

MAS Consults on AML/CFT Notice for Precious Stones and Precious Metals Activities & Updates on AML/CFT Notices for Financial Institutions and Variable Capital Companies

Executive Summary

The Monetary Authority of Singapore (“**MAS**”) is seeking comments on changes to the requirements on anti-money laundering and countering the financing of terrorism (“**AML/CFT**”) applicable to financial institutions regulated by MAS (“**FIs**”) and variable capital companies (“**VCCs**”) under the purview of MAS for AML/CFT obligations. The proposals are set out in the ["Consultation Paper on the Proposed New AML/CFT Notice for Precious Stones and Precious Metals Activities and Updates to AML/CFT Notices"](#) (“**Consultation Paper**”) which is open for public consultation until **10 August 2021**.

The key proposals in the Consultation Paper concern:

- Setting out the AML/CFT requirements applicable to FIs dealing in precious stones, precious metals and precious products (“**PSM**”) in a new AML/CFT Notice.
- Updating the existing MAS AML/CFT Notices for FIs and VCCs to provide for:
 - New requirements relating to digital token services for FIs;
 - New requirements relating to shell company that presents higher money laundering and terrorism financing (“**ML/TF**”) risks (“**Higher Risk Shell Company**”) for FIs and VCCs;
 - New wire transfer and correspondent account requirements for credit card or charge card licensees;
 - New disclosure requirement to designated non-financial businesses and professionals and VCCs for licensed trust companies and approved trustees; and
 - Other clarifications on the requirements relating to group policy, identification and verification of customer and beneficial ownership exemptions.

This Update provides a summary of these proposals.

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New MAS AML/CFT Notice on Dealing in PSMs for FIs

FIs that deal in PSMs are exempted from certain AML/CFT requirements under the Precious Stones and Precious Metals (Prevention of Money Laundering and Terrorism Financing) Act 2019 ("**PSPM Act**") to streamline the regulation and oversight of PSM activities by FIs under the purview of MAS.

MAS proposes to issue a new MAS AML/CFT Notice to govern the FIs' PSM activities ("**new PSM AML/CFT Notice**"), instead of expanding the requirements in the existing MAS AML/CFT Notices applicable to FIs ("**FI-specific AML/CFT Notices**")¹ to cover the FIs' PSM activities. To reflect the policy alignment between the AML/CFT requirements applicable to non-FI PSM dealers regulated by the Ministry of Law under the PSPM Act and those requirements applicable to FIs regulated by MAS, the definitions used in the proposed new PSM AML/CFT Notice will be modelled after the PSPM Act.

MAS is seeking comments on the following aspects of the proposed new PSM AML/CFT Notice:

- **Scope of the Notice:** The proposed new PSM AML/CFT Notice will apply to FIs which carry on the business of "regulated dealing" in PSM or as an intermediary for "regulated dealing" in PSM. The PSM AML/CFT Notice will be an overlay above the existing FI-specific MAS AML/CFT Notices that apply with respect to the conduct of regulated activities regulated under other principal securities legislation such as the Securities and Futures Act ("**SFA**").
- **Definition of "regulated dealing":** The definition of "regulated dealing" in the proposed new PSM AML/CFT Notice will be aligned with that in the PSPM Act. It will include activities involving: (a) manufacturing any PSM; (b) importing or possessing for sale any PSM; (c) selling or offering for sale any PSM; (d) selling or redeeming any asset-backed tokens (excluding securities, derivatives, commodity contracts and digital payment tokens ("**DPTs**")); and (e) purchasing any PSM for the purposes of resale.
- **Customer due diligence ("CDD") requirements:** FIs will be required to perform CDD pursuant to the proposed new PSM AML/CFT Notice when they, among other things: (a) establish an account relationship with any customer for any regulated dealing in PSM; or (b) undertake any PSM transaction exceeding S\$20,000 in value for any customer who has not otherwise established account relationships with the FIs, regardless of the payment mode. When an FI allows a customer to use his/her existing account with the FI that was opened for other business activities for any regulated dealings in PSM, it will be required to comply with the proposed new PSM AML/CFT Notice in respect of its PSM regulated dealings as well as the existing FI-specific MAS AML/CFT Notice in respect of its other business activities.

¹ MAS issues AML/CFT Notices to FIs regulated by MAS with reference to their regulated activities, for example, the AML/CFT requirements for banks are set out in the MAS Notice on Prevention of Money Laundering and Countering the Financing of Terrorism – Banks (MAS Notice 626). Separate FI-specific AML/CFT Notices have been issued to merchant banks, finance companies, credit card or charge card licensees, capital markets services licence holders, financial advisers and payment services providers.

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New Requirements Relating to Digital Token Services

Banks, merchant banks, finance companies and credit card or charge card licensees which provide DPTs services are exempted from licensing requirements under the Payment Services Act 2019 ("**PS Act**") and are not subject to the AML/CFT requirements set out in the MAS Notice on the Prevention of Money Laundering and Countering the Financing of Terrorism – Holders of Payment Service Licence (Digital Payment Token Service) (MAS Notice PSN02) ("**PSN02**") that apply to DPT service providers regulated under the PS Act.

In addition, banks, merchant banks and finance companies which conduct activities in relation to digital tokens that are capital markets products ("**DCMPTs**") are exempted from licensing requirements under the SFA in respect of their DCMPTs dealings and are not subject to the AML/CFT requirements set out in the MAS Notice on the Prevention of Money Laundering and Countering the Financing of Terrorism – Capital Markets Intermediaries (SFA04-N02) that apply to capital markets license holders regulated under the SFA ("**CMSL holder**").

Currently, banks, merchant banks, finance companies, or credit card or charge card licensees that are exempted from the AML/CFT requirements under the PS Act or SFA respectively are required to comply with the AML/CFT requirements that apply to them under the FI-specific AML/CFT Notices for all services and products regulated by MAS, including those that they are exempted from licensing for. However, there are specific AML/CFT requirements in PSN02 that address the higher inherent ML/FT risks posed by the speed, anonymity nature of digital token transactions.

Therefore, MAS proposes introducing the AML/CFT requirements relating to dealings in DPTs and/or DCMPTs in the FI-specific AML/CFT Notices that apply to banks, merchant banks, finance companies, credit card or charge card licensees and CMSL holders. The proposed new requirements include:

- **CDD for occasional transactions involving DPTs or DCMPTs:** Banks, merchant banks, finance companies and credit card or charge card licensees would be required to conduct CDD from the first dollar for DPT transactions undertaken by these FIs for any customer who has not otherwise established an account relationship with the FIs. Such occasional transactions include where DPTs are sold through kiosks, such as Bitcoin automated teller machine. Banks, merchant banks, finance companies and CMSL holders are subject to the same requirement in relation to transactions involving DCMPTs.
- **Value transfer requirements:** In line with PSN02, MAS proposes to require banks, merchant banks, finance companies and credit card or charge card licensees to observe the following requirements, similar to the wire transfer requirements, when they transmit or arrange for the transmission of DPTs for their customers:
 - a) Collect and document requisite originator and beneficiary information on DPT transfers and immediately and securely submit these information to beneficiary DPT service providers.
 - b) Collect and document the requisite originator and beneficiary information if the FIs are the recipients of DPT transfers.

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- c) Screen the value transfer originators and beneficiaries against relevant information sources to identify and mitigate against the FIs' ML/TF risks, even if the FIs have not established business relations with them.

Similar requirements will apply to banks, merchant banks, finance companies and CMSL holders with regard to DCMPT transfers.

- **Applying AML/CFT requirements to digital token transactions:** Digital token transactions are transactions accepted, processed or executed by an FI in the course of carrying on its business of providing a DPT service, a DPT transfer service or a DPT custodian wallet service, or in the course of conducting any regulated activities under the SFA in relation to DCMPTs. MAS proposes to clarify that the AML/CFT requirements in the FI-specific AML/CFT Notices will similarly apply to such digital token transactions conducted by the FIs for their customers. These requirements relate to, among other things, assessing ML/TF risks, applying a risk-based approach to AML/CFT measures, CDD measures and Suspicious Transactions Reports ("**STRs**").

New Prescriptive Requirements Relating to Higher Risk Shell Companies

MAS proposes to specifically require FIs and VCCs to assess whether a customer may be a higher risk shell company. Guidance and examples that aim to help an FI or VCC identify a higher risk shell company are provided in Annex D of the Consultation Paper. Such examples include a customer that has unclear economic purpose for requiring bank accounts in Singapore, unclear economic purpose for a common individual or address linked to multiple companies, or unusual change of corporate structure/beneficial owner ("**BO**") after account opening, etc. MAS emphasised that these examples are not prescriptive or exhaustive and FIs and VCCs must remain alert in identifying customers exhibiting novel suspicious behaviour.

FIs and VCCs would be required to perform enhanced CDD measures on a higher risk shell company to guard against the ML/TF risks relating to the misuse of legal persons.

New Wire Transfer and Correspondent Account Requirements for Credit Card or Charge Card Licensees

Credit card or charge card licensees are exempted from the licensing requirement under the PS Act when they provide payment services such as cross-border money transfer service. Therefore, they are not subject to the AML/CFT requirements applicable to licensees under the PS Act when performing payment services. Instead, credit card or charge card licensees must observe its FI-specific AML/CFT Notice, namely, the MAS Notice on Prevention of Money Laundering and Countering the Financing of Terrorism – Credit Card or Charge Card Licensees (MAS Notice 626A) in respect of their payment services.

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To align the AML/CFT requirements in MAS Notice 626A with those set out in the AML/CFT Notice issued under the PS Act, MAS proposes introducing wire transfer and correspondent accounts requirements in MAS Notice 626A. These requirements aim to better mitigate the ML/TF risks that may arise from credit card or charge card licensees providing payment services.

New Disclosure Requirement for Licensed Trust Companies and Approved Trustees

To help an FI identify the BOs of trust arrangements and apply the appropriate risk mitigation measures, licensed trust companies and approved trustees are required to disclose that they are acting as trustees when they establish any business contact with the FI in Singapore or abroad. MAS proposes imposing a similar disclosure requirement on licensed trust companies and approved trustees when they are establishing business contacts with VCCs and "designated non-financial businesses and professionals" ("**DNFBPs**") that are also key gatekeepers in preventing ML/TF. DNFBP is defined as including trusts and company service providers (e.g. filing agents), lawyers, accountants, notary publics, real estate agents, casinos, regulated PSM dealers, in Singapore or abroad. MAS seeks feedback on the proposed definition of DNFBP.

Other Clarificatory Amendments

The MAS also proposes to make clarificatory amendments in the existing AML/CFT Notices, including the following:

Clarification on Group Policy Requirement

MAS proposes to state expressly in the FI-specific AML/CFT Notices that group-wide sharing of the underlying analysis of an STR for risk-management purposes is permitted, subject to adequate safeguards to protect the confidentiality and ensure appropriate use of the information shared. This is in line with the latest Financial Action Task Force's (FATF) guidance on private sector information sharing.

Clarification on Identification and Verification of Customer Requirement

The Consultation Paper sets out some proposed changes to the FI-specific AML/CFT Notices to provide additional guidance on what an FI or VCC could do if it is unable to obtain certain CDD information to identify and verify the identity of a customer or trust relevant party that is not of high ML/TF risks. These proposals are to address some of the practical difficulties in obtaining unique identification number of connected parties and residential address of natural persons who are appointed to act on behalf of a customer or trust relevant party, subject to documenting the results of the FI's assessment and the measures taken to seek to obtain the unique identification number or residential address, as the case may be.

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There is also a proposal to allow FIs and VCCs to use electronic means to verify that a natural person is the person authorised to act on a customer's behalf, as an alternative to a specimen signature.

Clarification on Beneficial Ownership Exemptions

The Consultation Paper also proposes to clarify the regulator's policy intent with regard to the exemption from having to enquire about the BO of a customer which is an entity listed on the Singapore Exchange Securities Trading Limited ("**SGX-ST**") and the scope of paragraph 6.16(g) of the MAS Notice SFA04-N02.

Under current rules, FIs and VCCs are exempted from inquiring about the BO of a customer if the customer is listed on the SGX-ST. MAS proposes to clarify in the FI-specific AML/CFT Notices that this exemption does not apply to a customer which has been granted a waiver by SGX from disclosing its BOs.

Presently, a CMSL holder is exempted from inquiring about the BO of a customer which is an investment vehicle if the CMSL holder provides services to the investment vehicle as a sub-manager or sub-advisor and it is not the primary manager of the investment vehicle. MAS proposes to clarify in the FI-specific AML/CFT Notices for CMSL holders, banks, direct life insurers (only in respect of fund management for the purposes of carrying out insurance business) and finance companies that this exemption does not apply to a CMSL holder, bank, direct life insurer or finance company, if it is itself the primary manager of an investment vehicle.

Implementation

MAS aim to implement the proposals in the Consultation Paper in Q4 2021.

Further Information

If you have any queries on the above development or would like to submit any feedback to the Consultation Paper, please feel free to contact our team members below who will be happy to assist.

Contacts

Financial Institutions



Regina Liew
Head, Financial Institutions
Group

T +65 6232 0456

regina.liew@rajahtann.com



Larry Lim
Deputy Head, Financial
Institutions Group

T +65 6232 0482

larry.lim@rajahtann.com



Benjamin Liew
Partner, Financial Institutions
Group

T +65 6232 0686

benjamin.liew@rajahtann.com

Funds & Investment Management



Arnold Tan
Co-head, Funds & Investment
Management

T +65 6232 0701

arnold.tan@rajahtann.com



Anne Yeo
Co-head, Funds &
Investment Management

T +65 6232 0628

anne.yeo@rajahtann.com

White Collar Crime



Thong Chee Kun
Partner, White Collar Crime

T +65 6232 0156

chee.kun.thong@rajahtann.com



Yusfiyanto Bin Yatiman
Partner, White Collar Crime

T +65 6232 0787

yusfiyanto.yatiman@rajahtann.com



Josephine Chee
Partner, White Collar Crime

T +65 6232 0591

josephine.chee@rajahtann.com

Please feel free to also contact Knowledge and Risk Management at eOASIS@rajahtann.com

Our Regional Contacts

RAJAH & TANN | *Singapore*

Rajah & Tann Singapore LLP

T +65 6535 3600
sg.rajahtannasia.com

CHRISTOPHER & LEE ONG | *Malaysia*

Christopher & Lee Ong

T +60 3 2273 1919
F +60 3 2273 8310
www.christopherleeong.com

R&T SOK & HENG | *Cambodia*

R&T Sok & Heng Law Office

T +855 23 963 112 / 113
F +855 23 963 116
kh.rajahtannasia.com

RAJAH & TANN | *Myanmar*

Rajah & Tann Myanmar Company Limited

T +95 1 9345 343 / +95 1 9345 346
F +95 1 9345 348
mm.rajahtannasia.com

RAJAH & TANN 立杰上海

SHANGHAI REPRESENTATIVE OFFICE | *China*

**Rajah & Tann Singapore LLP
Shanghai Representative Office**

T +86 21 6120 8818
F +86 21 6120 8820
cn.rajahtannasia.com

GATMAYTAN YAP PATACSIL

GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*

Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)

T +632 8894 0377 to 79 / +632 8894 4931 to 32
F +632 8552 1977 to 78
www.cagatlaw.com

ASSEGAF HAMZAH & PARTNERS | *Indonesia*

Assegaf Hamzah & Partners

Jakarta Office

T +62 21 2555 7800
F +62 21 2555 7899

RAJAH & TANN | *Thailand*

R&T Asia (Thailand) Limited

T +66 2 656 1991
F +66 2 656 0833
th.rajahtannasia.com

Surabaya Office

T +62 31 5116 4550
F +62 31 5116 4560
www.ahp.co.id

RAJAH & TANN LCT LAWYERS | *Vietnam*

Rajah & Tann LCT Lawyers

Ho Chi Minh City Office

T +84 28 3821 2382 / +84 28 3821 2673
F +84 28 3520 8206

RAJAH & TANN | *Lao PDR*

Rajah & Tann (Laos) Co., Ltd.

T +856 21 454 239
F +856 21 285 261
la.rajahtannasia.com

Hanoi Office

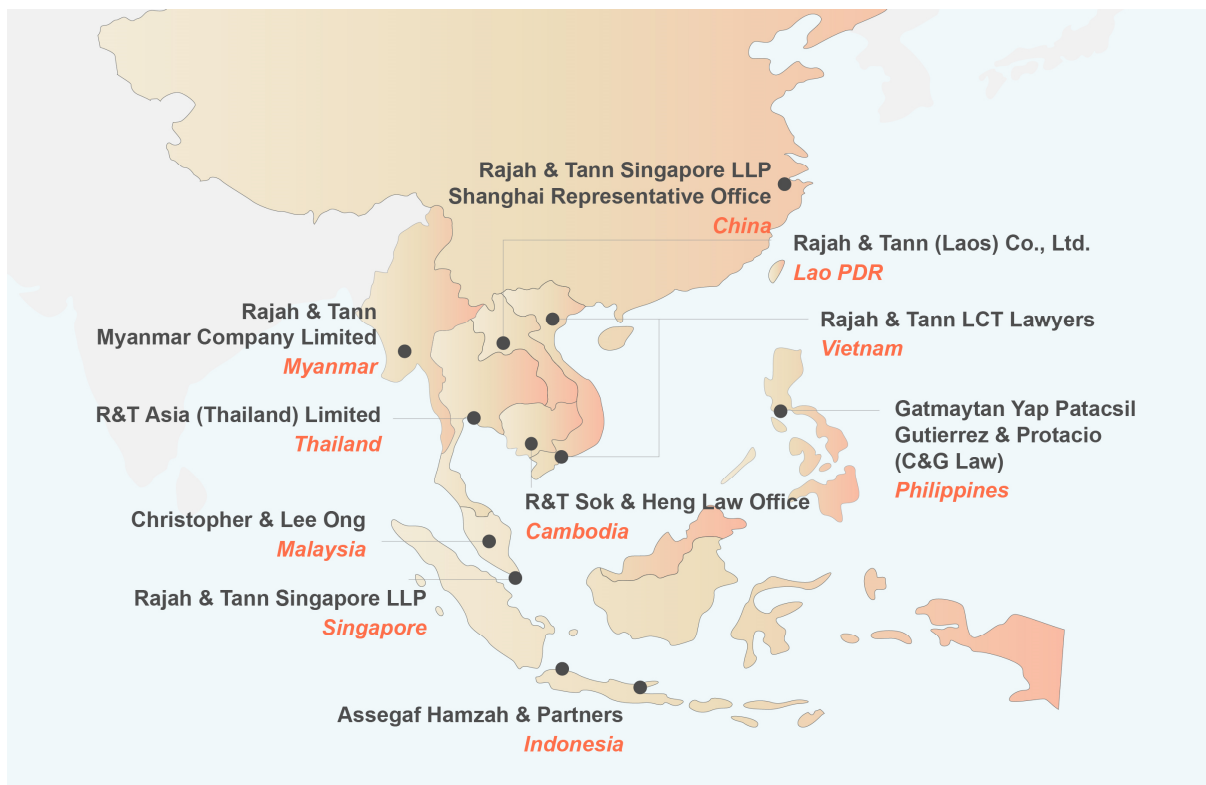
T +84 24 3267 6127
F +84 24 3267 6128
www.rajahtannlct.com

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