

RESPONSE TO CONSULTATION PAPER

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Consultation topic:	Notices to Banks and Merchant Banks on Management of Outsourced Relevant Services
Name¹/Organisation: ¹if responding in a personal capacity	PricewaterhouseCoopers Risk Services Pte. Ltd.
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Confidentiality	
I wish to keep the following confidential:	<i>(Please indicate any parts of your submission you would like to be kept confidential, or if you would like your identity along with your whole submission to be kept confidential. Your contact information will not be published.)</i>

Question 1. MAS seeks comments on the proposed annexes of the proposed Notices as follows:

- a. List of relevant services commonly performed by banks or MBs in Singapore (Annex A of the proposed Notices)**
- b. List of relevant services that are not commonly performed by banks or MBs, and thus, are excluded from the definition of outsourced relevant service (Annex B of the proposed Notices)**
- c. List of relevant services that are not commonly performed by banks or MBs, but are considered by MAS as outsourced relevant services (Annex C of the proposed Notices)**
- d. List of exempted outsourced relevant services (Annex D of the proposed Notices)**

Respondents should provide the rationale to support their suggestions to add or remove services from the annexes.

None noted

Question 2. MAS seeks comments on the requirement for a bank or an MB to submit to MAS a register of outsourced relevant services (as described in paragraph 3.1) semi-annually or upon request.

None noted

Question 3. MAS seeks comments on the requirements pertaining to the management of material ongoing outsourced relevant services and evaluation of service providers.

Definition of “materially affect adversely”

1. Referring to the draft Notice, definition of “*material ongoing outsourced relevant service*” (c) , we would like to seek clarity on the definition of “*materially affect adversely*”. Will there be further guidance and criteria provided to assess “materially affect adversely” or does MAS leave it to the Banks and MB to determine what constitutes “materially affect adversely” ?

Intention to obtain/ extend a service

1. Referring to the definition of “ongoing outsourced relevant service”, what is the expectation or how does the bank demonstrate "intends to obtain" or "intend to extend" - Would the intention need to be supported by written agreement or communication with the third party such as letter of intent/offer or would an absence of such external communication but evidence of internal communication / written intent also suffice as an expression of intent e.g. management documentation, steering committees minutes, etc

Definition of service providers

1. Referring to the draft Notice definition of “service provider”, would like to clarify that a separate legal entity (eg: intra-group separate legal entities) of the bank will not be considered a “(a)branch or office” and will fall under “(b)any person” therefore under the definition of “*outsourcing agreement*” a policy and procedures is not required and only a contract is required for “any person”

Question 4. MAS seeks comments on the requirement for banks and MBs to enter into outsourcing agreements for their material ongoing outsourced relevant services and to ensure the inclusion of certain terms in these agreements.

Applicability

Noted that the draft Notice aimed to set out the requirements for Banks and Merchant Banks and the Outsourcing Guidelines will subsequently be updated to align to the Notice. Will the updated Guidelines (with requirements aligned to the Notice) in the future be applicable to non-banks and non-merchant banks? ie: other financial institutions regulated by MAS like insurance, asset management and payment service providers. Smaller FIs may not have the same negotiating power with regards to contracts clauses with their service providers and abilities to meet the same requirements as will be subsequently set out in the updated Outsourcing Guidelines. The alignment of the draft Notice requirements to the Outsourcing Guidelines in the future where all the contract clauses *“must”* be included will mean that smaller FIs will have difficulties in compliance.

Question 5. MAS seeks comments on the terms required to be included in the outsourcing agreements.

“Outsourcing Agreement” requirement.

Referring to the definition of “outsourcing agreement” in the draft Notice (a) *“in the case where the service provider of a bank in Singapore is a branch or office of the bank, written policies and procedures by which the branch or office is to provide an outsourced relevant service; ”*. Understand that this is applicable to outsourcing arrangements with relevant entities of the bank (intra-group arrangement).

Please clarify that this statement *“written policies and procedures by which the branch or office is to provide an outsourced relevant service;”* means that the responsibility and ownership of the policies and procedures rest with the branch or office (ie: service provider). In this case in what ways would MAS expect the bank to demonstrate agreement of the arrangement?

Question 6. MAS seeks comments on the requirements pertaining to the protection of customer information.

Encrypted Customer Information

Referring to the draft Notice, definition of “customer information”,

(a) any information relating to, or any particulars of, an account of a customer of the bank, whether the account is in respect of a loan, investment or any other type of transaction, but does not include any information that is not referable to any named customer or group of named customers; or (b) deposit information; “deposit information”, in relation to a bank, means any information relating to – (a) any deposit of a customer of the bank;

(b) funds of a customer under management by the bank; or

(c) any safe deposit box maintained by, or any safe custody arrangements made by, a customer with the bank, but does not include any information that is not referable to any named person or group of named persons;

There is no mention of the exclusion of public, anonymised and encrypted customer information in the above definition that is currently reflected in the Outsourcing Guidelines. where the definition of “customer information” means ... *(c) in the case of any other institution, information that relates to its customers and these include customers’ accounts, particulars, transaction details and dealings with the financial institutions, but does not include any information that is public, anonymised, or encrypted in a secure manner such that the identities of the customers cannot be readily inferred;*

Will MAS remove this exclusion and align the Outsourcing Guidelines definition to the definition in the new Notice? Therefore, will public, anonymised and encrypted information be considered customer information if it meets the new definition. It is unlikely that the above definition of customer information would be available publicly, and where anonymised and does not refer to name customers would not constitute customer information by the new definition. However, where name customer information is encrypted - would that be considered customer information under the new definition?

Question 7. MAS seeks comments on the requirements pertaining to the use of sub-contractors for material ongoing outsourced relevant services.

None noted

Question 8. MAS seeks comments on the requirements pertaining to the audit requirements for material ongoing outsourced relevant services.

None noted

Question 9. MAS seeks comments on the requirements pertaining to the termination of material ongoing outsourced relevant services.

None noted

Question 10. MAS seeks comments on the requirements in paragraph 4.22 pertaining to an ORFI's provision of material ongoing outsourced relevant services.

None noted

Question 11. MAS seeks comments on the requirement in paragraph 4.23 on a bank or an MB to provide MAS with a confirmation from the overseas supervisor of the ORFI and the scope of such a confirmation.

None noted

Question 12. MAS seeks comments on the requirements applicable to outsourced relevant services that involve the disclosure of customer information, and for the meaning of "customer" which will apply to these requirements to include companies which carry on banking business, merchant banking business or investment banking business.

None noted

Question 13. MAS seeks comments on the requirement for a bank or an MB incorporated in Singapore to implement a group policy on outsourced relevant services.

None noted

Question 14. MAS seeks comments on the effective dates of the proposed Notices.

None noted

Any other comments:

None noted