

Legal Update

Carrying on Business: A Wider Net Than You Think

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This legal update examines the recent judicial developments concerning the interpretation of “carrying on a business” under the Payment Services Act 2019 (“**PS Act**”), which is critical in determining whether licensing obligations under the PS Act are triggered. By examining the recent Singapore High Court case of *Chang Jiunn Jye v Public Prosecutor* [2025] SGHC 225 (“**Chang Jiunn Jye**”), we highlight the key takeaways for businesses and individuals in assessing their regulatory exposure and licensing risks, when evaluating activities involving payment services in Singapore.



Section 5 of the PS Act and other relevant statutory provisions

Background

Section 5(1) of the PS Act provides that a person must not **carry on a business** of providing any type of payment service in Singapore, unless the person.¹ —

- (a) has in force a licence that entitles the person to carry on a business of providing that type of payment service; or
- (b) is an exempt payment service provider in respect of that type of payment service.

Notably, the PS Act does not define “carrying on business” and the scope must therefore be interpreted with reference to the case laws.

The concept of “carrying on a business” is not unique to the PS Act and is reflected in other statutes such as the Securities and Futures Act 2001 (“**SFA**”), the Moneylenders Act 2008 (“**Moneylenders Act**”), the Trust Companies Act 2005 (“**Trust Companies Act**”) and the Banking Act 1970 (“**Banking Act**”):

- (a) Under section 82 of the SFA, no person may, whether as principal or agent, carry on business in any regulated activity or hold out that the person is carrying on such business unless the person is the holder of a capital markets services licence for that regulated activity;
- (b) Under section 5 of the Moneylenders Act, a person must not carry on or hold out in any way that the person is carrying on the business of moneylending in Singapore, whether as principal or as agent;
- (c) Under section 3 of the Trust Companies Act, a person must not carry on any trust business or hold himself, herself or itself out as carrying on any trust business in or from within Singapore unless that person is a licensed trust company; and
- (d) Under section 4A of the Banking Act, a person must not, in the course of carrying on (whether in Singapore or elsewhere) a deposit-taking business, accept in Singapore any deposit from any person in Singapore.

¹ Section 5(2) of the PS Act provides that a person is presumed to carry on a secondary business of providing that type of payment service, regardless whether the provision of that type of payment service is related or incidental to the primary business. Under Section 5(3) of the PS Act, a person who contravenes section 5(1) of the PS Act shall be guilty of an offence and be liable on conviction, in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; and in any other case, to a fine not exceeding \$250,000.

Across these statutes, they reflect a consistent regulatory intent to impose licensing obligations when the individual or entity is carrying on the business of providing regulated services. In this regard, the Monetary Authority of Singapore (“**MAS**”) has interpreted the concept of “carrying on business” under the Trust Companies Act to refer to activities conducted with system, repetition and continuity.² This means that there should be an element of regularity in the operations and an organisational framework.



Chang Jiunn Jye v Public Prosecutor [2025] SGHC 225

Background Facts

Chang Jiunn Jye (the “**Appellant**”) was charged with two offences under section 5(1) of the PS Act for providing unlicensed cross-border money transfer services. Between January 2021 and March 2021, he assisted a third party to convert RMB to US Dollars on two occasions. Such conversion is effected by first requiring the third party to transfer RMB to certain bank accounts in China specified by the Appellant and thereafter the Appellant will transfer the US Dollars from bank accounts in Indonesia to the third party’s bank account in Singapore.

In determining whether the person had carried on a “business of providing payment services”, the High Court re-affirmed that there are two alternative legal tests, namely the “System and Continuity” test and “All and Sundry” test.³

Legal Test (1) – “System and Continuity” Test

The first legal test is whether there was system and continuity in the transactions (the “**System and Continuity Test**”).

The High Court held that the inquiry in determining whether a person had carried on business of providing a payment service is heavily dependent on the facts and context before the court, and ultimately, “continuity” refers to an ongoing and routine series of transactions as opposed to occasional transactions.⁴ In that case, the High Court found that the Appellant was involved in the arrangement for the transfer of monies, which was the regulated payment service in question, notwithstanding that he did not directly transfer the monies from Indonesia or advertise his services to third parties.

Further, whilst it may be unusual, it is conceptually possible for the System and Continuity Test to be satisfied even where there was **only one transaction**. In that case, the close timing between both transactions of about a month apart suggested that the services were not merely provided on an occasional basis.⁵

Lastly, the High Court also re-affirmed the notion that the giving of loans to friends can constitute a business of moneylending if there is system and continuity about the transactions.

Accordingly, the Court held that the System and Continuity Test is satisfied.⁶

Legal Test (2) – “All and Sundry” Test

The second legal test considers whether the accused is ready and willing to provide the services to all and sundry provided they were, from his point of view, eligible (“**All and Sundry Test**”).

² MAS’ FAQs on Trust Companies Act 2005 at question 8.

³ *Chang Jiunn Jye* at [18] – [21].

⁴ *Chang Jiunn Jye* at [26].

⁵ *Chang Jiunn Jye* at [26] and [27].

⁶ Given that the System and Continuity Test is satisfied, the High Court held that the Appellant was carrying on a business of providing payment services without a licence. On a separate note, the High Court also reaffirmed the sentencing framework for offences under section 5(3) of the PS Act set out in *Vijay Kumar v Public Prosecutor* [2023] 5 SLR 983, that a custodial sentence should ordinarily be the starting point for archetypal cases of individuals providing unlicensed money transfer services under section 5(3)(a) of the PS Act, unless there are compelling reasons to consider a fine.

In the moneylending context, the All and Sundry test recognises that even a single, isolated transaction may still support the inference of an underlying business of moneylending, where circumstances indicate that the lender would have been prepared to extend loans generally to anyone who satisfied his criteria of eligibility.⁷ Further, the High Court in *Chang Jiunn Jye* observed that the All and Sundry Test is also persuasive in the context of the PS Act, as it relates to the same fundamental inquiry of whether a person had carried on a business of providing a certain service.



What this means for you

While *Chang Jiunn Jye* was decided in the context of the PS Act, the System and Continuity Test and the All and Sundry Test carry broader interpretive significance and may similarly inform the meaning of “carrying on business” in other legislations such as the Securities and Futures Act 2001 or Trust Companies Act 2005. The approach in *Chang Jiunn Jye* is also aligned with the MAS’ interpretation under the Trust Companies Act, where it regards “carrying on business” as any activity which is conducted with system, repetition and continuity.⁸

The decision highlights that the System and Continuity Test is both broad and fact-sensitive. A single transaction or informal arrangements such as transactions between friends may nonetheless be relevant factors if there is system and continuity about the transactions. The timing between the transactions also plays a role in determining system and continuity.

As such, for individuals or organisations who wish to legally operate outside of the regulated payment services landscape, it is important to re-look at your activities against the findings of this case. Notably, even isolated transactions may constitute “carrying on business” which potentially bring the activity within the scope of regulatory oversight.

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⁷ *Law Society of Singapore v Leong Pek Gan* [2016] SGHC 165 at [78].

⁸ MAS’ FAQs on Trust Companies Act 2005 at question 8.

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