

CONSULTATION PAPER

P003 - 2009

May 2009

Proposed revisions to the MAS Notices on the Prevention of Money Laundering & Countering The Financing of Terrorism

MAS

Monetary Authority of Singapore

PROPOSED REVISIONS TO THE MAS NOTICES ON THE PREVENTION OF MONEY LAUNDERING & COUNTERING THE FINANCING OF TERRORISM

PREFACE

- 1 As a member of the international financial community, Singapore is committed to global anti-corruption efforts. It is with this in mind that Singapore has decided to ratify the United Nations Convention Against Corruption (UNCAC). The UNCAC seeks to combat corruption by stipulating preventive measures that States Parties need to adopt (e.g. developing effective anti-corruption policies), criminalising certain forms of conduct (e.g. bribery of public officials) and requiring States Parties to provide each other with the widest measure of mutual legal assistance. This includes the return of embezzled public funds and other corruptly derived assets to the countries of origin. The ratification of UNCAC underscores Singapore's commitment to global efforts to combat money laundering, transnational organised crime and corruption.
- 2 Accordingly, amendments to the MAS' Anti- Money Laundering and Countering of Terrorism Financing (AML/CFT) Notices would be required to bring Singapore's requirements on enhanced customer due diligence on politically exposed persons (PEPs) in line with the UNCAC provisions.
- 3 In relation to the amendments on customer due diligence, MAS has also reviewed the current AML/CFT requirements on Simplified Customer Due Diligence and Performance of Customer Due Diligence Measures by Intermediaries. Amendments to improve clarity on the requirements pertaining to these two areas are also proposed.
- 4 This consultation paper sets out the issues under review and the proposed revisions to the MAS AML/CFT Notices. The amendments are applicable to all MAS AML/CFT Notices with the exception of the MAS Notice SFA13-N01 to Approved Trustees. For the purpose of this paper, the paragraphs refer to the MAS AML/CFT Notice 626 to banks. Please note that the relevant paragraph numbers may differ from one Notice to another. MAS invites interested parties to submit their views and comments on the proposed revisions outlined in this consultation paper. Electronic submissions are encouraged. Written comments should be submitted to:

FINANCIAL SERVICES COOPERATION DIVISION
EXTERNAL DEPARTMENT
MONETARY AUTHORITY OF SINGAPORE

10 SHENTON WAY
MAS BUILDING
SINGAPORE
Email: aml_cft@mas.gov.sg

All comments should be submitted to MAS by Thursday, 4 June 2009.
Please note that all submissions received may be made public unless
confidentiality is specifically requested for the whole or part of the
submission.

A PROPOSED CHANGE TO ENHANCED CUSTOMER DUE DILIGENCE REQUIREMENTS

1 In accordance with the Financial Action Task Force (FATF) standards, the MAS AML/CFT Notices currently requires financial institutions to carry out enhanced customer due diligence on foreign PEPs. The UNCAC enhanced scrutiny requirement is wider in that it covers both foreign and domestic PEPs and their "family members and close associates". In accordance with the requirements of UNCAC, MAS proposes amending all MAS AML/CFT Notices to extend the enhanced due diligence requirement from foreign PEPs to include domestic PEPs as well.

2 The proposed amendment to the provision on Enhanced Customer Due Diligence to effect the change is as follows.

6 ENHANCED CUSTOMER DUE DILIGENCE

Politically Exposed Persons

6.1 For the purposes of paragraph 6

‘Politically exposed person’ means

- (a) a natural person who is or has been entrusted with prominent public functions ~~in a foreign country~~ **whether in Singapore or a foreign country**;
- (b) immediate family members of such a person; or
- (c) close associates of such a person.

“Prominent public functions” includes the roles held by a head of state, a head of government, government ministers, senior civil servants, senior judicial or military officials, senior executives of state owned corporations, and senior political party officials.

6.2 A bank shall, in addition to performing CDD measures specified in paragraph 4, perform enhanced CDD measures in relation to politically exposed persons, including but not limited to the following:

- (a) implement appropriate internal policies, procedures and controls to determine if a customer or beneficial owner is a politically exposed person;
- (b) obtain approval from the bank’s senior management to establish or continue business relations where the customer or a beneficial owner is a politically exposed person or subsequently becomes a politically exposed person;
- (c) establish, by appropriate and reasonable means, the source of wealth and source of funds of the customer or beneficial owner; and
- (d) conduct, during the course of business relations, enhanced monitoring of business relations with the customer.

Other High Risk Categories

6.3 A bank shall perform enhanced CDD measures in paragraph 6.2 for such other categories of customers, business relations or transactions as the bank may assess to present a higher risk for money laundering and terrorist financing.

6.4 A bank shall give particular attention to business relations and transactions with any person from or in countries and jurisdictions known to have inadequate AML/CFT measures, as determined by the bank for itself or notified to banks generally by the Authority or other foreign regulatory authorities.

B PROPOSED CHANGE TO SIMPLIFIED CUSTOMER DUE DILIGENCE REQUIREMENTS

3 The objective of the proposed amendment is to spell out explicitly that simplified measures are not acceptable whenever there is suspicion of money laundering or terrorist financing. This amendment does not alter the implementation or operation of simplified due diligence measures, but makes the implied requirement explicit. The proposed amendment is as follows [*This proposed change is not applicable to the MAS Notice 3001 to Money Changers and Remittance Companies*]:

5 SIMPLIFIED CUSTOMER DUE DILIGENCE

5.1 Subject to paragraph 5.2, a bank may perform such simplified CDD measures as it considers adequate to effectively identify and verify the identity of the customer, a natural person appointed to act on the customer's behalf and any beneficial owner if it is satisfied that the risks of money laundering and terrorist financing are low.

5.2 No bank shall perform simplified CDD measures in **the following circumstances:**

(a) ~~relation to~~ **where the** customers ~~that~~ are from or in countries and jurisdictions known to have inadequate AML/CFT measures, as determined by the bank for itself or notified to banks generally by the Authority or by other foreign regulatory authorities; **or**

(b) **where the bank suspects that money laundering or terrorist financing is involved.**

5.3 A bank may perform simplified CDD measures in relation to a customer that is a financial institution supervised by the Authority (other than a holder of a money changer's licence or a holder of a remittance licence, unless specifically

notified by the Authority).

5.4 Where the bank performs simplified CDD measures in relation to a customer, it shall document –

- (a) the details of its risk assessment; and
- (b) the nature of the simplified CDD measures

C PROPOSED CHANGE TO PERFORMANCE OF CUSTOMER DUE DILIGENCE MEASURES BY INTERMEDIARIES REQUIREMENTS

4 The objective of the proposed amendment is to make it clear that the obligation is on the financial institution to immediately collect the necessary information concerning elements of the customer due diligence process from the 3rd party. This was not apparent in the current formulation of the provision.

5 Therefore, to provide more clarity, the following amendment to the provision on Performance of Customer Due Diligence Measures by Intermediaries is proposed [*This proposed change is not applicable to the MAS Notice 3001 to Money Changers and Remittance Companies*]:

7 PERFORMANCE OF CDD MEASURES BY INTERMEDIARIES

7.1 Subject to paragraph 7.2, a bank may rely on an intermediary to perform the CDD measures in paragraph 4 of this Notice if the following requirements are met:

- (a) the bank is satisfied that the intermediary it intends to rely upon is subject to and supervised for compliance with AML/CFT requirements consistent with standards set by the FATF, and has adequate measures in place to comply with those requirements;
- (b) the intermediary is not one on which banks have been specifically precluded by the Authority from relying;
- (c) ~~the information that the bank would be required or would want to obtain which is being obtained by the intermediary may be relayed to the bank by the intermediary without any delay; and~~
- (d) the intermediary is able and willing to provide, without delay, upon the bank's request, any document obtained by the intermediary which the bank would be required or would want to obtain.

7.2 No bank shall rely on an intermediary to conduct ongoing monitoring of

customers.

7.3 Where a bank relies on an intermediary to perform the CDD measures, it shall:

(a) document the basis for its satisfaction that the requirements in paragraph 7.1(a) have been met except where the intermediary is a financial institution supervised by the Authority (other than a holder of a money changer's licence or a holder of a remittance licence); and

(b) immediately obtain from the intermediary the necessary information relating to CDD measures obtained by the intermediary.

7.4 For the avoidance of doubt, notwithstanding the reliance upon an intermediary, the bank shall remain responsible for its AML/CFT obligations in this Notice.

D IMPLEMENTATION OF THE PROPOSED REVISIONS

6 MAS will assess the views and comments received from interested parties in determining the final revisions to the existing AML/CFT Notices. In determining the start date to implement the amendments, MAS will take into account the time required by financial institutions to make the necessary modifications to their existing requirements to ensure compliance.



Monetary Authority of Singapore