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*Expert presentation
Brief intro of the Expert...*

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***PrivacyRules brief
Country Overview:
Blockchain &
Cryptocurrency
Regulations***

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1) At what stage is your country in regulating such technologies? Are there applicable rules and/or related laws?

A: On 28 January 2020, the Payment Services Act 2019 (the “PSA”) came into force in Singapore. The purpose of the PSA is streamline the regulation of payment services by collapsing certain existing legislation, to expand the scope of regulated payment activities to include digital payment token services and other new innovations, and to calibrate the regulatory position to address the risks posed by such activities. Blockchain and cryptocurrency businesses should consider whether they would be construed as carrying a business of providing a regulated payment service in Singapore, and therefore need to apply for a licence under the PSA. Commonly, such businesses may need to apply for a licence for one or more of (i) account issuance, (ii) e-money issuance, and/or (iii) providing a digital payment token service

Other than the PSA, the regulators are generally of the view that existing laws and regulations continue to apply where relevant. For example, the Infocomm Media Development Authority (the “IMDA”) has stated its preliminary view that distributed ledger technology, which includes blockchain, is not inconsistent with the Electronic Transactions Act, Chapter 88 of Singapore (the “ETA”).

2) How would you define your Government’s approach to these technologies?

A: Singapore is a relatively good destination to start a blockchain and cryptocurrency business. The key reason being that the Singapore Government has taken an open and competitive approach to welcoming FinTech developments (including the use of blockchain and cryptocurrency). In a speech made by Mr Ravi Menon, the Managing Director of the Monetary Authority of Singapore (the “MAS”), Mr Menon outlines the MAS’ cautiously optimistic approach that aims to balance embracing innovation with maintaining regulatory safeguards (please see: <https://www.mas.gov.sg/news/speeches/2018/crypto-tokens-the-good-the-bad-and-the-ugly>). Broadly speaking, the regulators are fairly familiar with and open to blockchain and cryptocurrency developments, which is a contrast against other jurisdictions that may be slow to adopt such trends due to political motivations (e.g. the adoption of BTC being unfavourable to monetary policy) or bureaucratic red-tape (e.g. different regulators coming to contradictory positions).

For example, the IMDA has organised two editions of its Blockchain Challenge, challenging participants to solve industry-facing challenges. The IMDA has also



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partnered with industry players to put in place a blockchain ecosystem engagement platform.

In addition, the government itself is adopting the use of blockchain technology. For example, the Government Technology Agency and Ministry of Education were involved in the joint development of the OpenCerts platform, which uses Ethereum smart contracts to issue and validate digital certificates of graduates of local educational institutions. The MAS has also explored the use of blockchain technology for operating an interbank real-time gross settlement system with successful working implementations.

3) Are Cryptocurrencies subjected to Taxation? How are they tracked?

A: Businesses that choose to accept cryptocurrencies are subject to normal income tax rules and will be taxed on the income that is derived from or received in Singapore. If a business uses or accepts cryptocurrencies as payment for goods and services, it should record the sale or purchase based on the open market value of the goods or services in Singapore dollars, and if such value cannot be determined, then based on the rate of exchange of the cryptocurrency at the time of the transaction.

While there are no capital gains taxes in Singapore, a business that derives a profit from buying and selling, or mining and trading, cryptocurrencies will be taxed on such profits. Whether certain gains are to be classified as trading or capital gains will depend on the specific facts and circumstances of each case.

Since 1 January 2020, the goods and services tax (“GST”) treatment for cryptocurrencies that are “digital payment tokens” under the PSA have been amended as follows:

- the use of “digital payment tokens” as payment for goods or services no longer gives rise to a ‘supply’ of such tokens, and the person using such tokens as payment for goods or services need not account for GST on such use; and
- a supply of “digital payment tokens” in for fiat currency or other “digital payment tokens” are exempt from GST.

This approach fixes the issue where taxing cryptocurrencies that function or are intended to function as medium of exchange (i.e. digital payment tokens) would result in two tax points – (i) on the purchase of the cryptocurrency and (ii) on its



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use as payment for other goods and services subject to GST. Instead, as the supply of “digital payment tokens” will no longer be subject to GST, GST is only applicable on its purchase (i.e. limb (ii) is no longer a taxable event, and only limb (i) is).

4) Are there specific provisions to contrast money laundering in the use of such technologies?

A: Where blockchain and cryptocurrency businesses are regulated under the PSA, such businesses would need to comply with anti-money laundering and countering the financing of terrorism (“AML/CFT”) obligations imposed by the MAS.

Separately, the general anti-money laundering and counter-terrorist financing legislation remains applicable (i.e. the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act, Chapter 65A of Singapore, the Terrorism (Suppression of Financing) Act, Chapter 325 of Singapore and the relevant United Nations Regulations).

5) Is there a sales regulation in place?

A: Where a blockchain and cryptocurrency business carries on a business of buying or selling a digital payment token in exchange for any money or any other digital payment token, such business would need to obtain a licence under the PSA. Such business would accordingly need to abide by all licensing and conduct of business obligations under the PSA and all subsidiary legislation (including regulations, notices and guidelines) imposed by the MAS.

6) Are ‘smart contracts’ regulated in your jurisdiction?

A: There are no regulations directed specifically at ‘smart contracts’, since ‘smart contracts’ refer to sets of code and do not necessarily form complete legal contracts. In the Consultation Paper on Review of the ETA, the IMDA has stated its preliminary view that the ETA does not prevent the use and formation of smart contracts.



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7) Is 'Distributed Ledger Technology' (DLT) regulated in your jurisdiction? If so, jointly or separately from Blockchain and Cryptocurrency?

A: There are no regulations directed specifically at DLT, although DLT may be used in the conduct of other regulated activities, such as providing a payment service under the PSA, or dealing in capital markets products under the Securities and Futures Act, Chapter 289 of Singapore (the "SFA"). Where regulated activities are performed in Singapore, the relevant laws and regulations apply.

8) Any additional element to consider on Blockchain and Cryptocurrency in your jurisdiction?

A: It may be useful to consider the applicability of securities law under the SFA. In its Guide to Digital Token Offerings, MAS has stated that "[o]ffers or issues of digital tokens may be regulated by MAS if the digital tokens are capital markets products under the SFA". Accordingly, if a cryptocurrency is considered a capital markets product (specifically, securities, securities-based derivatives contracts or units in a collective investment scheme), and is issued or dealt with in Singapore, prospectus registration and licensing obligations may arise under the SFA.

9) Is there a regulatory authority for blockchain and cryptocurrencies in your country?

A: No. There is no regulatory authority for blockchain or cryptocurrencies specifically.

10) Are there any entities that provide guidance on blockchain and cryptocurrencies in your country?

A: The relevant regulators have provided guidance on the interaction of blockchain and cryptocurrencies with existing legislation, specifically where the use of blockchain and cryptocurrency are used in the course of carrying out regulated activities. For example, the MAS has published a Guide to Digital Token Offerings to clarify the applicability of the SFA to cryptocurrencies. The Inland Revenue Authority of Singapore and the IMDA has also provided clarification on issues relating to tax and electronic transactions, respectively.



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