

**Morgan Lewis
Stamford**

SINGAPORE FINTECH UPDATES AND THE PAYMENT SERVICES ACT

Yap Wai Ming and Joel Seow

Morgan Lewis Stamford

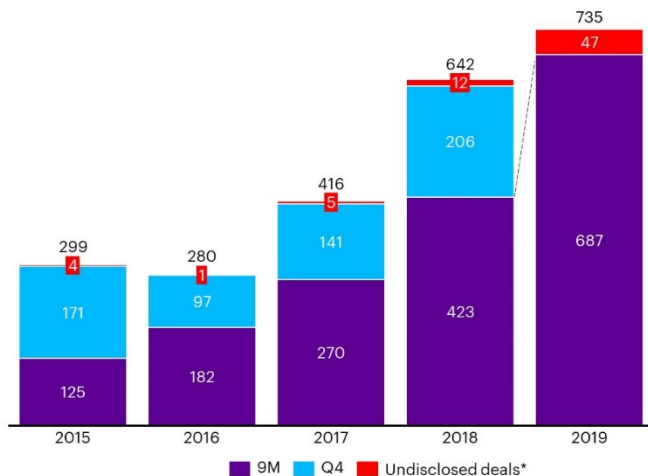
May 2020

Singapore Overview of Fintech Industry

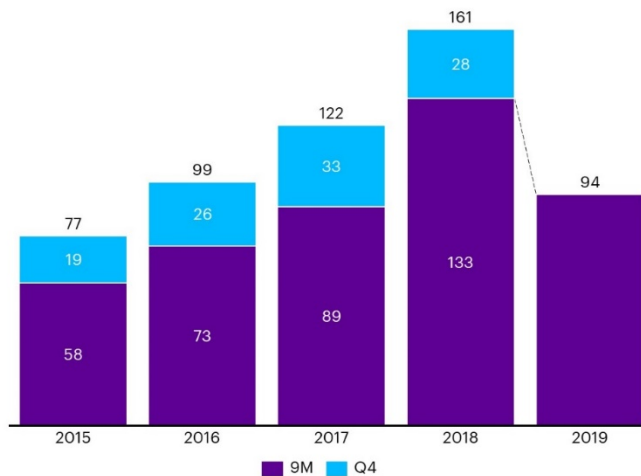
SINGAPORE JAN-SEPT 2019 PERFORMANCE COMPARISON

SINGAPORE FINTECH FUNDRAISING GREW 69% IN 9M2019 VS 9M2018, DESPITE 29% DECREASE IN DEAL NUMBERS. OVERALL 9M2019 HAD THE HIGHEST DEAL VALUE IN ANY JAN-SEPT PERIOD TO DATE.

FUNDING \$ (USD M)



NUMBER OF DEALS



Note: Investments value referred to only deals with amount reported by CB Insights, Pitchbook, Tracxn and undisclosed venture capital transactions data provided by the MAS and deals volumes referred to all deals.
 Disclaimer: There might be variations in historical numbers in new releases of the FinTech Watchtower as Accenture Research performs historical review of the previous data in every release which include, not limiting to, adding/removing deals from database based on relevance.

Source: Accenture Research analysis on CB Insights, Pitchbook and Tracxn databases. *Undisclosed venture capital transactions data was provided by the MAS.

Payment Services Act

- Payment Services Act – one licensing regime that covers both new and traditional payment activities, and foster synergies between activity types – effective as of **28 January 2020**
- With the introduction of the Payment Services Act, the Payment Systems (Oversight) Act and the Money Changing and Remittance Businesses Act will be **repealed**
- The new framework:
 - Provides a structure that considers the growing convergence across payment services
 - Expands the regulatory scope of the Monetary Authority of Singapore (MAS) to include more types of payment services
 - A **modular and risk-focused** regulatory regime allows the rules to be tailored to the scope of services provided



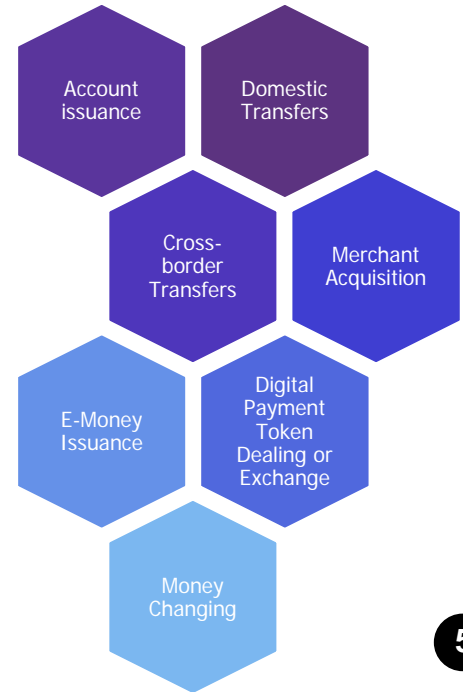
Payment Services Act Regulatory Frameworks

- **Designation framework**

- A designated regime to regulate systematically important payment systems for financial stability/efficiency reasons

- **Licensing framework**

- A licensing regime to regulate a wide range of payment services in a manner that matches the scope and scale of services provided across 7 categories
- there is lower level requirements for lower risk activities and more comprehensive requirements for higher risk activities



Payment Services Act Activity-Based Risk-Focused Licensing

- **Three classes of licenses** are provided depending on the risks posed by the scope and scale of the services

Money changing license

- For providing money changing services

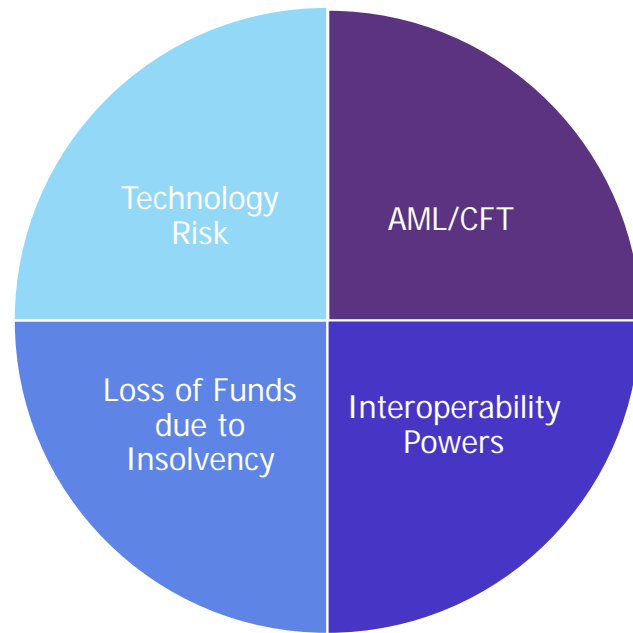
Standard payment institution

- ≤ S\$3m monthly transactions for any activity types
- ≤ S\$6m monthly transactions for two or more activity types
- ≤ S\$5m of daily outstanding e-money

Major payment institution

- > S\$3m monthly transactions for any activity type
- > S\$6m monthly transactions for two or more activity types
- > S\$5m of daily outstanding e-money
- Subjected to more comprehensive regulations

Four Key Risks



Payment Services Act – Four Key Risks

AML/CFT

- Appropriate AML/CFT requirements will be imposed on relevant licensees through **Notices** issued under the MAS Act
- Low risk transactions are exempted from AML/CFT requirements

Interoperability

- Imposition of **Access Regime** such as participation in common platforms, use of “fair and reasonable” commercial terms
- Adoption of a common standard to make widely used payment acceptance methods interoperable

User Protection

- **Safeguarding** money received from customers through liability, guarantee and trust account and segregation
- Inclusion of contractual obligations with safeguarding institution
- Imposition of additional reporting and monitoring mechanisms

Technology Risk

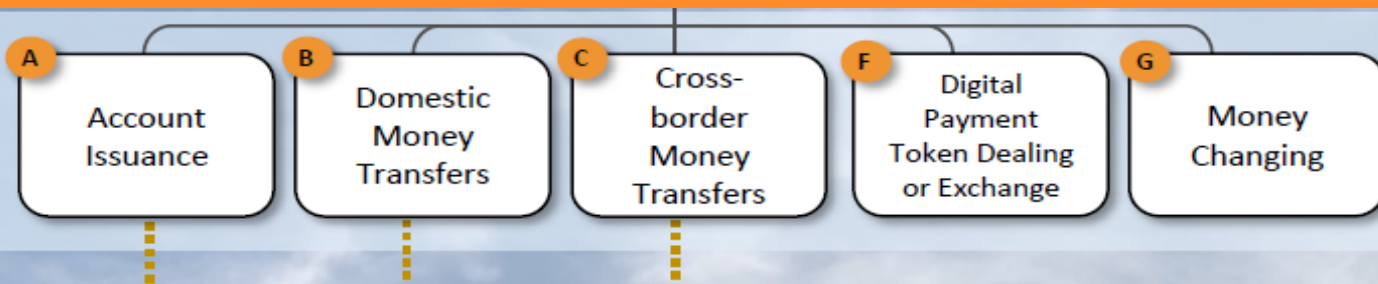
- Governance and implementation of **adequate controls** in areas such as user authentication, data loss protection, and cyber-attack prevention
- **Adjustment of standards** applicable in accordance with the level of licensing

Payment Services Act Risk-Focused Licensing

	Interoperability	User Protection	ML/TF Risks	Technology Risks
A Account Issuance	Interoperability powers	Protection of access to funds	CDD	Guidelines on Tech Risk Management *** Notice on Cyber Hygiene Practices
B Domestic Transfers		Safeguard funds in transit	CDD	
C Cross-border Transfers		Safeguard funds in transit	CDD	
D Merchant Acquisition	Interoperability powers	Safeguard funds in transit		
E E-Money Issuance		Safeguard float		
F DPT Dealing or Exchange			CDD	
G Money Changing			CDD	

Payment Services Act - AML/CFT Measures

Are imposed on these payment services...



... But can be **lifted** for these Low Risk services



E-Wallets

Accounts issued:

- Have a wallet capacity below S\$1,000
- Does not allow cash withdrawals
- Requires identification for cash refunds above S\$100



Domestic Transfers

Users are allowed to only perform transactions that meet **two** of the following criteria:

- Only for payment of goods or services
- Only permit transactions <S\$20,000
- Funded from an identifiable source



Cross-Border Transfers

Users are allowed to only perform transactions that meet **both** the following criteria:

- Only for payment of goods or services
- Funded from an identifiable source

Payment Services Act - Interoperability Powers

Fragmented Landscape



Interoperability Powers

- ✓ Mandate acceptance of a **Common Standard**
- ✓ Require payment service providers to join a **Common Platform**
- ✓ Impose an **Access Regime** in relation to selected payment systems

Enhanced Interoperability



Payment Services Act - User Protection Measures

- Under the Act, **major payment institutions** must **safeguard customer monies** from loss through the institutions' insolvency by any of the following means:
 - An undertaking or guarantee by any bank in Singapore or prescribed financial institution to be fully liable to customer for such monies;
 - Segregation by requesting for a deposit in a trust account maintained by a bank or prescribed FI;
 - Safeguarding in such other manner as may be prescribed by MAS
- Standard payment institution are not subjected to these safeguarding measures and must alert customers so they can make informed decisions



Payment Services Act - Technology Risk Management

- Under the Act, MAS **required all licensees** to manage its technology risks
- MAS also issued the **Notice of Cyber Hygiene** which sets out the measure that financial institutions must take to **mitigate the growing risk of cyber threats**
- The Notice renders compulsory key elements in the MAS Technology Risk Management Guidelines

Security Patches

Security Standards

Secure Administrative Accounts

Malware Protection

Multi-Factor Authentication

Network Perimeter Defence

Race for Digital Bank Licenses

- MAS announced in June 2019 that **5 digital bank licenses** (up to 2 digital full bank licenses and up to 3 digital wholesale bank licenses) will be issued to non-bank firms to strengthen competition in financial services and spur innovation
- In January 2020, MAS received 21 applications
- Digital banks are expected to start their operations in Singapore by the **middle of 2021**



Open Innovation Network and Fintech Research Platform

Open Innovation Network (OIN)

- OIN was launched by Enterprise Singapore and the Infocomm Media Development Authority (IMDA)
- OIN is an online directory that aggregates nationwide open innovation challenges across various sectors

Fintech Research Platform

- MAS, Deloitte and S&P Global Market Intelligence developed a prototype for Fintech Research Platform
- Fintech Research Platform is intended to be an **industry-wide** platform where investors and financial institutions can connect with fintech startups they can partner with or invest it
- The platform offers a comprehensive view of fintech companies, including their attributes on business models, use cases, funding, and technology stack

**Morgan Lewis
Stamford**

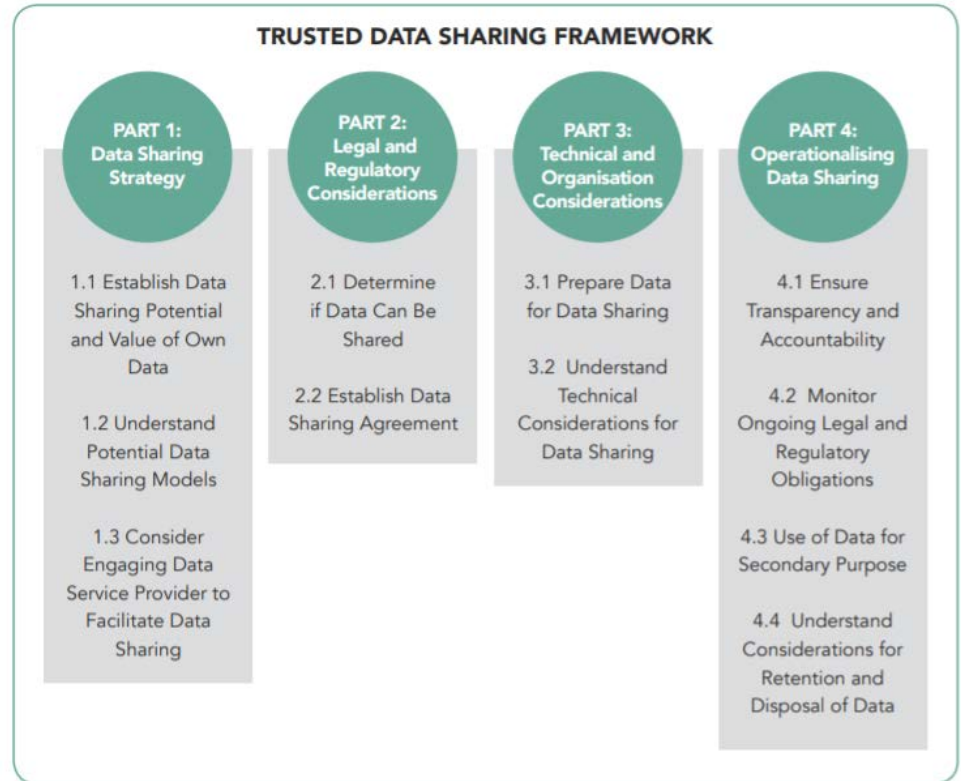


Presentation Takeaways

1. The licensing regime under the Payment Services Act is a modular and risk-focused regulatory regime allows the rules to be tailored to the scope of services provided
2. There is lower level requirements for lower risk activities and more comprehensive requirements for higher risk activities
3. The four key risks that MAS sought to address are technology risks, AML/CFT, loss of funds due to insolvency, and interoperability risks
4. Various platforms and initiatives are launched in Singapore to promote the development of fintech

Trusted Data Sharing Framework

- Personal Data Protection Commission of Singapore (PDPC) and IMDA launched the first Trusted Data Sharing Framework on 28 June 2019
- The framework helps organisations establish a set of baseline practices by providing a **common 'data-sharing language'**
- The framework suggests a systematic approach to the broad considerations for **establishing trust between data sharing partners**



COVID 19 – Contact Tracing

TraceTogether

- To support Singapore's effort to mitigate the spread of COVID-19, the Government Technology Agency in collaboration with the Ministry of Health developed a mobile application, TraceTogether
- Each phone can detect other participating TraceTogether phones that are in close proximity through the exchange of short-distance Bluetooth signals
- This facilitates the **contact tracing process**, and enables contact tracers to inform close contacts of confirmed cases more expeditiously



COVID-19 – Collection of Personal Data for Contact Tracing Purposes

- The PDPC has issued an Advisory on the Collection of Personal Data for COVID-19 Contact Tracing
- Organisations **may collect the personal data of visitors** (such as their NRIC, FIN or passport numbers) to accurately identify individuals for the purpose of **contact tracing** and other response measures. in the event of an emergency, such as during the COVID-10 outbreak
- In the event of a COVID-19 case, relevant personal data can be collected, used and disclosed **without consent** during this period to carry out contact tracing and other response measures pursuant to the exceptions under the Second, Third and Fourth Schedules to the PDPA, as this is necessary to respond to an emergency that threatens the life, health or safety of other individuals.
- Organisations that collect such personal data must however still comply with the provisions of the PDPA
 - Make reasonable **security arrangements** to protect the personal data in their possession from unauthorised access or disclosure (e.g. ensure visitor logbooks are kept secured and not visible to other visitors)
 - Ensure that the personal data is **not used for other purposes** without consent or authorisation under the law.
 - **Expunge the personal data** when it is no longer needed for contact tracing-related purposes

COVID-19 – Temporary Measures

- **Physical meetings cannot be held** during this COVID-19 outbreak
 - COVID-19 (Temporary Measures) (Alternative Arrangements for Meetings for Companies, Variable Capital Companies, Business Trusts, Unit Trusts and Debenture Holders) Order 2020 issued by the Minister for Law on 13 April 2020 provides for issuers to make **alternative arrangements** to hold general meetings where personal attendance is required under written law or legal instruments (such as a company's constitution)
 - Joint statement by ACRA, MAS and SGX RegCo on 13 April 2020 providing guidance for listed and non-listed entities on the manner in which general meetings are to be conducted during the period when elevated safe distancing measures are in place

COVID-19 – Holding Virtual Meetings

- **Suggested procedure** to hold virtual AGMs:
 - Shareholders to observe the proceedings of the AGM through a **“live” webcast** via their mobile phones, tablets or computers or listen to the AGM proceedings through a **“live” audio feed** via telephone
 - Shareholders must register online and their status as shareholders of the company authenticated
 - Following **authentication**, authenticated shareholders will receive email instructions on how to access the live webcast and live audio feed to observe the AGM proceedings
 - Shareholders who wish to vote at the AGM may **submit a proxy form to appoint the Chairman** of the AGM to cast votes on their behalf. Shareholders will not be able to vote through the live webcast / audio feed and can only vote with their proxy forms which are required to be submitted.
 - Questions must be submitted in advanced by a certain date/time
- **A data privacy notice** is typically included in the **Notice of AGM**. Where a virtual AGM is being held, the data privacy notice in the Notice of AGM will need to be amended to take into account the data privacy issues associated with holding a virtual AGM

COVID-19 – Holding Virtual Meetings and Data Privacy Issues

- Remote working and home-based learning has led to the increased use of third party video conferencing applications (e.g. Zoom)
- **Potential data privacy issues associated with the use of such video conferencing applications:**
 - **Consent Issue:** Has consent being obtained for the user for collection, use and disclosure of such data? Is there any indication in the video conferencing application's privacy policy or terms and conditions that such data is being collected and the purposes for which such data is being collected, used and or/disclosed?
 - **Data Retention Concerns:** What data about the user or the meeting is being retained by the video conferencing application? Is the meeting being recorded?
 - **Third Party Access Concerns:** Who has access to the data that is being retained? Is the data collected being shared with third parties without the user's consent? For example, there are reports that the Zoom iOS app has been sharing information with Facebook
 - **Security Concerns:** There have been numerous reports of "Zoombombing," where hackers break into and disrupt Zoom video chats, often with pornographic, violent or otherwise offensive images. Risk of surveillance, unwanted video calls, denial of service attacks and other harms.

Addressing COVID-19: Takeaways

1. In the event of a COVID-19 case, relevant personal data can be collected, used and disclosed without consent during this period to carry out contact tracing and other response measures
2. During circuit breaker period in Singapore, companies are to implement alternative arrangements to hold general meetings where personal attendance is required under written law or legal instruments
3. Companies shall take note of potential data privacy issues associated with holding virtual meetings

Morgan Lewis Coronavirus/COVID-19 Resources

We have formed a multidisciplinary **Coronavirus/COVID-19 Task Force** to help guide clients through the broad scope of legal issues brought on by this public health challenge.

To help keep you on top of developments as they unfold, we also have launched a resource page on our website at

www.morganlewis.com/topics/coronavirus-covid-19

If you would like to receive a daily digest of all new updates to the page, please visit the resource page to [subscribe](#) using the purple “Stay Up to Date” button.

Biography



Wai Ming Yap

Singapore

T +65.6389.3009

F +65.6389.3099

Wai Ming is a partner at Morgan, Lewis & Bockius LLP and also a director at Morgan Lewis Stamford LLC, a Singapore law corporation affiliated with Morgan, Lewis & Bockius.

Wai Ming Yap counsels corporate clients on merger and acquisition transactions, project finance, and equity and debt capital markets (including Islamic finance), as well as gaming and leisure. Wai Ming's experience spans more than 30 years of managing sophisticated corporate transactions in Singapore and Malaysia. He also acts as a sponsor to issuers on Catalist, the sponsor-supervised board of The Singapore Exchange (SGX).

Biography



Joel Seow

Singapore

T +65.6389.3005

F +65.6389.3099

**Morgan Lewis
Stamford**

Joel is a partner at Morgan, Lewis & Bockius LLP and also a director at Morgan Lewis Stamford LLC, a Singapore law corporation affiliated with Morgan, Lewis & Bockius.

Joel Seow advises sponsors throughout Asia on the establishment of private investment funds across various asset classes and jurisdictions, with a focus on private equity, venture capital, real estate, infrastructure, and hedge funds. He also counsels on myriad nontraditional private investment fund setups, including fund platform structures, hybrid funds, club deals, and open-ended illiquid funds, among others. Joel is keenly aware of Singapore's regulatory requirements for fund management and the offer of fund interests, and regularly advises international and local fund managers on their licensing and regulatory obligations, as well as assisting with the submission of fund management license applications to the Monetary Authority of Singapore.

THANK YOU

© 2020 Morgan, Lewis & Bockius LLP
© 2020 Morgan Lewis Stamford LLC
© 2020 Morgan, Lewis & Bockius UK LLP

Morgan, Lewis & Bockius UK LLP is a limited liability partnership registered in England and Wales under number OC378797 and is a law firm authorised and regulated by the Solicitors Regulation Authority. The SRA authorisation number is 615176.

Our Beijing and Shanghai offices operate as representative offices of Morgan, Lewis & Bockius LLP. In Hong Kong, Morgan Lewis operates through Morgan, Lewis & Bockius, which is a separate Hong Kong general partnership registered with The Law Society of Hong Kong as a registered foreign law firm operating in Association with Luk & Partners. Morgan Lewis Stamford LLC is a Singapore law corporation affiliated with Morgan, Lewis & Bockius LLP.

This material is provided for your convenience and does not constitute legal advice or create an attorney-client relationship. Prior results do not guarantee similar outcomes. Attorney Advertising.