

RESPONSE TO FEEDBACK RECEIVED - CONSULTATION ON PAYMENT SYSTEMS OVERSIGHT ACT

On 16 April 2003, MAS released a Consultation Paper ("the Paper") inviting comments from the industry and other interested parties on a proposed Payment Systems Oversight Act ("the Act") in Singapore. The Paper set out the objectives and the scope of the powers of this proposed Act, which aims to provide the foundation for a clear and consistent payment systems oversight framework in Singapore. In the following months, MAS will prepare the Payment Systems Oversight Bill and a draft will be released for public consultation.

The consultation period for the Paper closed on 2 June 2003. The proposed payment systems oversight objectives and framework received wide industry support. Some respondents sought clarifications, while others provided comments, on areas such as the implications of the information gathering powers, the implications of the proposed Act on competition, the power to allow MAS to assume operational control of payment systems under emergency situations, and the proposed policy changes to the multi-purpose stored value card (MPSVC) schemes.

MAS thanks all respondents for their comments. Some of the comments of wider interest and our responses are highlighted below.

OVERSIGHT OF PAYMENT SYSTEMS

1. Confidentiality of Payments Information Gathered by MAS

The Paper proposed granting MAS information gathering power over all payment systems in Singapore. Some respondents requested clarification on the confidentiality of the payments-related information gathered by MAS.

MAS' Response: There are statutory requirements on MAS officers to maintain confidentiality of the information received in the course of its dealings with its correspondents. In addition, MAS intends to make provisions in the Act to treat information it gathers via the Act confidential.

2. Cross-Border Payment Systems

There were queries on how MAS would regulate payment systems located in other jurisdictions but operating in Singapore.

MAS' Response: While the Act covers all payment systems operating in Singapore, it is not MAS' intention to regulate payment systems that are located in foreign jurisdictions. An example of such a system is the Continuous Linked Settlement (CLS) system. For such systems, MAS would seek co-operative oversight and rely on the "home supervision" of these systems. For greater clarity, MAS would consider exempting such cross-border payment systems from the Act if, among other considerations, they are regulated by another payment systems regulator.

3. Power to Assume Operational Control of Payment Systems

There were comments that the proposed powers to assume the control of the operations of designated payment systems were too wide. There were also requests that the circumstances under which MAS would assume control of designated payment systems be clarified.

MAS' Response: Payment systems that are of systemic and system-wide importance are designated in recognition of their potential to cause systemic instability or loss of public confidence in the event of a disruption in the system. The power to assume control of the operations of such designated systems is essentially an emergency power, giving MAS various options to address a crisis situation when the ongoing operations of an operator are deemed to be detrimental to financial stability or public confidence, or to be contrary to public interest. Some circumstances that may give rise to concerns over the operations include, but are not restricted to, natural or man-made disasters and situations where an operator is unlikely or unable to continue carrying out its functions.

4. Competitively Neutral Regulations

MAS proposes to subject only systemically important payment systems (SIPS) and system-wide important payment systems (SWIPS) to regulations. Some respondents suggested that regulations that apply to one entity should be applied equally across each of its competitors in Singapore (i.e. regulations should be competitively neutral). Other respondents expressed that the criteria for designation of a payment system should have regard to its market share.

MAS' Response: SIPS and SWIPS are regulated as these pose the most risks to financial stability and public confidence in the event of a disruption or failure. These systems will tend to be those that have the largest market penetration and process higher values or volumes relative to the rest of the systems in the payment landscape. Thus, it is implicit in the definition of SIPS and SWIPS that a payment system's market share is taken into consideration.

The proposed oversight framework underscores MAS' role in maintaining safety and efficiency of payment systems in Singapore. While MAS may have regard to competitive neutrality issues in designating a payment system, the overriding objective for MAS is that of maintaining financial stability and public confidence.

The Government of Singapore is planning to introduce competition legislation in the future. The competition authority will then have responsibilities for broader competition issues in Singapore.

5. Proposed Regulation of Non-designated Payment Systems

MAS proposes to subject non-designated payment systems only to information gathering powers. There were enquiries as to whether there are licensing or approval requirements for these non-designated payment systems.

MAS' Response: As outlined in the response to the previous question, MAS pursues the overriding objective of maintaining financial stability and public confidence. Non-designated payment systems are not of systemic or system-wide importance. Hence, there are no licensing or approval requirements under the Act for these payment systems. However, MAS will monitor the development of the payment industry through its information gathering powers.

6. Access to Designated Payment Systems

It was proposed that the Act grant MAS the power to determine the rules of participation in designated payment systems, specifically with respect to access for new participants. Some respondents opined that determining access to a payment system was a commercial consideration best left to market forces.

MAS' Response: In regulating access, MAS will take into account public interest, the interest of current participants, and the interest of institutions that may require access to a particular designated payment system in the future. The balancing of these interests may not always be present in commercial considerations. For SIPS like the MAS Electronic Payment System (MEPS), while MAS would like to ensure that financial institutions can gain access to the system, MAS would also have to ensure that only financially sound institutions are allowed access so as not to create instability in the financial system.

For retail payment systems, the Committee on Payment and Settlement Systems (CPSS) of the central banks of the Group of Ten countries noted in its March 2003 publication *Policy Issues for Central Banks in Retail Payments* that one of the key policy issues that central banks ought to address is to "*consider whether, while also preserving safe systems, the market structure supports innovation and new market entrants and whether existing access restrictions serve to promote or impede competition and contestability*". For SWIPS, MAS may need to regulate access if the market mechanism does not work and threatens safety and efficiency of the systems and of the wider financial sector.

The Government of Singapore is planning to introduce competition legislation in the future. The competition authority might then have regard over access to designated payment systems.

7. Corporate Governance

MAS proposes to have powers to make regulations relating to the corporate governance arrangements of designated payment

systems. Some respondents requested for MAS to be explicit in its criteria and the circumstances under which such powers are deployed. Some deemed such powers inappropriate and unnecessary.

MAS' Response: Good corporate governance forms the basis of promoting the safety and efficiency in a payment system's operations. The proposed powers relating to corporate governance arrangements over designated payment systems are necessary given that these systems are systemically or system-wide important. MAS will invoke these regulatory powers only when existing arrangements are deemed detrimental to financial stability or public confidence, or are contrary to public interest.

8. Establishment of Standards

There were suggestions that MAS, in establishing standards, consider aligning and adopting international standards or practices rather than setting local standards. There were also suggestions that MAS refrain from regulating performance benchmarks, as performance should be market-driven.

MAS' Response: The establishing of standards will be centred on MAS' payment system oversight objectives of safety and efficiency. MAS will establish performance benchmarks, security, and other standards insofar as to address the likelihood of the market undervaluing safety and efficiency considerations that might ultimately affect financial stability and public confidence. Under Core Principle VIII of the Core Principles for Systemically Important Payment Systems, some indicators that system participants may be using resources inefficiently include, amongst others, "*poor operational performance because the system cannot cope with the level of demand, or because it has technical or organisational problems, or poor operational problems even though volumes are manageable*"¹.

MAS will also consult the industry before any set of standards are established to ensure that while international best practices are taken into account, these practices are suitable for application in the local context.

9. Criteria for SIPS and SWIPS

A number of respondents suggested additional criteria for defining SIPS and SWIPS, such as time sensitivity of payments, the extent to which consumers stand to lose financially in the event of a system breakdown, vulnerability to money laundering abuse, as well as the share of total non-cash payments represented by the payment system. Some asked MAS to quantify the criteria in terms of transaction value, minimum paid up capital, or impact to a fraction of the population. There were also suggestions to designate EFTPOS and Shared ATM Networks as SWIPS.

MAS' Responses: The proposed definition of SIPS is aligned with the internationally accepted definition outlined by the CPSS. In assessing whether to designate a particular payment system, MAS will consider a combination of factors and a broad spectrum of issues. As each payment system tends to be unique, it may thus not be practical to set quantitative thresholds. MAS will undertake consultation with the industry before designating any particular payment system.

MAS has also reviewed its assessment of the various payment systems and is of the view that currently, only MEPS and the ACH systems need to be designated at the outset as SIPS and SWIPS, respectively.

MPSVC

10. Liberalisation of the MPSVC Market

There were concerns that the liberalisation of the MPSVC market to allow any entity to issue non-widely accepted (NWA) MPSVC would lead to a surge in the number of NWA MPSVC schemes. As such schemes, unlike those that are widely accepted (WA), are not subject to prudential requirements, it is felt that the WA MPSVC players would be disadvantaged. There were also suggestions that NWA MPSVC schemes, which would not be subject to any regulation other than information gathering under the proposed Act, should be subject to a set of basic operating requirements to protect the interests of the consumers.

MAS' Response: The higher regulatory requirements imposed upon WA MPSVC schemes are commensurate with the size of the total funds-at-risk in the WA MPSVC schemes.

MAS proposes to liberalise the NWA MPSVC market in recognition that such limited purpose MPSVC schemes pose lower risks

in terms of public confidence, safety and efficiency. The imposition of onerous requirements on limited purpose MPSVC would defeat the objective of encouraging innovation and competition in the MPSVC market. For greater clarity to consumers, MAS proposes to issue guidelines recommending that issuers embark on a process of consumer education. Through emphasising greater disclosure to consumers of the procedures for issues like storing and refunding of pre-paid values, as well as their general rights and responsibilities as MPSVC holders, MAS hopes to raise the level of consumer awareness and responsibility in the MPSVC market.

11. S\$30m Float Limit for Widely Accepted MPSVC Schemes

Some respondents commented that the proposed S\$30m float limit was too high as they felt that NWA MPSVC schemes could still hold a substantial amount of float and yet not be regulated. Others opined that it should be set beyond S\$30m as they felt that some innovative schemes may easily exceed the threshold.

MAS' Response: The S\$30 million float limit balances MAS' prudential concerns with developmental objectives. The limit captures the existing widely accepted MPSVC schemes in operation in Singapore, namely NETS CashCard and ez-link Card. It also takes into account the relative difficulty for MPSVC schemes to achieve widespread usage and acceptance, and the objective to encourage innovation in small, low-risk MPSVC schemes.

12. Interpretation of the S\$30m Float Limit in a Multiple Issuer Environment

There was a specific query on how the S\$30 million float limit would be interpreted in a multiple issuer MPSVC scheme.

MAS' Response: MAS' main objective in regulating WA MPSVC schemes as a class separate from other MPSVC schemes is that of protecting consumers' funds-at-risk. For MPSVC schemes that are widely used and accepted, MAS will remain prudent in ensuring some level of protection akin to those applicable for deposits. Hence, only banks may issue WA MPSVC.

Where there are more than one issuer leveraging on the same MPSVC infrastructure, each separately issuing its own float values, MAS will regard each float as separate when determining the funds-at-risk. If a float is less than S\$30 million, the issuer of the float will not need to be regulated. However, MAS will give due consideration to the risks that large-scale MPSVC schemes operating on a national level may pose to public confidence in payment systems in the event of a disruption or failure, and may designate these systems as SWIPS, even if they are not regulated as WA MPSVC schemes.

13. Issuance of WA MPSVCs by Non-banks

There was a question on whether MAS would consider allowing a non-bank to issue WA MPSVC if the non-bank were subject to the same requirements as a bank.

MAS' Response: MAS views monetary values in widely accepted stored value cards as akin to deposits. Therefore, only banks are allowed to issue WA MPSVC.

MONETARY AUTHORITY OF SINGAPORE
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¹ Bank for International Settlements Committee on Payment and Settlement Systems' report "*Core Principles for Systemically Important Payment Systems*", January 2001, p48.