

10 May 2019

To
PS Regulations Consultation
FinTech and Innovation Group
Monetary Authority of Singapore
10 Shenton Way, MAS Building
Singapore 079117

**Subject: Industry Submission on the Proposed Payment Services Regulations, Singapore
(Consultation Paper P005-2019, April 2019)**

On behalf of the Asia Internet Coalition (AIC) and its members, I am writing to express our sincere gratitude to the Monetary Authority of Singapore (“MAS”) and the Government of Singapore for the opportunity to participate in the public consultation on the Consultation Paper on the Proposed Payment Services Regulations (“PS Regulations”). AIC is an industry association comprised of leading Internet and technology companies in the Asia Pacific region with an objective to promote the understanding and resolution of Internet and ICT policy issues. Our current members are Airbnb, Amazon, Apple, Expedia Group, Facebook, Google, LinkedIn, LINE, Rakuten, Twitter and Yahoo (Oath), and Booking.com.

We commend the Government for conducting a multi-stakeholder consultation process in the development of this important regulation, particularly to promote the financial services industry and improve regulatory clarity on licensees under the Payment Services Act 2019 (“PS Act”). Such efforts and dialogue are critical, and as responsible stakeholders in the development of this regulation, we appreciate the ability to participate in this discussion and the opportunity to provide inputs into the policy-making process for the enablement of Singapore's payments system. This is a timely initiative by MAS and will prove to be a cornerstone of the Smart Nation vision and empower a range of initiatives to digitise payments. However, we would like to respectfully offer our recommendations to ensure that the PS Act effectively achieves its underlying objectives.

Please find attached to this letter an appendix (**in the requested format**) with more detailed comments and recommendations on the PS Regulation. **We respectfully request that MAS consider these recommendations when reviewing the PS Regulations.**

Should you have any questions or need clarification on any of the recommendations, please do not hesitate to contact our Secretariat Mr. Sarthak Luthra at Secretariat@aicasia.org or at +65 8739 1490. Importantly, we would also be happy to offer our inputs and insights, directly through meetings and discussions and help shape the dialogue to develop an effective payments ecosystem in Singapore.

Sincerely,



Jeff Paine
Managing Director,
Asia Internet Coalition

AIC'S RESPONSE TO CONSULTATION PAPER

Please note that all submissions received will be published and attributed to the respective respondents unless they expressly request MAS not to do so. As such, if respondents would like (i) their whole submission or part of it, or (ii) their identity, or both, to be kept confidential, please expressly state so in the submission to MAS. In addition, MAS reserves the right not to publish any submission received where MAS considers it not in the public interest to do so, such as where the submission appears to be libellous or offensive.

Consultation topic:	Proposed Payment Services Regulations
Name¹/Organisation: ¹ if responding in a personal capacity	Asia Internet Coalition ("AIC"), www.aicasia.org
Contact number for any clarification:	+65 8739 1490
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Confidentiality	
I wish to keep the following confidential:	<i>(Please indicate any part of your submission you would like to be kept confidential, or if you would like your identity to be kept confidential. Your contact information will not be published.)</i> NA

Comments and Recommendations

1. **Question 1. Licensing Processes**

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

With respect to domestic money transfer services, account issuance services and e-money issuance services, we agree with MAS's intention to provide a 12-month grace period or 6-month grace period to obtain the proper license. Because the new regulatory regime introduces new obligations for licensed payment service providers, we would like to confirm that such period applies to compliance with the other requirements imposed thereunder in addition to securing the licensing requirements.

For cross-border money transfer services, we encourage MAS to reconsider its view that a similar grace period is not required where an entity currently carries on such activities incidentally to its primary business. Current case law does not require a license for such activities. Therefore, it is likely that a number of providers will be unable to immediately comply with associated requirements. The effect will be to unnecessarily force businesses into regulatory non-compliance or artificially limit the number of entities willing to offer foreign payment processing. Even if firms were to proactively apply for the current license, and hence deemed to be licensed under the PS Act, full compliance with the requirements will take some time, so a grace period remains a useful tool to encourage greater business participation. In addition, because the license and compliance requirements under the PS Act will differ from those under the PSOA, forcing businesses who are not currently required to comply with the PSOA (either because they are not required to or because they have not yet launched their activities) to comply with the PSOA obligations in order to first obtain the PSOA license and then change their practices to comply with the PSA is burdensome and unnecessarily stifling to new businesses. As efforts by payment industry stakeholders to comply with PSD2 has recently demonstrated in Europe, adaptation to a new regulatory structure is very challenging because it requires multiple stakeholder collaboration and customer education. To ensure a smooth transition that does not create unnecessary interruption to businesses or customers and allows businesses ample time to determine the best way to restructure their businesses to comply with regulatory requirements, we would request a significant grace period for all aspects of the new regulation.

As MAS develops the specific licensing requirements for each type of payment processing, we encourage MAS to institute lower-friction AML requirements. Many other jurisdictions focus on risk-based AML programs rather than prescriptive requirements. These regimes allow businesses flexibility to develop and innovate to find effective AML solutions that align with their business models. In addition to

better-facilitating new business practices and models in this quickly-changing space, risk-based regimes are more beneficial to achieving results because they do not give bad actors a blue print on how to circumvent static controls.

Finally, we encourage MAS to consider broader exemptions for gift card requirements for cards with low risk stored value. While we note the definition of "limited purpose e-money" under the PS Act, the scope of such definition (and in particular, "limited network of providers of goods or services") is limited and does not contemplate the possibility of gift cards that may be used to acquire goods and/or services from third party merchants on online marketplaces. For example, in the United States, non-reloadable gift cards under a certain dollar threshold (US\$2000) and redeemable only for a defined merchant or location or set of merchants or locations, even if unaffiliated, are determined to be low risk. These gift cards do not require the same licensure or AML scrutiny as other gift cards because it is difficult to use these cards to conduct significant money-laundering schemes and the trade-offs between the cost of regulations to the benefits of consumers buying small dollar gifts were too high to impose such friction. Another example is in Australia, where gift cards under A\$500 marketed only for gifting purposes are seen as low risk and do not require licensure, KYC, or AML monitoring. In both cases, the governments recognized that a requirement to have a customer provide sensitive personal information such as their government identification number in order to purchase a gift for a birthday or wedding was unnecessary even if the card were to be redeemable at a network of unaffiliated stores rather than a single store. When gift cards are low in dollar amount, are not redeemable for cash and can only be redeemed at a limited number of businesses or locations, even if those businesses are not affiliated, they remain low risk for money-laundering and the burdens on customers and businesses of implementing sophisticated AML programs outweigh the benefit of such programs as well as cause unwanted to friction for customers.

2. **Question 2. Licence fees and application fees**

MAS seeks comments on the fee structures and the quantum of the fees proposed.

We appreciate MAS's extensive range of license fees activities, which provides comprehensive coverage for different licensing structures. Whilst fees are non-refundable, are there any "cancellation/penalty" fees if the licensee surrenders the license back to MAS?

3. **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

We agree with MAS' intent to expand the options for multi-national businesses doing business in Singapore by reducing the citizenship and residency requirements for officers and directors. This will help bring new businesses to Singapore and allow existing businesses to more flexibly expand into other countries that may also have some limited residency and citizenship requirements. We would be grateful if MAS could please confirm if the reference to a "director who is a Singapore citizen or Singapore permanent resident" in draft regulation 7 of the Payment Services (Exemptions for a limited period of time) Regulations would include nominee directors and non-executive directors.

4. **Question 6. Safeguarding requirements and security deposit**

MAS seeks comments on the financial institutions that the major payment institutions 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 major payment institution. 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

We appreciate the flexible approach MAS has taken, which allows businesses options to demonstrate appropriate safeguarding and security, such as through a guarantee by a credible financial institution or by creating a segregated bank account for customer funds.

We request that MAS consider permitting other financial institutions outside of Singapore that could be considered sufficiently accredited and approved to act as "safeguarding institutions", where the relevant money is denominated in non-Singapore dollars. This approach would be consistent with the approach taken in respect of customer moneys denominated in a foreign currency under Regulation 17(2) of the Securities and Futures (Licensing and Conduct of Business) Regulations, which permit such customer moneys to be held in a trust account with a duly authorised custodian outside Singapore. Such an option could be particularly helpful in the case of businesses that may have a significant amount of funds held in another currency by an accredited bank subject to strict regulatory requirements in another jurisdiction.

We understand it would be difficult for MAS to broadly allow any financial institution subject to the laws and in good standing in its jurisdiction to become a "safeguarding institution", however, MAS could consider whether it might also grant case by case approval for licensees that have long standing relationships with well-respected and highly-regulated financial institutions in another jurisdiction.

5. **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.

We would be grateful if MAS can confirm if the reference to a “to submit a report of the audit to the Authority in such form as may be prescribed and within such time as the Authority may allow” in draft regulation 37(4)(c) would include the audit report filing to ACRA.

6. **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 Act. Please be specific in both the scope of exemption and proposed exemption conditions if any.

We request that MAS consider a fifth exemption for low risk payment processors which carry on remittance activities only in connection with transactions in goods and services, regardless of whether the payment transaction thresholds for major payment institutions have been exceeded in respect of such payment activities. In other jurisdictions, receiving money for the payment of goods and services is considered lower risk than a standard remittance business. In this case, the consumer is protected because he is entitled to his goods upon payment by the payment processor, not receipt of such payment by the seller. In addition, the risk of money laundering or terrorism financing is low because the payment processor and seller can each be audited to demonstrate the goods or services were provided in exchange for the funds. To the extent MAS does not agree that payment processors can be entirely exempt, we encourage MAS to consider the lower-risk nature of these businesses prior to releasing any AML requirements.

- ***End of Submission***