

Latest Regulatory Trends in the Payments Landscape

Disruptive trends taking place in the payment services sector such as the surge in fintech innovation and the entry of non-financial players into the payments space have driven the shift towards more innovative forms of making payment such as through the use of digital wallets, online payment platforms and virtual wallets.

However, one development that has become even more significant is the increasing convergence of payment services with retail services. This convergence has arisen due to the entry of large retail players into the payments space seeking to improve the payments experience of their customer base to support their core retail business.

These developments have given rise to concerns on two levels:

- Firstly, the rise of new and innovative payments solutions has led to concerns over increased risks in areas such as money laundering, technology cybersecurity and interoperability.
- Secondly, the proliferation of retail players in the payments space has led to the possible disintermediation of banks from the payments value chain. In particular, where payment services are embedded with retail services and banks are not able to effectively compete.

The latter is a concern in Singapore as banks are constrained in their ability to compete against such players due to the restrictions imposed by the anti-commingling framework which prohibits banks from conducting non-financial services unless such services fall within the limited range of permissible activities

prescribed or approved by the Monetary Authority of Singapore (“MAS”).

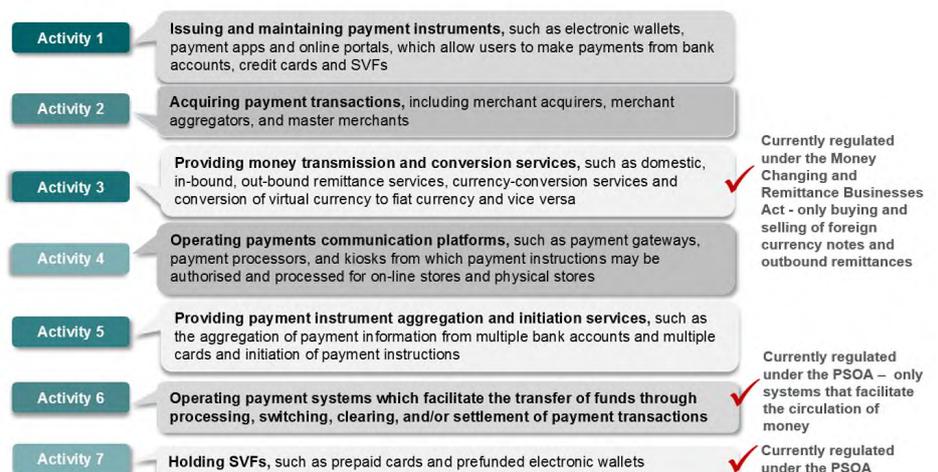
These concerns, in turn, have led to proposals to change the existing regulatory frameworks.

Proposed Activity-based Payments Framework

In the Consultation Paper on the Proposed Activity-based Payments Framework issued on 25 August 2016 (“**First CP**”) (which is available at this [link](#)), MAS proposed to streamline the existing licensing framework for payment services into a new single and modular framework which will regulate both innovative and brick and mortar service providers. The proposed licensing framework is intended to enable MAS to regulate service providers in a calibrated fashion based on the risk posed by the service provider to the financial system.

The seven categories of payment services proposed to be licensed under the First CP are listed in the infographic below.

Proposed Framework for Payment Services



In the above infographic, some of the activities described under Activities 3, 6 and 7 are currently regulated under the Money-changing and

Remittance Businesses Act and the Payment Systems (Oversight) Act. These include money-changing, remittance activities involving outbound remittances, the operation of payment systems, and the operation and holding of stored value facilities (“SVFs”).

The other activities described under Activities 1, 2, 4 and 5 are currently not regulated under existing laws.

Proposed Payment Services Bill

On 21 November 2017, MAS issued its response to feedback received on the First CP (which is available at this [link](#)) and launched the second round of consultation on the payments regulatory framework set out in the draft Payment Services Bill (“PSB”), which is available at this [link](#). The draft PSB incorporates some of the suggestions received in respect of the First CP.

The draft PSB sets out two parallel regulatory frameworks as follows:

- a licensing regime which regulates seven categories of payment services that focuses on retail payment activities facing consumers and merchants; and
- a designation regime that focuses on payment systems where disruption would pose financial stability risks or impact confidence on the financial systems. The designation regime will be expanded to allow MAS to designate payment systems for competition or efficiency reasons.

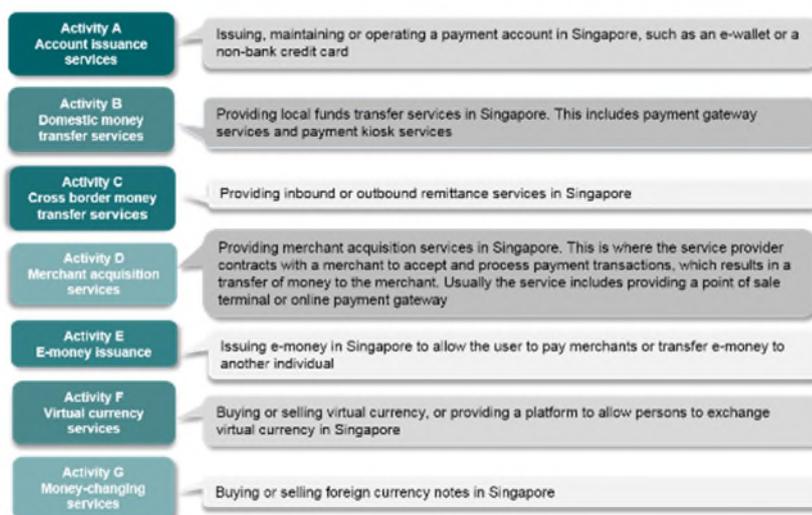
The proposed licensing regime under the draft PSB does not correspond exactly with the proposed payments framework described in the First CP. The following key differences should be noted:

- Activity 5 (Payment Instrument Aggregation Services) has been removed in the draft PSB;

- Activities 1, (Issuing and Maintaining Payment Instruments), 2 (Acquiring Payment Transactions) and 7 (Holding SVFs) have been incorporated into the draft PSB without significant changes in scope; and
- Activities 3 (Money Transmission and Conversion Services), 4 (Operating Payment Communication Platforms) and 6 (Operating Payment Systems) have been reworked in the draft PSB.

Please see the infographic below for the revised list of licensable payment activities included in the draft PSB. The consultation period in relation to the draft PSB is open until **8 January 2018**.

Proposed Regulated Activities under the PSB



Moving forward, the payment space is likely to be subject to greater regulation. The devil is in the details, and given the breadth of the proposed regulated activities, businesses should review the definitions of the regulated activities in the draft PSB and consider seeking advice as to whether their business activities will be regulated, and if so, whether there are any exemptions which apply.

Refinement of the Anti-Commingling Framework

On 29 September 2017, the Consultation Paper on the Review of the Anti-Commingling Framework for Banks (which is available at this [link](#)) was published. It sets out the proposals to refine the anti-commingling framework and enable banks in Singapore to compete more effectively with non-financial players who have leveraged their large customer base to provide digital wallet services, remittance and other payment services.

Some of the retail activities which banks could be permitted to undertake are as follows:

- operation of digital platforms that match buyers and sellers of consumer goods or services;
- online sale of goods or services; and
- entry into tie-ups or referral arrangements for goods and services provided by third parties.

Such activities will not require MAS' approval as long as they are related or complementary to a bank's core financial activities and such non-financial business is capped at 10% of the bank's capital funds.

Fragmentation and Interoperability on the Retail Payments Front

The proliferation of numerous new and innovative payments solutions provided by different market players has given rise to increasing fragmentation which will challenge the development of an interoperable e-payments framework.

To achieve interoperability of payment accounts and payment acceptance points, it is proposed under the draft PSB that MAS be empowered to exercise three types of interoperability powers:

- power to mandate that a payment system operator allows third parties to access its system to provide such third party services on fair and reasonable commercial terms;
- power to mandate the participation in a common platform to achieve interoperability of major wallets; and
- power to mandate the adoption of a common standard to make widely used payment acceptance methods interoperable.

If you would like information on this or any other area of law, you may wish to contact the partner at WongPartnership that you normally deal with or the following:



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