

Financial Crime in Singapore: Overview

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CORPORATE FRAUD

Regulatory Provisions and Authorities

1. What are the main regulatory provisions and legislation relevant to corporate fraud?

In Singapore, the main regulatory provisions and legislation relevant to corporate fraud are the:

- Penal Code 2008 (PC).
- Companies Act (CA).
- Income Tax Act 2014 (ITA).

Offences

2. What are the specific offences relevant to corporate fraud?

Corporate Fraud Offences (Penal Code)

Elements. The PC sets out the following specific corporate fraud offences:

- Theft by clerk or servant of property in possession of master (*section 381*).
- Dishonest misappropriation of property (*section 403*).
- Criminal breach of trust (*section 405*).
- Criminal breach of trust by employees (*section 408*).
- Criminal breach of trust by public servant, or by banker, merchant, or agent (*section 409*).
- Fraudulently or dishonestly receiving stolen property (*section 411*).
- Cheating (deceiving a person or dishonestly inducing a person so deceived to deliver any property) (*section 415*).
- Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors (*section 421*).
- Dishonest or fraudulent prevention of payment of a debt or demand due to the offender from being made available for their creditors (*section 422*).
- Dishonest or fraudulent execution of a deed of transfer containing a false statement of consideration (*section 423*).
- Dishonest or fraudulent removal or concealment of property or release of claim (*section 424*).
- Forgery (*section 463*).
- Forgery for the purpose of cheating (*section 468*).
- Falsification of accounts (*section 477A*).

The offences can be committed by individuals (including officers of a company in their personal capacity) as well as companies and other legal entities (unless otherwise stated).

Persons (including companies) who attempt, abet and/or conspire to commit the above offences can also be guilty of offences under the Penal Code.

Penalties. The sanctions for the various offences of corporate fraud under the Penal Code include:

- Theft by clerk or servant of property in possession of master: imprisonment for up to seven years and/or a fine (*section 381*).
- Dishonest misappropriation of property: imprisonment for up to two years and/or a fine (*section 403*).
- Criminal breach of trust: imprisonment for up to seven years and/or a fine (*section 406*).
- Criminal breach of trust by employees: imprisonment for up to 15 years and/or a fine (*section 408*).
- Criminal breach of trust by a public servant, or by a banker, merchant or agent: imprisonment for life, or for up to 20 years and/or a fine (*section 409*).
- Dishonestly receiving stolen property: imprisonment for up to five years and/or a fine (*section 411*).
- Cheating: imprisonment for up to three years and/or a fine (*section 417*).
- Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors: imprisonment for up to three years and/or a fine (*section 421*).
- Dishonest or fraudulent prevention of payment of a debt or demand: imprisonment for up to three years and/or a fine (*section 422*).
- Dishonest or fraudulent execution of a deed of transfer containing a false statement of consideration: imprisonment for up to three years and/or a fine (*section 423*).
- Dishonest or fraudulent removal or concealment of property, or release of claim: imprisonment for up to three years and/or a fine (*section 424*).
- Forgery: imprisonment for up to four years and/or a fine (*section 465*).
- Forgery for the purpose of cheating: imprisonment for up to ten years and/or a fine (*section 468*).
- Falsification of accounts: imprisonment for up to ten years and/or a fine (*section 477A*).

Right to bail. An accused has a right to bail if the offence is bailable (*section 94, Criminal Procedure Code (CPC)*). If the offence is non-bailable, bail is not available as of right although the court can exercise its discretion and offer bail (*section 93, CPC*). See below, *Corporate Fraud Offences (Companies Act): Right to bail*.

Defences. An accused will only be liable for an offence if they are found to have fulfilled both the physical and fault elements of the offence provided by legislation. The physical element includes actions and conduct on the part of the accused that constitute the elements of the crime, while the mental component represents the requisite intention and knowledge to substantiate the crime. In general, for the offences mentioned above, the defences include denial, justification or excuse, or a mental impairment that renders the accused blameless.

Corporate Fraud Offences (Companies Act)

Elements. The CA sets out the following specific corporate fraud offences:

- False and misleading statement (*section 401*).
- False statements or reports (*section 402*).
- Fraud by officers (*section 406*).
- Breach of duty by directors. The business of a company will usually be managed by the directors, unless otherwise stated in the CA or the constitution of the company (*section 157A*). Directors are therefore subject to fiduciary duties in the exercise of their powers and must not be negligent in performing them. For breach of duties, there are civil and criminal liabilities for directors if they have breached their duties (*sections 156 to 157*).

Penalties. The CA imposes the following sanctions for the relevant offences:

- Wilfully making or authorising the making of a false or misleading statement: fine of up to SGD50,000 and/or to imprisonment for up to two years (*section 401*).
- Lodging, filing with or submitting to the Registrar, any document containing a false or misleading statement: fine of up to SGD50,000 and/or imprisonment for up to two years (*section 401*).
- Making false statements or reports: fine of up to SGD10,000 and/or imprisonment for up to two years (*section 402*).
- Committing fraud by officers: fine of up to SGD15,000 and/or imprisonment for a term not exceeding three years (*section 406*).
- Breaching directors' duties:
 - any director or chief executive officer of a company is liable to a fine of up to SGD5,000 and/or imprisonment for up to 12 months; and
 - any officer or agent is liable to a fine of up to SGD5,000 and/or imprisonment of up to 12 months.

(*Section 157(b)*)

Right to bail. The First Schedule of the CPC sets out whether an offence is bailable. If an offence is non-bailable, this does not necessarily mean that a release on bail cannot be offered. It is just that bail cannot be sought as an entitlement. The police or the court has the discretion to decide whether to grant bail to the accused.

Offences punishable with death or imprisonment for seven years or more are not bailable.

Salient factors that can be considered when granting bail for a non-bailable offence include:

- The seriousness of the offence.
- The severity and degree of punishment for the offence.
- Any reasonable grounds for believing the accused is guilty of the offence.
- Whether granting bail is essential to ensure that the accused has an adequate opportunity to prepare a defence.

Offences punishable with imprisonment for between three and seven years are not bailable. However, offences punishable with imprisonment for less than three years or with a fine only are bailable.

Defences. The CA does not provide for any offence-specific exceptions or defences within its offence provisions, nor does it provide any generally applicable defences. Although a company can indemnify its officers against liability incurred to a third party in general, the company cannot provide an indemnity with regard to fines incurred in criminal proceedings, or liability incurred in defending criminal proceedings (*section 172B, CA*).

Where it cannot be proved that the accused had the requisite actions and intentions for the substantive offence, an offence under the Companies Act cannot be made out.

Corporate Fraud Offences (Income Tax Act)

Elements. The ITA sets out the following specific corporate fraud offences:

- Tax evasion and wilful action to obtain productivity and innovation credit (PIC) bonus (*section 96*). The PIC bonus is a tax break in the form of a cash pay-out for eligible expenses.
- Serious fraudulent tax evasion and action to obtain PIC bonus (*section 96A*).

Penalties. The ITA sets out the following sanctions:

- For tax evasion and wilful action to obtain a PIC bonus:
 - penalty of three times the amount of tax and/or three times the amount of the PIC bonus; and
 - fine of up to SGD10,000 and/or imprisonment for up to three years.
- For serious fraudulent tax evasion and wilful action to obtain PIC bonus:
 - a penalty of four times the amount of tax and/or four times the amount of the PIC bonus; and
 - a fine of up to SGD50,000 and/or imprisonment for up to five years.

(*Section 96 to 96A, ITA*.)

Right to bail. See above, *Corporate Fraud Offences (Companies Act): Right to bail*.

Defences. All elements of the offence must be made out. The requisite mental intention under section 96 of the ITA is "wilfully with intent".

Civil Offences

Elements. Under the tort of deceit, an action may arise if all of the following conditions are met:

- A person makes a factual misrepresentation, verbally or through their conduct.
- The representation is made with the knowledge that it is false. The representation must be wilfully false (or the person must have no belief in its truth or was reckless as to whether it is true).
- The party making the representation intends for it to be relied on by the recipient.
- The recipient acts to their detriment in reliance of the representation.
- The recipients suffer damage as a result of the representation.

The common law position of fraudulent misrepresentation is codified in the Misrepresentation Act 1994.

In the tort of deceit, damages are awarded in respect of fraudulent misrepresentation, if a person proves that they had reasonable ground to believe, and did believe up to the time the contract was made, that the facts represented were true (*section 2(1), Misrepresentation Act*).

If the contract is entered into and no fraud is present, the court can declare the contract subsisting and award damages in lieu of rescission, if it is of the opinion that it would be equitable to do so (*section 2(2), Misrepresentation Act*).

The representee must prove that damage has been caused, and take all reasonable steps to mitigate their loss once they have discovered the fraud.

Penalties. The Monetary Authority of Singapore (MAS) can conduct investigations, issue fines and revoke the operating licence of regulated financial institutions to ensure compliance if it appears that:

- Any information provided in connection with an application for approval was false or misleading.
- The financial institution failed to comply with any direction or guideline issued or condition attached to an approval or conditions of operation.
- The financial institution conducted its affairs in such a way that threaten the interests of its depositors or customers.
- It is in the public interest to initiate an investigation.

(*Section 28(5), Monetary Authority of Singapore Act*.)

Right to bail. See above, *Corporate Fraud Offences (Companies Act): Right to bail*.

Defences. If a representor makes a misrepresentation and the representee suffers loss, the representor will be liable under the common law. The contract entered into can be rescinded, accompanied by an indemnity in favour of the representee. Section 2(1) of the Misrepresentation Act affords the representee an additional statutory remedy. Section 2(1) entitles the representee to damages if the misrepresentation is made fraudulently.

However, the representor can escape the effects of section 2(1) by relying on the defence of reasonable belief. The representor must show that they had "reasonable grounds to believe and did believe up to the time the contract was made that the facts represented were true."

The principles relating to when a representor can rely on a reasonable belief defence were provided by the Court of Appeal in *RBC Properties Pte Ltd v Defu Furniture Pte Ltd [2014] SGCA 62*.

Enforcement

3. Which authorities have the powers of prosecution, investigation and enforcement in cases of corporate or business fraud? What are these powers and what are the consequences of non-compliance? Which authority makes the decision to charge and on what basis is that decision made? Please identify any differences between criminal and regulatory investigations.

In Singapore, there are two main authorities with powers of investigation and enforcement in cases of corporate or business fraud:

- Commercial Affairs Department (CAD).
- Monetary Authority of Singapore (MAS).

The MAS and the CAD jointly investigate all market misconduct, capital markets and financial advisory offences.

Decisions on whether a case is subject to civil penalty action or criminal prosecution are made once the police investigation is concluded.

Attorney General (AG)

Investigation and enforcement powers. The AG plays the key role as the public prosecutor (*section 11, CPC*). The AG can commence, conduct or discontinue any proceedings for any offence (*Article 35(8), Constitution*).

A person who appears to be acquainted with any of the facts and circumstances of the case can be interviewed by a police officer with the rank of sergeant or above (*sections 21 to 22, CPC*).

During the course of the investigations, persons can be ordered by a police officer with the rank of sergeant or above to produce any relevant document or exhibits (*section 20, CPC*). Anyone can be searched under a search warrant, if this is deemed necessary or desirable for the purposes of the investigation (*sections 24 to 40, CPC*).

Property can be seized as evidence for investigations, if this is necessary (*sections 35 to 40, CPC*).

Power to charge. Section 64(1) of the CPC provides that any police officer may, without a warrant, arrest any person who has been involved in an arrestable offence or is reasonably suspected of having been involved in one, or against whom a reasonable complaint has been made or credible information has been received about them having been involved.

For criminal prosecution, the decision to charge is based solely on the discretion of the public prosecutor on behalf of the AG (*Article 35(8), Constitution*). The exact exercise of prosecutorial discretion is not disclosed as a matter of principle, but there are general factors to take into account, such as:

- Case theory, that is, an interpretation of the facts in relation to the events that have occurred.
- Evidentiary proof, which includes the admissibility, reliability and credibility of the evidence as well as the availability of relevant witnesses, in accordance with the requirements of the law.
- Question of law, that is, whether this is a test case for contentious criminal law.
- Public policy, that is, whether it is in the public interest to prosecute the accused.

Commercial Affairs Department (CAD)

Investigation and enforcement powers. A Commercial Affairs Officer (CAO) has all the powers of investigation conferred on police officers in relation to the investigation of offences under the CPC. Under any other written law as the Minister may, by notification in the Gazette, prescribe, and is deemed to be a police officer not below the rank of inspector for the purpose of those written laws (*section 64(3), Police Force Act 2004 (PFA)*).

Examples of powers granted under the CPC include:

- Powers of investigation in relation to an arrestable offence (*section 64(3)(a)*).
- Details of what a CAO can do when lawfully making a search for anything in any place in respect of an offence.

- The circumstances in which a CAO can search a person in safe custody when they are arrested.
- When a CAO can lawfully arrest a person inside any place (*section 64(3)(f)*).
- When a CAO can break open a place to free themselves or any person who, having lawfully gone inside to make an arrest, is detained there (*section 64(3)(g)*).
- When a CAO can release any person on bail or personal bond in accordance with Division 5 of Part VI of the CPC (*section 64(3)(h)*).
- When a CAO can serve on any person (that is has reasonable grounds for believing has committed an offence) a notice to attend court, or require any person to execute a bond to appear before a court, in accordance with Division 6 of Part VI of the CPC (*section 64(3)(i)*).

Power to charge. Section 64(b) of the PFA states that a CAO can arrest without warrant, any person:

- Who has been involved in an arrestable offence or is reasonably suspected of having been involved in one, or against whom a reasonable complaint has been made or credible information has been received about the person having been involved.
- Who possesses anything that may reasonably be suspected to be stolen or fraudulently obtained property, and who may reasonably be suspected of having committed an offence in acquiring it.
- Who obstructs a CAO while they are doing their duty, or has escaped or tries to escape from the lawful custody of a CAO or any other person.

Monetary Authority of Singapore (MAS)

Investigation and enforcement powers. The factors considered by the MAS when responding to potential breaches of law include:

- The seriousness of the misconduct, including the extent of harm or loss caused by the misconduct.
- The public interest in pursuing the misconduct.
- The availability of evidence required to prove the misconduct.

The MAS has recourse to both the criminal investigation powers under the CPC, and statutory investigation powers under the written law administered by the MAS.

Since 17 March 2015, MAS officers have exercised criminal investigation powers under the CPC to jointly investigate breaches of market misconduct offences under Part XII of the Securities and Futures Act 2001 (SFA) with the CAD under the Joint Investigation Arrangement. On 17 March 2018, the scope of the Joint Investigation Arrangement was extended to cover all offences under the SFA and the Financial Advisers Act 2001 (FAA).

Under the Joint Investigation Arrangement, when MAS or CAD detects or receives a complaint of a suspected offence under the SFA or the FAA, an assessment is made as to whether the matter warrants an investigation. If an investigation is warranted, a joint team comprising officers from both MAS and CAD is formed. At the conclusion of the investigations, actions that can be taken include prosecution or where available, civil penalty action.

As part of the Joint Investigation Arrangement, certain MAS officers are gazetted as CAOs under the Police Force Act, Chapter 235, and vested with criminal investigation powers under the CPC (*section 5, MAS Enforcement Monograph*).

Once the investigations are completed, the MAS assesses if the evidence is sufficient to pursue an enforcement action, and if so, the choice of enforcement action to pursue. The range of enforcement actions include:

- Referring a case for criminal prosecution.
- Civil penalty action.
- Withdrawal or suspension of licence or regulatory status.
- Removal from office.
- Prohibition orders.
- Compositions.
- Reprimands.
- Warnings/letters of advice.

Power to charge. With the exception of criminal prosecution, where only the AG can institute criminal proceedings, the remaining enforcement actions can be undertaken in the name of the MAS.

Safeguards

4. Are there any measures in place to safeguard parties subject to a government or regulatory investigation? Is there a process of judicial review? Is there a process of appeal?

Abuse of Investigatory Powers

The main measures to safeguard the conduct of investigations include:

- **Voluntariness rule.** Under this rule, statements from accused persons are inadmissible if they are procured involuntarily (*section 258(3), CPC*).
- **Legal privilege.** Legal advice privilege protects disclosure of confidential communication between a solicitor and their client if the confidential communication arises in a legal context in the course of the relationship. Litigation privilege protects communications between a third party and their lawyer or between a third party and their client if they were made for the dominant purpose of litigation.
- **Procedural impropriety.** The court can exclude evidence for procedural impropriety. It is for the prosecution to show that the probative value of the statement outweighs its prejudicial effect by giving a reasonable explanation for the procedural irregularity. The burden of proof is also higher if a deliberate or reckless violation must be established.

Judicial review of administrative actions can generally be brought on grounds of illegality, irrationality and procedural impropriety in the Supreme Court of Singapore. Leave must be applied for (under Order 53 of the Rules of Court 2014) from the High Court to apply for the prerogative orders, which is heard by a single High Court Judge in Chambers. If leave is granted, the applicant can then proceed to file an application to seek the prerogative orders, which is heard by a single High Court Judge in Open Court.

Appeal Process

Once the judge has decided on the conviction and sentence, parties can generally appeal to the High Court or Court of Appeal.

A party can lodge an appeal from the State Courts to the General Division of the High Court (a Magistrate's Appeal) by filing a Notice of Appeal with the Registrar of the State Courts within 14 days after the date of the judgment, sentence or order being appealed against.

An appeal from the General Division of the High Court to the Court of Appeal (not to the Appellate Division of the High Court) is made by filing a Notice of Appeal with the Registrar of the Supreme Court within 14 days after the date of the judgment, sentence or order being appealed against.

Civil Suits and Settlement

5. Can private parties bring civil suits for cases of corporate or business fraud?

See *Question 2, Civil Offences*.

6. Can individuals and/or legal entities reach a civil settlement with the appropriate authority in cases of corporate or business fraud?

Individuals and legal entities are unable to reach a civil settlement in corporate or business fraud cases because they are criminal in nature. However, it may be possible that the prosecuting authority will offer to compound the offence with a financial penalty.

BRIBERY AND CORRUPTION

Regulatory Provisions and Authorities

7. What are the main regulatory provisions and legislation relevant to bribery and corruption?

The main regulatory provisions are set out in the Prevention of Corruption Act 1960 (last revised in 2020) (PCA), and offences by or relating to public servants are set out in Chapter IX of the PC.

The Corruption Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 (CDSA) provides for the confiscation of the benefits of corruption.

8. What international anti-corruption conventions apply in your jurisdiction?

Singapore is a signatory to the:

- UN Convention against Corruption 2003 (Corruption Convention) (signed on 11 November 2005 and ratified on 6 November 2009).
- UN Convention against Transnational Organized Crime (signed on 13 December 2000 and ratified on 28 August 2007).

Offences

9. What are the specific bribery and corruption offences in your jurisdiction?

Foreign Public Officials

Elements. The bribery offences under the PC include:

- A public servant taking a gratification (other than legal remuneration) in respect of an official act (*section 161*).
- A person taking a gratification (by corrupt or illegal means) to influence a public servant (*section 162*).
- A person taking a gratification for exercising personal influence with a public servant (*section 163*).
- A public servant who abets the offences in sections 162 and 163 of the PC (*section 164*).
- A public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant (*section 165*).

Sections 5 and 6 of the PCA prohibit bribery in general, including the following:

- Any person who corruptly solicits, receives, agrees to receive, gives, promises, or promises to offer any gratification to any person or member of a public body to anything in any matter or transaction, actual or proposed: imprisonment for up to five years and/or a fine of up to SGD100,000 (*section 5, PCA*)
- Any agent who corruptly accepts, obtains, agrees to accept, or attempts to obtain for themselves or for any other person, any gratification as an inducement to do any act in relation to their principal's business, or affairs or any person who attempts to corruptly give, agrees to give or offer gratification to an agent, and any agent who knowingly intends to deceive their principal with regard to a receipt, account or other document: imprisonment for up to five years and/or a fine of up to SGD100,000 (*section 6, PCA*).
- A rebuttable presumption of corruption arises if any gratification is being granted to a person in the employment of a public body (*section 8, PCA*).
- Where it is proved in accordance with sections 5 or 6 of the PCA that a gratification has been paid to an employee of the government or a public body, that gratification will be deemed to have been paid or given and received corruptly as an inducement or reward unless the contrary is proved (*section 8, PCA*).

Penalties. The sanctions for various offences of bribery of officials are set out below:

- Taking a gratification in order, by corrupt or illegal means, to influence a public servant: imprisonment for up to three years and/or a fine (*section 162, PC*).
- Taking a gratification, for the exercise of personal influence with a public servant: imprisonment for up to one year and/or a fine (*section 163, PC*).
- A public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant: imprisonment for up to two years and/or a fine (*section 165, PC*).
- A public servant disobeying a direction of the law, with intent to cause injury to any person: imprisonment for up to one year and/or a fine (*section 166, PC*).

The CDSA provides for the confiscation of benefits derived from criminal conduct. Where a defendant is convicted of one of more serious offences, on the application of the public prosecutor, if the court is satisfied that benefits have been derived from criminal conduct, it will make a confiscation order.

Right to bail. Offences under section 161 to 166 of the Penal Code are bailable. For non-Penal Code offences, see *Question 2, Corporate Fraud Offences (Companies Act)*.

Defences. There is no statutory defence for bribery under the PCA. When defending a corruption charge, the elements of the charge are challenged.

There are no express or publicised safe harbours or amnesty programmes arising from the self-reporting of corruption offences. However, voluntary acts of co-operation by individuals are viewed favourably by the courts and may be factored into the sentencing process.

Domestic Public Officials

See above, *Foreign Public Officials*.

Private Commercial Bribery

Elements. Commercial bribery in the private sector is treated the same as commercial bribery committed in the public sector (*sections 5 and 6, PCA*). See above, *Foreign Public Officials*.

While there is no norm in favour of non-custodial sentences in private sector corruption cases, the general trend indicates that where private sector agents performing purely commercial functions are concerned, offences which register a lower level of overall criminal culpability may be dealt with through the imposition of fines.

The courts have held that whether or not the custody threshold is breached will depend on:

- The public interest element.
- The level of corruption (such as any that results in the loss of confidence in strategic industries, such as bunkering or maritime industry, or which results in the corruption of foreign public officials).

Penalties. See above, *Foreign Public Officials*.

Right to bail. See *Question 2, Corporate Fraud Offences (Companies Act): Right to bail*.

Defences. See above, *Foreign Public Officials*.

Failure to Prevent Bribery Offence

There is no specific offence for failure to prevent bribery. Section 26 of the PCA relates to obstructing searches and states that any person who refuses or neglects to give any information that may reasonably be required and that is in their power to give, faces imprisonment of up to one year and/or a fine of up to SGD10,000.

10. Can associated persons (such as spouses) and agents be liable for these offences and in what circumstances?

Associated persons and agents can similarly be held liable under sections 5 or 6 of the PCA. No preferential treatment is given to offenders. A person who is an accomplice in the commission of an offence (and is convicted) is as guilty as the main offender in the commission of the offence (*section 29, PCA*).

In accordance with section 29 of the PCA, any person who has been found to have abetted an act of corruption can be deemed to have committed the offence, regardless of the nature of association.

Enforcement

11. Which authorities have the powers of prosecution, investigation and enforcement in cases of bribery and corruption? What are these powers and what are the consequences of non-compliance? Which authority makes the decision to charge and on what basis is that decision made? Please identify any differences between criminal and regulatory investigations.

Corrupt Practices Investigation Bureau (CPIB)

Investigation and enforcement powers. The CPIB has extensive powers to investigate allegations of corruption under the PCA and the CPC.

Any individual or company can be required by the CPIB to give information on any subject of inquiry into cases of bribery and corruption by the CPIB (*section 27, PCA*).

The CPIB or a special investigator can exercise powers of interview similar to those under sections 20 to 22 of the CPC (*section 19, PCA*). This allows them to compel anyone in Singapore who appears to have knowledge of the facts of the case in question to be present and be interviewed.

The public prosecutor can authorise the CPIB or a special investigator to investigate various accounts (including bank accounts, safe deposit accounts and share accounts) if they are

satisfied that there are reasonable grounds for suspecting that an offence under the PCA has been committed (*section 18, PCA*).

Under section 21 of the PCA, the public prosecutor can require, with written notice:

- Persons to provide a sworn statement declaring all owned movable or immovable assets.
- Third parties to declare all their owned assets (if the public prosecutor has reasonable grounds to believe that providing such information can assist an investigation).
- Manager of banks to provide copies of accounts of that person or of those of their spouse or children.

A director or officer of the CPIB can require anyone to provide information (*section 27, PCA*).

Power to charge. See *Question 3, Attorney General (AG)*. The public prosecutor has prosecution powers and the written consent of the public prosecutor is required before a prosecution under the PCA can commence (*section 33, PCA*).

Safeguards

12. Are there any measures in place to safeguard parties subject to a government or regulatory investigation? Is there a process of judicial review? Is there a process of appeal?

See *Question 4*.

Tax Treatment

13. Are there any circumstances under which payments such as bribes, ransoms or other payments arising from blackmail or extortion are tax-deductible as a business expense?

Under Singapore's criminal law, bribes, ransoms or other such payments are not tax-deductible as a business expense, or at all.

Civil Suits and Settlement

14. Can private parties bring civil suits for cases of bribery and corruption?

The PCA does not make provision for private parties to bring civil suits for cases of bribery and corruption.

In the event of a bribe being accepted by an agent, the principal can recover the amount of the bribe as a civil debt (*section 14(1), PCA*).

15. Can individuals and/or legal entities reach a civil settlement with the appropriate authority in cases of bribery and corruption?

Under the PCA, individuals cannot reach a civil settlement in cases of bribery and corruption.

Legal or corporate entities can enter into Deferred Prosecution Agreements (DPAs) (see *Question 9, Foreign Public Officials: Defences*).

INSIDER DEALING AND MARKET ABUSE

Regulatory Provisions and Authorities

16. What are the main regulatory provisions and legislation relevant to insider dealing and market abuse?

The SFA is the main legislation dealing with insider dealing and market abuse.

Offences

17. What are the specific offences that can be used to prosecute insider dealing and market abuse?

Insider Dealing

Elements. The following offences under the SFA can be used to prosecute insider dealing and market abuse:

- False trading and market-rigging transactions (*section 197*).
- Market manipulation (*section 198*).
- Making false statements (*section 199*).
- Fraudulently inducing persons to deal with capital market products (*section 200*).
- Employment of manipulative and deceptive devices (*section 201*).
- Insider trading (*sections 218 and 219*). It is not necessary to prove intention to use information concerning the corporation contrary to sections 218 and 219 of the SFA (*section 220(1), SFA*).

Penalties. The penalty for insider trading is a fine of up to SGD250,000 and/or imprisonment for up to seven years (*section 221, SFA*). For criminal offences of market manipulation, market rigging and false trading, the defendant is liable on conviction to a fine of up to SGD250,000 and/or to imprisonment for up to seven years.

Right to bail. See *Question 2, Corporate Fraud Offences (Companies Act): Right to bail*.

Defences. The following exemptions apply to offences of insider trading:

- Exception for redemption of units in collective investment scheme (*section 222, SFA*).
- Exception for underwriters (*section 223, SFA*).
- Exception for purchase pursuant to legal requirement (*section 224, SFA*).
- Attribution of knowledge within corporations (*section 226(2), SFA*).

To be able to rely on a defence, a person must establish that they did not intend to create a false or misleading appearance in the market price of securities (*section 197(6), SFA*).

Market Abuse

See above, *Insider Dealing*.

Under section 201 of the SFA, no person connected to the subscription, purchase or sale of any capital markets products can make use of a device, scheme or artifice to:

- Defraud (*section 201(a), SFA*).
- Engage in a fraudulent, or what is likely to be fraudulent, act, practice or course of business (*section 201(b), SFA*).

- Make a statement which is false (*section 201(c), SFA*).
- Omit to state material facts, which may make a statement misleading (*section 201(d), SFA*).

Enforcement

18. Which authorities have the powers of prosecution, investigation and enforcement in cases of insider dealing and market abuse? What are these powers and what are the consequences of non-compliance? Which authority makes the decision to charge and on what basis is that decision made? Please identify any differences between criminal and regulatory investigations.

Monetary Authority of Singapore (MAS)

Investigation and enforcement powers. During an investigation, the MAS (or the relevant exchange, clearing house or licensed trade repository) can apply to the court for several orders under section 325(1)(1A) of the SFA. For example, these orders include restraining a person from doing the following:

- Carrying on a business dealing in capital markets products.
- Acting as a representative of a person carrying on a business dealing in capital markets products.
- Holding the person out as a person carrying on a business dealing in capital markets products.
- Carrying on a business administering a designated benchmark.
- Providing information in relation to a designated benchmark.
- Acting as a representative of an authorised benchmark administrator, an authorised benchmark submitter or a designated benchmark submitter.
- Holding themselves out as a person carrying on a business administering a designated benchmark, providing information in relation to a designated benchmark or from otherwise acting in breach.
- Acquiring, disposing of or otherwise dealing with any capital markets products that are specified in the order.

The MAS can also request the following orders from the court:

- An order appointing a receiver of the property of the holder of a capital markets services licence to deal in capital markets products or of property that is held by such a holder for or on behalf of another person whether on trust or otherwise.
- An order declaring a contract relating to any dealing in capital markets products to be void or voidable.
- An order directing a person to do or refrain from doing a specified act to ensure compliance with another order.
- An order restraining the exercise of any voting or other rights attached to any capital markets products that are specified in the order.
- Any ancillary order deemed desirable when making of any of the above orders.

Power to charge. See *Question 3, Attorney General (AG)*.

Civil Suits and Settlement

19. Can private parties bring civil suits for cases of insider dealing and market abuse?

Compensation can be sought by any person who suffered a loss as a result of insider trading or market abuse (*section 234, SFA*) subject to provisions in section 235.

The SFA provides both civil and criminal penalties for insider trading and market abuse.

Under section 232(1) of the SFA, the MAS can lodge a civil penalty action against the offender with the agreement of the public prosecutor. The court can order payment of a sum three times the amount of profit gained or loss avoided, or SGD2 million (whichever greater) as a result of the wrongdoer's act.

The civil penalty ordered must not be less than SGD100,000 (where the person is a corporation), or SGD50,000 (in any other case) (*section 232(3), SFA*).

Contravention of section 218 of the SFA (prohibited conduct by a connected person in possession of inside information) will result in criminal penalty under section 221. A natural person can be fined up to SGD250,000 or sentenced to imprisonment for up to seven years or to both.

Section 333 of the SFA provides for a corporation to be fined up to twice the maximum amount prescribed for the relevant offence. When the company is found liable for offences under the SFA, any director, executive officer, secretary or similar officer of the company that knew of the transaction or was a party to it, will also be guilty of the offence.

The standard of proof is different between the civil and criminal regime in that the prosecution must prove its case on a balance of probabilities in a civil action, and beyond reasonable doubt in a criminal prosecution.

20. Can individuals and/or legal entities reach a civil settlement with the appropriate authority in cases of insider dealing and market abuse?

Under section 232 of the SFA, the relevant authority (the most pertinent being the MAS), can enter into an agreement with an individual or legal entity to pay a civil penalty.

The civil penalty can be up to three times the amount of profit gained or loss avoided.

Safeguards

21. Are there any measures in place to safeguard parties subject to a government or regulatory investigation? Is there a process of judicial review? Is there a process of appeal?

See *Question 4*.

MONEY LAUNDERING, TERRORIST FINANCING AND FINANCIAL/TRADE SANCTIONS

Regulatory Provisions and Authorities

22. What is the main legislation and regulatory provisions relevant to money laundering, terrorist financing, and breach of financial/trade sanctions?

Money Laundering

The CDSA is the main legislation in relation to money laundering, terrorist financing and breach of financial/trade sanctions. The Organised Crime Act 2015 (OCA) criminalises the commission by organised criminal groups of serious offences, including money laundering.

Terrorist Financing

The Terrorism (Suppression of Financing) Act 2003 (TSFA) is the main legislation in relation to terrorist financing.

Financial/Trade Sanctions

The United Nations Act 2001 allows the relevant Minister to make regulations to give effect to Article 41 of the UN Charter (UNSC Resolutions) which calls for the imposition of financial sanctions among member countries and the severance of domestic relations.

The MAS Act provides that the MAS can make any regulations it considers necessary against financial institutions to discharge any binding obligation in Singapore by virtue of the decision of the UN Security Council (*section 27A(1)(b), MAS Act*) in *Chinpo Shipping Co (Pte) Ltd v Public Prosecutor [2017] 4 SLR 983*.

Offences

23. What are the specific offences that can be used to prosecute money laundering, terrorist financing, and breach of financial/trade sanctions?

Money Laundering

Elements. Part VI of the CDSA criminalises the laundering of proceeds generated by criminal conduct and drug trafficking. The following offences are used to prosecute money laundering:

- Assisting another to retain the proceeds of drug dealing (*sections 43(1) and 44(1)*).
- Acquiring, possessing, using, concealing or transferring the proceeds of drug dealing (*sections 46 and 47*).
- Tipping off the perpetrators of a proposed investigation into money laundering activities (*section 48*).

Offences under the CDSA are also offences under Part 2 of the OCA if the person has carried out an organised crime activity. An individual's benefit from any organised crime activity can be confiscated even if they are not criminally convicted, provided the prosecution can prove, on the balance of probabilities, that the person has carried out organised crime activity.

Penalties. There are four types of money laundering offences under CDSA. A person commits an offence when they:

- Conceal or disguise any property (in whole or part) which is derived from drug trafficking or from criminal conduct or converts/transfer that property or removes it from Singapore (*section 46(1) and 47(1)*).
- Know or have reasonable grounds to believe that any property is derived from drug trafficking or from criminal conduct and obtains that property for no or inadequate consideration (*section 46(3) and 47(3)*).

- Knowingly (subjectively and objectively) assist a person to commit an offence to avoid the prosecution of a money laundering offence or to avoid the enforcement of a confiscation order (*section 46(2) and 47(2)*).
- Assist a drug trafficker or a serious crime offender (criminal) to retain or control benefits from criminal activities, or secure or invest funds (*section 43(1) and 44(1)*).

The penalty for the commission of any of these offences is a fine not exceeding SGD200,000 or a term of imprisonment not exceeding seven years, or both (*sections 43(5) and 46(6), CDSA*).

Where a person has knowledge or has reasonable grounds to suspect that any property or proceeds is directly or indirectly associated with criminal conduct or drug trafficking, they must lodge a Suspicious Transaction Report (STR). Section 39(1) of the CDSA imposes a duty to disclose knowledge or suspicion that any property represents the proceeds of, or is linked to a criminal activity. Failure to report suspicious transaction is an offence under CDSA. Under section 39(2), if found guilty, the person will be liable on conviction to a fine not exceeding SGD20,000.

Right to bail. See *Question 2, Corporate Fraud Offences (Companies Act): Right to bail*.

Defences. Defences, safe harbours or exemptions are available for the following money laundering offences:

- Assisting another to retain benefits from drug dealing (*sections 43(1) and 44(1), CDSA*). A defence, safe harbour or exemption may be available if:
 - the person discloses to an authorised officer any suspicion or belief that the property is subject to an arrangement deriving from the benefits of criminal conduct; or
 - the defendant did not have the knowledge and/or did not have reasonable grounds to believe that the property represented the benefits of criminal conduct.
- Acquiring, possessing, using, concealing or transferring benefits of drug dealing (*sections 46 and 47, CDSA*). A defence, safe harbour or exemption may be available if:
 - the defendant did not have the knowledge and/or did not have reasonable grounds to believe that the property represented the benefits of criminal conduct; or
 - the defendant can show they paid adequate consideration for the property concerned.
- **Tipping off a proposed investigation into money laundering activities (*section 48, CDSA*).** A defence, safe harbour or exemption may be available if the defendant did not know and did not have reasonable grounds to suspect that an authorised officer was acting on an investigation or that a disclosure had been made to the authorised officer under the CDSA.
- **Money laundering offences as part of an organised crime group.** Money laundering offences under the CDSA are also offences under Part 2 of the OCA if the person has carried out an organised crime activity. Since the relevant offences are not strict liability offences, the key elements of each offence that must be established can be challenged so that that offence cannot be made out at law or fact.

Terrorist Financing

Elements. The main offences of the TSFA include the following:

- Any person who directly or indirectly, wilfully and without lawful excuse, provides or collects property while intending or knowing, or having reasonable grounds to believe that the property (in whole or in part) will be used to commit a terrorist act will be guilty of an offence. However, a person who takes reasonable measures to avoid committing an offence will not be liable in civil proceedings (*section 3*).

- Any person who directly or indirectly collects property, provides or invites a person to provide, or makes available property or financial services in the knowledge, or with reasonable grounds to believe, that they may be used to carry out a terrorist act, or benefit a terrorist entity, will be found guilty of an offence (*section 4*).
- Any person who uses property, directly or indirectly, for the purpose of facilitating or carrying out any terrorist act, or possesses property intending that it be used or knowing or with reasonable grounds to believe that it will be used directly or indirectly, for the purpose of facilitating or carrying out a terrorist act will be found guilty of an offence (*section 5*).
- Any person in Singapore and any citizen of Singapore outside Singapore who deals with property, funds generated from that property that they know or reasonably believe to be owned or controlled by a terrorist entity or who provides or facilitates financial services and transaction to a terrorist entity will be found guilty of an offence (*section 6*).

Penalties. Any person who is found guilty of the offences under sections 3 to 6 faces imprisonment up to ten years and/or a fine of up to SGD500,000, or in any other case: a fine of up to SGD1 million or twice the value of property involved in respect of which the offence has been committed (*section 6A, TSFA*).

The above offences can be committed by an individual or a company, firm, society or other body of persons.

Any person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer or a partner of the company, firm, society or other body of persons will be guilty of that offence and be liable to be proceeded against and punished accordingly unless they prove both:

- The offence was committed without their consent or connivance.
- They exercised all necessary due diligence to prevent the commission of the offence (*section 35, TSFA*).

Under section 2 of the TSFA, unless the context otherwise requires, "entity" means a person, group, trust, partnership or fund or an incorporated association or organisation.

A legal entity and/or its individuals can be tried for the above-mentioned offences under section 35 of the TSFA.

Right to bail. See *Question 2, Corporate Fraud Offences (Companies Act): Right to bail*.

Defences. The Minister for Home Affairs can exempt certain persons subject to certain terms and conditions contained in section 7 of the TSFA. For example, they can exempt under section 7(2) any person in Singapore or any citizen of Singapore outside Singapore committing an offence under section 4(1)(b) of the TSFA for any specified activities or transactions carried out by the person or citizen. Section 4(1)(b) provides that if the person knows or has reasonable grounds to believe they will be used or will benefit any terrorist or terrorist entity.

The exemption under section 4(1)(b) of the TSFA cannot be granted if any activity or transaction involves property or services that will be used or will benefit a terrorist entity.

Similarly, under section 6 of the TSFA, the Minister for Home Affairs may prohibit dealing with the property of terrorists.

Financial/Trade Sanctions

Elements. This is a strict liability offence under the UN (Sanctions-Democratic People's Republic of Korea) Regulations 2010. The Regulations create a strict liability offence as they (read in light of Singapore's obligations under UN Resolution 1874) aim to encourage vigilance in preventing the transfer of financial resources to North Korea.

Regulation 5(a) (read with Regulation 16(1)) of the UN (Sanctions-Democratic People's Republic of Korea) Regulations 2010, makes it an offence to supply designated luxury items to any person in North Korea.

Penalties. The sanctions for an individual include a fine of up to SGD500,000 and/or to imprisonment for up to ten years. In any other case (that is, a legal entity or corporate body), the fine can be up to SGD1 million (*section 5(1), United Nations Act*).

Right to bail. See above, *Question 2, Corporate Fraud Offences (Companies Act): Right to bail*.

Defences. Given that the relevant offences are strict liability offences, the key elements of the offence that are required to be established cannot be challenged, so that that offence can be made out at law or fact.

The Regulation of Imports and Exports Regulations (RIER) is a subsidiary legislation of the Regulation of Imports and Exports Act 1995, which supplements the regulation and control of imports and exports. The Seventh Schedule of the RIER provides a list of prohibited imports from and exports to a country or territory, including trans-shipped goods and goods in transit.

Enforcement

24. Which authorities have the powers of prosecution, investigation and enforcement in cases of money laundering, terrorist financing, and breach of financial/trade sanctions? What are these powers and what are the consequences of non-compliance? Which authority makes the decision to charge and on what basis is that decision made? Please identify any differences between criminal and regulatory investigations.

Commercial Affairs Department (CAD)

Investigation and enforcement powers. The CAD investigates financial crimes (such as money laundering) in Singapore. The AG grants power to an authorised officer (on an application to court by the CAD) to compel persons (other than financial institutions) to produce specific documents (*section 30, CDSA*). Financial institutions can also be compelled to produce specific documents (*section 31, CDSA*). An authorised officer can apply to the court for warrants to enter and search premises, including an order to photograph and make copies of documents (*section 34, CDSA*).

Power to charge. See *Question 3, Attorney General (AG)*.

Civil Suits and Settlement

25. Can private parties bring civil suits for cases of money laundering, terrorist financing, and breach of financial/trade sanctions?

The relevant laws do not provide for private parties to bring civil suits in cases of money laundering, terrorist financing or financial/trade sanctions. However, parties can bring civil claims against anyone who caused them to suffer loss under common law.

26. Can individuals and/or legal entities reach a civil settlement with the appropriate authority in cases of money laundering, terrorist financing, or breach of financial/trade sanctions?

Current legislation does not provide for civil settlement in cases of money laundering, terrorist financing or financial/trade sanctions.

Safeguards

27. Are there any measures in place to safeguard parties subject to a regulatory investigation? Is there a process of judicial review? Is there a process of appeal?

See *Question 4*.

FINANCIAL RECORD KEEPING

28. What are the general requirements for financial record keeping and disclosure?

Financial documents must generally be retained for five years by:

- Commercial banks (*Article 12, MAS Notice 626 (Amendment) 2021, 28 June 2021*).
- Merchant banks (*Article 12, MAS Notice 1014 (Amendment) 2021, 28 June 2021*).
- Finance companies (*Article 12, MAS Notice 824 (Amendment) 2021, 28 June 2015*).
- Money-changers (*sections 21(1) and 21(2), Money-Changing Remittance Businesses Regulation 2005*).
- In the context of combatting drug trafficking, see sections 481(1)(3)(a) and 481(1)(3)(b) of the CDSA.

Company directors also have a duty to keep proper accounting records of the company, which are also used for tax purposes (*section 199(1), CA*).

29. What are the penalties for failure to keep or disclose accurate financial records?

For regulated financial institutions (including commercial and merchant banks and finance companies), the penalty for failure to keep or disclose accurate financial records is a fine of up to SGD1 million. For continuing offences, a further fine of SGD100,000 applies for every day the offence continues after conviction (*section 27B(2), MAS Act*).

Failure to maintain records of cash transactions and customer information under section 481 of the CDSA attracts a fine of up to SGD20,000 and/or imprisonment for up to two years (*section 481(1)(4), CDSA*).

If a director breaches the duty to keep proper accounting records of the company under the CA, they will be liable on conviction to a fine not exceeding SGD50,000 (*section 204(1), CA*).

30. Are the financial record keeping rules used to prosecute financial and business crimes?

The financial record keeping rules ensure that financial and business crimes are prevented through proper procedures. However, the onus is on the individual entities to manage these procedures to avoid white-collar crimes.

DUE DILIGENCE

31. What are the general due diligence requirements and procedures in relation to corruption, fraud or money laundering when contracting with external parties?

Customer due diligence measures and internal control measures are set out in the CDSA. Under section 481(1), a prescribed person must perform any relevant customer due diligence measures and internal control measures before entering into any of the following:

- A single cash transaction with a customer, where the transaction value exceeds the prescribed amount (or its equivalent in a foreign currency).
- Two or more cash transactions in a single day with the same customer, or with customers whom the prescribed person knows act on behalf of the same person, where the total transaction value exceeds the prescribed amount (or its equivalent in a foreign currency).

For individual customers, it is recommended that they adopt the measures set out in MAS Notice 626 (Amendment) 2021, 28 June 2021.

For financial institutions, the MAS has issued notices providing guidelines to follow when entering into business transactions to prevent money laundering and the financing of terrorism.

The MAS notices are directed specifically at:

- Banks (MAS Notice 626, (Amendment) 2021, 28 June 2021).
- Merchant banks (MAS Notice 1014 (Amendment) 2021, 28 June 2021).
- Finance companies (MAS Notice 824 (Amendment) 2021, 28 June 2021).
- Money lenders (MAS Notice 3001 (Amendment) 2019, 9 January 2019).

CORPORATE LIABILITY

32. Under what circumstances can a corporate body itself be subject to criminal liability?

The Singapore Court of Appeal in *Ho Kang Peng v Scintronix Corp Ltd* [2014] 3 SLR 0329 and *Ong Bee Chew v Ong Shu Lin* [2019] 3 SLR 132/[2017] SGHC 285 utilised the three rules of attribution to determine when an act by a person representing the company can be attributed to the company. These rules applied to any person representing the company:

- Primary rules of attribution, which is the company's constitution.
- General rules of attribution, that is, the principles of agency.
- Special rules of attribution, that is, the court will determine, on construction of the statutory provision, whether it is intended to include the acts of such an individual as the act of the company.

In *Ho Kang Peng* [2014] 3 SLR 0329, the CEO of a company had claimed that the paying of bribes was in the interest of the company. However, it was held that:

- Simply attempting to maximise profits for the company is not a sufficient justification.
- Bribes cannot be attributed to the company unless they specifically receive the approval of the board of directors. A company would only be held liable for the improper actions of a director should an innocent third party sue.

In *Ong Bee Chew* [2019] 3 SLR 132 it was held that the director of the company could not attribute their bribery actions to the company, even though it had profited from the bribery, on the basis that the company is still treated as a victim of the director's breach of duty.

33. Are there any ongoing requirements for corporate bodies found to be liable?

Where a person knows, or has reasonable grounds to suspect, that any property represents the proceeds of, or is used in connection with drug dealing or criminal conduct, and fails to disclose it to a suspicious transaction reporting officer, a legal entity or corporate body can be fined up to SGD500,000 (sections 39(1) and 39(2), CDSA).

CARTELS

34. Are cartels prohibited in your jurisdiction? How are cartel offences defined? Under what circumstances can a corporate body be subject to criminal liability for cartel offences?

Cartels are essentially anti-competitive agreements among competitors to prevent, restrict or distort competition. Cartels are prohibited in Singapore under section 34 of the Competition Act 2006 (CPA).

The Competition Commission of Singapore (CCS) is the primary authority with power to prosecute, investigate, and enforce infringements of prohibitions of the CPA (section 62, CPA).

There are three main restrictions under the CPA:

- Agreements, decisions and practices which prevent, restrict or distort competition (section 34, CPA).
- Abuse of a dominant position (section 47, CPA).
- Mergers that substantially lessen competition (section 54, CPA).

Corporate bodies face a financial penalty of up to 10% of their annual turnover in Singapore for each year of infringement, up to three years (section 69(4), CPA).

See also *Restraints of Trade and Dominance in Singapore: Overview*.

IMMUNITY AND LENIENCY

35. In what circumstances is it possible to obtain immunity/leniency for co-operation with the authorities?

There are no specific statutory provisions that grant immunity/leniency for co-operation with the authorities.

However, co-operation can be a relevant mitigating factor when deciding on the appropriate sentence.

See also *Cartel Leniency in Singapore: Overview*.

CROSS-BORDER CO-OPERATION

36. What international agreements and legal instruments are available for local authorities?

The primary legislation is the Mutual Assistance in Criminal Matters Act (Cap 190A, Revised Edition 2007) (MACMA).

Obtaining Evidence

The AG can request that the appropriate foreign authority arranges for evidence to be sent to Singapore (section 8, MACMA). The AG

can also request that evidence be taken in the foreign country (*section 8(1)(a), MACMA*).

Where a foreign authority makes a request to the AG of Singapore, evidence can be taken and transmitted to the foreign authority (*section 21, MACMA*).

A person who is in custody in a foreign country and who has consented to give evidence or assistance in relation to a criminal matter, can be transported through Singapore with prior notice to the AG (*section 27, MACMA*).

Seizing Assets

If there are reasonable grounds for believing that some or all of the property concerned is located in a particular foreign country, the AG can request that the appropriate foreign authority arranges for the enforcement (*section 13, MACMA*).

Sharing Information

The AG can request that another country assists in locating a person, if there are reasonable grounds (*section 14, MACMA*). Grounds entail the relevant person being concerned with or affected by a criminal matter in Singapore, or giving evidence or assistance in the matter.

37. In what circumstances will domestic criminal courts assert extra-territorial jurisdiction?

The MACMA makes no provision for the assertion of extra-territorial jurisdiction.

38. Does your jurisdiction have any statutes aimed at blocking the assertion of foreign jurisdictions within your territory? Are there statutes aimed at blocking the assertion of foreign jurisdictions within their territory?

The Foreign Interference (Countermeasures) Act 2021 was passed in Parliament on 4 October 2021. The purposes of the Act are to protect the public interest by counteracting acts of foreign interference through countermeasures:

- Aimed at acts by electronic communications activity.
- Aimed at pre-empting or preventing the occurrence acts involving persons identified as at risk because they are politically significant.

In essence, the legislation empowers authorities to prevent, detect and disrupt foreign interference in domestic politics conducted through hostile information campaigns and the use of local proxies.

WHISTLEBLOWING

39. Are whistleblowers given statutory protection?

There is no coherent or comprehensive legal regime with regard to whistleblowers in Singapore.

In relation to corruption, the PCA protects the anonymity of whistleblowers (*section 36, PCA*). The CA offers protection to company auditors (*section 208, CA*).

Any person who complies with a production order of bank documents will be treated as being in breach of confidence (*section 24(2), MACMA*).

In the context of drug dealing and other criminal conduct, disclosure will not be treated as a breach of any restriction on the disclosure imposed by law, contract or rules of professional conduct, and the person will not be liable for any consequent losses (*section 39(6), CDSA*). The informer's identity will also be protected (*section 41, CDSA*).

In the context of terrorist financing, section 10A of the TSFA protects the anonymity of an informer, as it states that evidence provided under sections 8 to 10 must not be disclosed in any criminal or civil proceedings.

MANAGING EXPOSURE TO CORRUPTION/CORPORATE CRIME

40. What are the main steps foreign and local companies are taking to manage their exposure to corruption/corporate crime?

The MAS has issued notices and guidelines to various financial companies to take measures to manage their exposure to corruption/corporate crime. Individual companies have also taken concrete measures to upgrade their due diligence and risk tools to allow for better monitoring of any suspicious corporate activities.

UOB Bank, through its FinLab initiative, has partnered with Tookitaki, a regulatory technology start-up to roll out a system that harnesses artificial intelligence in its monitoring efforts. The move allows for its compliance team to conduct deeper and broader analyses as part of its anti-money laundering efforts.

REFORM, TRENDS, AND DEVELOPMENTS

41. Are there any impending developments or proposals for reform?

The MAS released new anti-money laundering/countering the financing of terrorism (AML/CFT) notices and guidelines on targeting various financial institutions. In addition, the new Monetary Authority of Singapore (Amendment) Act 2022 was passed which:

- Strengthens MAS's supervisory powers in relation to AML/CFT.
- Enhances the ability of the MAS to co-operate with its foreign supervisory counterparts in relation to AML/CFT.

Most recently, there has been an increasing focus on data analytics to combat financial crime, according to a report released on 29 November 2018 by the ACIP. Singapore's major financial institutions have started using artificial intelligence and data analytics to help enhance their detection of illicit flows.

Finally, legislation was passed in Parliament on 19 November 2018 for harsher penalties and increased enforcement powers to tackle terrorist financing and money laundering, due to the growing complexity of financial transactions.

Practical Law Contributor Profile

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Areas of practice. Investigations; enforcement; white collar crime.

Recent transactions

- Acting for a Vietnamese company whose chemical oil tanker was extensively used to receive misappropriated gas oil from Shell Pulau Bukom, which was seized/forfeited by the Singapore authorities.
- Acting for a British Virgin Islands (BVI) company whose Singapore bank account consisting of more than USD26 million had been seized by the Singapore authorities on a possible offence under section 47 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act.
- Acting for a Singaporean engineer/accredited checker who failed to check the detailed structural plans and design calculations on the Pan Island Expressway Viaduct in accordance with regulations under the Building Control Act.
- Acting for a Singaporean for his suspected involvement in at least 450 cases of e-commerce scams involving the sale of tickets for Universal Studios Singapore (USS), concerts and other events on Carousell and Facebook.
- Acting for a Singapore well-known home-grown pastry chain on multiple counts of underpaying its foreign employees under the Employment of Foreign Manpower Act.
- Acting for an Australian citizen allegedly involved in a condominium fatal killer litter case which involves issues of religiously aggravated attack and mental health.
- Acting for a Mali-born naturalised Singapore citizen who was served with a Notice of Proposed Deprivation of his Singapore Citizenship after he became involved in a global match-fixing, syndicate and criminal activities.
- Acting for a Singaporean and his companies for supplying to North Korea prohibited luxury items worth over SGD500,000 and contravening the United Nations sanctions.

Languages. English, Tamil, Malay

Professional associations/memberships. Member of the Law Society of Singapore; Member of the Singapore Academy of Law; Member of the Honourable Society of Lincoln's Inn (UK); Member of the ASEAN Law Association; Volunteer Lawyer with the Movement for the Intellectually Disabled of Singapore (MINDS); State Assigned Lawyer for Capital Cases in the Supreme Court of Singapore.