

Annex A

**LIST OF RESPONDENTS TO THE CONSULTATION PAPER ON
PROPOSED AMENDMENTS TO PAYMENT SERVICES ACT 2019**

1. Allen & Overy LLP, who requested for their comments to be kept confidential
2. Ashwin Mathialagan, who requested for some comments to be kept confidential
3. Bruc Bond Pte Ltd
4. Collyer Law LLC
5. Deutsche Bank A.G., Singapore Branch
6. Diginex
7. Ethikom Consultancy Pte Ltd
8. Global Digital Finance
9. Great South Gate (Anduril Pte Ltd), who requested for their comments to be kept confidential
10. Linklaters Singapore Pte Ltd, on behalf of the Singapore Fintech Association (with comments from Association of Cryptocurrency Enterprises and Start-ups), who requested for their comments to be kept confidential
11. Liu Xun Jeffery / I of Providence Pte Ltd
12. Luno Pte Ltd, who requested for their comments to be kept confidential
13. OC Queen Street LLC
14. Rajah & Tann Singapore LLP
15. Sidley Austin LLP, who requested for their comments to be kept confidential
16. Simmons & Simmons JWS Pte Ltd, on behalf of Association of Cryptocurrency Enterprises and Start-ups, who requested for their comments to be kept confidential
17. Wirex Pte Ltd
18. Wong Partnership LLP
19. Respondent A who requested for their identity to be kept confidential
20. 12 respondents who requested for full confidentiality of identity and comments

Please refer to Annex B for the submissions.

Annex B

**SUBMISSIONS FROM RESPONDENTS TO THE CONSULTATION PAPER ON
PROPOSED AMENDMENTS TO PAYMENT SERVICES ACT 2019**

S/N	Respondent	Feedback from Respondent
1	Ashwin Mathialagan	<p>General comments:</p> <p>I have some detailed observations to make in relation to the broad, ambiguous language used throughout the amendments as outlined in the Consultation Paper on the Proposed Amendments to Act (“CP”). While I broadly am supportive of the proposed changes as outlined in the CP, I have set out below my feedback, including proposing language for amendments, on some of the questions raised in the CP for MAS’ consideration.</p>
2	Bruc Bond Pte Ltd	<p>Question 1. MAS seeks comments on the proposed amendments, which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: (a) any service of accepting digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, as principal or agent, for the purposes of transferring, or arranging for the transfer of, the digital payment tokens to another digital payment token address or account, whether in Singapore or outside Singapore; and (b) any service of arranging for the transmission of digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, to another digital payment token address or account, whether in Singapore or outside Singapore.</p> <p>No comment</p> <p>Question 2. MAS seeks comments on the proposed amendment which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: any service of safeguarding or administration of (i) a digital payment token where the service provider has control over the digital payment token; or (ii) a digital payment token instrument where the service provider has control over the digital payment token associated with the digital payment token instrument.</p> <p>No comment</p> <p>Question 3. MAS seeks comments on the proposed amendment, which are in line with the FATF standards, to require entities that, as a business, provide any service of inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to buying or selling any digital payment tokens in exchange for any money or any other</p>

		<p>digital payment token (whether of the same or a different type), to be licensed, and subject to AML/CFT requirements.</p> <p>No comment</p> <p>Question 4. MAS seeks comments on the proposed amendment to include within the definition of “cross-border money transfer service”, the service of arranging for the transmission of money accepted in one country or territory, to another country or territory (other than the service of arranging for the receipt of any money from outside Singapore by any person in Singapore, whether as principal or agent).</p> <p>Bruc Bond Pte Ltd welcomes this proposed amendment. In our opinion, this change will bring the “brokers” of remittance providers under MAS’ purview which is imperative to further assist the regulated remittance businesses in Singapore in combating ML/TF risks. The risk of “brokers” partaking in illegal activities, knowingly or unknowingly, is high as without being regulated they may not conduct a thorough due diligence check on their customer’s and their beneficiaries. Transaction Monitoring by them may also not be as strict as for regulated entities. As a result, funds they move may not be entirely clean and thereby the revenue they earn.</p> <p>We agree with the rationale that such revenues aggregated by entities in Singapore are likely to present ML/TF risks to financial institutions in Singapore.</p> <p>Question 5. Power to impose user protection measures on certain DPT service providers. MAS seeks views on the proposed power to impose user protection measures on certain DPT service providers.</p> <p>No comment</p> <p>Question 6. Power to impose measures on prescribed DPT service providers. MAS seeks views on the proposed provision to empower MAS to impose additional measures on any DPT service provider or class of DPT service providers by way of subsidiary legislation, where this is necessary or expedient to ensure financial stability, safeguard efficacy of monetary policy, protect users or consumers, or is in the interest of the public or a section of the public.</p> <p>No comment</p> <p>Question 7. Amendments to the scope of domestic money transfer service. MAS seeks views on the proposed expansion of domestic money transfer service.</p> <p>Bruc Bond Pte Ltd requests a clarification on this proposed amendment. As per the definition of a “financial institution” under Part 3 of the First Schedule in the PS Act 2019, all payment service providers regulated by the Authority in Singapore or by an equivalent authority in a foreign country are also categorised as “financial institutions”. Taken together with clause 2(d) under</p>
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		<p>Part 2 of the First Schedule in the PS Act 2019, 2 payment service providers acting for their own accounts in the payment transaction is not a domestic money transfer service.</p> <p>If the above is accurate, then may we recommend the following definition for domestic money transfer service: “Domestic money transfer service” is currently defined to mean “the service of accepting money for the purpose of executing, or arranging for the execution of, any of the following payment transactions, each of which is between a payer in Singapore and a payee in Singapore, other than in the case where both the payer and the payee are financial institutions and are acting for their own accounts in the payment transaction”.</p> <p>Question 8. Amendments to the general duty to use reasonable care not to provide false information to MAS, and amendments to the safeguarding provision. MAS seeks views on the proposed amendments to section 94. MAS also seeks views on the proposed amendments to section 23.</p> <p>No comment</p>
3	Collyer Law	<p>Question 1. MAS seeks comments on the proposed amendments, which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: (a) any service of accepting digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, as principal or agent, for the purposes of transferring, or arranging for the transfer of, the digital payment tokens to another digital payment token address or account, whether in Singapore or outside Singapore; and (b) any service of arranging for the transmission of digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, to another digital payment token address or account, whether in Singapore or outside Singapore.</p> <p>We generally support the proposed amendments, save for the concern we had raised in earlier responses (to the consultation on the AML notices) that because the regulatory framework is limited to businesses, bad actors can always rely on P2P relationships to effect such transfers, thus driving these activities underground and away from the spotlight of regulatory supervision. We recognise that it is beyond the purview of MAS to regulate individual natural persons, but this is a regulatory gap that does need to be filled, if not by MAS, then by another government authority.</p> <p>Question 2. MAS seeks comments on the proposed amendment which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: any service of safeguarding or administration of (i) a digital payment token where the service provider has control over the digital payment token; or (ii) a digital payment token instrument where the service provider has control over the digital payment token associated with the digital payment token instrument.</p>

		<p>In order to reduce compliance and regulatory costs for new entrants who are not “Big Banks” with deep pockets, we urge MAS to consider granting appropriate exemptions to licensees who already having a capital markets services licence for providing custodial services, and vice versa. Digital tokens run the gamut from payment tokens (cryptocurrencies) to utility tokens to tokens that may exhibits characteristics of capital markets products (security tokens). Licensees or applicants that already custodise security tokens would already have the necessary AML procedures in place to identify, verify and monitor their customers.</p> <p>Question 3. MAS seeks comments on the proposed amendment, which are in line with the FATF standards, to require entities that, as a business, provide any service of inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to buying or selling any digital payment tokens in exchange for any money or any other digital payment token (whether of the same or a different type), to be licensed, and subject to AML/CFT requirements.</p> <p>We have always felt that the definition of “dealing in” in the PS Act was more limited than the equivalent definition in the SFA in relation to capital markets products, but we had assumed that this was because MAS is taking incremental steps with the PS Act and not over-regulate at the onset. This appears to be another incremental step to cover associated activities. In principle, we agree that inducing or attempting to induce any person to buy and sell DPTs should be caught by this definition, inasmuch as introducing brokers for CMPs are subject to the SFA.</p> <p>We do think there will be practical difficulties in enforcing marketing and promotion activities by introducing brokers given the way the blockchain community operates. Because of the nascent nature of DPTs, information is disseminated through blog articles on the likes of Medium and other similar websites unlike the more systematic and formal manner in which analysts and research houses produce reports on securities, and apparently independent reviewers can bypass marketing restrictions by providing “unbiased reviews” that are highly rated on forums.</p> <p>We also note that service providers will appreciate the extent to which certain activities currently regulated under the SFA, such as management of a portfolio of DPTs and advising on DPTs, come under the PS Act, since the definition of “fund management” in the SFA is limited to products and assets under that Act, and the Financial Advisers Act only covers advice on “investment products”. The term “dealing in” is broad enough to cover such activities, at least in theory, so it will be helpful if MAS could clarify this issue.</p> <p>Question 4. MAS seeks comments on the proposed amendment to include within the definition of “cross-border money transfer service”, the service of arranging for the transmission of money accepted in one country or territory, to another country or territory (other than the service of</p>
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		<p>arranging for the receipt of any money from outside Singapore by any person in Singapore, whether as principal or agent).</p> <p>We support the proposed amendment which will close a regulatory gap that may be exploited by overseas service providers.</p> <p>Question 5. Power to impose user protection measures on certain DPT service providers. MAS seeks views on the proposed power to impose user protection measures on certain DPT service providers.</p> <p>N.A.</p> <p>Question 6. Power to impose measures on prescribed DPT service providers. MAS seeks views on the proposed provision to empower MAS to impose additional measures on any DPT service provider or class of DPT service providers by way of subsidiary legislation, where this is necessary or expedient to ensure financial stability, safeguard efficacy of monetary policy, protect users or consumers, or is in the interest of the public or a section of the public.</p> <p>We support the proposed provision, but we wish to highlight that unlike bank accounts or even e-money accounts, assets may be held not in a customer’s name or identity number but by wallet addresses (which for AML reasons are still tied to a customer’s identity). A single customer may have multiple wallets holding different DPTs. The measures discussed in paragraph 3.6 of the consultation paper assume that a customer’s identity is the umbrella unique identifier, under which all his wallets will be grouped, like a depositor who has multiple bank accounts containing different currencies with the same bank.</p> <p>Question 7. Amendments to the scope of domestic money transfer service. MAS seeks views on the proposed expansion of domestic money transfer service.</p> <p>We support the proposed expansion.</p> <p>Question 8. Amendments to the general duty to use reasonable care not to provide false information to MAS, and amendments to the safeguarding provision. MAS seeks views on the proposed amendments to section 94. MAS also seeks views on the proposed amendments to section 23.</p> <p>We support the proposed amendment.</p>
4	Diginex	<p>General comments: Diginex provides this consultation response in addition to supporting the separate consultation response from Global Digital Finance (www.gdf.io) of which Diginex is a founding patron member.</p> <p>Question 1. MAS seeks comments on the proposed amendments, which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT</p>

	<p>requirements: (a) any service of accepting digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, as principal or agent, for the purposes of transferring, or arranging for the transfer of, the digital payment tokens to another digital payment token address or account, whether in Singapore or outside Singapore; and (b) any service of arranging for the transmission of digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, to another digital payment token address or account, whether in Singapore or outside Singapore.</p> <p>Diginex agrees with MAS in regard to this change in order to mitigate the risks of illicit use of DPTs. Diginex welcomes MAS' proactive approach in this respect to ensure that all relevant activities are captured in alignment with the FATF Standards.</p> <p>Question 2. MAS seeks comments on the proposed amendment which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: any service of safeguarding or administration of (i) a digital payment token where the service provider has control over the digital payment token; or (ii) a digital payment token instrument where the service provider has control over the digital payment token associated with the digital payment token instrument.</p> <p>Diginex agrees that stand-alone custodial wallet services should be subject to the PS Act and AML/CFT requirements. In doing so, this will build confidence in the industry for both customers and counterparties that trade DPTs that originate from an authorised custodial wallet services have been thoroughly reviewed for their potential to have originated from illicit sources, providing greater trust in the underlying token.</p> <p>However, Diginex highlights that some custodial wallet services may wish to custody not only DPTs but also security tokens that may require licensing under a Capital Markets Services License. Where such an occurrence may be present, MAS should ensure that the licensing regime is designed in a way to ensure that it is financially and operationally optimised for custodial wallet service that may operate across both PSA and CMSL requirements.</p> <p>Question 3. MAS seeks comments on the proposed amendment, which are in line with the FATF standards, to require entities that, as a business, provide any service of inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to buying or selling any digital payment tokens in exchange for any money or any other digital payment token (whether of the same or a different type), to be licensed, and subject to AML/CFT requirements.</p> <p>Diginex fully aligns to the FATF standards and MAS' proposed update to the PSA in this respect. This approach will help to promote greater security and robustness of the DPT ecosystem by firms operating from Singapore, as well</p>
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		<p>as more widely, and mitigate against the risk of circumventing the legislative framework.</p> <p>Question 4. MAS seeks comments on the proposed amendment to include within the definition of “cross-border money transfer service”, the service of arranging for the transmission of money accepted in one country or territory, to another country or territory (other than the service of arranging for the receipt of any money from outside Singapore by any person in Singapore, whether as principal or agent).</p> <p>In similar response to Question 3, Diginex is supportive of measures that protect the soundness of the DPT ecosystem from illicit use and that also promote Singapore as a centre of financial soundness and responsibility. Diginex believes this proposal will prevent Singapore being used as a incorporated base for firms providing unregulated extra-jurisdictional money transmission services where the funds never pass through Singapore.</p> <p>Question 5. Power to impose user protection measures on certain DPT service providers. MAS seeks views on the proposed power to impose user protection measures on certain DPT service providers.</p> <p>Diginex welcomes measures that increase the robustness of the DPT ecosystem and that protect customers, whilst promoting institutionally-sound financial practices, and see segregation of customer assets as a primary example of this. Such proposals as discussed in paragraphs 3.5 to 3.9 will assist in that regard although Diginex does note:</p> <ol style="list-style-type: none">1. The act discusses depositing customer money in a trust account with a safeguarding institution. If this is extended to DPT, there may currently be a limited number of suitably qualified and experienced safeguarding institutions. In this respect, a licensing regime in line with Question 2 (for AML/CFT) but also the CMSL for provision of custodial services may be required to adequately ensure that DPT safeguarding can be assured.2. Any prescribed percentage of hot to cold wallet should be subject to thorough consultation with both time to respond and implement, should it be subsequently become regulatory guidance. The determination of the percentage can be subject to a number of variables, including the trading frequency and market liquidity of individual DPTs as well as potential differences between retail and institutional use. <p>Question 6. Power to impose measures on prescribed DPT service providers. MAS seeks views on the proposed provision to empower MAS to impose additional measures on any DPT service provider or class of DPT service providers by way of subsidiary legislation, where this is necessary or expedient to ensure financial stability, safeguard efficacy of monetary policy, protect users or consumers, or is in the interest of the public or a section of the public.</p>
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5	Deutsche Bank A.G., Singapore	<p>Question 1. MAS seeks comments on the proposed amendments, which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: (a) any service of accepting digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, as principal or agent, for the purposes of transferring, or arranging for the transfer of, the digital payment tokens to another digital payment token address or account, whether in Singapore or outside Singapore; and (b) any service of arranging for the transmission of digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, to another digital payment token address or account, whether in Singapore or outside Singapore.</p> <p>DB agrees with MAS proposal to impose licencing and AML/CFT requirements on such agents, principles and facilitators operating in Singapore, who accept and transfer DPTs to DPT accounts regardless of the geographical location of the DPT account holders and token addresses.</p> <p>MAS should also consider the practical difficulties around enforcing extra-territoriality reach of the PSA, whereby DPT service providers operate outside of Singapore (i.e. not incorporated in Singapore) but offer DPT services to DPT holders based in Singapore whose accounts are set up with such DPT service providers outside of Singapore. This potentially creates a regulatory gap which the Authority cannot effectively enforce in relation to licensing or additional AML/CFT requirements which would apply to Singapore based DPT service providers. This creates regulatory arbitrage and potentially a non-level playing field for Singapore-based DPT service providers.</p>

		<p>The Authority may consider taking a stance to limit the offering of DPT services by foreign DPT service providers to persons in Singapore, or facilitate such services through other non-license or exempted DPT service agents in Singapore, regardless of whether the Singapore based DPT holder operates the account with a DPT service provider outside Singapore. This would be consistent with the approach the MAS has taken as specified under Securities & Futures Act, Section 339 – Extra-territoriality.</p> <p>Additionally, MAS may consider providing guidance on what non-securities or commodities based tokens qualify as DPTs regulated under PSA and those the Authority treat as “excluded digital representation of value”. The value of such a prescriptive approach enables the markets to clearly separate DPTs which will be subject to the Securities and Futures Act, PSA or other relevant legislation.</p> <p>Question 2. MAS seeks comments on the proposed amendment which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: any service of safeguarding or administration of (i) a digital payment token where the service provider has control over the digital payment token; or (ii) a digital payment token instrument where the service provider has control over the digital payment token associated with the digital payment token instrument.</p> <p>DB agrees with MAS’ proposal.</p> <p>MAS may consider making a clear statement on “has control over”, notably “control” in relation to custodial services for DPT which may vary in terms of possession, custody and control. This would also pave the way for greater certainty in the use of legal terms on how DPT custodial services are regulated.</p> <p>Question 3. MAS seeks comments on the proposed amendment, which are in line with the FATF standards, to require entities that, as a business, provide any service of inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to buying or selling any digital payment tokens in exchange for any money or any other digital payment token (whether of the same or a different type), to be licensed, and subject to AML/CFT requirements.</p> <p>We propose that MAS provides context around what actions of Virtual Asset Service Providers (“VASPs”) would constitute a VASP to be “actively facilitating”. Aside from inducing or attempting to induce, the act of marketing, advertising or promulgating DPTs could also be seen as an act of active facilitation. The issue on extra-territoriality based on reverse enquiry will arise where DPT investors in Singapore directly access websites of VASPs operating (and incorporated) outside Singapore for such offers. As such, DB is aware that there is no law prohibiting Singapore investors from buying or selling DPTs from non-MAS licensed VASPs. Therefore, not only should the Authority consider the regulatory gap in relation to AML/CFT, but also around market conduct and offers of investment.</p>
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6	Ethikom Consultancy Private Limited	<p>General comments:</p> <p>We conducted a regulatory meetup on 15 Jan 2020 which was attended by about 100 attendees from about 60 companies (including representatives from cryptocurrency exchanges, Blockchain companies, financial institutions, payment firms, consultancies, compliance and risk professionals and RegTech firms).</p> <p>The submissions below summarize the comments we received.</p> <p>Question 1. MAS seeks comments on the proposed amendments, which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: (a) any service of accepting digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, as principal or agent, for the purposes of transferring, or arranging for the transfer of, the digital payment tokens to another digital payment token address or account, whether in Singapore or outside Singapore; and (b) any service of arranging for the transmission of digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, to another digital payment token address or account, whether in Singapore or outside Singapore.</p> <p>Some participants seek clarification whether MAS has regulatory reach in an instance where a person provides the service of accepting digital payment tokens from a payment account or address outside of Singapore, to another payment account or address outside of Singapore. Presumably, where the</p>

		<p>service provider is incorporated and located outside of Singapore, and the transaction takes place completely outside of Singapore, this would not be within the regulatory ambit of the PSA. However, if the service provider is a Singapore company, and even if the communications were to take place outside of Singapore, would this fall within the scope of the PSA?</p> <p>Some participants were concerned about the potential width of this proposed activity. For instance, if someone were to receive DPTs from another party, which he then, at a subsequent point in time, sends across to a third party as a gift or for payment of services – that activity, should, in our view, not be considered as a payment services activity under the PSA. However, the width of the definition could catch potentially catch this activity. Please clarify if this understanding is not correct.</p> <p>Question 2. MAS seeks comments on the proposed amendment which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: any service of safeguarding or administration of (i) a digital payment token where the service provider has control over the digital payment token; or (ii) a digital payment token instrument where the service provider has control over the digital payment token associated with the digital payment token instrument.</p> <p>Participants ask for clarity on the scope of “control” as that is a critical feature of this service.</p> <p>We would also seek confirmation whether the provision a simple DPT wallet (in which the offeror of the service has no control at all over the assets) remains an unregulated activity?</p> <p>Question 3. MAS seeks comments on the proposed amendment, which are in line with the FATF standards, to require entities that, as a business, provide any service of inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to buying or selling any digital payment tokens in exchange for any money or any other digital payment token (whether of the same or a different type), to be licensed, and subject to AML/CFT requirements.</p> <p>Participants are concerned about the width of this proposed definition. For instance, will an issuer of utility tokens be caught as a payment services provider under this limb, as that could be deemed as a business of inducing any person to enter into an agreement with a view of buying a DPT?</p> <p>Question 4. MAS seeks comments on the proposed amendment to include within the definition of “cross-border money transfer service”, the service of arranging for the transmission of money accepted in one country or territory, to another country or territory (other than the service of arranging for the receipt of any money from outside Singapore by any person in Singapore, whether as principal or agent).</p>
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		<p>Participants commented that they preferred for this to fall under the current concept of “agents” of remittance companies – where the licenced cross-border payments services licensee has responsibility and oversight over such agents. Participants wonder whether there will a duplication in connection with the concept of such “agents”.</p> <p>Participants also sought clarification, where an e-wallet provider were to link up their customers to a cross-border payment services firm, whether the e-wallet provider will also be deemed to conduct the activity of “cross-border money transfer services” – as that may be interpreted as “arranging for the transmission of money”?</p> <p>Question 5. Power to impose user protection measures on certain DPT service providers. MAS seeks views on the proposed power to impose user protection measures on certain DPT service providers.</p> <p>Some participants were concerned that this may not be practical or relevant in the case of a DPT that has no underlying assets - (for instance a pure utility token with no underlying asset) .</p> <p>Question 6. Power to impose measures on prescribed DPT service providers. MAS seeks views on the proposed provision to empower MAS to impose additional measures on any DPT service provider or class of DPT service providers by way of subsidiary legislation, where this is necessary or expedient to ensure financial stability, safeguard efficacy of monetary policy, protect users or consumers, or is in the interest of the public or a section of the public.</p> <p>We have no comments</p> <p>Question 7. Amendments to the scope of domestic money transfer service. MAS seeks views on the proposed expansion of domestic money transfer service.</p> <p>We have no comments</p> <p>Question 8. Amendments to the general duty to use reasonable care not to provide false information to MAS, and amendments to the safeguarding provision. MAS seeks views on the proposed amendments to section 94. MAS also seeks views on the proposed amendments to section 23.</p> <p>We have no comments</p>
7	Liu Xun (Jeffery) / I Of Providence Pte Ltd	<p>Question 3. MAS seeks comments on the proposed amendment, which are in line with the FATF standards, to require entities that, as a business, provide any service of inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to buying or selling any digital payment tokens in exchange for any money or any other</p>

	<p>digital payment token (whether of the same or a different type), to be licensed, and subject to AML/CFT requirements.</p> <p>Dear MAS Team,</p> <p>I am opposed to the proposed amendments whereby the activity of “actively facilitating” now does not require the facilitating party to have possession of the asset. This is due to two reasons which I will argue below:</p> <p><u>Reason One: This amendment adds ambiguity to the PSA, and won’t protect consumers.</u></p> <p>The concept of possession or non-possession is easily determinable, <i>especially</i> when dealing with cryptocurrencies. To not take advantage of this would be wasteful.</p> <p>Once “possession” is no longer the primary factor determining the “<i>facilitation</i>”. It makes the PSA open to all forms of interpretation by business, and prosecutors. And if the letter of the law is ambiguous, the spirit of the law won’t be honored.</p> <p>Take brokering financial products in Singapore as an example. By law, brokers that <i>actively facilitate the buying or selling of financial products are required to observe various regulatory limitations.</i></p> <p>As a result, there are now vast swathes of “<i>advisors</i>”, “<i>introducers</i>”, “<i>life-coaches</i>” that are targeting consumers instead. One only has to open up Youtube, and if unlucky, you will come across indirect advertisements for financial products that these businesses sell.</p> <p><u>Two: These proposed changes will stifle the crucial innovation of blockchain/crypto in Singapore if it does not drive it out.</u></p> <p>The buying and selling of cryptocurrencies (hereafter referred to as “trading”) evolved in a manner whereby all participants wishing to trade, have to give up possession of their assets to a centralized counter-party (The exchange, custodian, or marketplace).</p> <p>The counterparty risk that consumers face in this instance is clear and emphasized through the dozens of exchange hacks, and billions in liquid <i>fiat</i>-currencies that have been lost and stolen.</p> <p>The benefits that consumers enjoy in this instance is also well documented. Which is that consumers may enjoy a better user experience, and sometimes better prices, due to higher liquidity.</p> <p>These kinds of platforms are in direct competition with their newer and more innovative counterparts. Which are marketplaces whereby the customers retain possession of their assets (Decentralized Exchanges, Smart-Contracts, Liquidity Information Aggregators, hereafter referred to as “DEXes”).</p>
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8	OC Queen Street LLC	<p>Question 1. MAS seeks comments on the proposed amendments, which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: (a) any service of accepting digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, as principal or agent, for the purposes of transferring, or arranging for the transfer of, the digital payment tokens to another digital payment token address or account, whether in Singapore or outside Singapore; and (b) any service of arranging for the transmission of digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, to another digital payment token address or account, whether in Singapore or outside Singapore.</p> <p>We agree with the proposed amendments that seek to align the current PS Act with international standards of mitigating AML/CFT risks involved in the transfer of DPTs.</p> <p>However, it may be onerous to require all entities who transfer DPTs to be regulated without considering the exact risks that underlies the DPT transfer. A deeper inquiry into the mechanism of such a transfer is necessary, as not all entities who transfer DPTs may pose sufficient or the same ML/FT threats that warrant the same treatment.</p>

	<p>For example, we suggest that the proposed amendments should have granularity in distinguishing between DPT transfers that occur within permissioned and permissionless systems. According to the World Bank, the key difference between a permissioned and a permissionless system is the ownership of network access control. In a permissionless system, the network access is not controlled by a central entity. On the other hand, a permissioned system usually has a principal administrator who enforces certain rules and protocols across the system.</p> <p>DPT transfers that occur within permissionless systems may involve in its operation, technologies that can obfuscate the identity of the sender, recipient or holder of the DPT. In such a case, regulative measures should be imposed on such an entity that carries out a transfer of DPTs without having the means to verify the identities of the parties enacting such a transfer.</p> <p>However, entities who operate using permissioned systems may already comply with existing CDD requirements when onboarding or servicing its users. DPT service providers in permissioned systems may access information regarding the identity of its users and/or other necessary information. As such, a transfer of DPT in this context would not pose the same level of ML/FT risks that would warrant regulation under the PS Act.</p> <p>The implication of taking a broad brush approach on all transfers of DPT, in both permissioned and permissionless systems, might hinder the growth of payment services in Singapore.</p> <p>Question 2. MAS seeks comments on the proposed amendment which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: any service of safeguarding or administration of (i) a digital payment token where the service provider has control over the digital payment token; or (ii) a digital payment token instrument where the service provider has control over the digital payment token associated with the digital payment token instrument.</p> <p>We agree with this proposed amendment, as entities that offer standalone custodial services for DPTs can be abused by bad actors to safe-keep illicit assets. During our Roundtable, 50% of our attendees also expressed their support for this amendment. However, we have three recommendations to make which may strengthen the regulatory intent of this amendment.</p> <p>Firstly, we recommend that MAS should clarify the scope of the term ‘control’ as there appears to be a substantive overlap between a service provider’s ‘control’ and ‘possession’ (in the context of facilitating the exchange) of a DPT.</p> <p>The current PS Act requires an entity who comes into possession of a DPT, when facilitating an exchange, to be licensed as a DPT service provider. Such entities include DPT exchangers who offer custodial wallet services.</p> <p>Now, this proposed amendment intends to regulate standalone custodial wallet service providers who may not facilitate an exchange of DPTs, but</p>
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	<p>nonetheless, exert control over the DPT or control over the DPT instrument that is associated with the DPT. It follows that ‘control’ over such a wallet, on plain reading, would refer to the ability to execute a transfer or movement of the DPT from such a wallet.</p> <p>Therefore, the definition of ‘control’ appears to be materially similar to possession, where the entity has the means to execute a transfer from the wallet. Further clarification on this term would be beneficial.</p> <p>Secondly, we recommend that MAS should provide further guidance on the differences between (i) control over a DPT; and (ii) control over a DPT instrument. During our Roundtable discussion, 64% of our attendees expressed that there should not be such a difference, in that it is sufficient that there is control over a DPT whether via a DPT instrument or otherwise. Further clarification as to how these two limbs are different would be useful.</p> <p>Lastly, we recommend that MAS should provide further clarification on the definition of safeguarding and administering. An attendee of our Roundtable noted that in the United Kingdom, an act of ‘administering’ a DPT transfer was not considered as a sufficient justification for AML/CFT regulation to apply. Attendees also expressed that an act of ‘administering’ is too broad. Further clarification on these two terms would also be helpful.</p> <p>Question 3. MAS seeks comments on the proposed amendment, which are in line with the FATF standards, to require entities that, as a business, provide any service of inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to buying or selling any digital payment tokens in exchange for any money or any other digital payment token (whether of the same or a different type), to be licensed, and subject to AML/CFT requirements.</p> <p>We agree with this proposed amendment. However, during our Roundtable, 57% of our attendees did not agree that the definition of a DPT service provider should include an act of inducing or attempted inducing of any person to enter an agreement to buy or sell DPT.</p> <p>While the FATF standards (in which these proposed amendments are based on) state that virtual asset providers ought to be regulated if they ‘actively facilitate’ an activity, it appears that the PS Act’s phraseology of ‘inducing’ has a different meaning from ‘active facilitation’ in the FATF. Furthermore, several of our Roundtable attendees expressed that the term ‘inducing’ is very much broader than a plain reading of active facilitation. Therefore, a clarification on the definition of ‘inducing’ would be helpful in determining the scope of such an activity.</p> <p>Question 4. MAS seeks comments on the proposed amendment to include within the definition of “cross-border money transfer service”, the service of arranging for the transmission of money accepted in one country or territory, to another country or territory (other than the service of</p>
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		<p>arranging for the receipt of any money from outside Singapore by any person in Singapore, whether as principal or agent).</p> <p>We have no comments.</p> <p>Question 5. Power to impose user protection measures on certain DPT service providers. MAS seeks views on the proposed power to impose user protection measures on certain DPT service providers.</p> <p>We agree that further user protection measures on certain DPT service providers may be appropriate. Furthermore, 92% of our Roundtable attendees agreed that such user protection measures should be imposed.</p> <p>The PS Act currently places restrictions on holdings in e-money wallets. Although there are exceptions provided for in the Payment Services Regulations, it has been a perennial concern that wallet caps may slow down the growth of e-payments.</p> <p>These same concerns also apply to a DPT wallet. The proposed amendments contemplate giving MAS the power to impose user protection measures such as anti-comingling measures, ring fencing of customer assets, and the maintenance of customer assets and licensee assets amongst other protection measures. These measures may impede the adoption of DPTs for e-payments. While AML/CFT risks are always a primary concern, a successful payments system should enjoy a wide circulation.</p> <p>Question 6. Power to impose measures on prescribed DPT service providers. MAS seeks views on the proposed provision to empower MAS to impose additional measures on any DPT service provider or class of DPT service providers by way of subsidiary legislation, where this is necessary or expedient to ensure financial stability, safeguard efficacy of monetary policy, protect users or consumers, or is in the interest of the public or a section of the public.</p> <p>We agree with the proposed amendments that may empower MAS to impose additional measures on DPT service providers. Such measures may include existing measures applicable to account issuance service providers (such as stock and flow caps). However, we reiterate the same concern that such measures may impede the adoption of DPTs for e-payments. While AML/CFT risks are always a primary concern, a successful payments system should enjoy a wide circulation.</p> <p>Question 7. Amendments to the scope of domestic money transfer service. MAS seeks views on the proposed expansion of domestic money transfer service.</p> <p>We have no comments.</p> <p>Question 8. Amendments to the general duty to use reasonable care not to provide false information to MAS, and amendments to the safeguarding</p>
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		<p>provision. MAS seeks views on the proposed amendments to section 94. MAS also seeks views on the proposed amendments to section 23.</p> <p>We have no comments.</p>
9	Rajah & Tann LLP	<p>General comments:</p> <p>We generally support the MAS’s proposed expansion of regulated activities in line with the FATF’s recommendations. Before we give our specific comments, we have certain general queries/comments in relation to the proposed amendments to the PS Act:</p> <p>(1) We note that paragraph 2.3 of the Consultation Paper states that “[t]he regulation of other DPT activities covered in the enhanced FATF Standards are already within the scope of the prevailing PS Act, i.e. exchange between DPTs and fiat currencies, exchange between one or more forms of DPTs, and <u>participation in and provision of financial services related to an issuer’s offer and/or sale of a DPT.</u>”</p> <p>While we note that the “<u>participation in and provision of financial services related to an issuer’s offer and/or sale of a DPT</u>” is considered by the MAS to already fall within the current scope of “digital payment token services” regulated under the prevailing PS Act, it is not entirely clear whether an issuer itself in offering/selling its own DPT whether directly or with the assistance of any intermediary is intended to be subject to regulation under the prevailing PS Act. Would issuers of digital payment tokens be regarded as carrying on the business of “<i>buying and selling</i>” DPTs? The initial Consultation Paper on Proposed Payment Services Bill published on 21 November 2017 and the Response to Feedback both used the language of “virtual currency intermediaries”, and it is not clear whether the focus of the regulatory scope is only on intermediaries who deal in digital payment tokens rather than the principal or issuers themselves. It would be beneficial to the industry if clarity could be given by the MAS on this important issue given that Singapore is used as an Initial Coin Offering jurisdiction. Indeed, many issuers may take the view that they are not in the business of buying or selling digital payment tokens, unlike an exchange or broker, but are raising funds by way of issuing digital payment tokens to pursue their business as set out in their white paper.</p> <p>(2) We would propose that there should be a grace period provided to entities currently providing the activities described in paragraph 2.2 of the Consultation Paper (which are proposed to be regulated under the PS Act) to assess if the licensing requirements will apply to them and to apply for the necessary licence.</p> <p>Question 1. MAS seeks comments on the proposed amendments, which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: (a) any service of accepting digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, as principal or agent, for the purposes of transferring, or arranging for the transfer of, the digital payment tokens to another digital</p>

		<p>payment token address or account, whether in Singapore or outside Singapore; and (b) any service of arranging for the transmission of digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, to another digital payment token address or account, whether in Singapore or outside Singapore.</p> <p>(1) We seek more clarity on the scope of the new proposed regulated activity of “any service of arranging for the transmission of digital payment token” set out in para (d) of the newly proposed definition of “digital payment token service”. For example, we would like to clarify if it is intended to capture persons who mine bitcoins or other virtual currencies by verifying transactions in bitcoin or other virtual currencies on their respective blockchain protocols, or persons who function as “nodes” on blockchains generally who verify transactions on such blockchains in exchange for a reward.</p> <p>We suggest that such persons should not be caught within the regulatory scope as there is no AML/CFT risk for persons conducting the bitcoin mining activity as they do not deal with the persons buying/selling bitcoins and would not be in a position to carry out any AML/CFT.</p> <p>Question 2. MAS seeks comments on the proposed amendment which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: any service of safeguarding or administration of (i) a digital payment token where the service provider has control over the digital payment token; or (ii) a digital payment token instrument where the service provider has control over the digital payment token associated with the digital payment token instrument.</p> <p>(1) This amendment is welcome as it brings Singapore's regulatory regime in line with other jurisdictions. For instance, Art 1(2) of Directive (EU) 2018/843 (“MLD 5”) has extended AML/CFT policy requirements to “custodial wallet providers”. They would need to fulfil customer due diligence obligations and report suspicious activity they detect.</p> <p>As highlighted in paragraph 8 of MLD 5, the purpose of this amendment is to prevent terrorist groups from transferring money into the Union financial system or within virtual currency networks by concealing transfers or by benefiting from a certain degree of anonymity on those platforms. This basis is similar to the FATF’s rationale. The UK has also launched the Money Laundering and Terrorist Financing (Amendment) Regulations 2019, which includes custodian wallet providers under the FCA’s purview.</p> <p>(2) We note that the MAS has provided some guidance on the meaning of “service of administration of a digital payment token” and “service of administration of a digital payment token instrument” by proposing to define such terms in the draft amendments. It would be helpful if the MAS could also provide further guidance on the meaning of “service of safeguarding” of, as well as “control over”, “digital payment token” and “digital payment token instrument” respectively.</p>
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		<p>(3) Similar to question 1 above, we would also like to clarify if this new digital payment token service is intended to capture persons who mine bitcoins or other virtual currencies by verifying transactions in bitcoin or other virtual currencies on their respective blockchain protocol, or persons who function as “nodes” on blockchains generally who verify transactions on such blockchains in exchange for a reward, as such persons may potentially be described as “carrying out... instructions relating to... digital payment tokens”.</p> <p>Question 3. MAS seeks comments on the proposed amendment, which are in line with the FATF standards, to require entities that, as a business, provide any service of inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to buying or selling any digital payment tokens in exchange for any money or any other digital payment token (whether of the same or a different type), to be licensed, and subject to AML/CFT requirements.</p> <p>As with the present difficulty of understanding whether issuers of DPTs are intended to be caught under the PS Act for <i>“buying and selling” DPTs</i>, please clarify whether issuers of DPTs will be regarded as carrying out any <i>“service of inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to buying or selling any digital payment tokens in exchange for any money or any other digital payment token (whether of the same or a different type)”</i> even though the issuers are acting solely for themselves and not as intermediaries. Should there be an exemption for issuers of DPTs as long as they act for themselves only and deals through an intermediary who is licensed under the PS Act for the activity (and will therefore be subject to AML/CFT requirements and observe such requirements in respect of all such dealing)?</p> <p>Further, given that [accepting/using] <i>“any digital payment token as a means of payment for the provision of goods or services”</i> (the “Carved-out Transaction”) is expressly excluded within the definition of “dealing in” in relation to any digital payment token under the prevailing PS Act (being <i>“the buying or selling of that digital payment token in exchange for any money or any other digital payment token (whether of the same or a different type)”</i>), for consistency with the foregoing in relation to the scope of <i>“dealing in digital payment tokens”</i>, should the Carved-out Transaction also be expressly excluded from this new payment service of <i>“inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to buying or selling any digital payment tokens in exchange for any money or any other digital payment token”</i>?</p> <p>Question 4. MAS seeks comments on the proposed amendment to include within the definition of “cross-border money transfer service”, the service of arranging for the transmission of money accepted in one country or territory, to another country or territory (other than the service of arranging for the receipt of any money from outside Singapore by any person in Singapore, whether as principal or agent).</p>
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	<p>We propose fine-tuning the drafting of the new sub-paragraph (c) of the definition of “cross-border money transfer service” so that it is consistent with the current outward and inward limbs in sub-paragraphs (a) and (b) of the definition in the prevailing PS Act as follows. Please confirm that this reflects the Authority’s intentions accurately:</p> <p>“any service of arranging for the transmission of money accepted in one country or territory, to another country or territory, whether as principal or agent (other than any service falling within paragraph (b) above, and any such service that the Authority may prescribe)”</p> <p>Question 5. Power to impose user protection measures on certain DPT service providers. MAS seeks views on the proposed power to impose user protection measures on certain DPT service providers.</p> <p>No comment.</p> <p>Question 6. Power to impose measures on prescribed DPT service providers. MAS seeks views on the proposed provision to empower MAS to impose additional measures on any DPT service provider or class of DPT service providers by way of subsidiary legislation, where this is necessary or expedient to ensure financial stability, safeguard efficacy of monetary policy, protect users or consumers, or is in the interest of the public or a section of the public.</p> <p>No comment.</p> <p>Question 7. Amendments to the scope of domestic money transfer service. MAS seeks views on the proposed expansion of domestic money transfer service.</p> <p>(1) We note the rationale behind this expansion in the scope of “domestic money transfer service” is for customer protection as stated in paragraph 3.13 of the Consultation Paper: <i>“the wider scope... means that customer money is protected under section 23 for more types of payment transactions”</i>. We understand the policy rationale for this amendment is to ensure that the safeguards provided in section 23 of the PS Act are only excluded for a payment transaction relating to a domestic money transfer service that involves solely financial institutions.</p> <p>We submit that the carve out should be retained for a payment transaction involving a domestic money transfer service provider which is acting solely as an agent of the financial institution (whether as payer or payee). We propose that there is no need for the safeguards under section 23 of the PS Act to apply to such a scenario.</p> <p>For the same reasons, we submit that a similar carve-out should be made for “cross-border money transfer” services that involve solely financial institutions, especially in relation to a cross-border money transfer where the</p>
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		<p>service provider acts solely as an agent for a financial institution licensed by the MAS.</p> <p>While we note that there exist exclusions from the definition of “payment service” for “wholesale” payment service providers in paragraphs 2(c) and 2(d) of Part 2 of the First Schedule of the PS Act, these would not apply generally to payment service providers who execute payment transactions between financial institutions generally.</p> <p>Question 8. Amendments to the general duty to use reasonable care not to provide false information to MAS, and amendments to the safeguarding provision. MAS seeks views on the proposed amendments to section 94. MAS also seeks views on the proposed amendments to section 23.</p> <p>No comment.</p>
10	Wirex Pte Ltd	<p>General Comments:</p> <p>We note that paragraph 2.14 states: “Legislation today already captures an entity that provides services in Singapore, regardless of whether the entity is created in Singapore. However, in line with the FATF standards, MAS intends to introduce, as a new class of FIs, entities that are created in Singapore, which provide VASP services outside of Singapore. These provisions will be set out in a separate Act and consulted upon at a later stage. For such VASPs that may decide to use Singapore as a base of incorporation, MAS will apply licensing and admission criteria, to ensure that such entities have a meaningful presence in Singapore and for MAS to have adequate supervisory oversight over them, even as they provide VASP services outside of Singapore.</p> <p>Question 1. MAS seeks comments on the proposed amendments, which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: (a) any service of accepting digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, as principal or agent, for the purposes of transferring, or arranging for the transfer of, the digital payment tokens to another digital payment token address or account, whether in Singapore or outside Singapore; and (b) any service of arranging for the transmission of digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, to another digital payment token address or account, whether in Singapore or outside Singapore.</p> <p>No Comments</p> <p>Question 2. MAS seeks comments on the proposed amendment which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: any service of safeguarding or administration of (i) a digital payment token where the service provider has control over the digital payment token; or (ii) a digital payment token instrument where the service</p>

		<p>provider has control over the digital payment token associated with the digital payment token instrument.</p> <p>No Comments</p> <p>Question 3. MAS seeks comments on the proposed amendment, which are in line with the FATF standards, to require entities that, as a business, provide any service of inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to buying or selling any digital payment tokens in exchange for any money or any other digital payment token (whether of the same or a different type), to be licensed, and subject to AML/CFT requirements.</p> <p>No Comments</p> <p>Question 4. MAS seeks comments on the proposed amendment to include within the definition of “cross-border money transfer service”, the service of arranging for the transmission of money accepted in one country or territory, to another country or territory (other than the service of arranging for the receipt of any money from outside Singapore by any person in Singapore, whether as principal or agent).</p> <p>No Comments</p> <p>Question 5. Power to impose user protection measures on certain DPT service providers. MAS seeks views on the proposed power to impose user protection measures on certain DPT service providers.</p> <p>We note that the power to impose user protection measures on certain DPT service would include:</p> <ul style="list-style-type: none">• “Anti-comingling measures to require DPT service providers to segregate customer assets from own assets;”• “Ring-fencing customer assets to protect them from claims from other creditors in the event of the licensee’s insolvency;”• “Maintenance of customer assets and licensee’s assets in a prescribed manner, for example maintaining a prescribed percentage of customer assets in a cold wallet, and maintaining a prescribed percentage of the licensee’s own assets in a cold wallet.” <p>Wirex comments:</p> <ul style="list-style-type: none">• Could you please provide a definition of “cold wallet”? We note that there is no accepted definition of a cold wallet. We also note that it has not been ascertained, from a technical and operational standpoint, whether cold wallets are safer than other methods of digital asset storage.• Which elements would be taken into consideration for MAS when determining a prescribed percentage of the licensee’s own assets in a cold wallet (for ex, the type of payment services offered to customers,
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		<p>the liquidity, other corporate elements)? In which case, would the MAS decide to use such measures?</p> <ul style="list-style-type: none"> • Prescribing a certain percentage as a regulatory requirement rather than a commercial requirement would penalise payment operators as businesses need some flexibility to maintain liquidity especially in consideration of digital token volatility. • Are the above three measures (anti-comingling measures, ring-fencing, maintenance of customer/licensee assets in a prescribed manner) an exhaustive list of what user protection measures may cover? • Could you please explain why the above measures are not a continuous requirement for the licensee from the start of operating its regulated activity? Our understanding is that the measures only become potentially a requirement, when MAS decides to impose such measures. However, for business continuity and operational clarity measures such as these would best be prescribed to businesses from the commencement of operations or the grant of licensing, as such measures can have a detrimental effect on a company’s business model and monetization strategy. <p>Question 6. Power to impose measures on prescribed DPT service providers. MAS seeks views on the proposed provision to empower MAS to impose additional measures on any DPT service provider or class of DPT service providers by way of subsidiary legislation, where this is necessary or expedient to ensure financial stability, safeguard efficacy of monetary policy, protect users or consumers, or is in the interest of the public or a section of the public.</p> <p>The amendment authorising the MAS to impose “additional measures” is drafted in broad terms, which does not give enough legal certainty for DPT licensees in their compliance. Could you please clarify the scope of those “additional measures” and what kind of measures can be decided in practice? In this respect, for legal certainty and risk assessment, we would welcome an exhaustive list of measures reflecting the scope of those “additional measures” (mirror to the power of imposing user protection, which is limited to three measures, see question 5).</p> <p>Question 7. Amendments to the scope of domestic money transfer service. MAS seeks views on the proposed expansion of domestic money transfer service.</p> <p>No Comments</p> <p>Question 8. Amendments to the general duty to use reasonable care not to provide false information to MAS, and amendments to the safeguarding provision. MAS seeks views on the proposed amendments to section 94. MAS also seeks views on the proposed amendments to section 23.</p> <p>No Comments</p>
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<p>11</p>	<p>Wong Partnership LLP</p>	<p>Question 1. MAS seeks comments on the proposed amendments, which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: (a) any service of accepting digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, as principal or agent, for the purposes of transferring, or arranging for the transfer of, the digital payment tokens to another digital payment token address or account, whether in Singapore or outside Singapore; and (b) any service of arranging for the transmission of digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, to another digital payment token address or account, whether in Singapore or outside Singapore.</p> <p>We support the proposal to align the digital payment token services regulated under the Payment Services Act 2019 ("PSA") with the FATF standards.</p> <p>However, we note that under paragraph 2(l) of the First Schedule to the PSA "any service of dealing in, or facilitating the exchange of, any limited purpose digital payment token" ("Para 2(l) Exclusion") would not be regarded as a regulated payment service. This exclusion corresponds with the current definition of "digital payment token service" which in essence, includes any service of dealing in or facilitating the exchange of digital payment tokens.</p> <p>Paragraph 3, Part 3 of the First Schedule to the PSA defines "limited purpose digital payment token" to mean any non-monetary customer loyalty or reward point, any in-game asset, or any similar digital representation of value that —</p> <ul style="list-style-type: none"> (a) cannot be returned to its issuer, transferred or sold in exchange for money; and (b) may only be used — <ul style="list-style-type: none"> (i) in the case of a non-monetary customer loyalty or reward point — for the payment or part payment of, or in exchange for, goods or services, or both, provided by its issuer or any merchant specified by its issuer; or (ii) in the case of an in-game asset — for the payment of, or in exchange for, virtual objects or virtual services within an online game, or any similar thing within, that is part of, or in relation to, an online game. <p>We understand that the rationale for the above definition of "limited purpose digital payment token" is that these types of virtual currency are <i>limited in user reach</i> and scope of use as services based on these types of virtual currency pose less of a risk than widely used virtual currency such as Bitcoin and Ether", as mentioned in paragraph 3.24 of MAS' Consultation Paper on the Proposed Payment Services Bill issued on 21 November 2017 ("Nov 2017 CP"). Further, we note from paragraph 47 of FATF's Guidance For A Risk-Based</p>
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	<p>Approach to Virtual Assets and Virtual Asset Service Providers ("FATF Guidance") that FATF "does not seek to capture the types of closed-loop items that are <i>non-transferable, non-exchangeable, and non-fungible</i>. Such items might include airline miles, credit card awards, or similar loyalty program rewards or points, which an individual <i>cannot sell onward in a secondary market</i>."</p> <p>Based on paragraph 2.2 of the Consultation Paper on the Payment Services Act 2019: Proposed Amendments to the Act ("Dec 2019 CP"), the proposed expanded scope of "digital payment token service" includes the following activities:</p> <ul style="list-style-type: none">(a) transfer of digital payment tokens;(b) provision of custodian wallets for or on behalf of customers;(c) brokering of digital payment tokens transactions (without possession of money or digital payment tokens by the digital payment token service provider); and(d) brokering of cross-border money transfer services (without moneys accepted or received in Singapore by the payment service provider). <p>In light of the expanded scope of the definition of "digital payment token service" as set out above, we would suggest that the activities excluded under the Para 2(l) Exclusion should also include the proposed expanded scope of digital payment token services as described above to the extent that such services relate to limited purpose digital payment tokens as currently defined in Paragraph 3, Part 3 of the First Schedule to the PSA.</p> <p>Question 2. MAS seeks comments on the proposed amendment which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: any service of safeguarding or administration of (i) a digital payment token where the service provider has control over the digital payment token; or (ii) a digital payment token instrument where the service provider has control over the digital payment token associated with the digital payment token instrument.</p> <p>We are supportive of the proposed amendment which are in line with the FATF standards.</p> <p>Similarly, we would also suggest that the exclusion in Para 2(l) Exclusion should also include the provision of custodial wallets for limited purpose digital payment tokens as defined in Paragraph 3, Part 3 of the First Schedule to the PSA.</p> <p>Question 3. MAS seeks comments on the proposed amendment, which are in line with the FATF standards, to require entities that, as a business, provide any service of inducing or attempting to induce any person to enter</p>
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		<p>into or to offer to enter into any agreement for or with a view to buying or selling any digital payment tokens in exchange for any money or any other digital payment token (whether of the same or a different type), to be licensed, and subject to AML/CFT requirements.</p> <p>We are supportive of the proposed amendment which are in line with the FATF standards. However as suggested above, the exclusion in Para 2(l) Exclusion should also include the proposed expanded activity for limited purpose digital payment tokens as defined in Paragraph 3, Part 3 of the First Schedule to the PSA.</p> <p>Question 4. MAS seeks comments on the proposed amendment to include within the definition of “cross-border money transfer service”, the service of arranging for the transmission of money accepted in one country or territory, to another country or territory (other than the service of arranging for the receipt of any money from outside Singapore by any person in Singapore, whether as principal or agent).</p> <p>We are supportive of the proposed amendment to the definition of “cross-border money transfer service” as the brokering of cross-border money transfer services (without moneys accepted or received in Singapore by the payment service provider) could also give rise to money-laundering risks. The imposition of AML obligations on such service providers would assist to mitigate money-laundering risks.</p> <p>However, we would suggest reviewing the exemption currently set out in Regulation 29 of the Payment Services Regulation to consider whether further amendments are required to exempt domestic money transfer providers (A) from the requirement to be licensed for cross border money transfer services where A only arranges for, without accepting such funds, the transmission of money to another person outside Singapore (C) through a service provide (D) that is licensed or exempt from holding a licence to provide cross border money transfer service under the PSA.</p> <p>Question 5. Power to impose user protection measures on certain DPT service providers. MAS seeks views on the proposed power to impose user protection measures on certain DPT service providers.</p> <p>We are supportive of the proposed power to impose user protection measures on certain DPT service providers.</p> <p>Question 6. Power to impose measures on prescribed DPT service providers. MAS seeks views on the proposed provision to empower MAS to impose additional measures on any DPT service provider or class of DPT service providers by way of subsidiary legislation, where this is necessary or expedient to ensure financial stability, safeguard efficacy of monetary policy, protect users or consumers, or is in the interest of the public or a section of the public.</p>
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12	Respondent A	<p>Question 1. MAS seeks comments on the proposed amendments, which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: (a) any service of accepting digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, as principal or agent, for the purposes of transferring, or arranging for the transfer of, the digital payment tokens to another digital payment token address or account, whether in Singapore or outside Singapore; and (b) any service of arranging for the transmission of digital payment tokens from one digital payment token address or account, whether in Singapore or outside Singapore, to another digital payment token address or account, whether in Singapore or outside Singapore.</p> <p>NA.</p> <p>Question 2. MAS seeks comments on the proposed amendment which are in line with the FATF standards, to require entities that, as a business, provide the following services, to be licensed and subject to AML/CFT requirements: any service of safeguarding or administration of (i) a digital payment token where the service provider has control over the digital payment token; or (ii) a digital payment token instrument where the service provider has control over the digital payment token associated with the digital payment token instrument.</p> <p>NA.</p> <p>Question 3. MAS seeks comments on the proposed amendment, which are in line with the FATF standards, to require entities that, as a business, provide any service of inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to buying or selling any digital payment tokens in exchange for any money or any other digital payment token (whether of the same or a different type), to be licensed, and subject to AML/CFT requirements.</p>

		<p>We are [Redacted]. and we are in the business of operating the [Redacted]. The [Redacted] can be categorised as a non-custodial, non-obfuscating exchange (NCNO). It is non-custodial because we do not come into possession of any users’ funds at any point of a transaction between two users. It is non-obfuscating because we do not provide any products or services that allow for reduced transparency and increased obfuscation of financial flows (e.g. render transactions anonymous, and not merely pseudonymous based on the public wallet address).</p> <p>We have reviewed the PS Act and welcome MAS’ intent to expand the scope of “digital payment token service”. As a NCNO exchange, the [Redacted] will likely require a licence under the proposed amendment to the PS Act (pursuant to question 3) because it will be providing a service of “inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to buying or selling any DPT in exchange for any money or any other DPT”. In this regard, we will be happy to comply with the ongoing obligations of a PS licensee such as PSN-04 (Notice on Submission of Regulatory Returns), PSN-06 (Notice on Cyber Hygiene), PSN-07 (Notice on Conduct) and PSN-08 (Notice on Disclosures and Communications).</p> <p>Instead, MAS’ concerns stems mainly from ML/TF risks, and the amendments are motivated by FATF’s Guidance for a Risk-Based Approach to Virtual Assets (FATF Guidance), published in June 2019. The intent of the new FATF Guidance is for FATF members to combat possible new opportunities for criminals and terrorists to launder their proceeds or finance their illicit activities. We further note that MAS intends to require entities providing the abovementioned payment service to comply with the AML/CFT requirements under PSN-02.</p> <p>We are of the humble view that the AML/CFT obligations set out in PSN-02 would render the business model of a NCNO exchange like ours unviable, and stifle innovation. We also respectfully submit that, from a ML/TF perspective, subjecting NCNO exchanges to PSN-02 may result in unintended consequences, and drive more people to conduct transactions (both legitimate and illicit) in ways that result in even less transparency for law enforcement.</p> <p>The competitive advantage that NCNO exchanges have against custodial (centralized) exchanges are primarily as follows:</p> <ul style="list-style-type: none"> • increased security of funds (due to non-custodial nature) • quick onboarding (due to the ability to interact directly with the exchange through non-custodial wallets without registration), thereby allowing exchange to operate at lower cost and passing such cost savings to end users • privacy preservation (allowing exchange to operate at lower cost due to not needing to spend on compliance for privacy regulations such as PDPA and GDPR, and thereby passing such cost savings to end users) • zero risk of data breach or loss (no identification information is required to be collected)
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	<p>All but the first point would be lost should these exchanges become subject to PSN-02 in the same manner as centralised (custodial) exchanges, making NCNO exchanges impossible to maintain. For example, PSN-02 would require a NCNO exchange to obtain at least the following information about a customer: full name, unique identification number, residential or registered address, date of birth/establishment/incorporation/registration and nationality/place of incorporation/place of registration. This means that NCNO exchanges will invariably require users to register an account and provide their personal data.</p> <p>The requirement to comply with PSN-02 would be extremely onerous for infrastructure providers like [Redacted], and will likely kill off a budding sector (i.e. decentralised financial services) in Singapore. Further, it may potentially allow other countries to capture the lion’s share of what could be an integral part of the future financial landscape.</p> <p>We further wish to highlight that the type and extent of ML/TF risks that arise from the use of NCNO exchanges greatly differ from that of centralised (custodial) exchanges (i.e. “facilitating the exchange of digital payment tokens”). In particular, FATF has noted that the risks associated with centralised and decentralised VASP business models should be considered when identifying, assessing and determining how best to mitigate the risks associated with VASPs.</p> <p>We are of the view that NCNO exchanges are a poor choice for illicit actors in conducting ML/TF activities for the following reasons:</p> <ul style="list-style-type: none"> • addresses / accounts of users of NCNO exchanges cannot be changed and the complexity of financial flows does not increase; • all “deposits” or “withdrawals” (inputs and outputs) of an NCNO exchange are also no less clear than a direct blockchain transfer; • all transactions (trades) are public (clearly recorded and transparently displayed) by the exchange and various blockchain explorers; • there is no co-mingling of virtual assets within a non-custodial exchange, and therefore the virtual assets transacted on a non-custodial exchange can be traced back to specific wallet addresses, thereby making “layering” impossible; • the overall lower liquidity of non-custodial exchanges means that it is difficult to efficiently move the high value of assets involved in typical ML/TF without incurring large losses due to slippage. <p>On the other hand, transactions that occur on custodial (centralised) exchanges are recorded on private, centralised databases of the individual exchanges. In other words, they take place off-chain and no transaction information is recorded on the blockchain except for withdrawals and deposits, which may in any event be untraceable due to the use of multiple hot, warm and cold wallets. The transactional information is therefore opaque to the world at large unless otherwise disclosed by the exchange. This has the effect of obfuscating financial flows. Further, users’ funds on centralised (custodial) exchanges are commingled into various warm or cold wallets, further allowing for “layering” and obfuscation of financial flows.</p>
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		<p>Centralised exchanges are also a better choice for conducting ML/TF activities because they have significantly higher liquidity than NCNO exchanges. This allows virtual assets of high value to be transacted without incurring significant losses arising from slippage.</p> <p>NCNO exchanges can also be contrasted with those of existing products and services that provide obfuscation, and which are by their nature more prone to ML/TF concerns:</p> <ul style="list-style-type: none"> • Wasabi Wallet (Bitcoin non-custodial coin shuffling wallet) • Tornado Cash (Ethereum on-chain zero-knowledge mixer smart contract) <p>Monero, Zcash, etc. (cryptocurrencies which can be combined with peer-to-peer atomic swaps for obfuscating financial flow)</p> <p>We understand that MAS also intends to regulate some of the abovementioned products and services. It is therefore useful to highlight that, unlike these products and services, NCNO exchanges do not reduce transparency or increase obfuscation of financial flows. Accordingly, the ML/TF risks of NCNO exchanges are also less serious.</p> <p>Instead, NCNO exchanges should be seen as basic infrastructure providers because they do not provide any impactful benefits over simply using the blockchain / cryptocurrencies directly. NCNO exchanges typically only provide a thin interface on top of existing blockchain / cryptocurrency infrastructure to allow VA users to exchange one VA for another without in-depth technical / programming knowledge. The transactions conducted on a NCNO exchange are just as transparent as transactions on the underlying blockchain.</p> <p>In light of the above, we recommend that MAS tailor the applicable AML/CFT obligations to a NCNO exchange based on a holistic view of the risks and benefits presented by the characteristics of that service. By right-sizing the AML/CFT obligations for NCNO exchanges such that they remain a viable business proposition, MAS (and FATF) can expand their oversight of on-chain transactions and traffic through regulated NCNO exchanges.</p> <p>Requiring NCNO exchanges to comply with the existing PSN-02 is likely to severely affect their decentralised business model, and the loss of such infrastructure providers is unfortunate as it may result in unintended effects that are detrimental in the long run:</p> <p>Legitimate users may increasingly use bulletin-board (4chan, localbitcoins) + peer-to-peer (OTC) based methods of transacting / trading (which would not be differentiable from illicit use), thereby actually decreasing the amount of high-level oversight on financial flows/on-chain traffic that is available to regulators.</p> <p>Retail users may be pushed to centralized counterparts which have a history of poor user safety and security, imposing greater systemic risk should VAs become a major part of the financial landscape.</p>
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