

Legal Update

Commencement of Payment Services Act

30 January 2020



Commencement of Payment Services Act

The Payment Services Act (“**PS Act**”) and its subsidiary regulations commenced on 28 January 2020 and aims to regulate all payment services and payment service providers in Singapore. Some payment services that are deemed to be of lower risk are deliberately carved out from the PS Act¹ and exempt from regulation.

In this client update, we set out the key actions and dates resulting from the PS Act for your business or potential business.

Affected payment services that are now regulated under the PS Act were previously highlighted in our e-bulletin [“Transitions to the Payment Services Act”](#) sent on 14 June 2019.



Key Dates - What this means for you?

The table below summarises the key dates and actions to take for businesses which fall under the various categories of payment services under the PS Act, and whether to obtain a Standard Payment Institution Licence (“**SPIL**”) or a Major Payment Institution Licence (“**MPIL**”).

Date	Action Required	Why?
<p>28 Jan 2020 to 27 Feb 2020</p>	<p><u><i>Notification of Commencement</i></u> Notify the Monetary Authority of Singapore (“MAS”) via an online form for exemption from licensing requirement during the transitional period.</p>	<p>Businesses <i>will not</i> be able to rely on the transitional period exemption if they fail to notify by <u>27 February 2020</u> that they have commenced operation prior to <u>28 January 2020</u>. They will have to cease operation in the regulated payment service activity <u>immediately</u> and may only commence operations once they have obtained the appropriate licence.</p> <p>Businesses which have not commenced operations in the regulated payment service activity need not notify MAS as yet, however, they should factor in sufficient and possibly additional lead time in</p>

¹ The three most significant carve outs are (a) any payment service that is provided in respect only of any limited purpose e-money (e.g. monetary customer loyalty points issuers); (b) any service of dealing in, or facilitating the exchange of any limited purpose digital payment tokens (e.g. non-monetary customer loyalty points issuers); and (c) any payment service solely incidental to or necessary for regulated activities carried out by a regulated financial services company.

		obtaining a licence prior to eventual commencement of operations as the licensing process may stretch up to a few months based on our experience with other MAS licence applications.
27 Jul 2020	<u>Deadline for obtaining SPIL/MPIL Licence</u> For digital payment token (“DPT”) service providers, a SPIL or MPIL should be obtained in order for them to continue operations.	DPT service providers which have commenced business prior to 28 January 2020, and which have notified MAS of their commencement dates, have a 6-month grace period to apply for the appropriate licences.
27 Jan 2021	<u>Deadline for obtaining SPIL/MPIL Licence</u> For all other activities regulated under the PS Act, a SPIL or MPIL should be obtained to continue operations. ²	Businesses conducting all other activities regulated under the PS Act, which have commenced business prior to 28 January 2020, and which have notified MAS of their commencement dates, have a 12-month grace period to apply for the appropriate licences.



Key Eligibility Criteria for Licences

Local Content Requirements

Permanent Place of Business

The entity must have a permanent place of business or a registered office in Singapore. The entity must appoint at least one person to be present at the permanent place of business or registered office to address any queries or complaints from customers.

Directorship

The entity must have at least one executive director who is a Singapore citizen or permanent resident. Alternatively, the entity’s executive director may be a Singapore employment pass holder, if the entity has at least one other director who is a Singapore citizen or permanent resident.

Fit and Proper - Experience Requirement

The entity must satisfy MAS that the directors, chief executive officer (“**CEO**”), 20% controller(s)³, employees and the entity itself, are *fit and proper*, in accordance with the *Guidelines on Fit and Proper Criteria [FSG-G01]* which has been updated on 28 January 2020 to take into account the PS Act.

The entity and group should not have any adverse reputation, especially with regard to financial crime. The executive directors and CEO must have sufficient experience in operating a business in the payment services industry or related areas in the financial services industry. The entity should also consider the educational qualifications and professional certifications of its key individuals.

Financial and Security Requirements

All applicants should have available funds of **\$100,000 to \$450,000** to satisfy financial requirements depending on the circumstances as described in the table below.

² The payment services included are account issuance service (Activity A); domestic money transfer service (Activity B), cross-border money transfer (Activity C), merchant acquisition service (Activity D) and E-money issuance service (Activity E).

³ Notwithstanding that any person must satisfy the Fit and Proper Criteria before becoming a 20% controller, MAS may still revoke or suspend a licence if any 5%, 12%, 20% or indirect controller of an existing licensee does not meet the Fit and Proper Criteria (s 11(2)(a) PS Act).

Financial Requirement		
	Incorporated in Singapore	Foreign Company
Standard Payment Institution Licence ("SPIL")	Base capital of not less than S\$100,000	Net head office funds of not less than S\$100,000
Major Payment Institution Licence ("MPIL")	Base capital of not less than S\$250,000	Net head office funds of not less than S\$250,000
Additional Security Requirement for <u>MPIL Applicants Only</u>		
The average, over a calendar year, of the total value of all payment transactions processed by the major payment institution in one month does not exceed \$6 million for any one payment service	S\$100,000	
All other cases	S\$200,000	
Total	S\$100,000 – S\$450,000	

"**Base Capital**" generally refers to the sum of all (1) paid-up ordinary share capital, (2) paid-up irredeemable and non-cumulative preference share capital and (3) any unappropriated profit or loss, minus (a) any interim loss and (b) dividends declared.

"**Net head office funds**" generally refer to the net liability of the Singapore branch of the foreign company to its head office and any other branch outside of Singapore.



Relevant Forms - How to Apply?

Relevant Forms	Title	Additional Information
Notification Form⁴	Notification of Provision of Payment Services for the Purpose of Exemption from Holding a Licence Under the Payment Services Act 2019 for the Specified Period	Applicants are required to declare the commencement of an existing business and the intended date to apply for a licence under the PS Act.
Form 1⁵	Application for a Payment Service Provider Licence under Section 6(1) of the Payment Services Act 2019 read with Regulation 6 of the Payment Services Regulations	Key Supporting documents required: <ul style="list-style-type: none"> • Audited financial statements for the past 3 years. • Business plan that illustrates compliance with the PS Act and other relevant legislations. • Anti-Money Laundering and Countering the Financing of Terrorism ("AML/CFT") Policies & Procedures. • Enterprise-wide risk assessment and implementation plans to

⁴ Sample Notification Form: <https://www.mas.gov.sg/-/media/MAS/Sectors/Forms-and-Templates/Notification-form-for-the-Payment-Services-Act.pdf>

⁵ Sample Form 1: <https://www.mas.gov.sg/-/media/MAS/Sectors/Forms-and-Templates/Form-1---Application-for-a-Payment-Service-Provider-Licence.pdf>

		demonstrate compliance with the <i>PSN01</i> and/or <i>PSN02</i> .
Form 3⁶	Application for Approval of Chief Executive Officer, Director or Partner of a Licensed Payment Service Provider under Section 34(1) of the Payment Services Act 2019 read with Regulation 19 of the Payment Services Regulations	The executive directors and CEO must have sufficient experience in operating a business in the payment services industry or related areas in the financial services industry.
Form 3A ⁷	Application for Approval of 20% Controller of a Licensed Payment Service Provider under Section 28(1) of the Payment Services Act 2019	Details of any shareholder holding more than 20% of the shares in the application must be submitted for approval.



Potential Future Developments

To bring Singapore in line with international AML/CFT standards, MAS mentioned in various consultation papers that it is looking to make amendments to the PS Act by end-2020 to expand the scope of regulated DPT services to include entities that provide the service of transfers of DPTs, the provision of custodian wallets, the brokering of DPT transactions and the brokering of cross-border money transfer services. At present, only services that involve dealing in DPTs or facilitating the exchange of DPTs are regulated.

MAS is also looking to expand the regulatory scope to include any entity incorporated in Singapore that carries on a business of providing DPT services, whether the business is carried on in Singapore or otherwise, to be licensed under the PS Act.

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⁶ Sample Form 3: <https://www.mas.gov.sg/-/media/MAS/Sectors/Forms-and-Templates/Form-3---Application-to-appoint-a-CEO-Director-or-Partner-for-a-Payment-Service-Provider.pdf>

⁷ Sample Form 3A: <https://www.mas.gov.sg/-/media/MAS/Sectors/Forms-and-Templates/Form-3A--Application-for-approval-for-20-percent-controller.pdf>

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