

# RESPONSE TO FEEDBACK – CONSULTATION ON PROPOSED REVISIONS TO THE MAS NOTICES ON THE PREVENTION OF MONEY LAUNDERING & COUNTERING THE FINANCING OF TERRORISM

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## Introduction

1 In May 2009, MAS released a consultation paper on the proposed revisions to the MAS Notices on the Prevention of Money Laundering and Countering the Financing of Terrorism (AML/CFT Notices). In response to the consultation paper, MAS has received a number of useful feedback and comments.

2 MAS would like to thank all respondents for their contributions. We have carefully considered the feedback received, and have made further revisions to the Notices where appropriate. This paper highlights some of the key feedback received, together with MAS' responses. The paper is structured as follows:

<b>Section</b>	<b>Subject</b>	<b>Pages</b>
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3 As was the case with the consultation paper, the responses set out in this paper are applicable to all MAS AML/CFT Notices with the exception of the MAS Notice SFA13-N01 to Approved Trustees, unless otherwise indicated. For the purpose of this paper, the paragraphs refer to the MAS Notice 626 to banks. Please note that the relevant paragraph numbers may differ from one Notice to another.

## **A PROPOSED CHANGE TO APPLY ENHANCED CDD ON DOMESTIC POLITICALLY EXPOSED PERSONS**

1 The consultation paper had proposed to amend all MAS AML/CFT Notices to apply enhanced CDD on domestic PEPs. With this change, MAS' requirements to apply enhanced CDD on both domestic and foreign PEPs will be aligned with that of the United Nations Convention Against Corruption (UNCAC).

2 Respondents generally acknowledged the importance of bringing MAS' PEP requirements in line with international conventions such as the UNCAC. Some respondents sought clarification on the appropriate level of CDD that would apply to publicly-listed entities which have PEPs shareholding or board/management structure. Financial institutions should conduct risk-based assessments on a case-by-case basis to determine if normal or enhanced CDD may apply.

3 The proposed amendment to apply enhanced CDD on domestic PEPs will be adopted.

## **B PROPOSED CHANGE TO SIMPLIFIED CDD REQUIREMENTS**

4 The proposed amendment aims to state explicitly that financial institutions should not perform simplified CDD measures whenever there is suspicion of money laundering or terrorist financing. Most respondents agreed with this.

5 Some respondents asked how financial institutions may identify jurisdictions with inadequate AML/CFT regimes to ensure that simplified CDD is not practiced when dealing with customers from these jurisdictions. Financial institutions may wish to refer to publicly available resources for more information on these jurisdiction's AML/CFT regimes, including FATF Mutual Evaluation, or IMF/World Bank Financial Sector Assessment Programme Reports. In addition MAS also publishes FATF statements on jurisdictions with weak AML/CFT regimes. The announcements may be found at the following url:

[http://www.mas.gov.sg/legislation\\_guidelines/aml/aml\\_announcements.html](http://www.mas.gov.sg/legislation_guidelines/aml/aml_announcements.html)

Financial institutions may wish to subscribe to the email alerts on the MAS AML/CFT webpage to receive these announcements.

6 The proposed amendment to the provision on simplified CDD will be adopted. The proposed change is not applicable to the MAS Notice 3001 to Money Changers and Remittance Companies as money changers and remittance companies are required to seek the prior approval of MAS to perform simplified CDD measures.

## **C PROPOSED CHANGE TO REQUIREMENTS WHEN RELYING ON INTERMEDIARIES TO PERFORM CDD MEASURES**

7 The proposed amendment serves to clarify that, where financial institutions rely on intermediaries to perform CDD, financial institutions would be required to immediately obtain CDD information from the intermediaries.

8 Financial institutions are responsible for the AML/CFT requirements set out in MAS' AML/CFT Notices, notwithstanding the reliance on intermediaries to perform CDD in certain circumstances. Accordingly, financial institutions are expected to obtain the CDD information from such intermediaries. For avoidance of doubt, CDD information refers to information as set out in Paragraph 4 of the MAS Notice 626 to banks

9 Where there are time lags in acquiring the CDD documentation from the intermediaries, financial institutions are required to seek confirmation from the intermediaries that the CDD has been performed, verified and is true and accurate. Whether the financial institution enters into a written undertaking with the intermediary is a matter of the financial institution's policy and internal procedure.

10 Some respondents asked whether an exception to this requirement could be made where intermediaries are bound by client confidentiality obligations. MAS is of the view that there should be no exception to this requirement on the grounds of client confidentiality. Financial institutions should therefore ensure that intermediaries obtain the consent of the client to release confidential information to the financial institution, in order to meet CDD requirements.

11 Where fund houses rely on distributors such as independent financial advisors (IFAs) to sell the product, the distributors would not be considered as intermediaries. In this regard, this section on the Performance of CDD by Intermediaries would not be applicable to fund houses. However, as the end investors would be considered the IFA's customers, the IFA will have to perform CDD on the end-investors accordingly.

12 The revised amendment to the provision on Performance of Customer Due Diligence Measures by Intermediaries, as set out below, will be adopted. The proposed change is not applicable to the MAS Notice 3001 to Money Changers and Remittance Companies as the sector is prohibited from relying on intermediaries to conduct CDD:

<b>7 PERFORMANCE OF CDD MEASURES BY INTERMEDIARIES</b>
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<p>7.1 Subject to paragraph 7.2, a bank may rely on an intermediary to perform the CDD measures in paragraph 4 of this Notice if the following requirements are</p>
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met:

(a) the bank is satisfied that the intermediary it intends to rely upon is subject to and supervised for compliance with AML/CFT requirements consistent with standards set by the FATF, and has adequate measures in place to comply with those requirements;

(b) the intermediary is not one on which banks have been specifically precluded by the Authority from relying;

~~the information that the bank would be required or would want to obtain which is being obtained by the intermediary may be relayed to the bank by the intermediary without any delay; and~~

(c) the intermediary is able and willing to provide, without delay, upon the bank's request, any document obtained by the intermediary which the bank would be required or would want to obtain.

7.2 No bank shall rely on an intermediary to conduct ongoing monitoring of customers.

7.3 Where a bank relies on an intermediary to perform the CDD measures, it shall:

(a) document the basis for its satisfaction that the requirements in paragraph 7.1(a) have been met except where the intermediary is a financial institution supervised by the Authority (other than a holder of a money changer's licence or a holder of a remittance licence); and

~~(b) immediately obtain from the intermediary the CDD information relating to CDD measures which the intermediary had obtained by the intermediary.~~

7.4 For the avoidance of doubt, notwithstanding the reliance upon an intermediary, the bank shall remain responsible for its AML/CFT obligations in this Notice.

## **D IMPLEMENTATION OF THE PROPOSED REVISIONS**

13 MAS will provide a grace period of 5 months, starting from the date of issuance of the revised amendments, for all affected financial institutions to institute the necessary changes to ensure compliance.