

Financial Institutions | Funds and Investment Management | White Collar Crime

MAS Issues New MAS AML/CFT Notice for Financial Institutions Dealing in PSMs, Various Revised AML/CFT Notices for Financial Institutions and Variable Capital Companies

Introduction

To better address money laundering and terrorism financing ("**ML/TF**") risks in the financial sector, the Monetary Authority of Singapore ("**MAS**") has issued:

- A new MAS Notice on anti-money laundering and countering the financing of terrorism ("**AML/CFT**") for financial institutions ("**FIs**") dealing in precious stones, precious metals and precious products ("**PSM**") ("**PSM AML/CFT Notice**"); and
- Various revised MAS AML/CFT Notices applicable to FIs and variable capital companies ("**VCCs**"),

collectively, "**MAS AML/CFT Notices**". The MAS AML/CFT Notices take effect on 1 March 2022.

The MAS AML/CFT Notices follow MAS' earlier consultation in July 2021 concerning the new PSM AML/CFT Notice and revisions to existing MAS AML/CFT Notices in its Consultation Paper on the Proposed New AML/CFT Notice for Precious Stones and Precious Metals Activities and Updates to AML/CFT Notices ("**Consultation Paper**"). MAS also issued, on 1 March 2022, its Response to Feedback received on the Consultation Paper ("**Response**"). For a discussion of the changes set out in the Consultation Paper, please see our earlier Client Update titled "*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*", available [here](#).

This Update briefly highlights some of the main features of the new PSM AML/CFT Notice, as well as some of the key new/revised AML/CFT requirements in various MAS AML/CFT Notices, such as: (a) the AML/CFT requirements relating to digital token services; (b) requirements relating to higher risk shell companies; (c) wire transfer and correspondent account requirements for credit card or charge card licensees; and (d) disclosure requirement for licensed trust companies and approved trustees.

Client Update: Singapore

2022 MARCH

Financial Institutions | Funds and Investment Management | White Collar Crime

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

The PSM AML/CFT Notice is an overlay above the 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 2001 ("**SFA**").

The new PSM AML/CFT Notice applies to FIs that carry on the business of "regulated dealing" in PSM or as an intermediary for "regulated dealing" in PSM. "Regulated dealing" is defined in line with the Precious Metals (Prevention of Money Laundering and Terrorism Financing) Act 2019 ("**PSPM Act**"), and refers to any of the following activities:

- (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**"));
- (e) purchasing any PSM for the purposes of resale.

In its Response, MAS clarified the scope of "regulated dealing" in respect of certain scenarios such as:

- **an FI which provides financial services to customers involved with PSM**, such as providing wire transfers for a customer who is a PSM dealer, does not make the FI an intermediary in regulated dealing. In such a case, the FI should comply with relevant AML/CFT requirements under the FI-specific MAS AML/CFT Notices.
- **an FI which offers spot contracts on underlying PSMs** is **not** subject to the PSM AML/CFT Notice because spot commodity trading with underlying PSMs is outside the scope of the PSPM Act.
- **an FI which offers DPTs whose value is pegged to PSM** – MAS clarified that only DPTs that are defined in the Payment Services Act 2019 ("**PS Act**") are excluded from the scope of the PSM Notice. FIs should note that for other tokens whose value is pegged to PSMs, FIs should decide whether the tokens fall within the scope of the PSM Notice and, if so, comply with the relevant AML/CFT requirements in the PSM AML/CFT Notice.

Among other requirements in the PSM AML/CFT Notice, the FI regulated under the PSM AML/CFT Notice must conduct customer due diligence ("**CDD**"), such as when the FI establishes an account relationship with any customer and when the FI undertakes an occasional PSM transaction in excess of S\$20,000. Enhanced CDD must be performed for the higher risk categories as specified in the PSM AML/CFT Notice.

Key Revisions to Various MAS AML/CFT Notices

New Requirements Relating to Digital Token Services

Financial Institutions | Funds and Investment Management | White Collar Crime

Banks, merchant banks, finance companies, and credit card or charge card licensees which provide DPT services are exempted from licensing requirements under the 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.

To deal with the inherent higher risks posed by the nature of digital token transactions, MAS has introduced AML/CFT requirements relating to dealings in DPTs and/or digital tokens that are capital markets products ("**DCMPTs**") by making revisions to the FI-specific AML/CFT Notices that apply to banks, merchant banks, finance companies, credit card or charge card licensees and capital markets licence holders regulated under the SFA ("**CMSL holders**"). The 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. 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, when banks, merchant banks, finance companies and credit card or charge card licensees transmit or arrange for the transmission of DPTs for their customers, they must, among other things, screen the value transfer originators and beneficiaries against relevant information sources to identify and mitigate against the FIs' ML/TF risks. 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.** MAS considers digital token transactions to pose higher ML/TF risks, as such the FI-specific MAS AML/CFT Notices have been revised such that the AML/CFT requirements will similarly apply to such digital token transactions.

New Requirements Relating to Higher Risk Shell Companies

MAS has made revisions in the relevant FI-specific MAS AML/CFT Notices requiring FIs and VCCs to assess whether a customer may be a higher risk shell company, and if so perform enhanced CDD measures. For instance, under the revised MAS Notice 626 that applies to banks, a bank shall assess whether a customer presents higher risk for ML/TF where the bank is unable to establish if the customer has any ongoing, apparent or visible operation or business activity; economic or business purpose for its corporate structure or arrangement; or substantive financial activity in its interactions with the bank.

On performing the assessments, MAS will provide additional guidance and examples in the Guidelines to the respective FI-specific MAS AML/CFT Notices. MAS does not prescribe an exhaustive list of indicators of unusual transactions or behavioural red flags. Also, FIs and VCCs should take a multi-factor approach instead of relying on a single risk indicator, as that is usually insufficient to establish suspicion.

Client Update: Singapore

2022 MARCH

Financial Institutions | Funds and Investment Management | White Collar Crime

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 MAS AML/CFT Notice, namely, the MAS Notice 626A, in respect of their payment services.

MAS has introduced wire transfer and correspondent accounts requirements in MAS Notice 626A. These revisions align the AML/CFT requirements in MAS Notice 626A with those set out in the AML/CFT Notice issued under the PS Act and 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

MAS views designated non-financial businesses and professionals ("**DNFBPs**") and VCCs as key gatekeepers in preventing ML/TF. DNFBPs include trusts and company service providers, lawyers, accountants, notary publics, real estate agents, casinos and regulated PSM dealers. Thus, the revised Notice TCA-N03 requires licensed trust companies and approved trustees to disclose to DNFBPs and VCCs that they are acting as trustees when they are establishing any contact with a DNFBP in Singapore or elsewhere, or a VCC in Singapore or elsewhere.

Other Clarificatory Amendments

MAS has also made various clarificatory amendments in the relevant MAS AML/CFT Notices, including amendments relating to group-wide sharing of suspicious transaction report information, identification and verification ("**ID&V**") of customer requirement and exemptions from the requirement to inquire if there are beneficial owners in relation to a customer (i.e. beneficial ownership exemptions).

For instance, with respect to ID&V requirements, MAS has updated the legal requirements with respect to the identification of connected parties of a customer of a manager whereby, in the event the manager is unable to obtain the unique identification number of the connected party of a customer, the manager may obtain the date of birth and nationality of the connected party in lieu of unique identification number where the manager has assessed that the ML/TF risks relating to the customer are not high. A similar approach is also now provided under the MAS AML/CFT Notices whereby in lieu of the residential address of authorised signatories, the business address may be used provide that the manager takes reasonable measures to verify the business address using reliable independent source data, documents or information. There is a corresponding legal obligation to document the results of a manager's assessment using such alternative verification approach. Similar amendments are also mirrored in the MAS AML/CFT Notice applicable to VCCs.

Further Information

Financial Institutions | Funds and Investment Management | White Collar Crime

If you have any queries on the above development, please feel free to contact our team members set out under "Contacts" page below who will be happy to assist.

Click on the following links for more information (available on the MAS website):

- [MAS Consultation Paper on the Proposed New AML/CFT Notice for Precious Stones and Precious Metals Activities and Updates to AML/CFT Notices](#)
- [MAS Response to Feedback Received on Consultation on Proposed New AML/CFT Notice for Precious Stones and Precious Metals Activities and Updates to AML/CFT Notices](#)

New/revised MAS Notices:

- [Notice PSM-N01 Prevention of Money Laundering and Countering the Financing of Terrorism – Financial Institutions Dealing In Precious Stones And Precious Metals](#)
- [Notice PSN02 Prevention of Money Laundering and Countering the Financing of Terrorism – Digital Payment Token Service](#)
- [Notice PSN01 Prevention of Money Laundering and Countering the Financing of Terrorism – Specified Payment Services](#)
- [Notice TCA-N03 Prevention of Money Laundering and Countering the Financing of Terrorism - Trust Companies](#)
- [Notice SFA 13-N01 to Approved Trustees on Prevention of Money Laundering and Countering the Financing of Terrorism](#)
- [Notice SFA 04-N02 to Capital Markets Intermediaries on Prevention of Money Laundering and Countering the Financing of Terrorism](#)
- [Notice SFA 03AA-N01 to the Depository on Prevention of Money Laundering and Countering the Financing of Terrorism](#)
- [Notice 626 Prevention of Money Laundering and Countering the Financing of Terrorism – Banks](#)
- [Notice 1014 Prevention of Money Laundering and Countering the Financing of Terrorism – Merchant Banks](#)
- [Notice 626A Prevention of Money Laundering and Countering the Financing of Terrorism – Credit Card or Charge Card Licensees](#)
- [Notice FAA-N06 on Prevention of Money Laundering and Countering the Financing of Terrorism - Financial Advisers](#)
- [Notice 314 Prevention of Money Laundering and Countering the Financing of Terrorism – Life Insurers](#)
- [Notice 824 on Prevention of Money Laundering and Countering the Financing of Terrorism – Finance Companies](#)
- [Notice VCC-N01 Prevention of Money Laundering and Countering the Financing of Terrorism – Variable Capital Companies \(VCCs\)](#)

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

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 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

ASSEGAF HAMZAH & PARTNERS | *Indonesia*

Assegaf Hamzah & Partners

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

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

RAJAH & TANN | *Lao PDR*

Rajah & Tann (Laos) Co., Ltd.
T +856 21 454 239
F +856 21 285 261
la.rajahtannasia.com

CHRISTOPHER & LEE ONG | *Malaysia*

Christopher & Lee Ong
T +60 3 2273 1919
F +60 3 2273 8310
www.christopherleeong.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

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

RAJAH & TANN | *Thailand*

R&T Asia (Thailand) Limited

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

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

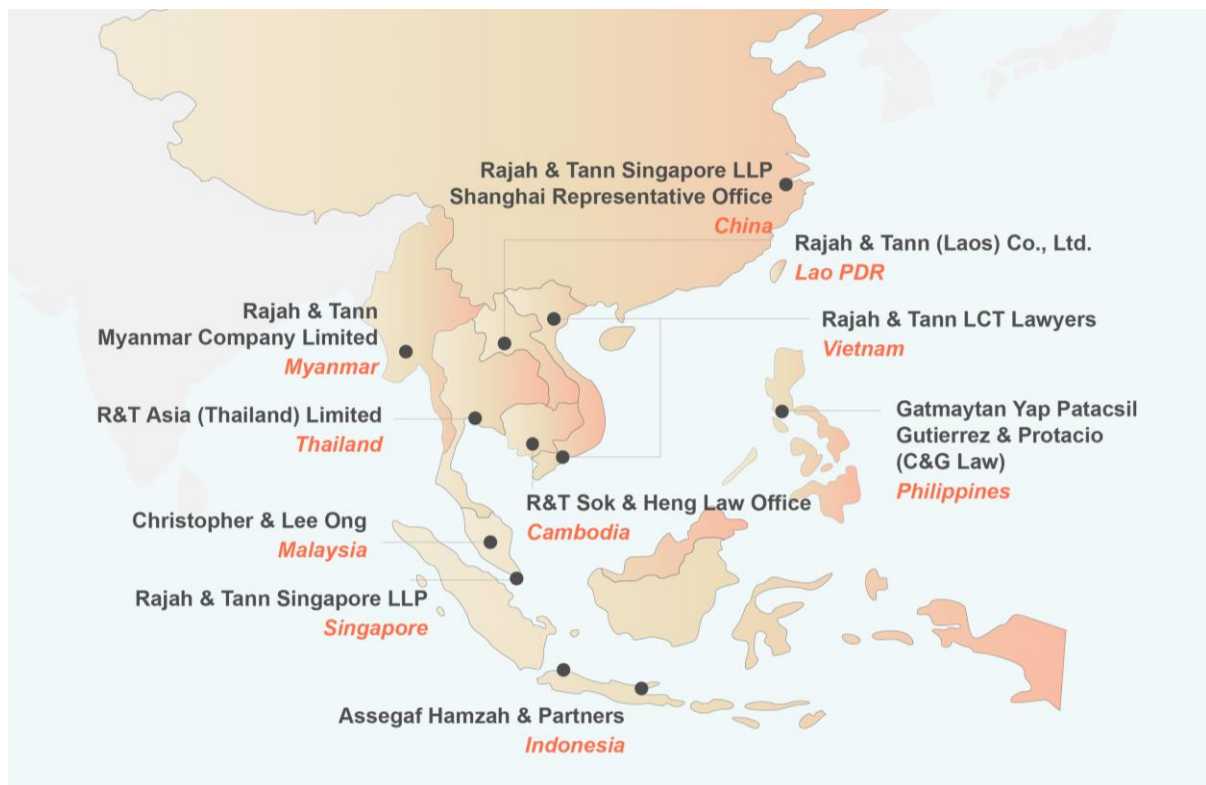
Hanoi Office
T +84 24 3267 6127
F +84 24 3267 6128
www.rajahtannlct.com

Rajah & Tann Asia is a network of legal practices based in Asia.

Member firms are independently constituted and regulated in accordance with relevant local legal requirements. Services provided by a member firm are governed by the terms of engagement between the member firm and the client.

This update is solely intended to provide general information and does not provide any advice or create any relationship, whether legally binding or otherwise. Rajah & Tann Asia and its member firms do not accept, and fully disclaim, responsibility for any loss or damage which may result from accessing or relying on this update.

Our Regional Presence



Rajah & Tann Singapore LLP is one of the largest full-service law firms in Singapore, providing high quality advice to an impressive list of clients. We place strong emphasis on promptness, accessibility and reliability in dealing with clients. At the same time, the firm strives towards a practical yet creative approach in dealing with business and commercial problems. As the Singapore member firm of the Lex Mundi Network, we are able to offer access to excellent legal expertise in more than 100 countries.

Rajah & Tann Singapore LLP is part of Rajah & Tann Asia, a network of local law firms in Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam. Our Asian network also includes regional desks focused on Brunei, Japan and South Asia.

The contents of this Update are owned by Rajah & Tann Singapore LLP and subject to copyright protection under the laws of Singapore and, through international treaties, other countries. No part of this Update may be reproduced, licensed, sold, published, transmitted, modified, adapted, publicly displayed, broadcast (including storage in any medium by electronic means whether or not transiently for any purpose save as permitted herein) without the prior written permission of Rajah & Tann Singapore LLP.

Please note also that whilst the information in this Update is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as a substitute for specific professional advice for any particular course of action as such information may not suit your specific business and operational requirements. It is to your advantage to seek legal advice for your specific situation. In this regard, you may call the lawyer you normally deal with in Rajah & Tann Singapore LLP or email Knowledge & Risk Management at eOASIS@rajahtann.com.