
**PRACTICAL COMPLIANCE AND THE PAYMENT SERVICES ACT:
A KEY DEADLINE FOR STORED VALUE FACILITIES IS 13 JANUARY 2020**

5 JANUARY 2020 – HOLLAND & MARIE

Most of the relevant forms and guidelines for the Payment Services Act (the “PS Act”), including the main license application form (“Form 1”) ¹ have now been published by the Monetary Authority of Singapore. Over the coming weeks, we intend to publish a series of articles considering various practical issues relating to applying for a license under or complying with the PS Act.

INTRODUCTION

In summary, stored value facilities (“SVFs”) are a form of pre-paid electronic cash or card that can be used for payments. Businesses like Grab, PayPal and Xfers all have SVF operations as part of their businesses. The provision of stored value facilities and stored value will be regulated under the PS Act as account issuance service and e-money issuance service.² However, until the PS Act becomes effective, SVFs are regulated under the Payment Systems (Oversight) Act (the “PS(O)A”). Therefore, any payment service provider (“PSP”) that intends to (1) conduct activities that would be regulated as an SVF today and (2) take advantage of the PS Act’s 12-month exemption from licensing for entities carrying on business before 28 January 2020, should ensure that they comply with the PS(O)A on 27 January 2020 (the “PS Act Deadline Date”). While complying with the PS(O)A is not particularly difficult,³ it is not something that you should look at for the first time on the PS Act Deadline Date.

AN SVF IS REQUIRED TO NOTIFY THE MAS AT LEAST 10 BUSINESS DAYS PRIOR TO COMMENCEMENT OF OPERATIONS

Under Paragraph 2A.1 of MAS Notice PSOA-N02: a holder⁴ of an SVF⁵ must notify the MAS at least 10 business days⁶ prior to the commencement of operations of the SVF. Therefore, for an SVF to conduct operations on the PS Act Deadline Date, it must have notified the MAS at least 10 business days in advance of commencement. The notification should be made on Form A.⁷ While Form A is a relatively simple form, it does include questions about verifying the identities of customers and requires attaching the SVF’s terms and conditions.

THE CALENDAR

According to the Ministry of Manpower’s website, the PS Act Deadline Date is a public holiday as the Second day of Chinese New Year. However, there is no reason an SVF cannot commence operations on a public holiday. Assuming the holder of the SVF intends to commence the SVF’s

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

² See Paragraph 1.2 of the FAQs on the Payment Services Act published by the Monetary Authority of Singapore on 4 October 2019.

³ Assuming your SVF’s outstanding stored value does not exceed S\$30 million.

⁴ In the PS(O)A, “holder” in relation to an SVF is defined as “the person who holds the stored value and makes payment for goods or services referred to in the definition of “stored value facility”.

⁵ In the PS(O)A, stored value facility means “(a) a facility (other than cash), whether in physical or electronic form, which is purchased or otherwise acquired by a person (referred to in this Act as the user) to be used as a means of making payment for goods or services up to the amount of the stored value that is available for use under the terms and conditions applying to the facility, and payment for the goods or services is made by the holder of the stored value in respect of the facility (rather than by the user); or (b) all the facilities referred to in paragraph (a) provided under the same terms and conditions.

⁶ In the Notice, “business day” is defined as any calendar day other than a Saturday, Sunday, public holiday or bank holiday.

⁷ Form A can be found on the MAS’ website at <http://www.mas.gov.sg> (under “Singapore Financial Centre”, “Payment and Settlement Systems”, “Payment Media”, “Stored Value Facilities”).

operations on the PS Act Deadline Date, then the deadline to notify the MAS on Form A is 13 January 2020.

FAILURE IS NOT AN OPTION

In the event a PSP is not in compliance with the PS(O)A as of the PS Act Deadline Date, such a breach is likely a disclosable matter on Form 1. In Section 9 of Form 1, the PSP is required to disclose any adverse information regarding the applicant (among other persons) with regard to the MAS' fit and proper criteria.

CONCLUSION

Obviously, it's important to comply with applicable law even prior to the effectiveness of the PS Act. If you have not yet looked at whether your business model means you will operate an SVF on the PS Act Deadline Date, time is of the essence. A good first step is letting Holland & Marie buy you a coffee.

HOLLAND & MARIE

Holland & Marie is a compliance, C-Suite and legal solutions firm based in Singapore. We have extensive experience in resolving typical compliance issues including regulatory inspections, satisfying regulatory requirements and maintaining best practices in corporate governance to navigate the rapidly changing regulatory landscape.

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