

RESPONSE TO FEEDBACK RECEIVED

December 2019

Proposed Payment Services Regulations

MAS

Monetary Authority of Singapore

Contents

1	Preface	3
2	Overview of Feedback	4
3	Payment Services Regulations: Overview and Requirements for Licensees	7
	Control of Provision of Payment Services	7
	Financial Requirements.....	11
	Business Conduct	12
4	Payment Services Regulations: Requirements for Designated Payment System Entities	15
5	Payment Services Regulations: Exemptions and General Provisions.....	16
	Exemptions.....	16
	General provisions.....	17
6	Other Regulations and Orders under the Payment Services Act	18

1 Preface

1.1 On 10 April 2019, MAS consulted on the key proposals in the following three sets of regulations and one order under the Payment Services Act (“**PS Act**”):

- (a) Payment Services Regulations 2019 (“**PS Regulations**”) ¹
- (b) Payment Services (Exemption for Specified Period) Regulations 2019² (“**Specified Period Regulations**”)
- (c) Payment Services (Singapore Dollar Cheque Clearing System and Inter-Bank GIRO System) Regulations 2019 (“**Clearing Regulations**”) ³
- (d) Payment Services (Designated Payment Systems)(Consolidation) Order (“**DPS Order**”)

1.2 The consultation period closed on 10 May 2019 and MAS thanks all respondents for their contributions. The list of respondents is in Annex A and the full submissions are provided in Annex B. The annexes may be accessed at this [link](#).

1.3 MAS has considered the feedback carefully, and will incorporate it where we agree. Comments that are of wider interest, together with MAS’ responses are set out below.⁴

¹ The version published for consultation was titled “Payment Services Regulations”.

² The version published for consultation was titled “Payment Services (Exemptions for a limited period of time) Regulations”.

³ The version published for consultation was titled “Payment Services (Singapore Dollar Cheque Clearing System and Inter-Bank GIRO System) Regulations”.

⁴ Please note that references to provisions in the regulations refer to the numbers as set out in the consulted version of the regulations and not the final version of the regulations unless otherwise stated.

2 Overview of Feedback

2.1 The response to the measures proposed was largely positive. MAS set out a total of 11 proposals in the April 2019 Consultation (the “**Consultation**”), almost all of which were well received by the majority of the respondents. Nine proposals received strong support, one proposal⁵ received good support and one proposal⁶ received moderate support.

2.2 For reference purposes, the proposals are listed below with the original question number and the topic of the question. Each question has been extracted from the Consultation and set out in the relevant Part of this response document (the “**Response**”).

2.3 The changes to the regulations and order proposed to be issued under the PS Act are summarised below in the order that the relevant questions appear in the Consultation paper.

(a) Question 1: Licensing processes

- There are no changes to the licensing processes.

(b) Question 2: Licence fees and application fees

- There are no changes to the licence fees and application fees.

(c) Question 3: Solicitation

- We will exempt third parties that solicit on behalf of licensees, exempt payment service providers and persons exempt under section 100 from licensing, from section 9(1) of the PS Act.

(d) Question 4: Residency requirement for executive directors

- There are no changes to the residency requirement for executive directors.

⁵ This proposal pertained to the considerations for determining whether an offer, invitation or advertisement is being made or issued to the public in Singapore or any section of the public in Singapore. The relevant question in the Consultation paper is question 3 on solicitation.

⁶ This proposal pertained to general matters including the quantitative thresholds such as e-wallet load capacity. The relevant question in the Consultation paper is question 10 on general provisions and other matters.

(e) Question 5: Minimum financial requirements

- There are no changes to the minimum financial requirements

(f) Question 6: Safeguarding requirements and security deposit

- We will exempt merchant acquirers from the requirement to safeguard relevant money owing to foreign merchants.

(g) Question 7: Duties of the CEO, directors and partners of the licensee, and audit requirements

- We will set out the criteria MAS will consider, in determining whether a CEO, director or partner of a licensee has failed to discharge the duties of his office or employment, in guidelines.
- There are no changes to audit requirements.

(h) Question 8: Requirements for designated payment system entities

- There are no changes to requirements for designated payment system entities but we will set out the criteria MAS will consider, in determining whether an executive officer or director of an operator or settlement institution of a designated payment system, has failed to discharge the duties of his office or employment, in guidelines.

(i) Question 9: Exemptions

- We will broaden the exemption for domestic money transfer service providers, which facilitate cross-border transfer services that are incidental to the domestic money transfer service provided by these domestic money transfer service providers.

(j) Question 10: General provisions and other matters

- We will introduce a flow cap exemption to exclude transfers from a customer's personal payment account to his own overseas personal bank deposit account, and a stock cap exemption that allows the stock cap to be exceeded intra-day, provided all sums above the stock cap are transferred out by the end of the day.

(k) Question 11: Other Regulations

- With reference to the Specified Period Regulations, MAS will give payment service providers one more month to inform us of their existing business.

3 Payment Services Regulations: Overview and Requirements for Licensees

Control of Provision of Payment Services

Question 1. Licensing processes. MAS seeks comments on whether the processes and timelines for licence application, lapsing and variation are appropriate.

3.1 The licence application, lapsing, and variation processes and licence fees, together with the document submission deadlines were set out in the Control of Provision of Payment Services Part of the PS Regulations that were published for consultation. We sought views on whether the processes and timelines were appropriate for licensees.

3.2 A number of respondents provided the following feedback on the proposed timelines in the PS Regulations.

- (a) The 30-day grace provided for standard payment institutions (“**SPIs**”) to apply for licence upgrade upon breaching the specified threshold was insufficient. Respondents also requested greater flexibility to take into account an SPI breaching the threshold for unforeseen reasons.
- (b) That the prescribed period of six-months inactivity following which the licence of a payment service provider will lapse, was insufficient, given that there may be unforeseen circumstances experienced by the licensee.

MAS’ Response

3.3 We will retain the specified timelines as consulted in the PS Regulations. A SPI must take steps to ensure it does not exceed the thresholds set out in section 6(5) of the PS Act. This includes, but is not limited to, regularly monitoring as well as managing anticipated growth projections. The application for a major payment institution (“**MPI**”) licence is a commercial decision. MPIs must comply with a broader set of obligations and a SPI intending to change its licence to a MPI licence will need to make advance preparations to ensure it can comply with those obligations. If a SPI is not willing or able to comply with the requirements imposed on MPIs, it has to be prepared to stay within the thresholds for the SPI licence.

3.4 Where a licensee is unable to—

- (a) commence business in at least one of the payment services authorised to be provided by the license within the prescribed period of six months; or
- (b) resume business within the prescribed period of six months after ceasing to carrying on business in providing all of the payment services authorised to be provided by the licence,

as set out in the PS Regulations due to unforeseen circumstances, the licensee may seek MAS' approval for an extension of the prescribed period. The outcome of such requests will depend on the circumstances of each case.

3.5 To give the industry sufficient time to prepare submissions, MAS will publish the relevant application form for the grant of a licence, as well as the form for notification of provision of payment services for the purpose of exemption from holding a licence for the specified grace period, shortly, ahead of the date of commencement of the PS Act.

Question 2. Licence fees and application fees. MAS seeks comments on the fee structures and the quantum of the fees proposed.

3.6 The majority of respondents had no objections to the fee structures and the quantum of the fees proposed. A number of respondents opined that the quantum could be lower. A number of respondents also proposed that MAS consider fee waivers where multiple payment services are bundled together as part of a single payment product.

MAS' Response

3.7 MAS has carefully considered the fee structures and quantum of the fees proposed and will retain them as consulted in the PS Regulations. The fees are intended to be proportionate to the services rendered by MAS for licensing payment service providers to carry on each of the different payment services and takes into consideration the different risks associated with the provision of each payment service. Bundling of services does not change the nature of such services and risks. As set out in the consultation paper, the fee structures and quantum take into account the cost of administering the PS Act and supervising the sector.

Question 3. Solicitation. MAS seeks comments on whether the considerations for determining whether an offer, invitation or advertisement is being made or issued to the public in Singapore or any section of the public in Singapore are appropriate and in particular, whether they demonstrate a sufficiently strong nexus to the provision of payment services being solicited in Singapore. MAS also welcomes suggestions for other suitable considerations.

3.8 The PS Act when read together with the PS Regulations prohibits any person from soliciting for the provision of payment services, unless that person is a licensee, an exempt payment service provider (such as a bank) or a person exempted from licensing under section 100 (collectively referred to as “regulated entities” for this question). This is to ensure that the person soliciting for the provision of payment services provides accurate information about the payment services offered.

3.9 In addition, the PS Act also prohibits any person in Singapore (including regulated entities) from soliciting for the provision of payment services on behalf of persons overseas that are not licensees or exempt payment service providers. This is to ensure that payment services offered to the public in Singapore are properly regulated by MAS under the PS Act.

3.10 In the Consultation paper, we sought views on the exemption from the prohibition against soliciting for payment services under section 9 of the PS Act. This was to allow persons exempted from holding a licence under section 100 of the PS Act to solicit in Singapore for payment services that such persons are exempt from holding a licence to provide. We received strong support for this exemption.

3.11 In response to the question on what other types of exemptions the industry considers necessary under the PS Act, we received the following feedback on the prohibition against solicitation.

- (a) A number of respondents asked that MAS allow third parties to solicit for payment services to be provided by licensees or exempt payment service providers.
- (b) A number of respondents asked that MAS allow regulated entities to solicit for payment services to be provided by the regulated entity’s related companies overseas, such as the regulated entity’s head office.

- (c) A few other respondents sought clarification on the scope of solicitation, such as whether a regulated entity may follow up on enquiries from customers on services provided by the regulated entity's related company overseas.

MAS' Response

3.12 MAS will allow third parties to solicit for payment services to be provided by licensees, exempt payment services providers, and persons exempt from licensing under section 100. This will be effected through a class exemption provision in the PS Regulations. However, licensees and exempt payment service providers will be required to ensure that third parties make certain disclosures in every offer, invitation or advertisement the third parties make on their behalf. MAS will amend the Notice on disclosures and communications (MAS Notice PSN08) to require that licensees and exempt payment service providers ensure that third parties soliciting payments business for them disclose the information that the licensees and exempt payment service providers are required to disclose under PSN08.

3.13 In order to ensure that payment services provided to the Singapore public are well regulated by MAS, regulated entities will not be allowed to solicit for the provision of payment services to be provided by the regulated entity's related companies overseas, such as the regulated entity's head office. The prohibition against solicitation will continue to apply to regulated entities.

3.14 We wish to clarify that a regulated entity may follow up on enquiries from customers on services provided by the regulated entity's related company overseas. This action in and of itself does not constitute breach of the prohibition against solicitation.

Question 4. Residency requirement for executive directors. MAS seeks comments on the proposed expansion of options to allow applicants to more easily meet the residency requirement for executive directors.

3.15 A number of respondents requested that MAS allow an SPI or MPI to fulfil the residency requirement for executive directors with an executive director who is an employment pass holder, without the licensee having at least one director who is a Singapore citizen or Singapore permanent resident.

3.16 Two respondents requested more time to meet the residency requirement for executive directors to provide more flexibility to ensure appropriate experienced directors are identified and appointed if the Singapore citizen or permanent resident executive director resigns at short notice.

MAS' Response

3.17 We will retain the measure as consulted in the PS Regulations. An applicant applying for a SPI or MPI licence will not be granted a licence unless the applicant has an executive director who is a Singapore citizen or Singapore permanent resident, or where the institution has at least one director who is a Singapore citizen or Singapore permanent resident, an executive director who is an employment pass holder. We also encourage licensees to take into account that MAS may revoke a licence if a licensee ceases to have executive directors fulfilling the above requirements, when developing its terms of engagement for the executive directors hired to meet this requirement.

Financial Requirements

Question 5. Minimum financial requirements. MAS seeks comments on the quantum and components of the proposed minimum financial requirements for SPIs and MPIs.

3.18 A few respondents highlighted that it would be challenging for start-ups to maintain base capital on an ongoing basis, and proposed that MAS imposes paid-up capital instead.

MAS' Response

3.19 MAS will retain the base capital requirements of \$100,000 and \$250,000 for SPIs and MPIs respectively. This is to ensure that payment institutions are sufficiently resourced during times of economic and financial stress. Compared to paid-up capital, the components of base capital take into account losses and dividend-payouts, which are a better indicator of a payment institution's financial situation.

3.20 As highlighted in the Consultation paper, when benchmarked against the minimum financial requirements imposed on other MAS regulated financial institutions

and payment institutions regulated in the United Kingdom, Australia and Hong Kong, the proposed minimum financial requirements for both SPIs and MPIs are comparable.

Business Conduct

Question 6. Safeguarding requirements and security deposit. MAS seeks comments on the financial institutions that the MPI may work with to meet the safeguarding requirements, and whether the other requirements proposed help to reinforce the safeguarding (for the protection of customer monies) against the insolvency of the MPI. Please also let us have your views on whether additional requirements or guidance for safeguarding would be useful. MAS also seeks comments on whether the proposed security deposit is appropriate.

3.21 A number of respondents, including payment firms with global operations, raised concerns over the cost of safeguarding funds in transit. We were asked to consider exempting MPIs from the need to safeguard funds in transit owed to foreign merchants. One respondent also raised the concern that it is difficult for firms in Singapore to safeguard funds received from overseas in a bank in Singapore when the funds are held in foreign banks.

3.22 A few respondents asked about the scope of relevant money that needs to be safeguarded and specifically whether relevant money includes “pre-funding” to merchants.

MAS’ Response

3.23 All MPIs are required to safeguard funds in transit. Under section 23 of the PS Act, merchant acquirers which are MPIs must safeguard funds in transit owed to merchants in Singapore⁷ as well as merchants overseas if the contract between the merchant acquirer and the merchant is concluded in Singapore.⁸ We included the latter

⁷ A merchant in Singapore referred to here is one that carries on business in Singapore, or is incorporated, formed or registered in Singapore. Please see limb (a) in the definition of “merchant acquisition service” in the First Schedule to the PS Act.

⁸ Please see limb (b) in the definition of “merchant acquisition service” in the First Schedule to the PS Act.

type of merchants in the scope of merchant acquisition service to take into account the expectation that foreign merchants may have that all funds in transit processed by a MPI are required to be safeguarded.

3.24 We have taken into consideration the costs and difficulties faced by payment service providers in safeguarding funds in transit owed to foreign merchants. MAS has also considered that foreign merchants may already be protected under the laws in their jurisdictions, as well as under the contractual agreement between these merchants and the payment service providers. As such, MAS will exempt any MPI providing merchant acquisition service from the safeguarding requirement in section 23 where the relevant money is owed to foreign merchants. A foreign merchant is one that does not carry on business in Singapore, and is not incorporated, formed or registered in Singapore. To mitigate the risk that foreign merchants may expect their money to be safeguarded under the PS Act, the MPI will be required to inform all foreign merchants in writing that the money the MPI receives on account of the foreign merchant is not safeguarded under the PS Act.

3.25 We were asked if relevant money that needs to be safeguarded includes “pre-funding” to merchants. We understand that it is common for some merchant acquirers to provide credit to the merchants they serve ahead of the receipt of funds from the merchants’ customers for their purchase of goods and services from those merchants. We clarify that “relevant money” as defined in section 23(14) of the PS Act is any money that is received by a MPI from, or on account of, a customer in respect of the provision of one or more payment services mentioned in section 23(1)(a) to (d) and section 23(3)(a) and (b), and meets the other factors in the definition of “relevant money”. As such, we expect that the funds are relevant money only when the MPI receives money from, or on account of, the MPI’s customer (in this case, the merchant) in respect of the provision of merchant acquisition services. It does not include credit extended by the merchant acquirer to the merchant before the merchant acquirer receives money from or on account of the merchant, from the merchant’s customer.

Question 7. Duties of the CEO, directors and partners of the licensee, and audit requirements. MAS seeks comments on the proposed duties of the CEO, directors and partners of the licensee. MAS also seeks comments on the audit requirements.

3.26 Several respondents questioned the difference between Regulation 13(b)(iv) and Regulation 13(b)(ii), and the rationale behind the difference in duties of CEOs, Directors, Partners between Regulation 13 (licensee) and Regulation 25 (Designated Payment System Operator). A respondent sought more clarity on whether the duties under Regulation 13(b), could be delegated.

3.27 Several respondents requested for the standard of care for CEOs, Directors and Partners in Regulation 13, be aligned to that in Regulation 25. For example, a respondent suggested that “ensure compliance with”, be replaced with the words “take reasonable steps to ensure compliance with”.

3.28 Several respondents requested for more clarity on whether there is a difference between statutory audit and report submission requirements under the Companies Act and the regulatory requirements under section 37(4) of the PS Act. A respondent enquired on whether it is possible to appoint the statutory auditor under the Companies Act to perform audit work to satisfy compliance with requirements under section 37(4) of the PS Act. A respondent enquired on the difference in report submission timeline between section 37(1) of the PS Act and Regulation 20.

3.29 A respondent sought clarity on whether a foreign risk committee member of a licensee, which is a subsidiary of a foreign parent, with significant decision-making power on the operations of the licensee in Singapore, will be subjected to the Regulations. A respondent also requested for more guidance on the fitness and propriety of employees of a licensee other than CEOs, Directors and Partners.

MAS' Response

3.30 MAS will be removing regulation 13 from the PS Regulations and setting it out in separate guidelines on the criteria MAS will take into account in determining whether or not a CEO, director and partner of a licensee has failed to discharge the duties of the individual's office or employment. As only minor clarifications were sought on the audit requirements, MAS will not be making any changes to those requirements.

3.31 MAS will take into consideration cases where the CEOs, Directors and Partners have taken reasonable steps to ensure compliance with the guidelines and exercise discretion in cases where the lapse was due to extenuating circumstances.

3.32 The guidelines will cover the duties of the employees, CEO, directors and partners and will not differentiate between whether the individual is a local or foreigner. With regard to the fit and proper requirements for all other employees of licensees, MAS will subsequently provide more guidance to the industry in the near future.

3.33 The report submission requirement includes but is not limited to the ACRA audit report filing. For example, incident reports and payment statistics are not included in the audit report filing to ACRA but may be required under section 37(4)(c) of the PS Act. A licensee may appoint its statutory auditor to perform the scope of audit under the PS Regulations as long as it is satisfied that the statutory auditor is able to adequately perform the necessary duties under the PS Regulations. With regard to the report submission timeline, section 37(1) of the PS Act requires an auditor to be appointed annually whereas Regulation 20 of the PS Regulations that were consulted on requires the completed audit report to be submitted not later than six months after the end of a financial year.

4 Payment Services Regulations: Requirements for Designated Payment System Entities

Question 8. Requirements for designated payment system entities. MAS seeks comments on the proposed requirements for designated payment system entities.

4.1 A majority of respondents were supportive of the proposed requirements for designated payment systems. Separately, one respondent sought clarification on the difference between annual account filing requirements under Companies Act and the proposed PS Regulations.

MAS' Response

4.2 We would like to clarify that the Companies Act applies to entities that may or may not be financial institutions regulated by the MAS, while Regulation 22 applies to operators of designated payment systems under the PS Act. Apart from the annual report and directors' report prepared in accordance with Part VI of the Companies Act, the operator of a designated payment system will also need to submit an auditors' report that

satisfies the prescribed requirements as well as a report on the business of operating the designated payment system.

4.3 MAS will be removing regulation 25 from the PS Regulations and setting it out in guidelines on the criteria MAS will take into account in determining whether or not a CEO or director of an operator of a designated payment system, has failed to discharge the duties of the individual's office or employment.

5 Payment Services Regulations: Exemptions and General Provisions

Exemptions

Question 9. Exemptions. MAS seeks comments on the four types of exemptions proposed and whether the scope of each type of exemption is suitable for persons that the exemptions are intended to benefit. MAS also seeks views on what other types of exemptions the industry considers necessary under the PS Act. Please be specific in both the scope of exemption and proposed exemption conditions if any.

5.1 One respondent suggested that the scope of exemption (c) for domestic money transfer service ("**Activity B**") providers to be broadened. The respondent suggested that Activity B providers who facilitate the provision of Activity C by exempt payment service providers, or by persons exempt from holding a licence, should also be exempted from the requirement to hold a licence for cross-border money transfer services ("**Activity C**").

MAS' Response

5.2 MAS has considered the feedback and will also allow the exemption to be granted to a licensed Activity B provider, which only facilitates the domestic leg of a cross-border money transfer on behalf of a customer of the Activity C provider, where the Activity C is provided by:

- (i) a person who is exempted from holding a SPI licence as it only carries on a business of providing Activity C with low money laundering and terrorism financing risks; or
- (ii) an exempt payment service provider (such as a bank or finance company).

General provisions

Question 10. General provisions and other matters. MAS seeks comments on the general provisions as well as other matters that in your view should be covered in the PS Regulations. MAS also seeks views on the quantitative thresholds such as e-wallet load capacity and limits set out in the PS Regulations.

5.3 Several respondents commented that the stock cap of \$5,000 and annual flow cap of \$30,000 would inhibit customers' use of their personal payment accounts, in particular for large cross-border remittances, cross-border commerce, overseas travel, and online spending. A number of these respondents called for the caps to be removed or raised, to facilitate such transactions.

MAS' Response

5.4 MAS will retain the stock and flow caps at \$5,000 and \$30,000 respectively. These measures are important to preserve stability of the financial system by reducing the risk of significant outflows from bank deposits to non-bank e-money. They also serve to protect customers by limiting a customer's potential loss from his e-money account, which in turn enables the e-money safeguarding measures to be simple and low-cost, different from deposit insurance that banks have to undertake. The caps were calibrated with due consideration to industry practices and typical household expenditure needs, and should provide sufficient headroom for most individuals. Having said that, these are initial limits, which we can review over time.

5.5 MAS, however, recognises that some customers might need to make large and regular transfers overseas, and some payment institutions may offer competitive e-wallet solutions for such transfers. While the policy rationale for applying the caps remains, it is not MAS' intent to impede access to such a use-case.

5.6 MAS will accordingly introduce the following exemptions which have been scoped appropriately to facilitate such transactions:

- (a) **Flow cap exemption:** A licensee will be permitted to exclude from the annual flow cap computation, transfers from a customer's personal payment account to his own overseas personal bank deposit account. This is in response to industry feedback that some customers may use e-wallets to make regular

overseas remittances to meet financial commitments, such as paying rent, mortgages or financial support to family members.

- (b) **Stock cap exemption:** A licensee will be able to hold balances in personal payment accounts exceeding the \$5,000 stock cap, provided all sums above \$5,000 are transferred out of the personal payment account by the end of the day. This will allow customers to make occasional large payment transactions and transfers via their personal payment accounts. MPAs are required to safeguard all sums in personal payment accounts, including sums in excess of the stock cap.

6 Other Regulations and Orders under the Payment Services Act

Question 11. Other Regulations MAS seeks comments on the above sets of Regulations and Order.

6.1 We consulted on the Specified Period Regulations, Clearing Regulations and DPS Order. A significant majority of the respondents had no objections to the proposed requirements. A few respondents raised concerns about the amount of time that payment service providers have to inform MAS of their existing payments business under the Specified Period Regulations. One of the respondents proposed a 14-day period from the commencement date of the PS Act.

MAS' Response

6.2 In response to the feedback from industry that payment service providers may need more time to inform MAS of their existing payments business under the Specified Period Regulations, payment service providers will have 30 days from the commencement date of the PS Act to inform MAS of the date on which the payment service providers had commenced business of providing the relevant payment services.

6.3 It should be noted that as under section 125(1) of the PS Act, designated payment systems under the Payment Systems (Oversight) Act are deemed to be designated payment systems under section 42(1) of the PS Act on the date of commencement of section 108 of the PS Act, MAS will not be reissuing the DPS Order.

MONETARY AUTHORITY OF SINGAPORE

5 December 2019

