

PRACTICAL ASPECTS OF THE REVISED AND NEW ANTI-MONEY LAUNDERING NOTICES FOR BANKS AND CREDIT CARD / CHARGE CARD LICENSEES ISSUED BY THE MONETARY AUTHORITY OF SINGAPORE

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- Second, of a two-part article highlighting practical aspects of the revised MAS Notice 626 and new MAS Notice 626A
- Banks should take note of additional requirements, including new circumstances requiring customer DD
- Guidance on how to detect suspicious transactions
- MAS Notice 626 took effect from 24 May 2015, other section of MAS Notice 626 will take effect from 24 July 2015

Outcome of Public Consultations on Proposed Amendments to MAS Notice 626

On 15 July 2014, the Monetary Authority of Singapore (“**MAS**”) issued a consultation paper inviting financial institutions (“**FIs**”) and interested parties to comment on the proposed amendments to the MAS Notices on Prevention of Money Laundering and Countering the Financing of Terrorism in Singapore in updating Singapore’s approach against money laundering and terrorism financing (“**ML/TF**”). MAS proposed these amendments after taking into consideration international standards including the Financial Action Task Force 40 Recommendations and best practices from other countries and anti-money laundering and countering the financing of terrorism (“**AML/ CFT**”) regulators. These changes are also intended to formalise MAS’s current supervisory expectations, conveyed during its inspections of FIs.

The public consultation exercise closed on 14 August 2014 (the “**Public Consultation**”). On 24 April 2015 MAS issued the revised notices and guidelines. Some of the changes will take effect in phases: the first phase commenced on 24 May 2015, and the second phase will commence on 24 July 2015.

This article focuses on MAS 626 Notice to Banks on the Prevention of Money Laundering and Countering the Financing of Terrorism (“**MAS 626**”) effective 24 May 2015 (except for paragraphs 4, 5, 15.6 and 15.7 which take effect from 24 July 2015) and introduces the new MAS 626A Notice to Credit Card or Charge Card Licensees (“**MAS 626A**”) (which will take effect from 24 July 2015) as respective specific guidance for banks (“**Banks**”) and credit card or charge card licensees (“**CC Licensees**”) licensed under the Banking Act (Cap. 19) as to what AML/CFT efforts they should undertake.

The MAS also issued the guidelines to, inter alia, MAS 626 and MAS 626A (respectively, the “**MAS 626 Guidelines**” and “**MAS 626A Guidelines**”).

Practical implications of MAS 626 and MAS 626A

FIs should take note of the requirements under the various MAS notices. The Association of Banks in

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Singapore stated that many of the new rules have been a norm in the banking industry. Some commentators observe that the updated MAS notices “formalise the principles that have been advocated by MAS and which banks in Singapore have been practising”. Some mentioned that with the MAS’s close consultation with players of the banking sector, industry players will have few difficulties complying with the revised MAS notices.

Some of the new requirements of MAS 626 include:

- **Additional circumstances requiring customer due diligence (“CDD”).** Paragraph 6.3 of MAS 626 states when the Bank shall perform CDD. In particular, the new paragraph 6.3(c) requires the Bank to conduct CDD when the Bank effects or receives any funds by domestic wire transfer or by cross-border wire transfer that exceeds S\$1,500 for any customer who has not otherwise established business relations with the Bank.
- **Widening of the category of politically exposed persons (“PEPs”).** Banks will be required to conduct enhanced CDD in certain circumstances on domestic PEPs and international organisation PEPs and paragraph 8-4 of the MAS 626 Guidelines provide further details of these requirements. Domestic PEPs are natural persons who are or have been entrusted domestically with prominent public functions. In the context of Singapore, domestic PEPs should include at least all government ministers, members of parliament, nominated members of parliament and non-constituency members of parliament. International organisation PEPs include natural persons who are entrusted with functions in the United Nations and its affiliated agencies, regional international organisation such as the Asian Development Bank, the Association of Southeast Asian Nations Secretariat, institutions of the European Union, the Organisation for Security and Cooperation in Europe; military international organisations such as the North Atlantic Treaty Organisation; and economic organisations such as the World Trade Organisation and the Asia-Pacific Economic Cooperation Secretariat.
- **Identification and verification of the identity of beneficial owners.** Banks involved in the private clients industry, specifically, those involved in advising on wealth management for ultra-high and high net worth individuals, should take note of paragraph 6.14(b) of MAS 626 which states that when they are serving customers which are legal arrangements (e.g., trusts), they will have to identify the settlors, trustees, protector (if any), beneficiaries (including every beneficiary that falls within a designated characteristic or class), and any natural person exercising ultimate ownership, ultimate control or ultimate effective control over the trust (including through a chain of control of ownership). Furthermore, in relation to a beneficiary of a trust, the Bank must obtain sufficient information about the beneficiary to satisfy itself that it will be able to establish the identity of the beneficiary before making a distribution to that beneficiary or when that beneficiary intends to exercise vested rights.
- **Customer screening.** The new paragraph 39 requires a Bank to screen a customer, natural persons appointed to act on behalf of the customer, connected parties of the customer and beneficial owners of the customer against relevant ML/TF information sources, as well as lists and information provided by the MAS or other relevant authorities in Singapore for the purposes of determining if there are any

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ML/TF risks in relation to the customer. Examples of such lists and information include the Terrorism (Suppression of Financing) Act (Cap. 325), regulations issued under Section 27A of the Monetary Authority of Singapore Act (Cap. 186) ("**MAS Act**"), and MAS Notice on Prohibition on Transactions with the Iranian Government and with Iranian Financial Institutions (MA-N-EXT 1/2012). The MAS may also make ad-hoc requests and sweeps on certain names and the MAS will clearly spell out their requirements in its communication to the Banks. Further guidance may be found in paragraph 6.15 of the MAS 626 Guidelines.

MAS 626A will take effect from 24 July 2015 to give adequate lead time for CC Licensees to implement the requirements. The MAS in its response to the Public Consultation states that CC Licensees should prioritise the identification of higher risk customers within their existing customer base, taking into consideration the increased attention paid to international organisation PEPs, which is a new requirement. This remediation of higher-risk customers should, according to paragraph 1.3 of the said response, be done within six months of the date of issue of MAS 626A (24 April 2015), by 24 October 2015. CC Licensees are to ensure that enhanced CDD measures are performed on the higher risk customers identified within their existing customer database.

How to Detect Suspicious Transactions

The respective annexes to the MAS 626 Guidelines and the MAS 626A Guidelines are helpful in providing examples of suspicious transactions, which include:-

- **Transactions which do not make economic sense.** These include transactions in which assets are withdrawn immediately after being deposited unless the customer's business activities furnish a plausible reason for immediate withdrawal; large amounts of funds deposited into an account, which is inconsistent with the salary of the customer; and cash deposited at one location is withdrawn at another location almost immediately.
- **Transactions involving transfers abroad.** Some common suspicious transactions include repeated transfers of large amounts of money abroad accompanied by the instruction to pay the beneficiary in cash; "U-turn" transactions; and cash payments remitted to a single account by a large number of different persons without an adequate explanation.
- **Tax crimes related transactions.** Banks should be wary of, inter alia, negative tax-related reports from the media or other credible information sources; inability to reasonably justify frequent and large wire transfers from or to a country or jurisdiction that presents higher risk of tax evasion; and accounts managed by external asset managers who may not be adequately regulated and supervised.
- **For CC Licensees who acquire merchants.** CC Licensees should take note of unusual or excessive cash advances or credit refunds; indications that a merchant's credit card or charge card terminal is being used by any third party; and any proposed transaction volume, refunds or charge-backs that are inconsistent with information obtained from an on-site visit or merchant/ industry peer group.

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The MAS reminds Banks and CC Licensees that the list of examples of suspicious transactions enumerated in the respective annexes to the MAS 626 Guidelines and the MAS 626A Guidelines are not exhaustive and may be updated due to changing circumstances and new methods of ML/TF. Banks and CC Licensees are to refer to the website of the Suspicious Transaction Reporting Office for the latest list of red flags.

Conclusion

Banks should take cognizance of the new requirements under the MAS 626 and their effective dates. Except for paragraphs 4, 5, 15.6 and 15.7, MAS 626 took effect from 24 May 2015. Paragraphs 4, 5, 15.6 and 15.7 of MAS 626 will take effect from 24 July 2015.

CC Licensees should note that MAS 626A will take effect from 24 July 2015.

Under Section 27B(2) of the MAS Act, a financial institution (which includes any Bank or CC Licensee) which fails or refuses to comply with any direction issued by the MAS which the MAS considers necessary for the prevention of money laundering or for the prevention of the financing of terrorism, such as MAS 626 and MAS 626A, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding S\$1 million and, in the case of a continuing offence, to a further fine of S\$100,000.00 for every day during which the offence continues after conviction.

Part 1 of our article can be accessed [here](#).

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