

# RESPONSE TO FEEDBACK RECEIVED

NOVEMBER 2017

## Response to Feedback Received – Proposed Amendments to the Payment and Settlement Systems (Finality and Netting) Act

MAS

Monetary Authority of Singapore

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## 1 Preface

1.1 On 3 August 2017, MAS issued a Consultation Paper on Proposed Amendments to the Payment and Settlement Systems (Finality and Netting) Act (“FNA”). The proposed amendments covered three main policies:

1.1.1 **Improve protection** by extending insolvency protection to transfer orders, netting and settlement in a designated system<sup>1</sup> (“DS”), immunity to officers and employees of an operator, settlement institution (“SI”)<sup>2</sup>, or collateral holder of a DS, insolvency protection to collateral security and inserting/clarifying key legal terms to allow for more comprehensive insolvency protection and payment finality;

1.1.2 **Set out clear designation criteria** for payment and settlement systems; and

1.1.3 **Strengthen administrative powers** of MAS.

1.2 Final comments were received on 12 September 2017. MAS would like to thank all respondents for their contributions.

1.3 The respondents are supportive of the proposed amendments as they recognise that the proposed amendments to the FNA will enhance protection to the key elements in a payment and settlement cycle. Where MAS agrees with the feedback, the feedback will be incorporated accordingly. Comments that are of wider interest, together with MAS’ responses, are set out below.

## 2 Improve protection to DS

2.1 Respondents are supportive of various improvements to protect the DS as well as the key stakeholders involved in the clearing and settlement process.

### (a) Clarity of “business day”

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<sup>1</sup> A “designated system” means a system that is designated by the Authority under section 3 to be a designated system for the purposes of the FNA.

<sup>2</sup> The FNA defines a settlement institution of a DS as a body corporate which (i) provides accounts for the participants of the DS, or facilitates the settlement of transfer orders between these DS participants; and (ii) is specified in the designation order to be the SI of the DS. The settlement institutions are MAS (for SGD Cheque Clearing System, Interbank GIRO System and Fast And Secure Transfers System) and Citibank NA (for USD Cheque Clearing System).

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2.2 Respondents enquired if the second limb of the definition of “business day” took precedence over how a DS defined its business day.

MAS’ Response

2.3 The amended FNA will give precedence to the definition of “business day” as set out in a DS’s system’s Rules. If it is not defined in those Rules, the second limb of the definition of “business day” in the amended FNA will apply.

**(b) Clarity on “transfer order”**

2.4 Some respondents requested guidance on whether the proposed amendment to the “transfer order” definition allowed for both a payment obligation and settlement instruction to arise from the same DS, as well as from another DS which forms part of the clearing and settlement process.

MAS’ Response

2.5 MAS confirms that the proposed “transfer order” definition is intended to include a transfer order that originates from the same DS or from a different DS but which forms part of the clearing and settlement process.

**3 Clarify designation criteria**

3.1 Respondents looked forward to greater clarity in the designation of systems and agreed that the criteria focused on the relevant type of systems.

**(a) Impact on existing DS**

3.2 Some respondents sought clarity on whether existing DSs will continue to be designated after the amendments are in place.

MAS’ Response

3.3 MAS will grandfather existing DSs, and the amendments to the FNA will apply to existing DSs when the Bill comes into effect.

**4 Strengthen administrative powers of MAS**

4.1 Respondents welcomed the improved powers for MAS, noting that it enhanced the integrity and consistency of the FNA and ensured non-DSs were not able to claim insolvency protection under the FNA.

**(a) Approval of “Rules” of the DS**

4.2 Respondents enquired if approval of “Rules” could also encompass default arrangements or bye-laws of the DS.

MAS’ Response

4.3 The amendment is for MAS to approve the Rules of the DS, where the Rules are to be legally binding and in writing. MAS noted that Rules, determined by the DSs, are likely to include its default arrangements and bye-laws.

**MONETARY AUTHORITY OF SINGAPORE**

6 NOVEMBER 2017

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