



**RESPONSE TO FEEDBACK RECEIVED –
CONSULTATION PAPER ON 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**

1 Introduction

1.1 On 2 June 2014, MAS issued a consultation paper inviting comments on the proposed amendments to the MAS Notices on Prevention of Money Laundering and Countering the Financing of Terrorism (collectively known as “AML/CFT Notices”). The proposed amendments sought to clarify financial institutions’ (“FIs”) obligations under the AML/CFT Notices in relation to the Personal Data Protection Act (“PDPA”).

1.2 The consultation period closed on 20 June 2014, and MAS would like to thank all respondents for their contributions. The list of respondents is in Appendix A.

1.3 MAS has carefully considered the feedback received, and the comments that are of wider interest, together with MAS’ responses are set out below.

2 Clarification of Individuals’ Access and Correction Rights

2.1 A number of FIs sought clarification on how the requirements set out in draft paragraphs XX.2 and XX.3 of the proposed amendments to the AML/CFT Notices would interact. Specifically, they wished to understand the types of information that customers were allowed to access and correct, and whether these access and correction rights should align with those specified in the PDPA. There was also a query on whether access and correction rights would be extended to individuals acting on behalf of a customer, for example, in situations where individuals held Power of Attorney.

MAS' Response

2.2 Paragraph XX.2 affirms individuals' rights under the PDPA to access and correct factual personal data and any other personal data that they have provided to an FI. For example, an individual may have previously made a declaration to the FI which he would like to update if there are changes. Paragraph XX.2 makes clear that the FI must facilitate his access to the original declaration and allow him to initiate corrections.

2.3 Paragraph XX.3 recognises that unfettered rights to access and correct all types of personal data could, however, affect the quality of FIs' customer due diligence ("CDD") data and their ability to aid in combating money laundering and terrorism financing ("ML/TF") crimes. As such, it makes clear that aside from the personal data specified in paragraph XX.2, FIs are not obliged to provide individuals access to and correction of any other personal data. This would include information obtained by FIs from third party sources for verification purposes and FIs' internal analyses of individuals' ML/TF risk.

2.4 For the avoidance of doubt, the access and correction mentioned in paragraphs XX.2 and XX.3 refer to the personal data of the requesting individual. For example, in the case of an individual appointed to act on behalf of a customer (whether a natural person or a corporate), the FI shall grant, upon the request of the individual, the right to access and correct his personal data as specified in the Notices.

2.5 In response to the comments received and for greater clarity, MAS has re-ordered paragraphs XX.2 and XX.3 in the revised AML/CFT Notices.

2.6 In addition, MAS agrees that the approach to granting both access and correction rights to customers should generally be aligned with the PDPA. For instance, in the area of access, an FI need not grant access if the access may reveal personal data about another individual; and for correction, the FI should be satisfied that there are reasonable grounds for such requests. The corresponding proposed amendments in the AML/CFT Notices have thus been revised to recognise the provisions of the PDPA, where appropriate.

2.7 If a customer has granted Power of Attorney to a representative, the banks can grant access and correction rights to the representative, in accordance with the AML/CFT Notices.

3 Connected Parties

3.1 The AML/CFT Notices require that for customers that are not individuals, CDD measures should cover the identification of directors, partners, and persons having executive authority. FIs are also required to identify and verify the identities of beneficial owners. Hence, there were several queries on whether the proposed amendments would extend to the aforementioned connected parties. There were also proposals for other connected parties to be included in the proposed paragraphs, such as individuals acting on behalf of a beneficial owner, and beneficiaries in a remittance transaction.

MAS' Response

3.2 MAS agrees that CDD measures should cover a wider group of individuals than was initially specified and has introduced the concept of “connected parties” in the definitions under the revised paragraph XX.1 of the AML/CFT Notices. The definition will include company directors, partners and natural persons with executive authority, as the case may be, in a company, partnership or a body corporate or incorporate. In addition, to take into account the latest ML/FT risks, MAS will be consulting on comprehensive amendments to the AML/CFT Notices shortly. The definition on “connected parties” will be refined further as part of this consultation and respondents are invited to provide feedback.

4 Personal Data Obligations of Other Entities

4.1 A number of FIs asked whether the proposed amendments would apply to other entities that they worked closely with for the purpose of complying with the AML/CFT Notices. A specific example cited were third parties such as data intermediaries.

MAS' Response

4.2 FIs should refer to the PDPA, including section 4(2), regarding data intermediaries' personal data obligations.

4.3 Para XX.4 has been amended to reflect that, for the purposes of meeting the AML/CFT requirements, FIs may, whether directly or through a third party, collect, use and disclose personal data without customer consent, as per existing practice.

5 FIs' Personal Data Obligations for Non-AML/CFT Purposes

5.1 Some respondents requested that a similar clarification of FIs' personal data obligations be set out for compliance with other MAS requirements besides AML/CFT such as risk management.

MAS' Response

5.2 At present, MAS is only proposing amendments to the AML/CFT Notices, as this is the area that will be most impacted if there is ambiguity over FIs' regulatory obligations when PDPA comes into effect. MAS will continue working with FIs and the Personal Data Protection Commission ("PDPC") to monitor developments after the PDPA comes into force, so as to assess if further amendments are needed for greater clarity on FIs' obligations to comply with MAS' requirements.

6 Other Comments

6.1 Several other comments were received, including a query to clarify on FIs' obligations around the withdrawal of consent in the proposed amendments and whether the definition of "individual" should include natural persons both living and deceased.

MAS' Response

6.2 The amendments clarify that for the purposes of meeting the AML/CFT requirements, FIs may collect, use, and disclose personal data without customer consent, as per existing practice. Since customer consent is not required in this context, it is not possible for a customer to withdraw consent. In any case, if financial institutions are unable to complete their customer due

diligence process, they would not be allowed to establish a relationship with the given customer.

6.3 MAS agrees that the definition of “individual” should include natural persons whether living or deceased, which is aligned with the definition provided in the PDPA. The exemption granted to FIs under Paragraph XX.4 to collect, use and disclose individuals’ personal data would be unduly restricted if it is confined to living natural persons. The definition of “individual” has been amended in Paragraph XX.1 to reflect this.

MONETARY AUTHORITY OF SINGAPORE

1 July 2014

List of Respondents to the Consultation Paper on Obligations of Financial Institutions under the Personal Data Protection Act 2012 – Amendments to AML/CFT Notices

1. AK Money Changer & Department Store
2. The Association of Banks in Singapore
3. Chiang Ming Yu
4. Clifford Chance Pte Ltd
5. Great Eastern Life & OAC (via Life Insurance Association)
6. Fullerton Fund Management
7. ING Bank NV
8. Lion Global Investors Ltd
9. Manulife (via Life Insurance Association)
10. NBL Money Transfer Pte Ltd
11. Newedge Financial Singapore Pte Ltd
12. OCBC Securities Pte Ltd
13. Paypal
14. Rabobank International
15. Schroder Investment Management (Singapore) Ltd
16. Sumitomo Mitsui Banking Corporation
17. Wong Partnership LLP

17 other respondents requested confidentiality.