

Obligations of Financial Institutions
under the Personal Data Protection
Act 2012 -

Amendments to Notices on Prevention
of Money Laundering and Countering
the Financing of Terrorism

PREFACE

1 This consultation paper sets out proposed amendments to the MAS Notices on Prevention of Money Laundering and Countering the Financing of Terrorism (“AML/CFT”). The proposed amendments seek to clarify financial institutions’ (“FIs”) obligations under the AML/CFT requirements in relation to the Personal Data Protection Act (“PDPA”).

2 MAS invites comments on the proposed amendments set out in this consultation paper. Electronic submission is encouraged. Please submit your written comments by 20 June 2014 to:

Prudential Policy Department
Monetary Authority of Singapore
10 Shenton Way
MAS Building
Singapore 079117

Fax: 6220 3973
Email: policy@mas.gov.sg

3 Please note that all submissions received may be cited in a response to feedback document prepared by MAS unless confidentiality is specifically requested for whole or part of the submission.

1 OVERVIEW

1.1 The Personal Data Protection Act (“PDPA”) was passed by Parliament on 15 October 2012, and the main data protection rules will come into force on 2 July 2014. It governs, inter alia, the collection, use, disclosure, access to, correction, and care of personal data by organisations, and the establishment of a Do Not Call (“DNC”) Registry.

1.2 The PDPA will apply concurrently with other laws and regulations enacted in Singapore. Organisations regulated by sector-specific laws and regulations will therefore continue to comply with their sector-specific requirements. Unless otherwise expressly provided in the PDPA or other written law, organisations are generally required to obtain consent for the collection, use, and disclosure of personal data; and to specify the purpose for which personal data is being collected, used, and disclosed.

1.3 Exemptions have been made to the PDPA to accommodate existing regulations and other reasonable situations. These include exemptions from the need for consent for purposes clearly in the interest of an individual; where the personal data is publicly available; where the data is necessary for an investigation; debt recovery; and the provision of or obtaining of legal services by the organisation. In addition, to avoid inconsistencies between the PDPA and sector-specific regimes, section 4(6) of the PDPA provides that specific parts¹ will not override sector-specific laws and regulations, or anything imposed or conferred by the law.

1.4 Even as financial institutions (“FIs”) adjust their processes to comply with the PDPA, they cannot compromise their ability to perform effective customer due diligence. The importance of combating money laundering and terrorism financing (“ML/TF”) is recognised internationally, and legislation on anti-money laundering and countering the financing of terrorism (“AML/CFT”) is not subject to data privacy laws in other major jurisdictions. MAS is therefore proposing amendments to existing AML/CFT legislation to clarify FIs’ obligations, while preserving the right of individuals to protect their personal data.

¹ Parts III to VI of the PDPA.

2 PROPOSED AMENDMENTS

2.1 The proposed amendments are set out in the Annex, and will be introduced as a new part to the respective MAS Notices on Prevention of Money Laundering and Countering the Financing of Terrorism (collectively known as “MAS AML/CFT Notices”). These MAS AML/CFT Notices are issued pursuant to section 27B of the Monetary Authority of Singapore Act to each class of FIs. The amendments are intended to be effective from 2 July 2014.

2.2 These amendments clarify that for the purposes of meeting the AML/CFT requirements, such as in the course of performing customer due diligence, FIs may collect, use, and disclose personal data without customer consent, as per existing practice.

2.3 The amendments also acknowledge customers’ rights under the PDPA to access and correct their personal data. Customers will have access to all personal data that they have provided to the FIs, and their factual identification data. Factual identification data will include a customer’s unique identification information, such as his identity card number, birth certificate number and passport number; address; date of birth; and nationality. Where there are errors to these data, customers may request that corrections be made.

2.4 For the avoidance of doubt, the proposed amendments will be added as a new part and applied to the respective MAS AML/CFT Notices issued to:

- (a) Approved Trustees [MAS Notice SFA13-N01];
- (b) Banks [MAS Notice 626];
- (c) Capital Markets Intermediaries [MAS Notice SFA04-N02];
- (d) Financial Advisers [MAS Notice FAA-N06];
- (e) Finance Companies [MAS Notice 824];
- (f) Holders of Money-Changer’s Licence and Remittance Licence [MAS Notice 3001];
- (g) Holders of Stored Value Facilities [MAS Notice PSOA-N02];
- (h) Life Insurers [MAS Notice 314];
- (i) Merchant Banks [MAS Notice 1014]; and
- (j) Trust Companies [MAS Notice TCA-N03].

ANNEX 1

DRAFT PARAGRAPHS TO BE INSERTED INTO MAS AML/CFT NOTICES

[FI] will refer to the reference FI under the relevant Notice. For example, for Notice to banks on Prevention of Money Laundering and Countering the Financing of Terrorism [MAS Notice 626], “[FI]” will be replaced by “bank”.

XX PERSONAL DATA

XX.1 For the purposes of paragraph XX –

- (a) “personal data” has the same meaning as defined in section 2(1) of the Personal Data Protection Act (Cap. 26); and
- (b) a reference to “individual” shall mean a natural person.

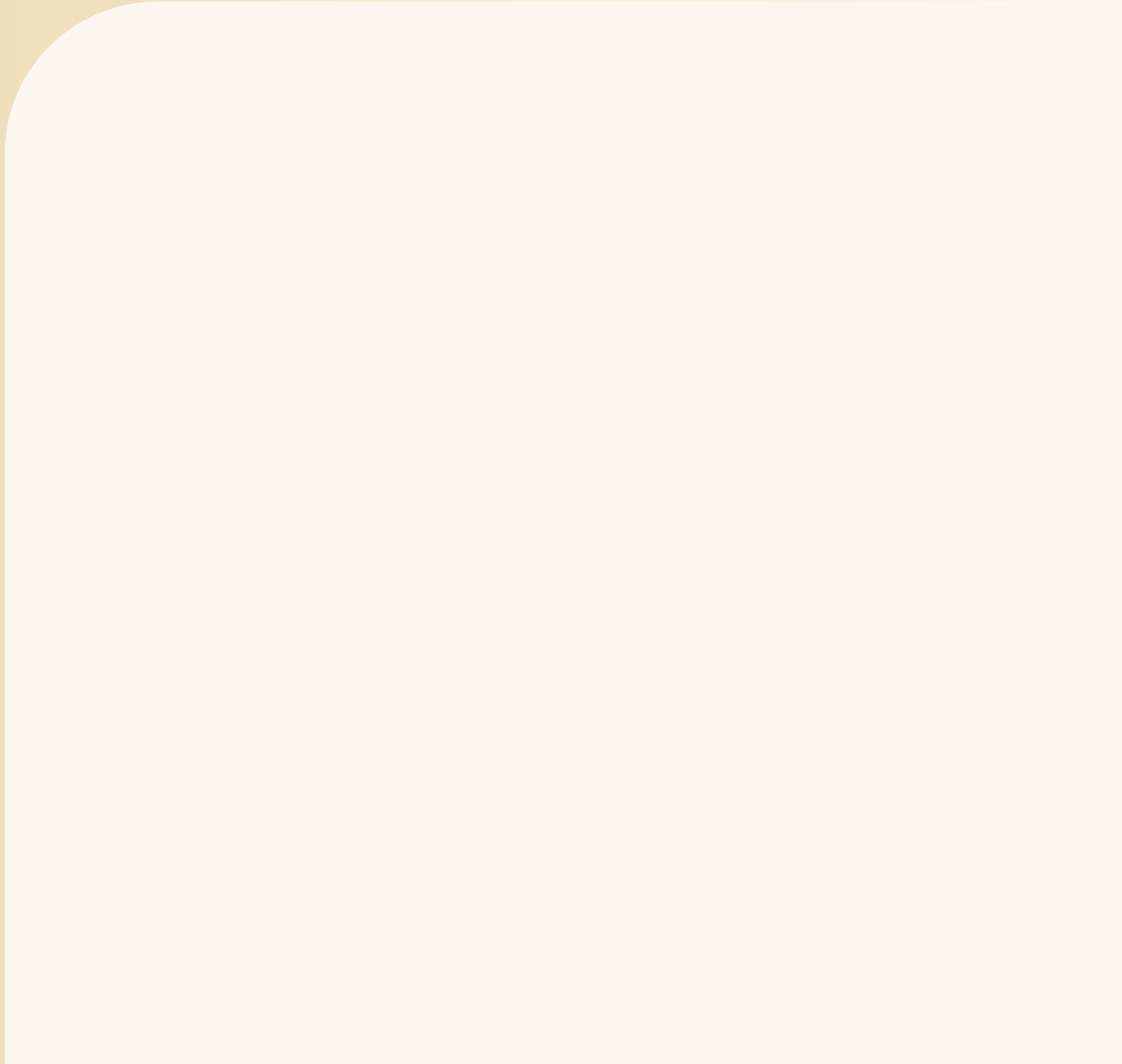
XX.2 An [FI] shall, as soon as reasonably practicable, upon the request of an individual customer, an individual natural person appointed to act on behalf of a customer or an individual beneficial owner of the customer, provide the requesting individual with the right to access and correct an error or omission in relation to the following types of personal data of that requesting individual, that is in the possession or under the control of the [FI]:

- (a) the full name, including any alias;
- (b) the unique identification number (such as an identity card number, birth certificate number or passport number);
- (c) the existing residential address and contact telephone number(s);
- (d) the date of birth;
- (e) the nationality; and
- (f) any other personal data of the respective individual provided by that individual to the [FI].

XX.3 Subject to paragraph XX.2 and for the purposes of complying with this Notice, an [FI] shall not be required to provide an individual customer, an individual person appointed to act on behalf of a customer or an individual beneficial owner of a customer, with:

- (a) any access to personal data about the individual that is in the possession or under the control of the [FI];
- (b) any information about the ways in which the personal data of the individual under subparagraph (a) has been or may have been used or disclosed by the [FI]; and
- (c) any right to correct an error or omission of the personal data about the individual that is in the possession of or under the control of the [FI].

XX.4 For the purposes of complying with this Notice, an [FI] may, collect, use and disclose personal data of an individual customer, an individual person appointed to act on behalf of a customer or an individual beneficial owner of the customer, without the respective individual's consent.



Monetary Authority of Singapore