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PAYMENT SERVICES ACT 2019

PAYMENT SERVICES (AMENDMENT) REGULATIONS 2024

In exercise of the powers conferred by sections 100(1) and 103 of the Payment Services Act 2019, the Monetary Authority of Singapore makes the following Regulations:

Citation and commencement

1.—(1) These Regulations are the Payment Services (Amendment) Regulations 2024.

(2) Regulations 2 and 6 come into operation on 4 April 2024.

(3) Regulations 3, 4 and 5 come into operation on 4 October 2024.

Amendment of regulation 10

2. In the Payment Services Regulations 2019 (G.N. No. S 810/2019) (called in these Regulations the principal Regulations), in regulation 10(*d*) —

(a) in sub-paragraph (iii), replace the full-stop at the end with a semi-colon; and

(b) after sub-paragraph (iii), insert —

“(iv) accepting (whether as principal or agent) digital payment tokens from one digital payment token account (whether in Singapore or elsewhere), for the purposes of transmitting, or arranging for the transmission of, the digital payment tokens to another digital payment token account (whether in Singapore or elsewhere);

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- (v) arranging (whether as principal or agent) for the transmission of digital payment tokens from one digital payment token account (whether in Singapore or elsewhere) to another digital payment token account (whether in Singapore or elsewhere);
 - (vi) 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 digital payment token in exchange for any money or another digital payment token (whether of the same or a different type);
 - (vii) safeguarding a digital payment token, where the licensee has control over the digital payment token;
 - (viii) carrying out for a customer an instruction relating to a digital payment token, where the licensee has control over the digital payment token;
 - (ix) safeguarding a digital payment token instrument, where the licensee has control over one or more digital payment tokens associated with the digital payment token instrument;
 - (x) carrying out for a customer an instruction relating to one or more digital payment tokens associated with a digital payment token instrument, where the licensee has control over the digital payment token instrument.”.

New regulations 13A and 13B

3. In the principal Regulations, after regulation 13, insert —

“Prescribed major payment institution in respect of prescribed payment service under section 23(1)(b) of Act

13A. For the purposes of section 23(1)(b) of the Act —

- (a) every major payment institution that carries on a business of providing a digital payment token service is a prescribed major payment institution; and
- (b) a digital payment token service is a prescribed payment service.

Prescribed licensee in respect of prescribed payment service under section 23(1)(c) of Act

13B. For the purposes of section 23(1)(c) of the Act —

- (a) every standard payment institution that carries on a business of providing a digital payment token service is a prescribed licensee; and
- (b) a digital payment token service is a prescribed payment service.”.

Amendment of regulations 14, 15 and 16

4. In the principal Regulations, in regulations 14(1), 15(1) and 16(1), (2), (3) and (4), after “major payment institution” wherever it appears, insert “or licensee”.

New Division 2A of Part 2

5. In the principal Regulations, in Part 2, after Division 2, insert —

“Division 2A — Additional requirements in respect of licensee providing digital payment token service

Definitions

18A. In this Division —

“asset” includes a digital payment token but does not include money;

“business day” means any day other than a Saturday, Sunday, public holiday or bank holiday.

Customer assets received by licensee providing digital payment token service

18B.—(1) A licensee that provides a digital payment token service must ensure that no later than the next business day after any assets belonging to a customer are received from, or on account of, the customer, the assets are —

(a) deposited in a trust account maintained by the licensee with any person (called in regulations 18C, 18D and 18F the safeguarding person) or by the licensee itself; or

(b) returned to the customer.

(2) A trust account mentioned in paragraph (1)(a) —

(a) must be designated as a trust account, or a customer’s or customers’ account; and

(b) must be distinguishable and maintained separately from any other account in which the licensee deposits its own assets.

(3) All assets deposited in a trust account mentioned in paragraph (1)(a) —

(a) cannot be used for the payment of the debts of the licensee; and

(b) are not liable to be taken under or pursuant to an enforcement order or a process of any court.

(4) Nothing in paragraph (2) and regulations 18C, 18D and 18E is to be construed as avoiding or affecting any lawful claim or lien which any person has in respect of any assets held in a trust account mentioned in paragraph (1)(a).

General requirements in respect of customer assets

18C.—(1) A licensee that provides a digital payment token service —

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- (a) must treat and deal with all assets received from, or on account of, a customer as belonging to the customer;
 - (b) subject to paragraph (2), must not commingle assets belonging to a customer with other assets;
 - (c) subject to paragraphs (3) and (4), must not transfer any right, interest, benefit or title in any assets that are deposited in a trust account to itself or any other person; and
 - (d) must apply any assets belonging to a customer that are deposited in a trust account solely for such purpose as may be agreed to by the customer.

(2) Despite paragraph (1)(b), a licensee may —

- (a) deposit any assets belonging to a customer in a trust account together with, and commingled with, assets belonging to —
 - (i) other customers of the licensee; or
 - (ii) customers of the safeguarding person with which the trust account is maintained (but not the licensee, even if the licensee is such a customer); and
- (b) deposit its own assets in a trust account together with, and commingled with, assets belonging to a customer in order to —
 - (i) open the trust account; or
 - (ii) facilitate the settlement of fees arising from a transaction carried out on behalf of a customer in accordance with the customer's written instructions.

(3) Despite paragraph (1)(c), a licensee may transfer any right, interest, benefit or title in any assets from a trust account to itself or another person if the transfer is authorised by the customer's specific written instructions given before the transfer.

(4) Despite paragraph (1)(c), a licensee may transfer its own assets deposited in a trust account in accordance with paragraph (2)(b), and any return arising on those assets, to itself.

Requirements in respect of trust account maintained by licensee with safeguarding person

18D. A licensee that provides a digital payment token service that deposits assets belonging to a customer in a trust account maintained by the licensee with a safeguarding person —

- (a) must, before opening the trust account with the safeguarding person, assess, and satisfy itself of, the suitability of the safeguarding person with respect to the depositing of assets belonging to its customers in a trust account maintained with the safeguarding person;
- (b) must assess, and satisfy itself of, the suitability of the safeguarding person with which the trust account is maintained in which those assets are deposited, on an annual basis subsequent to the depositing of the assets;
- (c) must keep, for a period of at least 5 years, records of the grounds on which the licensee satisfied itself of the safeguarding person's suitability under paragraphs (a) and (b);
- (d) must, before depositing those assets in the trust account, give written notice to the safeguarding person, and obtain an acknowledgment of the written notice from the safeguarding person, that —
 - (i) all assets deposited in the trust account are held on trust by the licensee for its customer;
 - (ii) the trust account is designated as a trust account, or a customer's or customers' account, which is distinguishable and maintained separately from any other account maintained by the licensee with the

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- safeguarding person in which the licensee deposits its own assets; and
- (iii) the safeguarding person must not claim any lien, right of retention or sale over any asset in the trust account, except —
 - (A) if the customer has consented in writing to the lien, right of retention or sale, and the licensee has notified the safeguarding person in writing of that written consent; or
 - (B) if the customer and licensee have agreed to a charge relating to the safeguarding of the assets, and the lien, right of retention or sale is claimed over that charge; and
 - (e) must, before depositing those assets in the trust account, disclose in writing to the customer —
 - (i) the fact that the assets will be held by the licensee on behalf of the customer in a trust account maintained with a safeguarding person;
 - (ii) whether or not the assets will be deposited together with, and commingled with, assets belonging to other customers of the licensee or of the safeguarding person;
 - (iii) if the assets will be so deposited and commingled, the risks arising from such commingling;
 - (iv) the terms and conditions agreed with the safeguarding person that would apply to the safeguarding person's safeguarding of the assets; and
 - (v) the consequences for the customer in respect of the assets if the safeguarding person becomes insolvent.

Requirements in respect of trust account maintained by licensee itself

18E. A licensee that provides a digital payment token service that deposits assets belonging to a customer in a trust account maintained by the licensee itself must, before depositing any assets belonging to a customer in the trust account, disclose in writing to the customer —

- (a) whether or not the assets will be deposited in the trust account together with, and commingled with, assets belonging to other customers of the licensee;
- (b) if the assets will be so deposited and commingled, the risks arising from such commingling;
- (c) the terms and conditions that would apply to the licensee's safeguarding of the assets; and
- (d) the consequences for the customer in respect of the assets if the licensee becomes insolvent.

Record-keeping requirements in respect of licensee providing digital payment token service

18F.—(1) A licensee that provides a digital payment token service must record and maintain a separate book entry for each customer in relation to any assets belonging to the customer that are received from, or on account of, the customer.

(2) Each book entry mentioned in paragraph (1) must be recorded and maintained in the English language.

(3) Each book entry mentioned in paragraph (1) must contain, in relation to the customer to which the book entry relates —

- (a) particulars of every transaction carried out on behalf of the customer, including —
 - (i) a description and the quantity of assets that are the subject of the transaction;
 - (ii) the price and fee arising from the transaction;
 - (iii) the name of the customer;

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- (iv) the name of the counterparty to the transaction;
 - (v) the transaction date and settlement or delivery date; and
 - (vi) in the case of a transaction in which the customer lends assets deposited in a trust account —
 - (A) the terms and conditions of the transaction; and
 - (B) if any collateral is received, a description of the collateral received;
 - (b) the amount and description of each asset belonging to the customer deposited in a trust account as required under regulation 18B(1)(a) and the date of such deposit;
 - (c) the date and quantity of each transfer of assets belonging to the customer from or to any trust account mentioned in sub-paragraph (b) arising from any borrowing or lending activity or otherwise in respect of such assets;
 - (d) the date, amount and purpose of each transfer of assets from any trust account mentioned in sub-paragraph (b);
 - (e) the date and amount of, and the reason for, each disposal of collateral from any trust account mentioned in sub-paragraph (b);
 - (f) whether the customer has a trust account maintained by the licensee solely for that customer, or shares the same trust account with other customers of the licensee; and
 - (g) the name of each safeguarding person with whom the licensee deposits any assets belonging to the customer.

Other requirements in respect of licensee providing digital payment token service

18G. A licensee that provides a digital payment token service must —

- (a) ensure that the systems and controls concerning the assessment and management of risks in relation to the safeguarding of assets belonging to a customer are adequate and appropriate for the scale and nature of its operations;
- (b) take all reasonable measures to maintain the integrity and security of the means used to safeguard digital payment token instruments relating to the digital payment tokens belonging to a customer;
- (c) develop and implement effective controls and segregation of duties to mitigate the risk of conflict between its duties relating to the safeguarding of assets belonging to a customer and its business interests;
- (d) develop and implement written policies and procedures to identify, address and monitor the risk of conflict between its duties relating to the safeguarding of assets belonging to a customer and its business interests; and
- (e) ensure that the safeguarding of assets belonging to a customer is not performed by, or performed under the influence or direction of, persons who execute trades, make investment decisions or make trading decisions.

Computation of customer assets

18H.—(1) A licensee that provides a digital payment token service must, by the end of every business day, complete a computation of —

- (a) the total amount of assets belonging to its customers deposited in trust accounts, as at the end of the previous business day;

- (b) the total amount of assets belonging to its customers required under regulation 18B(1)(a) to be deposited in trust accounts, as at the end of the previous business day; and
- (c) the total amount of the licensee's residual interests in trust accounts, being assets belonging to the licensee that are deposited in accordance with regulation 18C(2)(b) in those trust accounts together with, and commingled with, assets belonging to its customers, as at the end of the previous business day.

(2) A licensee must keep the result of each computation required under paragraph (1), and all data that supports each such computation, for a period of at least 5 years.

Conditions imposed on exempt payment service provider in respect of carrying on of business of providing digital payment token service

18I. For the purposes of section 13(6) of the Act, the requirements of regulations 18B, 18C, 18D, 18E, 18F, 18G and 18H are prescribed as conditions imposed on an exempt payment service provider in respect of the carrying on of a business of providing a digital payment token service, and for this purpose a reference in those regulations to a licensee that provides a digital payment token service is a reference to an exempt payment service provider carrying on such business.

Offences

18J.—(1) A licensee that contravenes regulation 18B(1) or (2), 18C(1)(a), (b) or (d) or 18G shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part of a day during which the offence continues after conviction.

(2) A licensee that contravenes regulation 18B(3)(a), 18C(1)(c) or 18D(a), (b), (c) or (d) shall be guilty of an

offence and shall be liable on conviction to a fine not exceeding \$250,000.

(3) A licensee that contravenes regulation 18F(1), (2) or (3) shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part of a day during which the offence continues after conviction; and

(b) in any other case, to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

(4) A licensee that contravenes regulation 18D(e), 18E or 18H(1) or (2) shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both; and

(b) in any other case, to a fine not exceeding \$100,000.

(5) To avoid doubt, the references in paragraphs (1), (2), (3) and (4) to a licensee do not include a reference to an exempt payment service provider.”.

Amendment of regulation 32

6. In the principal Regulations, in regulation 32, replace paragraph (3) with —

“(3) Subject to paragraph (4), a major payment institution that is licensed to carry on a business of providing a cross-border money transfer service is exempt from section 23(2) of the Act in respect of relevant money that is received from, or on account of, a customer in respect of a provision of any cross-border money transfer service mentioned in paragraph (c) of the

definition of “cross-border money transfer service” in paragraph 3 of the First Schedule to the Act.

(4) The exemption in paragraph (3) is subject to the following conditions:

- (a) the major payment institution must inform the customer in writing that the money the major payment institution receives from, or on account of, the customer is not safeguarded under the Act;
- (b) the major payment institution must not accept or receive the relevant money in Singapore;
- (c) the payer must be a foreign individual or foreign entity;
- (d) the payee must be a foreign individual or foreign entity.

(5) In this regulation —

“foreign entity” means any entity that —

- (a) is not incorporated, formed or registered in Singapore; and
- (b) does not carry on business in Singapore;

“foreign individual” means any individual who is not resident in Singapore.”.

[G.N. Nos. S 460/2021; S 221/2023; S 827/2023]

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CHIA DER JIUN
Managing Director,
Monetary Authority of Singapore.

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