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DREW & NAPIER LLC

# LEGAL UPDATE

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## REGULATION UPDATE

### PROPOSED CHANGES TO MAS' RULES ON PREVENTION OF MONEY LAUNDERING AND TERRORISM FINANCING

The Monetary Authority of Singapore (the "**MAS**") is seeking public feedback on the following proposed changes to the MAS Notices on Prevention of Money Laundering and Countering the Financing of Terrorism (the "**AML/CFT Notices**").

The consultation is open for feedback until **4 June 2009**.

#### **AML/CFT rules on "politically exposed persons" to be extended to local "politically exposed persons"**

The definition of "politically exposed person" (a "**PEP**") in the Financial Action Task Force ("**FATF**") Recommendations (the "**FATF Recommendations**") currently covers only a foreign PEP. Enhanced customer due diligence is therefore not mandatory in relation to a person who is politically connected in the local context. In FATF's view, a PEP is unlikely to deposit any illicit funds of his with a financial institution in the very country in which he maintains his political connections.

The MAS proposes to go beyond the FATF standards and require each entity to which the AML/CFT Notices apply (each, a "**Financial Institution**") to undertake enhanced customer due diligence for local PEPs. This follows Singapore's ratification of the United Nations Convention against Corruption, which contains obligations that are wider than those set out in the FATF standards.

It is therefore now envisaged that Financial Institutions which provide services to Singapore PEPs in their personal capacities will be expected to ask more penetrating questions and conduct more thorough due diligence checks before accepting such persons as customers. In particular, Financial Institutions would, for example, be required to obtain more information on the source of the funds that such persons wish to deposit into an account, and also ascertain the source of that person's wealth generally. After the account relationship is established, the Financial Institution would also be expected to monitor the client's pattern and history of transactions much more closely. Financial Institutions should expect to revise their "know your client" compliance protocols accordingly.

#### **Simplified due diligence measures not to be adopted when there is a suspicion of money laundering or terrorist financing**

The MAS has clarified that simplified due diligence measures are not to be

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adopted where there is a suspicion of money laundering or terrorist financing. This essentially confirms a practice that has already been substantially accepted by most Financial Institutions.

### **Customer due diligence information obtained by intermediary to be immediately provided to Financial Institution**

The MAS proposes to clarify that, where a Financial Institution relies on a third party intermediary to conduct customer due diligence on a client, the information and material gathered as part of the client due diligence process has to be immediately furnished by the intermediary to the Financial Institution, rather than be kept by the intermediary.

This proposed change carries some significance. Reliance on an intermediary is often necessary if the account relationship is derived from an overseas referral.

The FATF Recommendations allow a Financial Institution to rely on an intermediary to conduct customer due diligence provided that the intermediary meets certain specified criteria -- the intermediary must, typically, also be a Financial Institution credibly regulated for the purposes of anti-money laundering and countering of terrorism financing. FATF Recommendation 9 does not require the Financial Institution to obtain the customer due diligence information immediately if the Financial Institution ensures that the intermediary agrees to provide the customer due diligence information when asked to do so. The proposed MAS amendment therefore appears to go slightly beyond the FATF standards by no longer allowing the intermediary to retain the customer due diligence information without repatriating the same to the Financial Institution concerned.

### **References**

Please click [here](#) to view the MAS' consultation paper entitled Proposed Revisions to the MAS Notices on the Prevention of Money Laundering and Countering the Financing of Terrorism.

If you would like more information about this update or wish to discuss how it may potentially affect you or your business, please feel free to contact the corporate and finance lawyers in Drew & Napier LLC (please refer to the Directors' Profiles on our [website](#)), or:

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