

RESPONSE TO CONSULTATION PAPER

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Consultation topic:	The New Omnibus Act for the Financial Sector
Name¹/Organisation: ¹ if responding in a personal capacity	CFA Society Singapore: 1. Chan Choong Tho, CFA 2. Chan Fook Leong, CFA 3. Maurice Teo, CFA
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Confidentiality	
I wish to keep the following confidential:	<i>(Please indicate any parts of your submission you would like to be kept confidential, or if you would like your identity along with your whole submission to be kept confidential. Your contact information will not be published.)</i>

General comments:

[No comments]

Question 1: MAS seeks comments on the proposal to be able to issue a prohibition order to any person.

CFA Society Singapore is supportive of the proposal. Any person who have committed serious misconduct in the financial industry should come under the purview of MAS. The regulator must have the power to sanction such persons to safeguard the financial industry.

However, CFA Society Singapore seeks clarification from MAS on the following:

- Paragraph 2.7 of the consultation paper states: “We envisage that persons who can cause harm would primarily be former, existing or prospective participants in the financial industry, including employees and service providers of FIs.”

We seek clarification if a PO also applies to:

1. Individuals supporting the financial industry who are not directly regulated by MAS (e.g. auditors and consultants).
2. Individuals in the technology sector - given the convergence of information technology and finance, individuals in the technology sector may be involved in consulting, product manufacturing, testing, validation, marketing and distribution.
3. Individuals residing outside of Singapore who may be a citizen or non-citizen.
4. Employees, service providers and contractors who are not frontline staff but are deemed to have played a part in committing the misconduct.

Question 2: MAS seeks comments on the proposal to apply the fit and proper test as the sole ground for issuing a PO.

The fit and proper criteria, specifically item (a) Honesty, integrity and reputation, is comprehensive for the purpose of assessing whether a person ought to be issued with a PO.

However, any individual who is issued a PO will very unlikely continue to be hired or re-hired in any financial institution in Singapore. No management or hiring manager will want to take the risk associated with the PO stigma. Given the severe impact on a person’s livelihood when issued with a PO, the burden of proof could be higher that a person is indeed not fit and proper.

Question 3: MAS seeks comments on the proposal to be able to prohibit a person who is not fit and proper from engaging in the following four specified functions in addition to regulated activities under the SFA, FAA and IA:

- (a) Handling of funds, including safeguarding or administration of a digital payment token or digital payment token instrument;**
- (b) Risk-taking;**
- (c) Risk management and control; and**
- (d) Critical system administration.**

As the above functions in items (a) to (d) are critical to the functioning of financial institutions, it follows that MAS should prohibit persons not fit and proper from performing these functions.

Question 4: MAS seeks comments on the proposal to be able to prescribe additional specified functions in subsidiary legislation, for the purpose of protecting trust or deterring misconduct in the financial industry.

We are in agreement with the above if the additional specified functions are deemed critical to the functioning of financial institutions.

We also seek guidance from MAS on the availability of a register of individuals who have been issued a PO for the purpose of screening prospective hires for financial institutions.

Question 5: MAS seeks comments on the proposal to introduce a regulatory regime for entities created in Singapore that carry on a business of providing VA activities outside of Singapore.

[No comments]

Question 6: MAS seeks comments on the proposed definition of DTs as set out in section 2(1) of Annex C:

- (a) a digital payment token ; or**
- (b) a digital representation of a capital markets product which –**
 - (i) can be transferred, stored or traded electronically; and**
 - (ii) satisfies such other characteristics as MAS may prescribe;**

but does not include an excluded digital token.

[No comments]

Question 7: MAS seeks comments on:

- (a) The scope of DT services, which are in line with the FATF Standards for VASPs;**
- (b) Whether there are other DT services that should be captured;**
- (c) Specifically whether there are advisory services provided by DT service providers, relating to the offer or sale of DTs that are used for payment purposes; and**
- (d) Specifically whether there are fund management activities involving DTs.**

Table 1 in the consultation paper states: “Inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to buying or selling any DTs in exchange for any money or any other DTs (whether of the same or a different type)”.

With reference to the above, we seek clarification from MAS if the above includes advertising and marketing (such as a website carrying banners promoting DTs or Google/Facebook/LinkedIn carrying DT advertisements). And if the website owner(s) or technology platforms such as Google/Facebook/LinkedIn or the advertiser are deemed to be “inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to buying or selling any DTs in exchange for any money or any other DTs (whether of the same or a different type)”.

Question 8: MAS seeks comments on the proposed licensing and ongoing requirements to be imposed on DT service providers.

[No comments]

Question 9: MAS seeks comments on our proposal to align proposed AML/CFT requirements to be imposed on DT service providers with the existing PS Notice 02 for DPT Service Providers, given the similar nature of ML/TF risks of both these activities.

[No comments]

Question 10: MAS seeks comments on the proposed powers and the quantum of the maximum penalty for breaches.

[No comments]

Question 11: MAS seeks comments on the provision of statutory protection from liability to mediators, adjudicators and employees of an approved dispute resolution scheme operator.

[No comments]