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Singapore
White Collar Crime

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This country-specific Q&A provides an overview of white collar crime laws and regulations applicable in Singapore.

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Singapore: White Collar Crime

1. What are the key financial crime offences applicable to companies and their directors and officers? (E.g. Fraud, money laundering, false accounting, tax evasion, market abuse, corruption, sanctions.) Please explain the governing laws or regulations.

Key financial crime offences include:

(a) various categories of offences under the Penal Code 1871, which contain the majority of criminal offences in Singapore. This includes offences of:

Cheating, under Sections 415 to 420A of the Penal Code. The offence of cheating generally applies to deception and fraud, including where the accused person makes a false statement which induces the victim to part with money or property, or to do things he otherwise would not have done.

Criminal misappropriation and breach of trust, under Sections 403 to 409 of the Penal Code. The offence involves dishonest misappropriation of money or property. Where the accused person is entrusted with property, the offence becomes a more serious criminal breach of trust. Under Section 409 of the Penal Code, a criminal breach of trust by certain categories of persons including directors or key executives of a corporation is liable to be punished more severely.

Forgery and falsification of accounts, under Sections 463 to 477A of the Penal Code. These offences apply where company directors or officers manipulate financial statements, forge auditor signatures on financial statements, or falsify accounts, among other things.

(b) Offences under the Securities and Futures Act 2001 ("SFA"). Offences include false trading and other market manipulation under Sections 197 and 198 of the SFA, as well as insider trading under Sections 218 and 219 of the SFA. For offences under Part 12 of the SFA (relating to market conduct), the company would also be guilty of the offence if the offence was committed with the company's "consent or connivance" and for the benefit of the company. If the company was negligent in failing to prevent or detect a breach under Part 12, the company is also liable to pay a civil penalty.

(c) Offences under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 ("CDSA"), which relate to money-laundering. The CDSA criminalises acquiring, possessing, using, concealing or transferring the benefits of crime or any property reasonably suspected of being benefits of crime. A company can also be guilty of CDSA offences through the actions of its directors, employees or agents.

(d) offences under the Prevention of Corruption Act 1960 ("PCA"). The PCA is the primary legislation in Singapore criminalising both public sector and private sector corruption and bribery.

(e) the Income Tax Act 1947 sets out the range of tax-related offences including tax evasion.

(f), the Companies Act 1967 ("CA") sets out the scope of a company and its directors' statutory duties and other obligations, and contains a wide range of offences involving companies and directors.

2. Can corporates be held criminally liable? If yes, how is this determined/attributed?

Corporates can be held criminally liable. Section 2(1) of the Interpretation Act 1965 provides generally that in every written law of Singapore, the word "person" includes any company. Section 11 of the Penal Code defines a "person" as including "any company or association or body of persons, whether incorporated or not".

Most legislation will specify the circumstances in which a company is liable for offences committed by its directors or employees. For example under Part 12 of the SFA, an offence committed by an employee or officer of a corporation, with the consent or connivance of the corporation and for the benefit of the corporation, will equally render the corporation guilty of that offence.

In the context of the CDSA, the High Court in Abdul Ghani bin Tahi v Public Prosecutor [2017] 4 SLR 1153 cited Huckerby v Elliot [1970] 1 All ER 189 that a director "consents" to the commission of an offence when he is "well aware of what is going on and agrees to it", whereas a director "connives" at the offence if he is "equally well aware of what is going on but his agreement is tacit, not actively encouraging what happens but letting it continue and saying nothing about".

Generally, a company officer's actions and state of mind can be attributed to the company where the person is the "living embodiment of the company", or if he was acting within the scope of a function of management properly delegated to him (Prime Shipping Corp v Public Prosecutor [2021] 4 SLR 795).

Similarly, Sections 73(1) and 73(2) of the CDSA provide that the state of mind and conduct respectively of a director, employee or agent of the company can be deemed to be that of the company's if the conduct was engaged in within the scope of the actual or apparent authority of the director, employee or agent.

3. What are the commonly prosecuted offences personally applicable to company directors and officers?

Commonly prosecuted offences personally applicable to company directors and officers include:

- corruption under the PCA
- cheating, forgery and criminal breach of trust under the Penal Code
- making false or misleading statements under Sections 401 and 402 of the CA
- market manipulation and insider trading under the SFA

4. Who are the lead prosecuting authorities which investigate and prosecute financial crime and what are their responsibilities?

The leading prosecuting authority for all criminal prosecution (whether of financial crime or other crime) is the Attorney-General's Chambers ("AGC"). The AGC is led by the Attorney-General who is concurrently also the Public Prosecutor, who has control and direction of criminal prosecutions and proceedings under the Penal Code and any other written law.

Most criminal prosecutions are conducted by Deputy Public Prosecutors, who are appointed by and act under the authority of the Public Prosecutor, in evaluating evidence and prosecuting offences before the Court.

Investigations of financial crime are conducted by a variety of different agencies, which often work together. This includes:

- the Singapore Police Force ("SPF"), which is the main police agency in Singapore;
- the Commercial Affairs Department ("CAD"), which is a specialised division of the SPF that investigates financial crime;
- the Corrupt Practices Investigation Bureau ("CPIB"), an independent agency under the Prime Minister's Office which investigates matters of corruption;
- the Monetary Authority of Singapore ("MAS"), which is the central bank and financial regulatory authority and has investigative powers in respect of matters relating to the SFA and Financial Advisers Act 2001 among other things; and
- the Inland Revenue Authority of Singapore, which investigates potential tax offences.

5. Which courts hear cases of financial crime? Are they determined by tribunals, judges or juries?

Offences involving financial crime are typically heard in the State Courts at first instance.

In the State Courts, criminal cases are heard by either the Magistrate's Court (which can hear offences for which the maximum imprisonment does not exceed 5 years) or the District Court (which can hear offences for which the maximum imprisonment does not exceed 10 years).

An appeal from a decision of the Magistrate's Court or the District Court is heard by the General Division of the High Court.

Although the General Division of the High Court has the jurisdiction and power to hear every case, including cases of financial crime, the vast majority of criminal cases in Singapore are heard by the State Courts. The General Division of the High Court typically only hears cases involving the most serious offences including murder, drug trafficking where the death penalty applies, and rape.

On rare occasions, financial crime cases are heard by the General Division of the High Court at first instance (see e.g. Public Prosecutor v Juandi bin Pungot [2022] SGHC 70 involving the mastermind of a large-scale conspiracy to misappropriate gas oil of around S$128 million, who was eventually sentenced to 29 years' imprisonment).

Under the Singapore judicial system, there are no jury trials. All trials are heard by judges or judicial officers as finders of fact.

6. How do the authorities initiate an investigation? (E.g. Are raids common, are there compulsory document production or evidence taking powers?)

Investigations start when a complaint or report is lodged and/or where the relevant authority has reason to suspect that an offence has been committed.

Raids may be conducted where there is a need to preserve evidence or other reasons for urgency. In general, the investigative authorities have document production and evidence taking powers, including to:

(a) search premises and seize evidence;

(b) examine witnesses and take statements from them;

(c) order the production of documents, including customer information from a bank;

(d) access computers to search any data and make copies of any data; and

(e) arrest suspects.

The exact scope of powers depend on the agency involved and the offence under investigation.

Failure to comply with such orders or obstructing the investigative authorities in their lawful exercise of powers also constitutes a criminal offence.

7. What powers do the authorities have to conduct interviews?

Under Section 21 of the CPC, a police officer may issue a written order requiring anyone within the limits of Singapore, who appears to be acquainted with any of the facts and circumstances of the case, to attend before the police officer. If the person fails to attend as required, the police officer may report the matter to a Magistrate who may then issue a warrant ordering the person to attend.

Under Section 22 of the CPC, the police officer may examine any person who appears to be acquainted with the facts of the case, and record a statement in writing or in the form of an audio-visual recording.

8. What rights do interviewees have regarding the interview process? (E.g. Is there a right to be represented by a lawyer at an interview? Is there an absolute or qualified right to silence? Is there a right to pre-interview disclosure? Are interviews recorded or transcribed?)

There is no right to be represented by a lawyer during an interview by the police or other authorities. There is no legal rule requiring the police to let counsel be present during interviews with the accused, while investigations are carried out (Muhammad bin Kadar v Public Prosecutor [2011] 3 SLR 1205 at [57]).

Under Article 9(3) of the Constitution of the Republic of Singapore, an arrested person is allowed to consult and be defended by a legal practitioner of his choice. However, this right only arises within a reasonable time after arrest, the rationale being to afford the police a degree of latitude in carrying out their investigations (James Raj s/o Arokiasamy v Public Prosecutor [2014] 2 SLR 307 at [5]).

There is only a limited right to silence under the CPC 2010. Under Section 22(2) of the CPC, a person giving a statement is bound to state truly what the person knows of the facts and circumstances of the case, except that the person need not say anything that might expose the person to a criminal charge, penalty, or forfeiture. However, failing to mention facts in statements to the police may be detrimental if the accused person subsequently wants to rely on those facts in his defence. Under Section 261 of the CPC, the Court may draw the necessary inferences against the accused from a failure to mention his defence in his investigative statements.

For statements recorded by the CPIB under the PCA, there is no right to silence. Section 27 of the PCA requires that every person required to give information to the CPIB is legally bound to give that information.

There is generally no right for an interviewee (whether as a suspect or a witness) to pre-interview disclosure. As a matter of discretion, a witness (meaning a person assisting with investigations who is not suspected of crime) may be provided with some context about the scope of investigations and what they may be questioned about during the interview.

Under Section 22(3) of the CPC 2010, statements made are recorded either in writing or in the form of an audio-visual recording. In practice, statements are usually typed out by the recording officer during the interview or hand-written and subsequently transcribed into type-written form before the final statement is signed by the interviewee.

9. Do some or all the laws or regulations governing financial crime have extraterritorial effect so as to catch conduct of nationals or companies operating overseas?

The starting position is that legislation in Singapore does not have extraterritorial effect, unless expressly provided for (Public Prosecutor v Muhammad Farid bin Sudi [2017] SGHC 228 at [64]).

Some of Singapore's laws and regulations governing financial crime are expressly stated to have extraterritorial effect. Examples relevant to financial crime offences include the following:

PCA: Section 37 of the PCA provides that the PCA applies extraterritorially to corruption offences committed by Singapore citizens both within and outside Singapore.

Penal Code: Public servants who are citizens or permanent residents of Singapore can be prosecuted for offences they commit outside Singapore when acting or purporting to act in the course of their employment (see Section 4 of the Penal Code).

Under Section 4B of the Penal Code, certain specified offences can also be prosecuted in Singapore where a physical element of the offence occurs in Singapore. This includes offences of dishonest misappropriation, criminal breach of trust, cheating, forgery, and other fraud-related offences among other things.

10. Do the authorities commonly cooperate with foreign authorities? If so, under what arrangements?

The Singapore authorities regularly cooperate with foreign authorities through various forms of mutual legal assistance.

The arrangements made are typically on a reciprocal basis by way of bilateral treaties or multilateral conventions between countries. In Singapore, relevant legislation facilitating mutual legal assistance include:

a. the Mutual Assistance in Criminal Matters Act 2000;
b. the Extradition Act 1968;
c. the Terrorism (Suppression of Financing) Act 2002; and
d. the Terrorism (Suppression of Bombings) Act 2007.

Amongst other things, the Attorney-General may request the assistance of foreign authorities to obtain evidence, arrange for potential witnesses to attend in Singapore, enforce Singapore confiscation orders, and locate and identify persons outside of Singapore. Foreign authorities may similarly seek such assistance from Singapore.

11. What are the rules regarding legal professional privilege? What, if any, material is protected from production or seizure by financial crime authorities?

Legal professional privilege in Singapore comprises both legal advice privilege and litigation privilege (see e.g. Sections 128 and 131 of the Evidence Act 1893).

Legal advice privilege provides that confidential communications made between a client and their lawyer for the purpose of seeking legal advice are privileged and may not be disclosed without the consent of the client (Skandinaviska Enskilda Banken AB (Publ), Singapore Branch v Asia Pacific Breweries (Singapore) Pte Ltd [2007] 2 SLR(R) 367 ("Skandinaviska") at [43]).

Litigation privilege applies to every communication, whether confidential or otherwise so long as it is for the purpose of litigation (Skandinaviska at [44]). The party seeking privilege must show that there was a reasonable prospect of litigation and that the dominant purpose of the existence of the documents must have been for the purpose of litigation.

Communications made in furtherance of an illegal purpose are not protected from disclosure by legal professional privilege under Section 128(2) of the Evidence Act 1893. The authorities may be able to seize privileged information given the breadth of investigative powers available. However, they would not be able to freely use such privileged information. The High Court in Ravi s/o Madasamy v Attorney-General [2021] 4 SLR 956 set out the procedure to be followed when privileged information has been seized (at [83]-[89]).

- the AGC should conduct a review of the seized materials for legal professional privilege. The review should be conducted by a team of AGC officers (the "AGC privilege team") who are not involved in the investigation. This could exclude officers from the AGC's Crime Division or the AGC's Civil Division depending on the circumstances in which the claim of privilege arises;
- the lawyer asserting privilege should identify what specific documents or files are protected by legal privilege. If he cannot remember which

specific documents are privileged, he can inform the AGC and the AGC privilege team should provide supervised access;
- the AGC privilege team may accept a claim of legal professional privilege at face value, or they may review the identified materials to determine if they agree that the identified materials are privileged;
- If the documents are privileged, they should be returned if possible. If the seized documents are in softcopy and cannot be feasibly returned, they should be isolated or quarantined such that subsequent investigators or prosecuting officers will not chance upon the privileged materials;
- If the documents are not privileged, the AGC privilege team should inform the lawyer, who can consult with the affected client for the client to decide whether to insist on his claim to privilege or waive privilege;
- If the affected client waives privilege, the issue is resolved. If the affected client insists on his claim to privilege, he can either file an application under Order 53 of the Rules of Court 2014 (now under Order 24 of the Rules of Court 2021) for leave for a prohibiting order, or object to the admission of the privileged material in question into evidence on the grounds of legal professional privilege; and
- If an application is filed and there are judicial review proceedings, the identified materials should not be handed over to the investigating authority and the prosecution team until after the court challenge is decided.

The Prosecution may also rely on litigation privilege, where the Prosecution can show that the communications are made at a time when there was a reasonable prospect of litigation, and are made for the dominant purpose of litigation (Public Prosecutor v Soh Chee Wen [2020] 3 SLR 1435 at [11], [14] and [15]).

12. What rights do companies and individuals have in relation to privacy or data protection in the context of a financial crime investigation?

Singapore has data privacy and protection rules under the Personal Data Protection Act 2012 ("PDPA"). However, use of data for criminal investigations is generally permitted.

Paragraph 3 of Part 3 of the First Schedule to the PDPA provides that the collection, use and disclosure of personal data without consent is allowed where it is necessary for any investigations or proceedings.

The banking secrecy obligation under Section 47(1) of the Banking Act 1970 is also expressly subject to disclosure in compliance with requests to provide information for the purpose of investigation or prosecution, in relation to alleged offences under any written law, among other things.

13. Is there a doctrine of successor criminal liability? For instance in mergers and acquisitions?

The starting position is that each company is a separate legal entity and that a company is therefore not criminally responsible for the conduct of another. However, the individuals involved in the acquired company can still be held to account as their criminal liability is not affected by the merger and/or acquisition.

Where a company and its directors have been involved in criminal activity, a merger will not absolve the directors of their individual criminal responsibility.

14. What factors must prosecuting authorities consider when deciding whether to charge?

The AGC does not publish guidelines on its exercise of prosecutorial discretion, including the factors considered in deciding whether to charge. Nevertheless, the Prosecution will consider, among other things, the sufficiency of evidence as well as the consideration of what is in the public interest.

There are no specific factors enshrined in legislation that the prosecuting authorities must consider.

In general, factors considered by the AGC in its exercise of prosecutorial discretion include:

- whether the evidence supports a reasonable prospect of conviction;
- whether the public interest is supported by prosecuting the suspect;
- the nature, severity and scope of the offences committed;
- the harm caused by the offence, including whether restitution has been made;
- the character of the offence, including whether it offends the values expected by the public;
- public interest or public policy considerations; and
- offender-specific factors, including young age,

prior convictions, cooperation with the authorities or contrition.

15. What is the evidential standard required to secure conviction?

The Prosecution must prove all the elements of each offence beyond a reasonable doubt.

16. Is there a statute of limitations for criminal matters? If so, are there any exceptions?

There is no statute of limitations for the prosecution of criminal matters. Nevertheless, where there has been an inordinate delay in prosecution, this may be a factor considered by the Court in determining the appropriate sentence.

17. Are there any mechanisms commonly used to resolve financial crime issues falling short of a prosecution? (E.g. Deferred prosecution agreements, non-prosecution agreements, civil recovery orders, etc.) If yes, what factors are relevant and what approvals are required by the court?

Before charge

Even where the Prosecution takes the view that an offence has been committed, they may choose to issue a warning to the suspect instead of pursuing criminal charges. This is in the Prosecution's exercise of their discretion, and could be for a variety of reasons including youth of the offender, other mitigating circumstances, or where the offence is comparatively minor.

Warnings may be unconditional (generally known as a stern warning) or conditional (stipulating for example that if the suspect commits any other offences within a period of time, the Prosecution will prosecute the suspect for the earlier offence).

The Prosecution's decision not to bring a charge is not subject to the Court's approval.

After charge

Even after a person has been charged in Court, at any stage of proceedings before the accused person is sentenced, the Prosecution may choose to inform the Court that they will not further prosecute the accused person. In these circumstances, the proceedings must be stayed and the accused must be discharged. This is also not subject to the Court's approval.

Composition of offences

Some offences may be compounded. Compounding an offence involves payment of a sum of money, whether to the victim or to the state depending on the type of offence, in lieu of criminal prosecution.

Under Sections 241 and 242 of the CPC 2010, composition of an offence means that no further proceedings are to be taken any further. Where a charge has already been brought, composition has the effect of an acquittal and the Court must order a discharge amounting to an acquittal.

Deferred Prosecution Agreements ("**DPAs**")

A company, partnership, limited liability partnership or unincorporated association may enter into a DPA with the Public Prosecutor. DPAs do not apply to individuals.

Under a DPA, the Public Prosecutor would agree not to prosecute the entity in criminal proceedings, in exchange for the entity agreeing to certain specified conditions under the CPC 2010, including payment of a financial penalty, compensating victims, disgorging profits from the offence, implementing compliance programmes, or cooperating in investigations into other offences arising from the same facts, among other possible requirements.

DPAs only apply to certain types of offences listed in the Sixth Schedule to the CPC 2010, including falsification of accounts under Section 477A of the Penal Code, corruption under Sections 5 and 6 of the PCA, or various money laundering offences under the CDSA.

DPAs are subject to approval by the General Division of the High Court, and are heard by the High Court in private. The DPA is subject to the High Court granting a declaration that the DPA is in the interests of justice and that its terms are fair, reasonable and proportionate.

18. Is there a mechanism for plea bargaining?

The practice of plea bargaining is common in Singapore and usually takes place after an accused is charged in Court. The accused person or his lawyers may write letters of representation to the AGC to urge the Prosecution not to initiate criminal proceedings, or to withdraw, amend or reduce the charge(s). Such representations highlight mitigating factors or other circumstances to urge the Prosecution to reconsider their exercise of prosecutorial discretion. The Prosecution may

make a plead guilty ("**PG**") offer to the accused. Under a PG offer, the Prosecution may agree to proceed only on some of the charges with the remainder to be taken into consideration for the purpose of sentencing, or may agree to proceed on charges of reduced severity, if the accused person decides to plead guilty.

Another available process are Criminal Case Management System discussions. These are private and without prejudice meetings to enable the Defence and the Prosecution to discuss the case, narrow the issues in dispute, and potentially reach an earlier resolution of the criminal matter.

Unlike plea bargaining in other jurisdictions, the sentence to be imposed remains solely within the Court's discretion regardless of what has been agreed between the Prosecution and the Defence through plea-bargaining. The Court may impose a sentence different from what was agreed between the parties.

19. Is there any obligation to disclose discovered misconduct to prosecuting authorities, or any benefit to making a voluntary disclosure? Is there an established route or official guidance for making such disclosures?

Certain categories of offences must be disclosed and reported to the police or other relevant authorities.

For example, Section 424 of the CPC provides that in the absence of a reasonable excuse, certain specified offences under the Penal Code (most of which involve violence or robbery) must be reported. The failure to report the matter would be an offence.

Section 45 of the CDSA also provides that a person who knows or has reasonable grounds to suspect that any property represents the proceeds of, was used in connection with, or is intended to be used in connection with any act which may constitute criminal conduct, must file a suspicious transaction report as soon as reasonably practicable. Breach of this requirement also constitutes an offence.

The main benefit of voluntary disclosure is to show cooperation and contrition for the offence having happened, which may constitute a mitigating factor in negotiations with the Prosecution in plea bargaining to seek withdrawal or reduction of charges, or for the Court's consideration in determining the appropriate sentence.

20. What rules or guidelines determine sentencing? Are there any leniency or discount policies? If so, how are these applied?

In general the Court will consider:

- any sentencing benchmarks or frameworks set out by the Court in precedent cases;
- offence-specific factors, including harm caused by the offence and the culpability of the offender. For financial crimes, this includes but is not limited to the amount or value involved in the offence, involvement of a syndicate and/or transnational element, degree of planning and premeditation, level of sophistication, duration of offending, and extent of the offender's abuse of position and breach of trust, among other things (see e.g. *Takaaki Masui v Public Prosecutor* [2021] 4 SLR 160 at [239]);
- if the offence is hard to detect or if the offender has taken steps to hide the offence or hide his involvement, this is usually an aggravating factor; and
- in the company context, if the accused person holds an important position and his offences reflect a significant abuse of trust, this is a further aggravating factor.

The Court will also take into account any mitigating factors. This includes a plea of guilt (which ordinarily warrants a discount ranging from a quarter to a third of the sentence), remorse, and the extent to which restitution has been made.

21. In relation to corporate liability, how are compliance procedures evaluated by the financial crime authorities and how can businesses best protect themselves?

The existence of sufficient compliance procedures help support the argument that the offence was committed by a rogue company officer, and therefore should not be attributed to the company. This involves the principles of attribution in the criminal law context (see question 2 above).

For example, Section 236C of the SFA provides that a corporation which fails to prevent contravention of market misconduct under Part 12, where the contravention is for the corporation's benefit and attributable to the corporation's negligence, has committed an offence and would be liable to a civil

penalty.

Section 236C(7) explicitly provides that in determining whether the contravention is due to the corporation's negligence, the Court is to take into account whether the corporation has established adequate policies and procedures to prevent and detect such market misconduct, and whether the corporation has consistently enforced these policies and procedures.

22. What penalties do the courts typically impose on individuals and corporates in relation to the key offences listed at Q1?

For individuals, financial crime offences are often punished with terms of imprisonment unless the amounts involved are very low or there are strong mitigating factors involved.

For corporate entities, the usual punishment is a fine.

In cases involving corruption, the Court may also impose penalties on the recipients of bribes to cause them to disgorge the full amount of the bribes received.

23. What rights of appeal are there?

Persons convicted at first instance in the State Courts may appeal to the General Division of the High Court. Persons convicted at first instance by the General Division of the High Court may appeal to the Court of Appeal.

There is only one tier of appeal, such that a person convicted at first instance in the State Courts does not have an automatic right to further appeal to the Court of Appeal if his appeal is dismissed by the General Division of the High Court.

A person who claims trial and is convicted after trial may appeal against both the conviction and sentence imposed. However, a person who pleads guilty is generally not entitled to challenge his conviction and may only appeal against the sentence imposed.

The Prosecution is entitled to appeal against either acquittal or the sentence imposed.

The sentence imposed would only be overturned on appeal if shown to be either manifestly inadequate or manifestly excessive.

24. How active are the authorities in tackling financial crime?

The Singapore authorities take active and regular steps to tackle all financial crime, including corruption. Scams of various types are a current problem.

On 22 March 2022, the CAD operationalised the Anti-Scam Command ("**ASCom**") which comprises the Anti-Scam Centre ("**ASC**") and three Anti-Scam Investigative Branches, and oversees the Scam Strike Teams situated within each of the seven Police Land Divisions. Various institutions including DBS, HSBC, SCB, UOB, CIMB, OCBC, and GovTech have co-located their staff within the ASCom to enhance real-time coordination with the police in investigation, tracing funds, and swift freezing of bank accounts. In 2022, the ASCom froze more than 16,700 bank accounts and recovered about S$146.6 million.

The ASC also works closely with local telecommunication companies, social media platforms and online marketplaces to terminate mobile lines, suspicious accounts and advertisements involving suspected scams.

25. In the last 5 years, have you seen any trends or focus on particular types of offences, sectors and/or industries?

The total number of scam cases has increased year on year from 6,234 cases in 2018 to 31,728 cases in 2022. The total amount lost to all scams has similarly increased from S$151.4 million in 2018 to S$660.7 million in 2022.

Other notable offences include criminal breach of trust, corruption, and accounting and financial statement fraud.

The latest MAS Enforcement Report dated 27 April 2022 also noted that the enforcement priorities of the MAS in 2022/2023 include, among other things, pursuing strong enforcement actions against financial institutions for serious lapses in AML/CFT systems and controls, studying options for enhancing investors' recourse for losses due to securities market misconduct, and strengthening focus on holding senior managers accountable for breaches by their financial institutions or subordinates.

Anti-corruption continues to be a major focus of law enforcement in Singapore, with the CPIB often pursuing investigations in line with Singapore's zero-tolerance approach to corruption. This includes both private sector and public sector corruption.

26. Have there been any landmark or notable cases, investigations or developments in the past year?

Notable cases

On 17 January 2023, the former Chief Financial Officer of commodity firm Agritrade International, Lulu Lim Beng Kim ("**Lulu Lim**"), was sentenced to 20 years' imprisonment. She had on 9 December 2022 pleaded guilty to 12 charges including cheating and falsification of accounts, with 24 similar charges taken into consideration for the purposes of sentencing. Agritrade International had from January 2017 to November 2019 duped 16 financial institutions including major banks from Japan, South Korea, India and Taiwan into providing millions of dollars in trade financing, causing losses of US$469 million. Lulu Lim was charged for her role in instructing her subordinates to submit financial statements which were unaudited and false to the financial institutions.

On 11 April 2023, the founder and managing director of now-collapsed Hin Leong Trading, Lim Oon Kuin ("**OK Lim**"), went on trial for three charges involving the sum of about S$148.7 million. Two of the proceeded charges were for cheating HSBC and one proceeded charge was for instigating a contracts executive of Hin Leong Trading to forge a false record. The Prosecution alleged in respect of these three charges that OK Lim, through his employees, had dishonestly induced HSBC into disbursing loans to Hin Leong Trading by claiming that Hin Leong Trading had entered into two contracts to sell oil and submitting two invoice financing applications in respect of the same, despite these two transactions being complete fabrications. Although the Prosecution only proceeded on three charges, OK Lim faces a total of 130 charges of cheating and forgery-related offences involving the sum of S$3.6 billion for his alleged fraudulent conduct in order to obtain various bank loan disbursements to Hin Leong Trading.

On 22 December 2022, a bankruptcy order was made against Ng Yu Zhi ("**Ng**"), the alleged perpetrator of a nickel trading scam worth about S$1.5 billion who was previously arrested in February 2021 and charged with cheating, criminal breach of trust, forgery, fraudulent trading and money laundering. Based on publicly available information, Ng has been remanded since 19 January 2023 after his bail amount was increased from S$4 million to S$6 million following an application by the Prosecution.

Amendments to the CDSA

On 9 May 2023, Parliament passed a bill to amend the CDSA to create new offences of negligent and rash money laundering. Under the new Sections 51(1A) and 54(3A), the *mens rea* element to be fulfilled is that the act must be done "*rashly in respect of the circumstance that the property warrants another person's benefits of criminal conduct*" or "*negligently*".

The new Section 55A of the CDSA places the burden of proving lack of *mens rea* on the accused party once certain facts are proved, being (a) the value of the property is disproportionate to the accused party's known sources of income; (b) enables another person to access, operate or control a payment account without taking reasonable steps to ascertain the purpose for which that other person is accessing, operating or controlling the payment account; (c) receives or transfers money without taking reasonable steps to ascertain the source or destination of the money; or (d) receives or transfers money to another person without taking reasonable steps to ascertain that person's identity and physical location.

The person would be able to raise a defence under Section 55A(3) of the CDSA if he can prove that he did not know and had no reasonable ground to believe that the arrangement related to any person's benefits of criminal conduct.

These amendments are expected to come into force in end 2023.

Amendments to the Financial Services and Markets Act 2022 ("FSMA")

On 9 May 2023, Parliament passed a bill to amend the FSMA to permit the disclosure, publication and sharing of certain information between certain banks and financial institutions, MAS, and the Suspicious Transaction Reporting Office ("**STRO**"), for the purposes of prevention and detection of money laundering (among other things). This amendment also empowers the MAS to establish and maintain an electronic information sharing platform, named COSMIC (short for "Collaborative Sharing of ML/TF Information & Cases").

The new provisions are for the initial phase of COSMIC during which all sharing will be on a voluntary basis. The key features of the amendments are as follows:

- sharing of information is permitted solely for the purposes of money laundering, terrorism financing, and proliferation financing;
- financial institutions will be prohibited from disclosing information obtained from COSMIC except under specified circumstances, and will

need to establish systems and implement processes to keep the information confidential and guard against unauthorised use and disclosure;
- financial institutions will be granted statutory protection from civil liability in respect of any disclosure onto COSMIC which is made with reasonable care and in good faith and in accordance with the disclosure thresholds; and
- MAS and STRO will have access to the information on COSMIC for purposes of supervision and analysis.

Extradition treaty with Indonesia

In December 2022, Indonesia ratified a bilateral extradition treaty with Singapore. This includes a wide range of offences including bribery, corruption, money-laundering type offences as well as various financial crime including embezzlement and fraud. Further, the treaty applies to offences committed up to 18 years prior.

The entry into force of this extradition treaty may have significant impact on mutual legal assistance and facilitate both countries' ability to pursue fugitives accused of offences in either country.

27. Are there any pending or proposed changes to the legal, regulatory and/or enforcement framework?

On 8 May 2023, the Online Criminal Harms Bill ("**OCH Bill**") was introduced in Parliament. The OCH Bill will allow the government to issue the following directions when there is reasonable suspicion that an online activity is being carried out to commit a crime:

- stop communication direction, which requires the recipient to stop communicating specified and similar online content to people in Singapore;
- disabling direction, which requires the recipient to disable access to specified and identical online content to people in Singapore;
- access blocking direction, which requires the recipient to disable access to any specified online material or location to people in Singapore;
- account restriction direction, which requires the recipient to disallow or restrict interaction between any specified account and people in Singapore; and
- app removal direction, which requires the recipient to stop distributing any enabling downloads of any specified app to people in Singapore.

The threshold to be crossed before these directions can be issued is relatively low. In particular, Section 6(1) of the OSH Bill provides that these directions can be issued where a designated officer "*reasonably suspects that a specified offence has been committed and that any online activity is in furtherance of the commission of the offence*", or where the officer "*suspects or has reason to believe that any online activity is preparatory to, or in furtherance of, the commission of a scam or malicious cyber activity offence*". This low threshold means that the authorities can take earlier action in order to disrupt and prevent online scams and crimes.

28. Are there any gaps or areas for improvement in the financial crime legal framework?

Under the current legislative framework, each financial institution is required to take steps to prevent money-laundering. However, financial institutions are unable to share information with each other, which may result in criminals abusing this information asymmetry to hide illicit funds.

On 9 May 2023, Parliament passed a bill to amend the FSMA to establish and maintain a secure electronic information sharing platform, named COSMIC. The new provisions are for the initial phase of COSMIC involving six Singapore banks (DBS, OCBC, UOB, SCB, Citibank, and HSBC) during which all sharing will be on a voluntary basis for a period of two years.

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