

CONSULTATION PAPER

P017 - 2004  
December 2004

Draft  
Payment Systems  
(Oversight) Bill

MAS

Monetary Authority of Singapore

## PREFACE

On 16 April 2003, MAS issued a consultation paper that proposed a Payment Systems (Oversight) Act (“the Act”) to provide a uniform basis for MAS’ oversight of payment systems and stored value facilities in Singapore. MAS subsequently reviewed the public feedback on the consultation paper and published its response to the feedback on 18 September 2003.

A draft Payment Systems (Oversight) Bill (“draft Bill”) has been formulated, incorporating the policy proposals as set out in the consultation paper in April 2003 and MAS’ response to the public feedback issued in September 2003. **MAS invites comments on the draft Bill**, appended at Annex A. Please note that all submissions received may be made public unless confidentiality is expressly requested for all or part of the submission.

Please submit your written comments via electronic mail to [paymentsystems@mas.gov.sg](mailto:paymentsystems@mas.gov.sg) by **28 Jan 2005**. Alternatively, you may submit your comments by post to:

Payments Infrastructure Division  
Specialist Risk Supervision Department  
Monetary Authority of Singapore  
10 Shenton Way, MAS Building  
Singapore 079117

Submission via electronic mail is encouraged.

For your reference, the consultation paper issued on 16 April 2003 and MAS’ response to the public feedback published on 18 September 2003 can be accessed at the MAS website at: -

[http://www.mas.gov.sg/masmcm/bin/pt1ConsultationPapers\\_Archive.htm](http://www.mas.gov.sg/masmcm/bin/pt1ConsultationPapers_Archive.htm).

## **OVERVIEW OF THE DRAFT PAYMENT SYSTEMS (OVERSIGHT) BILL**

1 The draft Bill provides for the oversight of payment systems and stored value facilities in Singapore. It focuses on payment systems that are considered important in terms of stability of the financial system and public confidence. It also sets out MAS' new policy for stored value facilities (SVF), which allows any entity to hold the stored value in respect of a multi-purpose SVF (MPSVF) as long as the stored value remains below the amount stated in the Bill; currently, the issuance of MPSVF is limited to banks.

2 For payment systems, the draft Bill provides MAS with two sets of powers: information gathering powers and regulatory powers. Information gathering powers will apply to all payment systems in Singapore, whereas regulatory powers will apply to certain payment systems that have been designated by MAS. For SVF, the draft Bill provides MAS with information gathering powers over all SVF and regulatory powers over SVF where the stored value is greater than the amount stated in the Bill.

## **PAYMENT SYSTEMS**

### **INFORMATION GATHERING RELATING TO PAYMENT SYSTEMS**

3 MAS will have the power to require payment system related information from the operators, settlement institutions or participants of all payment systems in Singapore. The purpose of this requirement is to ensure MAS has access to comprehensive and reliable information in order to monitor the development of the payment system industry in Singapore and support MAS' payments policy decisions. The information gathering powers over payment systems are detailed in Part III of the draft Bill.

### **DESIGNATION OF PAYMENT SYSTEMS**

4 In addition to information gathering powers that apply to all payment systems in Singapore, MAS will regulate designated payment systems (DPS) that are considered important in terms of stability of the financial system of Singapore, or in terms of public confidence in payment systems or the

financial system of Singapore. Specifically, MAS will designate a payment system if it is satisfied that -

- A disruption in the operations of the payment system could trigger, cause or transmit further disruption to participants or systemic disruption to the financial system of Singapore;
- A disruption in the operations of the payment system could affect public confidence in payment systems or the financial system of Singapore; or
- It is otherwise in the interests of the public to do so.

The power to designate payment systems is outlined in Part IV of the draft Bill.

## **PAYMENT SYSTEMS TO BE DESIGNATED AT THE OUTSET**

5 MAS has identified four payment systems that will be designated when the Act comes into operation, given that disruptions to these systems could affect financial stability or public confidence in payment systems in general or the financial system of Singapore. The first system identified for designation is the MAS Electronic Payment System (MEPS), Singapore's sole large-value payment system. MEPS processes high-value interbank transactions, settles payments relating to FX and securities transactions, as well as facilitates multilateral net settlement of cheque and Interbank GIRO transactions. The smooth operation of MEPS is important in terms of stability of the financial system of Singapore.

6 Hence, participants of MEPS will be subjected to MAS' regulatory powers, given that their actions and behaviour in MEPS may have systemic implications. However, it will not be appropriate for MAS to be regulating itself with respect to its role as the operator and settlement institution of MEPS, and as a participant of MEPS. MAS will instead rely on internal governance and oversight arrangements appropriate for a DPS in ensuring the safety and efficiency of MEPS.

7 The other three systems, namely the Singapore Dollar Cheque, US Dollar Cheque and the Interbank GIRO clearing systems, pertain to both wholesale and retail payment transactions. The smooth operation of these three systems is critical to the proper functioning of the Singapore economy

and the maintenance of public confidence in payment systems and the financial system in Singapore. MAS' regulatory powers will apply to Banking Computer Services Pte Ltd, which is the operator of these three systems, to the participants of these systems and to the relevant settlement institutions.

## **POWERS OVER DESIGNATED PAYMENT SYSTEMS**

8 MAS' regulatory powers over DPS include the power to impose access regimes, impose restrictions and conditions, establish standards, make regulations, approve and remove chief executive officers and directors, approve the control of substantial shareholding in an operator, issue directions, inspect operations, and assume control of the operations of a DPS under emergency situations. The draft Bill also mandates the arrangement for external audits of a DPS and imposes the obligation on a DPS to notify MAS of significant changes in its operations. MAS' powers over DPS are elaborated in Part IV of the draft Bill.

## **POWER TO EXEMPT CERTAIN PAYMENT SYSTEMS**

9 Payment systems that operate in Singapore but are domiciled in foreign jurisdictions and are, among other considerations, already regulated by another payment systems regulator, may be exempted from the Act. In such cases, MAS may decide to rely on the "home supervision" of such systems. For example, MAS intends to exempt the Continuous Linked Settlement (CLS) System, a global FX settlement system, from information gathering and designation powers of the proposed Act, in view of the fact that the Federal Reserve Bank of New York has supervisory responsibility of CLS Bank International<sup>1</sup>. The Federal Reserve also leads and coordinates a cooperative oversight arrangement involving various central banks, including MAS<sup>2</sup>.

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<sup>1</sup> The CLS service is being offered by CLS Bank International.

<sup>2</sup> MAS is a member of the Committee on Payment and Settlement Systems (CPSS) Foreign Exchange Settlement Risk (FXSR) sub-group, which is the co-operative oversight body of CLS.

## STORED VALUE FACILITIES

### SINGLE-PURPOSE STORED VALUE FACILITIES

10 The draft Bill provides that all single-purpose SVF (SPSVF) are subject to information gathering powers. However, SPSVF will be exempted from regulatory powers. The information gathering powers over SPSVF will enable MAS to monitor trends and developments in the SPSVF market.

### MULTI-PURPOSE STORED VALUE FACILITIES

11 The draft Bill provides that any entity can hold the stored value in respect of a MPSVF where the stored value of the MPSVF is below the amount stated in the Bill. The amount, which is a proxy indicator for how widely used and accepted a stored value facility is by consumers and merchants, is set at S\$30 million<sup>3</sup>. Where the stored value of a MPSVF is above the amount stated in the Bill, the MPSVF must be approved by MAS as a widely accepted MPSVF, for which a bank licensed by MAS must be fully liable for the stored value.

12 This two-tier policy is in recognition of the fact that some MPSVF are likely to have a lower level of funds-at-risk compared to other more widely accepted MPSVF. MAS considers that both banks and non-banks can be involved in such non-widely accepted MPSVF<sup>4</sup>, providing more space for competition and innovation in the MPSVF market, where the consumers' funds-at-risk are lower.

13 In regulating widely accepted MPSVF, consideration is also given to situations where an entity could pose a single risk to MPSVF users, either because:

- the entity is a holder of the stored value in respect of multiple MPSVFs;  
or
- the entity is related to multiple holders of the stored value in respect of one or several MPSVF.

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<sup>3</sup> The draft Bill provides that MAS may vary the amount stated in the Act by way of an order published in the Gazette.

<sup>4</sup> Non-widely accepted MPSVF refers to MPSVF where the stored value is below S\$30 million.

14 For the above scenarios, the funds-at-risk to consumers attributable to such an entity is effectively equivalent to the aggregate of the various stored values. Where the aggregated stored value is greater than the amount stated in the Bill, a bank must be fully liable for the stored value, even though the stored value in respect of each distinct MPSVF or holder may be lower than the amount stated in the Bill. This will ensure that where there is an aggregated single risk greater than the amount stated in the Bill, the consumers' funds-at-risk receive the same protection accorded to other widely accepted MPSVF.

15 The draft Bill provides for the aggregation of the stored value held by an entity where that entity is the holder of the stored value in respect of more than one MPSVF. Where different holders of stored value in respect of one or multiple MPSVF are under the control or influence of, or financially interdependent on, an entity, the draft Bill also gives MAS the power to deem that entity to be the holder of the stored value of the MPSVF in question, thereby subjecting that entity to the relevant provisions in the Bill. The specific criteria for determining when control, influence, or financial interdependence exists between entities for the purposes of administering this power will be set out in Regulations, which will be issued for consultation at a later date. In the interim to the consultation, the following section explains MAS' policy in this area.

16 The provisions pertaining to SVF, including those relating to the aggregation of stored value, are set out in Part V of the draft Bill.

## **Definition of Common Control and Financial Interdependence**

### COMMON CONTROL

17 Control will be defined as a situation where a person owns at least 50% of the total number of shares of the company or controls at least 50% of the voting power in the company, or where the person has the power to determine the composition of the board of directors of the company or to exercise controlling influence over the management and policies of the company.

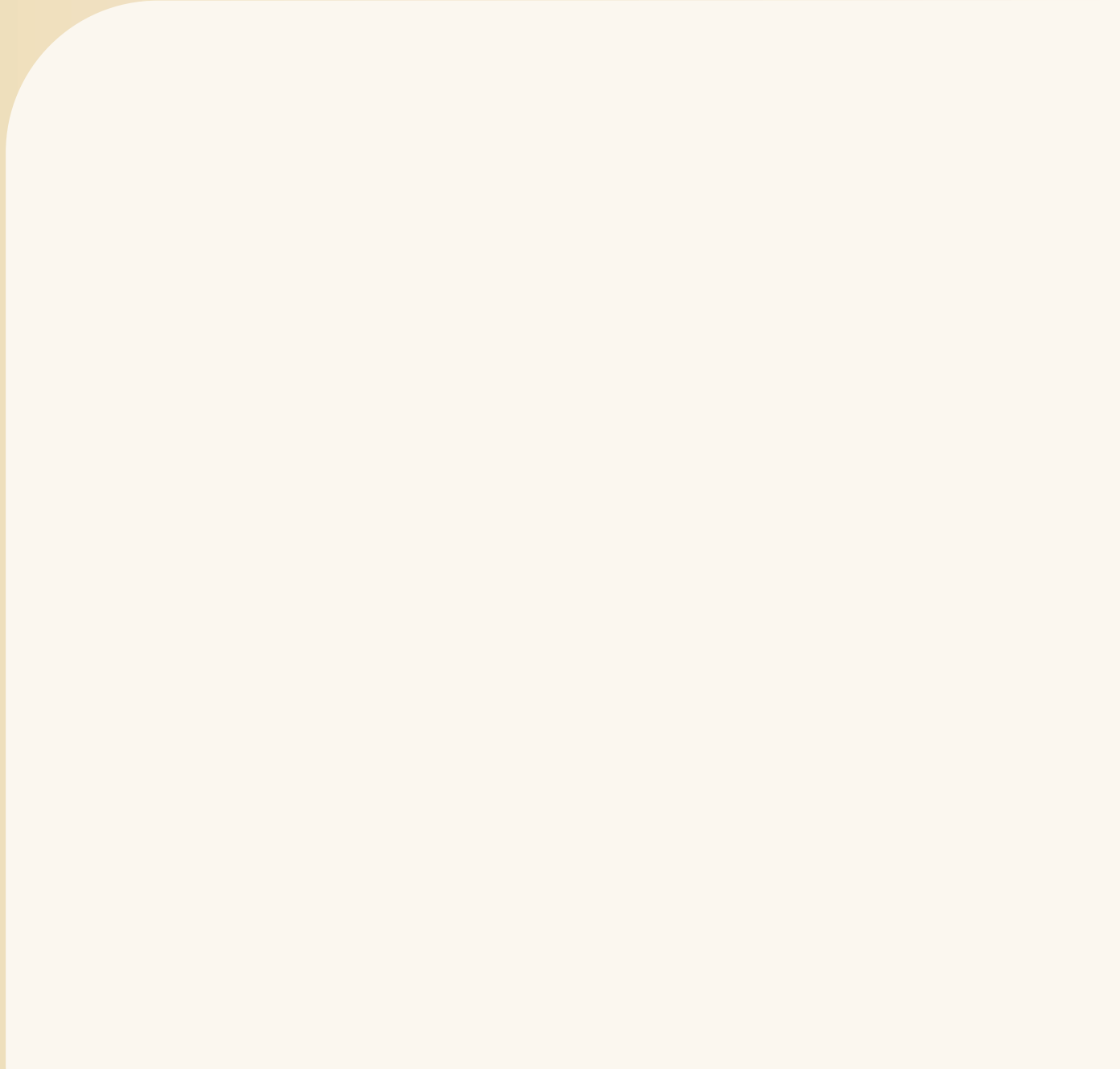
### FINANCIAL INTERDEPENDENCE

18 The concept of common control may not capture all situations where multiple holders of stored value represent a single risk to consumers.

Therefore, an additional criterion of financial interdependence will be used to determine when the stored values of multiple holders need to be aggregated.

19 Financial interdependence will include situations where two or more natural or legal persons have some legal or economic relationship such that if one were to experience financial problems, the others would likely encounter repayment difficulties. Examples include situations where multiple holders of the stored value in respect of one MPSVF or multiple MPSVFs have joint and several liability for their respective stored values, where the holders are linked by guarantees, or where a holder derives 50% or more of its gross revenue from its transactions with another holder. As financial interdependence could arise due to other factors, it is also proposed that MAS retain some discretion in determining when financial interdependence is present between the holders.





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