions relating to the following sections of PS Notice 01— paragraphs 4 (Underlying Principles), 5 (Assessing Risks and Applying a Risk-based Approach), 6 (New Products, Practices and Technologies), 16 (Record Keeping), 17 (Personal Data), 18 (Suspicious Transactions Reporting), and 19 (Internal Policies, Compliance, Audit and Training).

exempted products, MAS will not require Licensees to comply with the CDD-related AML/CFT measures within PS Notice 01<sup>8</sup> with regard to these exempted products.

### Illustration of Exempted Product vs Exempted Entity



- Exempted Product A complies with the relevant MAS-defined low risk criteria set out in para 2.1 of the PS Notice 01 on an on-going basis.
- The PS AML/CFT Notice applies to Licensee X. However, **CDD-related AML/CFT measures will not apply in relation to Exempted Product A.**
- Licensee X shall continue to comply with all other AML/CFT requirements, including having in place processes and procedures to verify and ensure that Exempted Product A meet the low-risk criteria on an ongoing basis.



- If payment services provider (PSP) Y offers only exempted products, **AML/CFT requirements will not apply to PSP Y.**
- In addition, given the low ML/TF risks posed by PSP Y, it would be exempted from the requirement to hold a standard payment institution licence under the PS Act, subject to certain conditions.

<sup>8</sup> Specifically, those AML/CFT measures relate to customer due diligence, foreign currency exchange transactions, issuance of bearer negotiable instruments and cash payouts, agency arrangements, and wire transfers.

#### 4 Payment Services Notices: AML/CFT Requirements for All Licensees

##### Simplified Customer Due Diligence

**Question 4. Simplified Due Diligence.** MAS seeks comments on whether SCDD should be permitted for the various payment services covered under the Notices. If so, comments are sought for the SCDD conditions set out in paragraph 3.1 and scenarios where SCDD is not permitted under paragraph 3.2. *(Please refer to paragraph 8 of the draft PS Notice 01 and paragraph 7 of the draft PS Notice 02)*

4.1 The majority of respondents were supportive or had no comment on the proposal in Question 4. One respondent felt that Licensees carrying out Activity F should not be allowed to perform SCDD, in view of the higher risks. Two respondents suggested that SCDD should be applicable on customers that are payment services providers. A respondent sought further clarification on how SCDD ought to be applied in practice.

4.2 Three respondents noted that the application of a cumulative annual value threshold of S\$20,000 would constrain the ability of Licensees to perform SCDD measures even where they may be satisfied that the ML/TF risks are low.

##### **MAS' Response**

4.3 Clarification on SCDD: **To perform SCDD, Licensees must be able to adequately assess and be satisfied that the ML/TF risk associated with the business relations is low<sup>9</sup>.** The Licensee shall not perform SCDD measures where there is any suspicion of ML/TF, or where the customer is from a country known to have inadequate AML/CFT measures or where the FATF has called for countermeasures. When performing its due diligence, the Licensee shall identify the customer and take reasonable measures to verify the customer's identity, using appropriate measures which are commensurate with the ML/TF risks. Where the business activity of the Licensee includes NFTF interactions with the customer, the assessment on the application of SCDD should take into account the adequate mitigation of risks posed by such interactions.

4.4 **MAS will not permit Licensees to perform SCDD on customers that are payment services providers at this point in time.** MAS notes that the level of AML/CFT controls across the payments sector is uneven, which could also be the result of the varied risk profiles of the entities. This presents practical difficulties for a Licensee to be able to determine whether its counterparty payment services provider(s) are sufficiently low risk to justify the application of SCDD.

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<sup>9</sup> The assessment on the application of SCDD should be properly documented and may be subject to review by MAS as part of our supervisory process.

4.5 **S\$20,000 cumulative threshold: MAS will maintain a S\$20,000 cumulative threshold for SCDD to be performed on customer wallets operated by Licensees.** Where a customer account or wallet permits transactions of higher cumulative amounts, ML/TF risk increases correspondingly and full CDD should be applied for risk mitigation. As payment services transactions can take place in near real-time and potentially as part of cross-border payments, MAS views that the S\$20,000 cumulative threshold is appropriate and aligned with international standards.

### Third Party Reliance

**Question 5. Third Party Reliance.** MAS seeks comments on whether third party reliance is appropriate for the sector. *(Please refer to paragraph 12 of the draft PS Notice 01 and paragraph 11 of the draft PS Notice 02)*

4.6 Most respondents were supportive or had no comments on the proposal in Question 5. A few respondents sought clarity on whether third party reliance could be placed on payment services providers. One respondent disagreed on third party reliance being appropriate for the sector, as it viewed payment services providers as being a primary point at which CDD should be conducted. Another respondent asked if MAS would be providing further guidelines on NFTF CDD measures.

4.7 One respondent noted that full AML/CFT compliance may be prohibitively costly for small custodian wallet services providers, and suggested that MAS consider allowing such entities to rely on upstream licensed DPTS providers to perform AML/CFT measures.

### **MAS' Response**

4.8 **Scope of Third Party Reliance: With regard to the reliance on third parties to perform certain specified CDD measures, MAS has carefully considered the supporting feedback and will not allow Licensees to rely on other PS Act Licensees or any foreign payment services provider, at this point in time.** MAS notes that the level of AML/CFT controls across the payments sector is uneven. It would be challenging for Licensees to be able to determine whether its counterparty payment services providers have in place adequate controls for the mitigation of risks in order to permit the application of third party reliance. In the same vein, third party reliance on non-financial institutions will also not be permitted.

4.9 Licensees will nonetheless be permitted to rely on other FIs that are: (i) regulated by MAS in Singapore, or (ii) regulated and supervised by a foreign authority for AML/CFT requirements consistent with the FATF standards. For the avoidance of doubt, notwithstanding the reliance upon a third party, the Licensee shall remain responsible for its AML/CFT obligations.

4.10 **To be clear, third party reliance is different from an outsourcing arrangement, for which there are separate expectations as set out in MAS' Guidelines on Outsourcing.** In an outsourcing or agency scenario, the outsourced entity will be applying the AML/CFT measures on

behalf of the Licensee, in accordance with its procedures, and will be subject to the Licensee's control of the implementation of those procedures.

4.11 NFTF measures: **MAS does not prohibit the application of any suitable NFTF CDD measures, provided the FI has assessed it to be appropriate to mitigate its ML/TF risks.** FIs that rely on new technology solution(s) to perform NFTF CDD should ensure that these solutions facilitate CDD measures that are at least as robust as those performed with face-to-face contact.<sup>10</sup> Where identity is obtained electronically through other NFTF means, including through transmission of scanned or copy documents, Licensees should apply additional checks to mitigate the risk of impersonation.

4.12 Third Party Reliance by Custodian Wallets: **MAS will require all Licensees to perform a risk-appropriate level of CDD on their customers** – this will include stand-alone custodian wallet service providers in future, for alignment with the FATF Standards. Insofar as the customer of the DPTS provider is another DPT services provider, CDD should then be performed on that DPT services provider.

#### Correspondent Account Services

**Question 6. Correspondent Account Services.** MAS seeks comments on whether the proposed requirements for Correspondent Account Services set out in paragraph 3.9 would be applicable to the Activity performed by your institution. *(Please refer to paragraph 13 of the draft PS Notice 01 and paragraph 12 of the draft PS Notice 02)*

4.13 Most respondents were supportive or had no comments on the proposal in Question 6. Two respondents provided feedback for MAS to consider not imposing Correspondent Account Services requirements when a payment services provider engages the services of a financial institution that is operating in Singapore. One respondent commented that it would be challenging to ascertain whether a respondent FI's AML/CFT controls were adequate and effective. Another respondent felt that such requirements would not be applicable to Bitcoin ATM providers.

#### **MAS' Response**

4.14 Correspondent Account Services: **MAS has considered the feedback and agrees that the ML/TF risks where a Licensee engages the services of a bank in Singapore<sup>11</sup> (which is regulated by MAS for AML/CFT requirements) could be generally lower.** As such, MAS will take

<sup>10</sup> This should include a once-off independent assessment from a suitably qualified professional to certify, at the first year mark after implementation, the effectiveness of the new technology solution in managing impersonation risk. For more details, please refer to MAS Circular No: AMLD 01/2018 on the *Use of MyInfo and CDD Measures for Non-face-to-face Business Relations*.

<sup>11</sup> i.e. all banks and merchant banks in Singapore, as defined in Section 2 of the Banking Act (Cap.19)

into account the feedback and revise the draft PS Notices to exclude the application of correspondent account services requirements in the scenario where a Licensee engages the services of a regulated bank in Singapore. Accordingly, Licensees acting as respondent institutions will only be required to comply with the Correspondent Account Services requirements when they engage (i) a non-bank financial institution (including all PS Act Licensees) operating in Singapore; or (ii) a financial institution operating *outside* Singapore to facilitate the provision of correspondent account services.

#### Bearer Negotiable Instruments and Cash Payouts

**Question 7. Bearer Instruments and Cash Payouts.** MAS seeks comments on the proposal in paragraph 3.10 to apply the prohibition on issuance of bearer negotiable instruments and restriction of cash payout requirements to licensees which perform Activities A, B, C, F and G. *(Please refer to paragraph 11 of the draft PS Notice 01 and paragraph 10 of the draft PS Notice 02)*

4.15 Most respondents were supportive or had no comments on the proposal in Question 7. Two respondents provided feedback on lowering cash payout restrictions; one noted that there may still be demand from certain customer segments for cash payout, and another proposed for additional CDD checks to be performed as a risk mitigating measure in lieu of a restriction.

4.16 A respondent supported prohibiting the issuance of bearer instruments and disallowing cash payouts for DPTS providers. Another respondent sought clarity whether the requirements would be applicable where a DPTS provider processes withdrawals through an overseas bank.

#### **MAS' Response**

4.17 Restrictions on Cash Payout: MAS notes that comments were generally supportive towards the restriction of cash payout requirements to Licensees. MAS has carefully considered the feedback received, and views that the existing measures which prohibit cash payouts in excess of S\$20,000 remain appropriate. **MAS will maintain the restrictions on cash payouts, which currently exist under Notice 3006.** As a clarification, the cash payout restrictions would apply to Licensees in all circumstances, including where transactions are carried out via outsourcing or agency arrangements.

### **5 Payment Services Notices: AML/CFT Requirements for DPT Services**

#### Cross-border Value Transfer

**Question 8. Cross-border Transfer.** MAS seeks comments on whether all value transfers of DPT should be considered cross-border in nature. Please elaborate on your comment.



5.1 The majority of respondents were supportive or had no comment on the proposal to consider all DPT value transfers as cross-border in nature. However, a number of respondents provided feedback on scenarios in which transfers of DPT could be considered to be domestic. The following scenarios were cited:

- a. Transfers between wallet addresses held by the same customer
- b. Transfers between customers of the same MAS-regulated local exchange
- c. Transfers from a MAS-regulated local exchange to a local individual custodial wallet
- d. Transfers between MAS-regulated local exchanges
- e. Where all parties of the DPT transaction are of the same nationality and reside within the same country

#### **MAS' Response**

5.2 Cross-border Value Transfer: **In line with the FATF standards, MAS will treat all DPT transfers as cross-border transfers** for the purposes of applying the value transfer requirements in PS Notice 02.

5.3 **Licensees may apply SCDD measures if they assess customer relationships and transactions to be low risk for ML and TF.** A Licensee's decision to apply SCDD measures should be supported by a risk assessment that is properly documented. MAS will provide further clarification on the appropriate application of SCDD measures for DPT value transfers in the Guidelines that will be published in due course.

**Question 9. Wire Transfer Requirements for DPT Services.** MAS seeks comments on whether the FATF's wire transfer requirements are applicable to DPT transactions. Specifically, what information would be relevant for law enforcement purposes, and what records should be kept and/or be attached to a DPT transaction? Please also provide examples of how this requirement could be operationalised in practice, including industry-wide initiatives. *(Please refer to paragraph 13 of the draft PS Notice 02)*

5.4 Most respondents were supportive or had no comments on the proposal in Question 9. A number of respondents expressed concern regarding difficulties in obtaining and transmitting wire transfer information, given the current technological limitations around blockchain and the absence of an internationally agreed technological solution to facilitate the secure and immediate transmission of this information. A few respondents supported the industry-led effort to develop shared infrastructure to enable a verified network of licensed intermediaries to identify and declare the ownership of DPT wallet addresses that they operate.

5.5 One respondent noted that certain types of DPTs would not permit the transmission of the required wire transfer information (i.e. 'privacy coins') and asked whether such DPTs should be disallowed.



5.6 One respondent sought clarification on the reference to “reasonable measures” to be undertaken by ordering institutions within PS Notice 02 and whether a value transfer could still be executed where the identity of the value transfer originator has not been verified.

#### **MAS’ Response**

5.7 Wire Transfer Requirements for DPT Services: **Licensees engaged in DPT services will be required to comply with value transfer requirements, which are similar to wire transfer requirements currently applicable to cross-border transfers in fiat currency.** The anonymity, speed and cross-border nature of DPT transactions mean that such activities have a higher risk of abuse for illicit activity, including for ML/TF. The FATF’s Standards in relation to the transmission of wire transfer information (also commonly known as the “Travel Rule”) are intended to mitigate the risks posed, by obligating regulated entities to obtain, transmit, retain, and screen wire transfer information against relevant ML/TF information sources to ensure that bad actors cannot freely utilise DPT services to launder funds.

5.8 **There is a variety of solutions that are available or being developed. To remain technology neutral, MAS does not intend to prescribe how Licensees should comply with the value transfer requirements in PS Notice 02.** MAS notes that the DPTS industry is currently exploring the development of solutions that could be applied across the industry in a coordinated manner, and commend the ongoing efforts. In the interim, MAS will not prohibit the conduct of DPT services where Licensees are able to comply with the value transfer requirements, i.e. as long as these requirements are carried out *immediately* and *securely*. Licensees who are recipients of DPT transfers should ensure that value transfer information is received and screened *before* customers can be granted access to the DPT transferred.

5.9 “Reasonable Measures”: **With regard to customer identification and verification, MAS expects Licensees to take AML/CFT measures that are commensurate to the ML/TF risks posed.** In the case where the ML/TF risks are assessed to be high, MAS expects the Licensee to apply enhanced customer due diligence and monitoring measures in order to mitigate the risks.

5.10 **MAS will provide further clarification on our supervisory expectations on the conduct of value transfers by our Licensees in the Guidelines to PS Notice 02.**

#### Occasional Transaction Thresholds

**Question 10. Designated Threshold.** MAS seeks comments on the proposal in paragraph 5.5 not to set a threshold for the application of CDD i.e. require CDD to be conducted from the first dollar for DPT transactions, even in the case of occasional transactions. *(Please refer to paragraph 6.3(b) of the draft PS Notice 02)*

5.11 The majority of respondents were supportive or had no comment on the proposal in Question 10. Six respondents gave feedback that the proposed requirement was too onerous and enquired on the reason for there being no threshold allowed for occasional transactions, as

permitted by the FATF standards. Two respondents felt that requiring CDD for all transactions could inadvertently take time and attention away from larger transactions which may pose higher ML/TF risks.

### **MAS' Response**

5.12 **Designated Threshold:** **MAS will not specify a threshold for occasional transactions and will maintain the requirement for CDD to be conducted on all DPT transactions regardless of the amount.** The rapid nature of DPT transactions makes it easy for large transactions to be structured into multiple smaller amounts that fall below the thresholds set by regulatory authorities. MAS notes that there are limited use-cases where customer accounts are not established and therefore where the occasional transaction threshold would apply. In such cases, we observe that the NTF nature of the DPT transactions poses added risks as it makes deliberate structuring of transactions very difficult to detect. As such, MAS has made a considered decision not to apply any occasional transaction threshold for DPT transactions at this time. Licensees will be required to assess the ML/TF risks of the customer and perform the appropriate CDD measures based on the risk profile of the customer.

5.13 **MAS is prepared to review this position in future,** as the sector matures and where it is observed over the course of MAS' licensing and supervision that DPTS providers have put in place adequate AML/CFT controls to mitigate the attendant ML/TF risks.

### Collection of CDD information

**Question 11. CDD Information.** MAS seeks comments on whether any other customer-specific information that is relevant in the context of DPT transactions could be made applicable to potentially supplement or substitute existing identifiers for CDD purposes, including those that are featured in Table 2. *(Please refer to paragraph 6.6 of the draft PS Notice 02)*

5.14 Most respondents were supportive or had no comments on the proposal in Question 11. A number of respondents agreed that the alternative customer-specific information would be useful for CDD purposes, but that the collection of such information should be done on a risk-based approach, i.e. in the case of enhanced customer due diligence ("ECDD") or when the transaction is identified by the provider as being high-risk transaction. One respondent noted that some alternative CDD information may not be applicable to new customers who may not have previous history of DPT transactions, and urged flexibility in allowing Licensees to decide how much information to collect based on customer risk profile.

5.15 One respondent sought to clarify on MAS' expectation for banks to check the alternative CDD information or to perform analysis for ongoing monitoring of the DPT itself. Another respondent provided feedback that the proposed collection of the alternative CDD information was impracticable, as it entails undue cost and effort to industry operators.

### **MAS' Response**

5.16 Collection of Alternative CDD information: **MAS agrees with the broad feedback that alternative CDD information should supplement rather than substitute the existing required CDD information, and will provide further guidance on the appropriate use of alternative CDD information in the Guidelines to PSN02, taking into account the inputs received..** MAS also agrees with the feedback that alternative CDD information should be collected in instances where additional verification measures are required, or where enhanced measures are appropriate in view of risks of the customer profile or relationship.

5.17 MAS notes the useful inputs provided on other customer specific information to be obtained by Licensees, and will incorporate these into our Guidelines, which will be issued shortly.

5.18 It is important that Licensees can and do adequately assess the higher risks associated with DPT transactions, given the cross-border nature and where there is a lack of transparency, including from the use of unregulated wallets, Bitcoin ATMs, mixers/tumblers, ATMs and privacy tokens. The collection of alternate CDD information can therefore be helpful to assess and mitigate such heightened ML/TF risk exposure.

### **MONETARY AUTHORITY OF SINGAPORE**

5 December 2019

