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# MAS Consults on Enhanced Regulatory Measures for Digital Payment Token Services and Regulatory Approach for Stablecoins

## Introduction

In Singapore, cryptocurrencies are generally regulated as digital payment tokens ("**DPT**") under the Payment Services Act 2019 ("**PS Act**"). Currently, DPT service providers are regulated under the PS Act primarily for anti-money laundering and countering the financing of terrorism ("**AML/CFT**") risks, and technology and cyber risks. Although DPT service providers are not regulated for consumer protection risks under the PS Act, the Monetary Authority of Singapore ("**MAS**") has consistently issued strong warnings to retail investors that speculative trading of DPTs (including cryptocurrencies) is not suitable for them. DPT service providers are required to provide a risk warning to their customers about trading in DPTs, and are subject to restrictions concerning the promotion of DPT services at public places.

Despite all these measures, cryptocurrency speculation activities among retail investors were on an upward trend until the recent crypto markets shake-up, which saw the collapse of TerraUSD (a stablecoin) and the value of popular cryptocurrencies like Bitcoin and Ether plunging steeply.

To reduce the risk of consumer harm in cryptocurrency trading, MAS issued the "*Consultation Paper on Proposed Regulatory Measures for Digital Payment Token Services*" to seek comments on its proposals to introduce consumer access measures for retail customers of DPT service providers, business conduct measures and enhanced measures to manage technology and cyber risks for DPT service providers.

Despite the negative news associated with some stablecoins lately, MAS is of the view that, unlike cryptocurrencies, stablecoins can be a credible digital medium of exchange to facilitate transactions in a digital asset ecosystem. MAS intends to develop an innovative and responsible digital asset ecosystem in Singapore by leveraging on the innovative combination of tokenisation and distributed ledgers. Against this backdrop, MAS issued the "*Consultation Paper on Proposed Regulatory Approach for Stablecoin-Related Activities*" to seek comments on its regulatory approach on stablecoin-related issuance and intermediation activities.

Comments on these two MAS consultation papers must be submitted to MAS by **21 December 2022**.



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This Update highlights the key proposals discussed in the two MAS consultation papers.

## Consultation Paper on Proposed Regulatory Measures for Digital Payment Token Services

This consultation paper discusses the proposed regulatory measures for licensees and exempt payment service providers that carry on a business of providing DPT services under the PS Act (collectively, DPT service providers or "**DPTSPs**") in the following areas:

- (1) Consumer Access Measures;
- (2) Business Conduct Measures;
- (3) Enhanced Measures to Manage Technology and Cyber Risks;
- (4) Potential Measures to Address Integrity Risks; and
- (5) Implementation Details and Transitional Period.

### (1) Consumer Access Measures

- **Apply to retail customers in Singapore:** DPTSPs will be required to apply these new consumer access measures to a "retail customer" in Singapore, namely, a customer who is not an accredited investor ("**AI**") or institutional investor, and an individual who is resident in Singapore or a partnership or corporation which is formed or incorporated in Singapore.
- **Eligibility criteria for AI:** The new consumer access measures will not apply to AIs. MAS proposes to adopt the current AI definition and threshold for determining whether a customer is an AI that are set out in the Securities and Futures Act 2001 ("**SFA**"). One of the criteria of an AI is an individual who has over S\$2 million in net personal assets. The consultation paper seeks comments on whether the value of DPT holdings that are highly volatile should be taken into account in calculating the individual's net personal assets. Separately, MAS also indicated that the same considerations should similarly apply to the determination of AI under the SFA. MAS will also be reviewing the AI definition in the SFA and will engage stakeholders, including the capital markets industry, separately.
- **Risk awareness assessment:** A DPTSP should assess that a retail customer has sufficient knowledge of the following risks of DPTs and DPT services before providing any DPT service to that customer:
  - Sharp fluctuations in DPTs' prices and the risks of losing all monies put into DPTs;
  - Inability to readily sell his/her DPTs;
  - Losing access to his/her DPTs in the event of a technological or operational issue; and
  - Losing his/her DPTs in the event of fraud, theft, sabotage or cyber-attack.

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- **Prohibition against offering of incentives:** DPTSPs should not offer any incentives (monetary or non-monetary) to: (1) any retail customers for participating in a DPT service; or (2) any person (e.g., an existing customer or a celebrity) for referring a DPT service to retail customers.
- **Restrictions on debt-financed and leveraged DPT transactions:** DPTSPs should not:
  - provide to a retail customer any credit facility (whether in the form of fiat currencies or DPTs) to help the retail customer purchase, or continue holding, the DPTs;
  - enter into any leveraged DPT transaction with a retail customer, or facilitate a retail customer's entering into any leveraged DPT transaction with any other person; or
  - accept any payments made by the retail customer using a credit card or charge card, in connection with the provision of any DPT service.

### (2) Business Conduct Measures

- **Segregation of customers' assets:** DPTSPs should ensure that their customers' assets (including cash and the customers' DPTs) are segregated from their own assets. The customers' assets should be held for the benefit of the customers, for example, in a trust account or arrangement.
- **Safeguarding customers' assets held by DPTSPs:** MAS is seeking comments on proposed measures to minimise the risk of loss or misuse of customers' assets held by DPTSPs which include:
  - Requiring DPTSPs to provide written disclosures to their customers about the arrangements for and risks involved in having their assets held by DPTSPs;
  - Requiring DPTSPs to appoint an independent custodian to hold customers' assets;
  - Requiring DPTSPs to provide their customers with a monthly statement of account comprising information on the customers' assets and transactions; and/or
  - Prohibiting DPTSPs from mortgaging, charging, pledging or hypothecating the retail customers' DPTs. For non-retail customers, DPT service providers should provide a clear risk disclosure document and obtain the customer's explicit consent.
- **Safeguarding private keys and storage of customers' DPTs:** MAS is seeking comments on the appropriate and effective measures to safeguard the private keys and storage of customers' DPTs. DPTSPs should apply the principles of "never alone", "segregation of duties" and "least privilege" (namely, where access rights and system privileges are granted based on job responsibility and the necessity to have them to fulfil one's duties) when establishing policies, procedures and controls to ensure the safety and control of customers' DPTs.
- **Identification of conflicts of interest and disclosures:** To address conflicts of interests which may arise from the situation where DPTSPs conduct multiple activities, including operating a

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trading platform, providing broker-dealer services and trading for their own or related accounts, it is proposed that DPTSPs should:

- Establish and implement effective policies and procedures to identify and address conflicts of interests; and
  - Disclose to their customers the general nature and sources of conflicts of interest and the steps taken to mitigate them.
- **Mitigation of conflicts of Interest:** Some measures proposed by MAS for DPTSPs to mitigate conflict of interest include:
    - Segregation of duties;
    - Independent reporting lines;
    - Establishing information barriers;
    - Clear and precise disclosure to customers to enable each customer to make an informed decision about the DPT service in the context of which the conflict of interest arises;
    - Disclosure to customers on how DPTSPs handle and execute customer orders and the capacity in which they are doing so (e.g., as agent or principal);
    - Imposing an obligation on DPTSPs which execute orders to purchase and sell DPTs on behalf of their customers not to misuse any information relating to customers' orders, and to prevent the misuse of such information by their employees; and
    - Prohibiting a DPTSP operating a trading platform from: (1) buying or selling DPTs for its own account; and (2) permitting its related corporations to buy or sell DPTs for their own account on the DPT trading platform.
  - **Disclosure of DPT listing and governance policies:** DPTSPs operating a trading platform should disclose their listing and governance policies, procedures and decision-making process for selecting a DPT for listing on their platform. They should explain how they have applied their evaluation criteria (e.g., track record, market capitalisation, liquidity, volatility, technical security) before making a DPT available for trading on the DPT trading platform. The disclosures should be sufficiently clear to allow customers to make informed decisions about the DPT services offered.
  - **Complaints handling:** DPTSPs should have in place adequate policies and procedures to handle customer complaints.

### (3) Enhanced Measures to Manage Technology and Cyber Risks

MAS is proposing to mandate the requirements in the [MAS Notice of Technology Risk Management](#) that are currently applicable to other types of financial institutions to DPTSPs. Such requirements include, among other things, requiring a DPTSP to establish a framework and process to identify critical systems and ensure that each critical system has a high level of availability and recoverability.

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#### **(4) Potential Measures to Address Integrity Risks**

MAS notes that there are unfair trading practices of market manipulation, misleading conduct and insider trading in the DPT markets. MAS encourages DPTSPs that operate a trading platform to put in place the following industry practices to detect and deter unfair trading practices in DPT markets:

- Establishing effective systems, procedures and arrangements to promote fair, orderly, and transparent trading of DPTs traded on their trading platforms; and
- Employing surveillance systems to monitor trading activities that take place on their DPT trading platforms.

#### **(5) Implementation Details and Transitional Period.**

MAS proposes to set out its expectations for DPTSPs with regard to the above regulatory measures in a set of new Guidelines. Thereafter, details on the regulatory requirements and subsidiary legislation will be separately published for consultation in due course. It is proposed that DPTSPs will have a transitional period of six to nine months from the issuance of the Guidelines to implement the regulatory measures which will be finalised with reference to feedback received in response to this consultation.

## **Consultation Paper on Proposed Regulatory Approach for Stablecoin-Related Activities**

This consultation paper sets out MAS' policy thinking regarding the overall regulatory approach on stablecoin-related issuance and intermediation activities, and highlights the key requirements that will be imposed on such activities.

Stablecoins is a type of crypto asset that is backed by fiat currency, a commodity or a basket of assets, rendering its value to be less volatile than cryptocurrencies. Currently, stablecoins may fall within the definition of DPTs under the PS Act. MAS takes a technology-neutral stance and examines the characteristics of a stablecoin to determine the appropriate regulatory treatment for the product. Entities that provide the service of dealing in and/or facilitating the exchange of stablecoins that are considered as DPTs are regulated for DPT services under PS Act.

MAS is of the view that the current regulatory treatment under the PS Act is not adequate to support the development of credible and reliable stablecoins that facilitate digital transactions. Therefore, in this consultation paper MAS proposes a regulatory approach to stablecoins that would support this objective and to maintain an open regime to accommodate different forms of stablecoins.

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### New Regulated Activity of "Stablecoin Issuance Service" to Regulate Single-Currency Pegged Stablecoins (SCS) Issued in Singapore

MAS proposes to introduce a new regulated activity of "Stablecoin Issuance Service" under the PS Act to regulate Single-Currency Pegged Stablecoins ("**SCS**") issued in Singapore. As a start, MAS proposes to only allow the issuance of SCS that are pegged to the Singapore dollar or Group of Ten (G10) currencies (namely, Australian Dollar, British Pound Sterling, Canadian Dollar, Euro, Japanese Yen, New Zealand Dollar, Norwegian Krone, Swedish Krona, Swiss Franc and the United States Dollar).

MAS intends to focus its new stablecoins regulatory regime on SCS because SCS has a stronger use case for payment and settlement as compared to other types of stablecoins (such as those pegged to a basket of currencies or other assets such as commodities). Other types of stablecoins which are not SCS will continue to be subject to the existing DPT regime under the PS Act.

### Proposed Regulatory Framework

The MAS consultation paper seeks comments on the following key proposed features of the new regulatory framework on SCS:

- **Label for SCS regulated under PS Act ("MAS-regulated SCS"):** To help users identify SCS which are regulated under the PS Act, MAS proposes to introduce a common label for such SCS and this "prescribed" label must be used by SCS intermediaries in their disclosures where they offer the SCS. Three options for the label are proposed in the consultation paper, namely, "regulated stablecoin", "qualifying stablecoin" or "securely-backed stablecoin".
- **Who will be regulated:** An entity that is based in Singapore and performs the function of controlling the total supply of, and minting and burning of MAS-regulated SCS, will be regulated as a provider of "Stablecoin Issuance Service" under the PS Act ("**SCS Issuers**"). SCS may be issued by non-bank entities and banks. SCS issued by non-bank entities are typically tokens backed or collateralised by a pool of assets, while those issued by banks are tokenised bank liabilities.
- **Licensing of non-bank SCS Issuers:** Non-bank SCS Issuers will be licensed as a Major Payment Institution ("**MPI**") and be recognised as an issuer of MAS-regulated SCS if the SCS in circulation exceeds or is anticipated to exceed S\$5 million in value. Where the SCS in circulation is or is anticipated to be S\$5 million in value and below, the issuer will only need to obtain a standard payment institution licence if it provides DPT services, and need not comply with the additional SCS requirements proposed in the consultation paper (this is so as to facilitate innovation in this space).

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- **Licensing exemption for bank SCS Issuers:** SCS Issuers which are banks are exempted from the licensing requirements under the PS Act if the SCS issued by the banks are tokenised bank liabilities ("**Exempt Bank SCS Issuers**"). Exempt Bank SCS Issuers will be recognised as issuers of MAS-regulated SCS.

If, however, a bank in Singapore opts to issue SCC by managing the underlying reserve assets such that they are segregated from the rest of the banks' assets, and SCS holders have claims only on this specific pool of segregated reserve assets, the bank will be subject to the same regulatory regime as non-bank SCS Issuers (except the prudential requirements (see below)) in respect of the SCS issued in this manner ("**Non-exempt Bank SCS Issuer**"). Such SCS issued by a Non-exempt Bank SCS Issuer will similarly be recognised as MAS-regulated SCS.

#### Proposed Regulatory Requirements Applicable to SCS Issuers

SCS Issuers which are licensed as MPIs will be subject to all of the key proposed regulatory requirements set out below. Non-exempt Bank SCS Issuers will also be subject to these requirements except the prudential requirements.

As Exempt Bank SCS Issuers are already subject to the regulatory requirements applicable to banks, they will only have to comply with the timely redemption at par and disclosure requirements.

- **AML/CFT:** AML/CFT requirements that are applicable to DPT service providers and banks (for example, customer due diligence and screening, etc.).
- **Technology and cyber risk:** Measures to manage technology and cyber risks that are applicable to DPT service providers and banks.
- **Reserve assets backing of SCS:** SCS Issuers offering MAS-regulated SCS will be required to hold reserve assets that satisfy certain prescribed requirements to back the SCS issued. In addition, SCS Issuers will be required to adhere to requirements with regard to the segregation and custody, independent attestation, yearly audit and disclosure/reporting of the reserve assets held by the SCS Issuers.
- **Timely redemption at par:** An SCS Issuer must specify and disclose to all the holders of its SCS ("**SCS Holders**") that they have a direct legal right to redeem the SCS for the pegged currency at par value and that redemption requests can be made at any time. The par value of the SCS should be returned to the SCS Holder expediently and no later than five business days from the date when a legitimate redemption request is received by the SCS Issuer.
- **Disclosure:** An SCS Issuer must disclose up-to-date information about the SCS in a white paper published on its corporate website. Such information includes:

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- description of the SCS;
  - rights and obligations of the SCS Issuer and SCS holders;
  - risks that can affect the stability of the SCS value and ability of the SCS Issuer to fulfil its obligations, etc.
- **Prudential:** MAS proposes that an SCS issuer must satisfy the following prudential requirements:
    - Have a base capital of S\$1 million or 50% of annual operating expenses of the SCS, whichever is higher; and
    - Not to undertake other non-issuance business activities that introduce risks to the SCS Issuer (e.g., lending of stablecoins/ fiat, staking, trading).
  - **Solvency:** SCS issuers must hold, at all times, liquid assets which are valued at the higher of 50% of annual operating expenses or an amount assessed by the SCS issuer to be needed to achieve recovery or an orderly wind-down.

## Other Ancillary Regulatory Issues

In addition to the above, MAS is seeking comments on the following regulatory issues relating to the introduction of the new regulatory regime for SCS under the PS Act:

- **SCS issued in multiple jurisdictions:** SCS with multi-jurisdiction issuance will only be recognised as MAS-regulated SCS if there is sufficient assurance that the SCS as a whole is subject to adequate regulatory oversight. Otherwise, the SCS issuer would only qualify for a licence to offer DPT services and not for SCS Issuance Service in Singapore.
- **SCS intermediaries:** Entities offering non-issuance services related to a SCS will be regulated as a DPT service provider under the PS Act, if the SCS is a DPT.
- **Disclosure requirements for non-MAS regulated SCS:** DPT service providers which offer SCS that are not MAS-regulated SCS (e.g. SCS issued outside Singapore) will be subject to the risk warning requirements set out in [MAS Notice PSN08 on Disclosures and Communications](#).
- **Requirements on DPT service providers providing services of transmission or custody of MAS-regulated SCS:** DPT service providers which offer the service of arranging for the transmission or custody of MAS-regulated SCS will be required to:
  - complete the transfer of SCS from one party to another in no more than three business days from the day the transfer request is received; and
  - hold and segregate the MAS-regulated SCS of their customers in distinct custody accounts from (1) other customers' assets (e.g., DPTs), and (2) the DPT service providers' assets.



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- **Regulatory treatment of systemic stablecoin arrangements:** MAS proposes to amend the PS Act to empower MAS to supervise stablecoin arrangements (namely, arrangements that collectively comprise the operations to facilitate transfers of SCS) as payment systems. A systemic stablecoin arrangement will be designated as a Designated Payment System (DPS) under the PS Act and the Payment and Settlement Systems (Finality and Netting) Act 2002.

## Concluding Remarks

The proposals in these two MAS consultation papers clearly reflect MAS' strategy in achieving its vision to build an innovative and responsible digital asset ecosystem in Singapore.

MAS sends a strong signal through the proposals in the [Consultation Paper on Proposed Regulatory Measures for Digital Payment Token Services](#) that cryptocurrency speculation has hazards. Despite acknowledging that cryptocurrencies serve no useful function outside a blockchain network except as a vehicle for speculation, MAS has decided not to prohibit the offering of cryptocurrency services to retail investors entirely due to the cross-border nature of cryptocurrency trading and services. Prohibiting such offers in Singapore would not prevent Singapore retail investors from participating in overseas offers that can be extended to them online. MAS' strategy in this regard is to anchor high quality players with strong risk management and value propositions, mitigate the risks of consumer harm, and educate consumers on the risks of cryptocurrencies and their related services. This explains why MAS continues to issue DPT services licenses to allow companies to offer crypto-related services despite the recent crypto fallout.

MAS sees potential in stablecoins serving as a medium of exchange to facilitate transactions in a digital asset ecosystem. MAS' overall regulatory approach on stablecoin-related issuance in Singapore, as set out in the [Consultation Paper on Proposed Regulatory Approach for Stablecoin-Related Activities](#), aims to establish a regulatory regime that supports the issuance of stablecoins which are stable and can be used as payment instruments on distributed ledgers.

Should you have any queries on the above developments and would like to provide feedback on the two MAS consultation papers, please feel free to contact our team members below who will be happy to assist.

For more information, please click on the following links (available on the MAS website [www.mas.gov.sg](http://www.mas.gov.sg)):

- [Consultation Paper on Proposed Regulatory Measures for Digital Payment Token Services](#)
- [Consultation Paper on Proposed Regulatory Approach for Stablecoin-Related Activities](#)
- MAS press release titled "[MAS proposes measures to reduce risks to consumers from cryptocurrency trading and enhance standards of stablecoin-related activities](#)" dated 26 October 2022

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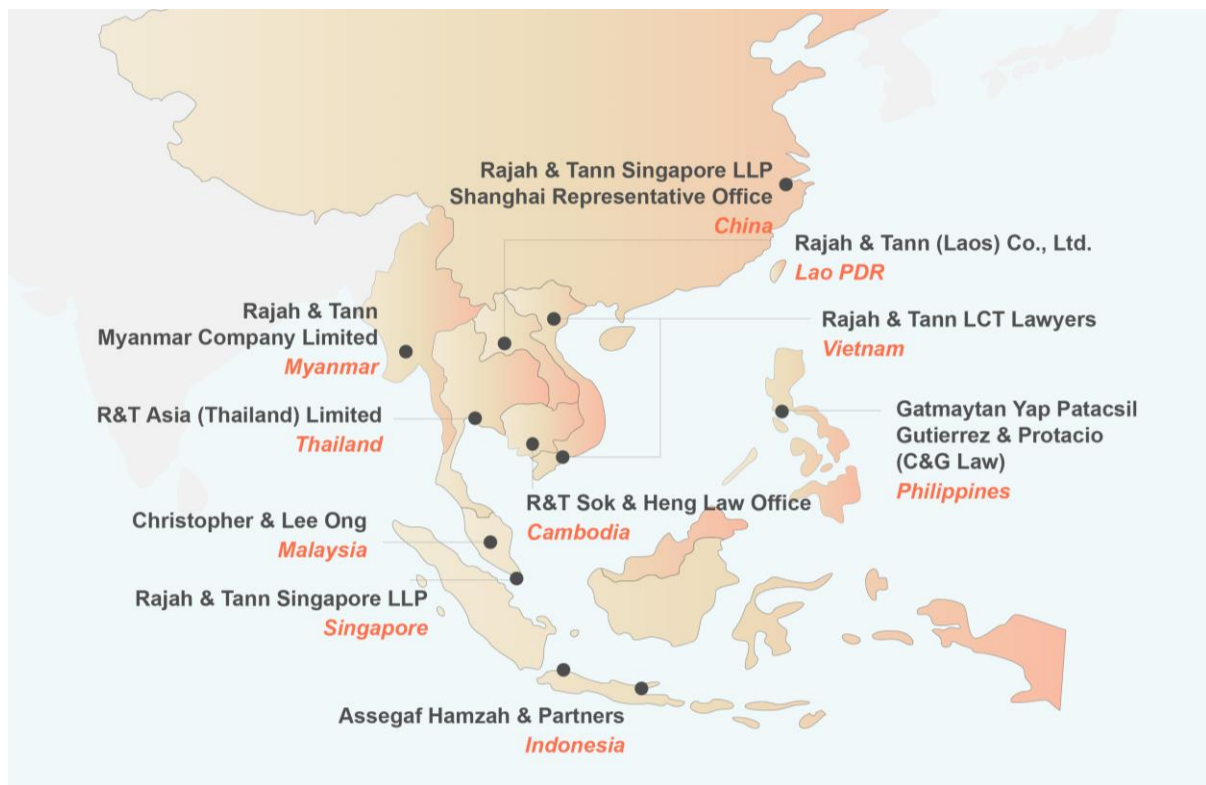
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