PAYMENT SERVICES ACT 2019: MAS ISSUES GUIDELINES ON LICENSING FOR PAYMENT SERVICE PROVIDERS AND CONSULTS ON THE SCOPE OF E-MONEY AND DIGITAL PAYMENT TOKENS

Posted on January 28, 2020

Category: CNPupdates

General disclaimer

This article is provided to you for general information and should not be relied upon as legal advice. The editor and the contributing authors do not guarantee the accuracy of the contents and expressly disclaim any and all liability to any person in respect of the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or any part of the contents.

Date Published: 28 January 2020

Authors and Contributors: Sean Tan, Goh Wan Shuen, Mike Chiam, Quek Li Fei and Bill Jamieson.

The Payment Services Act 2019 ("**PS Act**"), which was passed by Parliament in January 2019 and will come into force on 28 January 2020, regulates payment systems and payment service providers in Singapore. In our CNPupdate article of 10 April 2019, we discussed the Payment Services Bill ("the Bill") including the proposed scope of regulations under the Bill and the designation and regulation of payment systems. You may click here to access our previous CNPupdate on the Bill.

Under the PS Act, there are two parallel regulatory frameworks, namely:

- a designation regime that enables the Monetary Authority of Singapore ("**MAS**") to regulate operators, settlement institutions and participants of systemically important payment systems, such as interbank services, as "designated payment systems" for financial stability and efficiency; and
- a licensing regime that enables the MAS to regulate providers of retail payment services to customers and merchants.

Under the licensing regime, payment service providers must obtain either a money-changing licence, a standard payment institution licence or a major payment institution licence, in order to provide the relevant payment service. This licensing regime enables the MAS to regulate a wide range of payment services and specific payment services which a payment service provider intends to offer.

General disclaimer

This article is provided to you for general information and should not be relied upon as legal advice. The editor and the contributing authors do not guarantee the accuracy of the contents and expressly disclaim any and all liability to any person in respect of the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or any part of the contents.

MAS issues Guidelines on Licensing for Payment Service Providers

On 18 December 2019, the MAS issued the Guidelines on Licensing for Payment Service Providers ("**Guidelines**") to supplement the provisions of the PS Act. The Guidelines are intended to provide guidance on the licensing criteria and ongoing requirements for payment service providers under the PS Act and should be read in conjunction with the provisions of the PS Act.
Examples of the ongoing requirements stipulated in the Guidelines include cyber hygiene requirements, anti-money laundering/countering the financing of terrorism ("**AML/CFT**") requirements, and disclosure requirements such as ensuring that customers receive timely updates regarding any material changes to any disclosures the licensee is required to provide.
The MAS has also released specimen forms for licence applications and notifications ("**Specimen Forms**"). Prospective applicants should note that the MAS will only accept licence applications and notifications through the online Specimen Forms after the PS Act commences on 28 January 2020.

The list of Specimen Forms released by the MAS on 18 December 2019 are as follows:

1. Notification Form for the Purpose of Exemption from Holding a Licence under the Payment Services Act for the Specified Period;
2. Form 1: Application for a Payment Service Provider Licence;
3. Form 2: Application for the Variation or Change of a Payment Service Provider Licence; and
4. Form 3: Application for the Approval of Chief Executive Officer, Director or Partner of a Payment Service Provider.

The Guidelines and Specimen Forms are available on the MAS's website, and may be accessed at the links below:

1. Guidelines
2. Notification Form
3. Form 1
4. Form 2
5. Form 3

MAS consults on the PS Act: Scope of E-Money and Digital Payment Tokens

The MAS is also consulting on the scope of e-money and digital payment tokens under the PS Act.

When the PS Act was introduced, only first-generation digital tokens such as Bitcoin and Ether existed and

General disclaimer
This article is provided to you for general information and should not be relied upon as legal advice. The editor and the contributing authors do not guarantee the accuracy of the contents and expressly disclaim any and all liability to any person in respect of the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or any part of the contents.

were used for payments. These cryptocurrencies are presently defined as digital payment tokens ("**DPTs**") and are regulated under the PS Act.

However, given recent developments in the payments industry and the emergence of new payment instruments such as stablecoins, the MAS is now reviewing its approach to e-money and DPT and is inviting comments on the scope of money, e-money and DPTs, as well as the regulatory treatment of e-money based payment services and DPT services. The consultation paper, which was issued by the MAS on 23 December 2019, can be found here.

The MAS is accepting comments until 28 January 2020.

Emergence of stablecoins

On 18 June 2019, Facebook formally announced that it was working on a new crytocurrency initiative called Libra. Libra belongs to a new class of cryptocurrencies called stablecoins, which are designed to maintain a stable value relative to another asset (typically a unit of currency or commodity or a basket of assets) in order to address concerns over the excessive price volatility of the first generation of cryptocurrencies

In Libra's case, the stablecoin is backed by a reserve of real assets called the Libra Reserve. Users will be able to convert their Libra tokens into a local fiat currency based on an exchange rate, similar to money. In contrast, traditional cryptocurrencies such as Bitcoin and Ether are not pegged by their issuers to any currency.

As stablecoins exhibit characteristics typically associated with money unlike the first generation cryptocurrencies, the MAS has noted that stablecoins may blur the line between the e-money and DPT regimes, and may also fall outside the existing definitions of payment instruments.

The MAS is thus seeking feedback on the scope of e-money and DPTs, including whether their definitions remain relevant and appropriate in view of the introduction of stablecoins, as well as the regulation of stablecoins.

Regulation of E-money Based Payment Services and DPT Services

The MAS also seeks to review the regulatory framework governing e-money based payment services and DPT services set out in the PS Act.
The MAS highlighted that the PS Act was developed as a risk-focused, activity-based framework that saw each payment service regulated differently in order to effectively mitigate the specific set of risks that each service poses. In this regard, different payment services pose different risks. For instance, DPT services mainly involve money-laundering and terrorism financing risks, while e-money services pose a range of

General disclaimer
This article is provided to you for general information and should not be relied upon as legal advice. The editor and the contributing authors do not guarantee the accuracy of the contents and expressly disclaim any and all liability to any person in respect of the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or any part of the contents.

risks and concerns, such as user protection. As such, DPT services are subject to AML/CFT requirements while e-money services are not.

As the regulatory framework set out in the PS Act was enacted before the emergence of stablecoins, the MAS is consulting on the existing framework and whether it remains relevant and appropriate in view of recent developments.

Repeal of the Payment Systems (Oversight) Act and the Money-Changers and Remittance Businesses Act

Under the PS Act, holders of stored value facilities (SVFs), money-changers and remittance businesses will be regulated as e-money issuance services, money-changers and money remittance service providers respectively. The Payment Systems (Oversight) Act and Money-Changers and Remittance Businesses Act will be repealed upon the commencement of the PS Act.

General disclaimer

This article is provided to you for general information and should not be relied upon as legal advice. The editor and the contributing authors do not guarantee the accuracy of the contents and expressly disclaim any and all liability to any person in respect of the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or any part of the contents.