



## **RESPONSE TO FEEDBACK RECEIVED – PUBLIC CONSULTATION ON PROPOSED AMENDMENTS TO THE MAS ACT AND TRUST COMPANIES ACT**

### **1 Introduction**

1.1 On 5 June 2014, the Monetary Authority of Singapore (MAS) issued a consultation paper to seek feedback on two draft Bills, the MAS (Amendment) Bill and the Trust Companies (Amendment) Bill, which set out enhancements to Singapore’s anti-money laundering and countering the financing of terrorism (AML/CFT) regime. The consultation period closed on 7 July 2014. MAS would like to thank all respondents for their contributions. The list of respondents can be found in Appendix A.

1.2 MAS has carefully considered the feedback received and our responses to comments that are of wider interest are set out below. Additional proposed amendments are covered in Section 6 of the response.

### **2 Implementation Timeline**

2.1 One respondent enquired on the implementation timeline and requested for a reasonable transition period.

#### MAS’ Response

2.2 The amendments to the MAS Act are expected to come into force around mid-2015. The amendments are to provide MAS with clear legal powers to facilitate AML/CFT supervisory cooperation with our counterparts and would have minimal operational impact on financial institutions (FIs), hence a transition period is not necessary.

2.3 The amendments to the Trust Companies Act (TCA) in respect of authorisation of non-AML/CFT on-site inspections relating to licensed trust companies will be implemented at a later stage.

### **3 Safeguards**

3.1 In relation to the MAS Act, one FI asked if the safeguards would prevent generic requests for broad categories of information, under the pretext of an investigation.

## MAS' Response

3.2 MAS can request FIs for information and share such information in response to a request from a foreign AML/CFT supervisor, only if the information is relevant to AML/CFT supervision. This would thus exclude requests intended to support criminal investigations<sup>1</sup> or generic requests that appear to be “fishing expeditions”. Moreover, all requests for AML/CFT supervisory cooperation would have to meet the safeguards and conditions set out in the MAS Act. Such conditions include the requirement for the requesting AML/CFT supervisor to specify the identity of the FI that possesses the information requested and the relevance of that information to its AML/CFT supervision. As an additional safeguard, the requesting AML/CFT supervisor will have to provide a written undertaking to maintain the confidentiality of the information obtained.

## **4 Sharing Suspicious Transaction Reports (STRs)**

4.1 In relation to the MAS Act, some respondents sought clarifications on whether STRs would be shared by MAS under the proposed amendments and suggested a carve-out for the sharing of STRs.

### MAS' Response

4.2 The proposed amendments will not change existing processes for sharing of STRs, which generally takes place between financial intelligence units. In Singapore, the Suspicious Transaction Reporting Office (STRO) within the Commercial Affairs Department is the national agency responsible for the receipt, analysis and dissemination of STRs. Sharing of STRs by STRO is subject to the relevant laws and processes governing STRO's operations.

4.3 However, MAS may share information in relation to an FI's STR filing processes with a foreign AML/CFT supervisor, for example, to facilitate the foreign AML/CFT supervisor's evaluation of the processes or procedures undertaken by the FI to determine whether an STR should be filed. Should there be a need to share sample STRs, MAS reserves the right to decide which STRs to share. Such cooperation is not meant to bypass the established channel through which STR information is disseminated to foreign financial intelligence units described above.

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<sup>1</sup> Requests from foreign authorities for cooperation in criminal investigations relating to money laundering or terrorism financing should be directed to Singapore's central authority for legal assistance, the Attorney-General's Chambers, or where appropriate, the relevant law enforcement authorities such as the Commercial Affairs Department.

## **5 Notifying financial institutions (FIs)**

5.1 In relation to the MAS Act, some respondents asked if FIs will be notified :

- i) when protected information of their clients is shared with AML/CFT supervisors in jurisdictions in which the FI does not have a presence; and
- ii) when information of their clients is shared, so as to allow the FI to include additional safeguards in dealing with those clients for risk management purposes.

### MAS' Response

5.2 These amendments are intended to strengthen the AML/CFT supervision of international FIs. Information would be shared only with foreign AML/CFT supervisors involved in the supervision of the given FI, i.e. from jurisdictions where the FI has a presence. No information will be shared with AML/CFT supervisors from jurisdictions in which the FI does not have a presence.

5.3 In relation to requests from foreign AML/CFT supervisors, information will be shared only for the purpose of AML/CFT supervision. The information shared must be relevant for the foreign AML/CFT supervisor to assess the FI's compliance with relevant AML/CFT laws and regulations, and are not meant to be used for investigations into specific clients of the FI. For example, customer information may be shared through the provision of sample documents for the assessment of customer due diligence procedures. Such cooperation is confidential and MAS will not be informing FIs of instances where information of its clients are shared. FIs would not be expected to take further actions in relation to those clients.

## **6 Additional Proposed Amendments in relation to MAS' AML/CFT powers**

6.1 MAS intends to align its powers to conduct AML/CFT inspections under the MAS Act to provide greater clarity on the scope of its powers in relation to AML/CFT supervision. Currently, these powers are mostly found in the various MAS-administered Acts. The MAS Act will be amended to allow MAS to inspect FIs on their compliance with the directions issued or regulations made pursuant to sections 27A and 27B of the MAS Act. MAS will also be able to appoint a third party (e.g. an audit firm) to inspect an FI on our behalf. In general, MAS will bear the costs for such appointment. However, if a third party inspection is carried out on the basis that MAS has reasons to believe that the FI may have contravened or is contravening any direction issued or regulation made under section 27A or 27B of the MAS Act, MAS may direct the FI to bear the cost of such inspection.

6.2 There will not be any practical impact for most FIs as similar powers already exist in their respective sector specific Acts. However, the amendments to the MAS Act will allow MAS to inspect an expanded scope of FIs for AML/CFT purposes, including holders of stored

valued facilities under the Payment Systems (Oversight) Act and non-bank credit card or charge card issuers. This is consistent with the approach taken for all other regulated FIs in Singapore. As a matter of clarification, the MAS Act will be amended to explicitly list non-bank credit card or charge card issuers as a class of FI that is within the scope of our AML/CFT regime<sup>2</sup>.

6.3 MAS also intends to set out its powers to authorise the conduct of on-site inspections by home AML/CFT supervisors under the MAS Act. To facilitate effective group supervision, MAS currently has powers to authorise home prudential supervisors to conduct on-site inspections of their FIs' branches or subsidiaries in Singapore. In certain jurisdictions, responsibility for AML/CFT supervision resides with an agency that is not also the prudential supervisor<sup>3</sup>.

6.4 These provisions will cover inspections in Singapore by the relevant home AML/CFT supervisor, whether or not they are also the prudential supervisor<sup>4</sup>. The scope of such inspections will be limited to AML/CFT supervisory purposes<sup>5</sup> and the home AML/CFT supervisors may also appoint a third party to perform the inspection on their behalf. Such inspections may be conducted with MAS' written approval only if the conditions in the MAS Act are satisfied. For example, the home AML/CFT supervisor should have consolidated supervision authority over the FI and the inspection must be for the purpose of such supervision. The home AML/CFT supervisor also has to give a written undertaking to protect the confidentiality of the information obtained.

## **MONETARY AUTHORITY OF SINGAPORE**

6 April 2015

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<sup>2</sup> Holders of stored valued facilities are already specified as a class of FI in the MAS Act.

<sup>3</sup> As reflected in footnote 2 of the public consultation paper, the Australian Transaction Reports and Analysis Centre (AUSTRAC) is an example of an authority that has an AML/CFT supervisory role, but do not have broader prudential supervisory responsibilities over FIs.

<sup>4</sup> The reference to foreign AML/CFT supervisory authorities will include pure AML/CFT supervisory authorities such as AUSTRAC.

<sup>5</sup> Similar existing provisions in the other Acts will remain, and cover inspections by home supervisory/foreign regulatory authorities for other purposes beyond AML/CFT. Hence, the proposed amendments to the TCA will still be relevant. In addition, MAS is also proposing to amend the FAA to provide for powers to authorise inspections (non-AML/CFT) by foreign regulatory authorities.

**LIST OF RESPONDENTS\***

1. Great Eastern Life
2. United Overseas Bank Limited

\*This list includes only the names of respondents who did not request that their submissions be kept confidential.