

## **RESPONSE TO FEEDBACK RECEIVED – CONSULTATION ON THE DRAFT REGULATIONS PURSUANT TO PAYMENT SYSTEMS (OVERSIGHT) ACT 2006 AND DRAFT STORED VALUE FACILITY GUIDELINES**

MAS published two consultation papers on 8 March 2006 to seek comments on the draft Regulations pursuant to the Payment Systems (Oversight) Act 2006 (“Regulations”) and the draft Stored Value Facility Guidelines (“Guidelines”).

The consultation closed on 10 April 2006. A total of 14 respondents provided feedback on the draft Regulations and Guidelines. MAS has reviewed the comments received, and where appropriate, incorporated them into the Regulations and Guidelines.

MAS thanks all respondents for their contributions. Comments of common interest and our responses to them are highlighted below.

### **COMMENTS RELATING TO DRAFT REGULATIONS**

#### **1. Computation of Stored Value**

Under the Payment Systems (Oversight) Act 2006, any entity will be allowed to hold the stored value of a stored value facility, as long as the total amount of stored value held does not exceed the stated threshold of \$30 million.

A respondent highlighted that prepaid Subscriber Identity Module (SIM) cards can only be used to access mobile services after users have registered the cards. The respondent suggested that the stored value for prepaid mobile SIM cards be counted towards the \$30 million threshold only upon users’ registration of their SIM cards, rather than upon the sale of such cards.

#### **MAS’ Response**

A consumer assumes the risk in respect of the stored value purchased from a mobile network operator at the point of purchase, and not upon registration. Therefore, the stored value in prepaid SIM cards should count towards the \$30 million threshold upon the sale of the prepaid SIM cards by the operator.

## **2. The Prescribed Written Statement of a Non-Widely Accepted Stored Value Facility**

### **2.1 Requirement to Put Up Prescribed Written Statement**

The draft Regulation requires holders of non-widely accepted stored value facilities to provide a prominent and succinct prescribed written statement to inform users that such holders do not require MAS' approval to hold stored value under the Payment Systems (Oversight) Act 2006.

A respondent commented that this requirement would be onerous on holders of non-widely accepted stored value facilities who operate through independent dealers, given that the holders would not be able to ensure that the independent dealers adhere to this requirement.

#### **MAS' Response**

The purpose of requiring the prescribed written statement is to enable users to be better informed and more discerning of the risks associated with the stored value facilities that they are using. The Regulation provides the flexibility for holders of non-widely accepted stored value facilities to mark, label or accompany the prescribed written statement in the manner that is most compatible with the type of their stored value facilities and the way in which their stored value facilities are operated. Where necessary, a holder should put in place relevant measures (e.g. contractual agreements with its agents) to ensure that its agents abide by the requirement.

### **2.2 The Prescribed Written Statement**

A respondent asked that the Regulation provides for exceptions or amendments to the prescribed written statement to be granted in situations where the prescribed written statement is incompatible with the manner in which a stored value facility operates.

#### **MAS' Response**

The prescribed written statement was worded generally to ensure broad applicability. To further extend its coverage, the statement will be revised.

### **3. Restriction on Soliciting**

The Regulation prohibits any person outside of Singapore or its agent from engaging in any solicitation of funds in Singapore with respect to stored value facilities. A few respondents sought clarification on the scope of this requirement.

#### MAS' Response

This requirement does not apply to stored value facilities where the holders hold the stored value in Singapore.

A stored value facility that operates in Singapore, with stored value held overseas, has to cease all activities related to the advertising and any form of solicitation for funds, or change its business model such that at least the Singapore-portion of the stored value is held in Singapore.

## **COMMENTS RELATING TO DRAFT STORED VALUE FACILITY GUIDELINES**

### **4. Roles and Responsibilities of the Holder and Other Participants of the Stored Value Facility**

A few respondents sought clarification on the roles and responsibilities of the holder and other participants (such as operators and merchants) of a stored value facility. Some respondents commented that the holder cannot ensure that the rights and obligations of all stakeholders are clearly set out in relevant contractual agreements. They asked whether these other participants would be responsible for their own actions and defaults, or whether MAS would consider the holder primarily responsible for any non-compliance to relevant laws and regulations.

#### MAS' Response

The Guidelines are meant for the holders of stored value facilities. Holders have primary responsibility to the users for the obligations and responsibilities contained in the Guidelines.

### **5. Refunds, Replacement and Fees**

Several respondents requested more flexibility or waivers in handling the refund of stored value, replacement of stored value facilities and

imposition of administrative fees, citing several existing stored value facilities that either do not allow refunds or impose administrative fees for refund or replacement.

#### MAS' Response

Refundability is a salient feature of a stored value facility in that it allows users to retrieve the monetary equivalent of the remaining stored value in their stored value facilities. Refundability will be a requirement for widely accepted stored value facilities.

While the provision of refund is not obligatory on the holders of non-widely accepted stored value facilities, the holder should clearly indicate to users whether the stored value facility can be refunded or replaced, as well as whether administrative fees would be imposed for refund or replacement. Such information should be stated in the contractual agreement governing the use of the stored value facility.

### **6. Stored Value Protection**

A respondent sought clarification on stored value preservation, and whether there is a need for the holder of the stored value to appoint a separate trustee to hold the stored value. Another respondent asked whether the holder is required to purchase insurance, obtain a banker's guarantee or enter into a trust arrangement for the stored value held.

#### MAS' Response

Holders should exercise prudence in the management of the stored value in order to meet users' redemption of stored value in a timely manner. The Guidelines recommend holders separate the stored value collected from working capital to ensure preservation of the stored value. The Guidelines provide several examples on how the stored value held can be preserved. There is no legal requirement for holders to employ trust accounts or enter into other protection agreements.

### **7. Adequate Disclosure of Users' Rights and Obligations**

The Guidelines recommend various arrangements that a holder could undertake to provide adequate disclosure of users' rights and obligations in respect of a stored value facility. Respondents enquired about the extent of the disclosures required, such as whether the holder needs to be identified on the stored value facility itself and how

to inform users of changes to terms and conditions. There were also enquiries on the possible alternatives to providing users with physical copies of the terms and conditions.

#### MAS' Response

The adoption and implementation of these Guidelines are left to the judgment of the holders given the differing nature, size and complexity of each stored value facility.

### **8. Bulk Purchase Limit of S\$20,000**

The Guidelines recommend holders to undertake appropriate measures to prevent or minimise money laundering via stored value facilities, including limiting bulk purchases of any stored value facility to S\$20,000 per transaction. A few respondents highlighted that in the normal course of business, they often experience bulk purchases exceeding S\$20,000 by dealers and corporate clients. The respondents sought clarifications on the computation of the \$20,000 limit and asked if this limit could be waived under certain circumstances, such as bulk purchases by corporate clients.

#### MAS' Response

The bulk purchase limit should apply to the stored value loaded in the stored value facilities. In addition, the limit should apply to bulk purchases from personal or corporate users. For bulk purchases above the S\$20,000 limit, the holder should have in place appropriate measures and procedures to mitigate the increased risk of money-laundering.

### **9. Audit Trails for Stored Value Facilities**

The Guidelines state that there should be proper audit trails to facilitate the identification of unusual transaction patterns and suspicious users. Some respondents asked about the required retention period for the audit records. Other respondents enquired whether it is sufficient that transactional identification or tracking via audit trails is limited to unique stored value facility identifiers, rather than being tied to a particular user's identity.

#### MAS' Response

Although the retention period for audit records should be commensurate with the nature and complexity of each stored value facility, the holder should also comply with all relevant statutory

requirements for the retention of audit records. Holders of unregistered stored value facilities may not have any means to trace users directly since user particulars are not recorded at the point of purchase. However, holders of all stored value facilities are expected to maintain proper records of all stored value facility sales and transactions.

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