Practical cross-border insights into anti-money laundering law

Anti-Money Laundering

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1 The Crime of Money Laundering and Criminal Enforcement

1.1 What is the legal authority to prosecute money laundering at the national level?

The Attorney-General in his role as the Public Prosecutor (“PP”) prosecutes money laundering (“ML”) offences in Singapore.

1.2 What must be proven by the government to establish money laundering as a criminal offence? What money laundering predicate offences are included? Is tax evasion a predicate offence for money laundering?

The primary legislation targeting ML is the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 (Cap 65A) (“CDSA”).

The main ML offences are contained in Sections 50, 51, 53, 54 and 55 of the CDSA. Although the CDSA does not specifically define ML, it criminalises the dealing in property that represents, in whole or in part, directly or indirectly, the benefits of drug dealing or criminal conduct (“Criminal Benefits”).

Sections 53(1) and 54(1) of the CDSA criminalise “primary” ML, i.e. laundering the accused person’s own Criminal Benefits. These provisions criminalise acquiring, possessing, using, concealing or transferring property representing the accused person’s Criminal Benefits. The PP must prove in relation to such property that the accused:
(a) concealed or disguised such property;
(b) converted, transferred or removed such property from the jurisdiction; or
(c) acquired, possessed, or used such property.

Sections 53(2) and 54(2) of the CDSA criminalise “secondary” ML, i.e. laundering someone else’s Criminal Benefits. These provisions criminalise concealing, disguising, converting, transferring, or removing from the jurisdiction someone else’s Criminal Benefits. The PP must prove in relation to such property that:
(a) the accused concealed, disguised, converted, transferred or removed such property from the jurisdiction; and
(b) that the accused did so knowing or having reasonable grounds to believe that the property was someone else’s Criminal Benefits.

Section 55 of the CDSA criminalises the possession or use of any property which may reasonably be suspected to be Criminal Benefits, if the accused is unable to satisfactorily account for how he came by the property.

Sections 50 and 51 of the CDSA criminalise assisting another person to retain their Criminal Benefits. Under both sections, the PP must prove that the accused had entered into or was otherwise concerned in an arrangement, and that the accused did so knowing or having reasonable grounds to believe that the arrangement would:
(a) facilitate in the retention or control of the other person’s Criminal Benefits by or on behalf of the other person, whether by concealment, removal from jurisdiction, transfer to nominees, or otherwise; or
(b) use the other person’s Criminal Benefits to secure funds that are placed at that other person’s disposal, directly or indirectly; or use the other person’s Criminal Benefits for the other person’s benefit to acquire property by way of investment or otherwise; and
(c) the other person is a person who engages in or has engaged in drug dealing/criminal conduct, or who has benefitted from drug dealing/criminal conduct.

Predicate offences

The CDSA prescribes a wide range of predicate offences. The provisions criminalising ML refer to benefits of “drug dealing” or “criminal conduct”.

The term “drug dealing” refers to the offences specified in the First Schedule of the CDSA as well as abetment of such offences, and includes a “foreign drug dealing offence” which is an “offence against a corresponding law”, and which would have constituted a drug-dealing offence if it occurred in Singapore.

The term “criminal conduct” refers to any act constituting either a “serious offence” or a “foreign serious offence”. A serious offence is an offence specified in the Second Schedule of the CDSA, and a foreign serious offence is an offence against the law of a foreign country, including conduct that would have constituted a serious offence if it had occurred in Singapore. This includes bribery, cheating, criminal breach of trust, forgery, theft and robbery, among other things.

Tax evasion as a predicate offence for money laundering

Yes, tax evasion is a predicate offence.

Offences relating to tax evasion under the Good and Services Act 1993 and Income Tax Act 1947 are listed in the Second Schedule of the CDSA as serious offences. Offence against the law of a foreign country that would have constituted tax evasion if they had occurred in Singapore would also constitute foreign serious offences (see Section 2(1) Second Schedule CDSA).

1.3 Is there extraterritorial jurisdiction for the crime of money laundering? Is money laundering of the proceeds of foreign crimes punishable?

Yes. The CDSA applies to ML offences in respect of property
representing benefits of certain categories of foreign crimes, if those offences consist of or involve conduct which would have constituted offences in Singapore under the First Schedule or Second Schedule of the CDSA.

The CDSA also applies to any property, whether situated in Singapore or elsewhere (see Section 4(5) CDSA).

### 1.4 Which government authorities are responsible for investigating and prosecuting money laundering criminal offences?

The primary investigative agency for ML offences is the Commercial Affairs Department (“CAD”) of the Singapore Police Force (“SPF”). Officers of the Central Narcotics Bureau and the Corrupt Practices Investigation Bureau are also involved in investigating certain kinds of ML offences.

ML offences are prosecuted by the PP, who is authorised to assign his prosecutorial duties to Deputy Public Prosecutors and Assistant Public Prosecutors, who carry out such PP functions.

### 1.5 Is there corporate criminal liability or only liability for natural persons?

There is both corporate criminal liability and liability for natural persons.

### 1.6 What are the maximum penalties applicable to individuals and legal entities convicted of money laundering?

The maximum penalty under Sections 50, 51, 53 and 54 of the CDSA is:

- for an individual, a fine not exceeding S$500,000 or imprisonment not exceeding 10 years, or both; and
- for a non-individual, a fine not exceeding S$1 million or twice the value of the benefits of the drug dealing/criminal conduct in respect of which the offence was committed, whichever is higher.

The maximum penalty under Section 55 of the CDSA is:

- for an individual, a fine not exceeding S$150,000 or imprisonment not exceeding three years, or both; and
- for a non-individual, a fine not exceeding S$300,000.

### 1.7 What is the statute of limitations for money laundering crimes?

There is no statute of limitations for the prosecution of ML crimes, or for the prosecution of criminal offences in general. Nevertheless, where there has been an inordinate delay in prosecution, this may be a factor considered by the court in sentencing.

### 1.8 Is enforcement only at national level? Are there parallel state or provincial criminal offences?

Yes, enforcement is only at national level. There is no “state” or “provincial” criminal legislation, as there are no states or provinces in Singapore.

### 1.9 Are there related forfeiture/confiscation authorities? What property is subject to confiscation? Under what circumstances can there be confiscation?

against funds or property if there has been no criminal conviction, i.e., non-criminal confiscation or civil forfeiture?

The PP may apply to court for property to be confiscated under the CDSA and the Organised Crime Act 2015 (No. 26 of 2015) (“OCA”). While investigative agencies may seize property or freeze bank accounts, confiscation or forfeiture is done by court order.

When a defendant is convicted of one or more predicate offences listed in the CDSA, the PP may apply to the court for a confiscation order. Benefits derived by the defendant from his or her drug dealing or criminal conduct will be subject to a confiscation order if the court is satisfied that such benefits have been so derived (Sections 6 and 7 CDSA).

Where there has been no criminal conviction, material or financial gains from organised crime activity can also be confiscated under the OCA. Such a confiscation order under the OCA does not require that the organised crime activity be the subject of any criminal proceedings (Section 51 OCA). The discontinuance or acquittal of the defendant in any such criminal proceedings would not impact the confiscation order (Section 53 OCA). The PP may apply for a confiscation order under the OCA, and the court will make a confiscation order if the court is satisfied, on a balance of probabilities, that the person has carried out an organised crime activity within the defined statutory period and has derived benefits from the organised crime activity (Section 61 OCA).

“Organised crime activity” refers to any activity carried out by a person in (or outside) Singapore amounting to a serious offence specified in the Schedule to the OCA (which includes Sections 50, 51, 53 and 54 of the CDSA) and is carried out at the direction of or in furtherance of the illegal purpose of a group which the person knows or has reasonable grounds to believe is an organised criminal group (Section 48(1)(a)–(b) OCA). Where the activity is carried out by a person outside Singapore, the organised criminal group must be locally linked.

Such “organised crime activity” also includes being a member of an organised criminal group, recruiting members for such a group, instructing the commission of offences for such a group, and otherwise supporting or aiding such a group (Section 48(1)(c) OCA read with Part 2 OCA).

### 1.10 Have banks or other regulated financial institutions or their directors, officers or employees been convicted of money laundering?

Officers and employees of regulated financial institutions (“FIs”) have previously been convicted of ML offences in Singapore.

In July 2017, Yeo Jiawei, a former wealth planner at BSI Bank Limited, was sentenced to 54 months’ imprisonment for ML and cheating in a case related to the probe into Malaysian state fund 1Malaysia Development Berhad (“1MDB”). Two other former BSI bankers, Yak Yew Chee and Yvonne Seah Yew Foong, were also sentenced to jail terms of 18 weeks and two weeks, respectively, for forgery and failure to report suspicious transactions connected to the 1MDB case. A former branch manager of Falcon Private Bank, Jens Sturzenegger, was also sentenced to 28 weeks’ imprisonment and a S$128,000 fine for failing to report suspicious transactions connected to the same case.

### 1.11 What property is subject to confiscation?

Such property includes:

- funds or property obtained by the person in respect of the organised crime activity;
- funds or property obtained directly or indirectly from the proceeds of the organised crime activity;
- funds or property obtained by the person from the activities of another person who has derived benefits from the organised crime activity.

### 1.12 Under what circumstances can there be confiscation?

When a defendant is convicted of one or more predicate offences listed in the CDSA, the PP may apply to the court for a confiscation order. Benefits derived by the defendant from his or her drug dealing or criminal conduct will be subject to a confiscation order if the court is satisfied that such benefits have been so derived (Sections 6 and 7 CDSA).

Where there has been no criminal conviction, material or financial gains from organised crime activity can also be confiscated under the OCA. Such a confiscation order under the OCA does not require that the organised crime activity be the subject of any criminal proceedings (Section 51 OCA). The discontinuance or acquittal of the defendant in any such criminal proceedings would not impact the confiscation order (Section 53 OCA). The PP may apply for a confiscation order under the OCA, and the court will make a confiscation order if the court is satisfied, on a balance of probabilities, that the person has carried out an organised crime activity within the defined statutory period and has derived benefits from the organised crime activity (Section 61 OCA).

“Organised crime activity” refers to any activity carried out by a person in (or outside) Singapore amounting to a serious offence specified in the Schedule to the OCA (which includes Sections 50, 51, 53 and 54 of the CDSA) and is carried out at the direction of or in furtherance of the illegal purpose of a group which the person knows or has reasonable grounds to believe is an organised criminal group (Section 48(1)(a)–(b) OCA). Where the activity is carried out by a person outside Singapore, the organised criminal group must be locally linked.

Such “organised crime activity” also includes being a member of an organised criminal group, recruiting members for such a group, instructing the commission of offences for such a group, and otherwise supporting or aiding such a group (Section 48(1)(c) OCA read with Part 2 OCA).

### 1.13 When can there be confiscation if the defendant is not convicted of money laundering?

When a defendant is convicted of one or more predicate offences listed in the CDSA, the PP may apply to the court for a confiscation order. Benefits derived by the defendant from his or her drug dealing or criminal conduct will be subject to a confiscation order if the court is satisfied that such benefits have been so derived (Sections 6 and 7 CDSA).

Where there has been no criminal conviction, material or financial gains from organised crime activity can also be confiscated under the OCA. Such a confiscation order under the OCA does not require that the organised crime activity be the subject of any criminal proceedings (Section 51 OCA). The discontinuance or acquittal of the defendant in any such criminal proceedings would not impact the confiscation order (Section 53 OCA). The PP may apply for a confiscation order under the OCA, and the court will make a confiscation order if the court is satisfied, on a balance of probabilities, that the person has carried out an organised crime activity within the defined statutory period and has derived benefits from the organised crime activity (Section 61 OCA).

“Organised crime activity” refers to any activity carried out by a person in (or outside) Singapore amounting to a serious offence specified in the Schedule to the OCA (which includes Sections 50, 51, 53 and 54 of the CDSA) and is carried out at the direction of or in furtherance of the illegal purpose of a group which the person knows or has reasonable grounds to believe is an organised criminal group (Section 48(1)(a)–(b) OCA). Where the activity is carried out by a person outside Singapore, the organised criminal group must be locally linked.

Such “organised crime activity” also includes being a member of an organised criminal group, recruiting members for such a group, instructing the commission of offences for such a group, and otherwise supporting or aiding such a group (Section 48(1)(c) OCA read with Part 2 OCA).

### 1.14 When and under what conditions can there be confiscation of property not derived from money laundering?

When a defendant is convicted of one or more predicate offences listed in the CDSA, the PP may apply to the court for a confiscation order. Benefits derived by the defendant from his or her drug dealing or criminal conduct will be subject to a confiscation order if the court is satisfied that such benefits have been so derived (Sections 6 and 7 CDSA).

Where there has been no criminal conviction, material or financial gains from organised crime activity can also be confiscated under the OCA. Such a confiscation order under the OCA does not require that the organised crime activity be the subject of any criminal proceedings (Section 51 OCA). The discontinuance or acquittal of the defendant in any such criminal proceedings would not impact the confiscation order (Section 53 OCA). The PP may apply for a confiscation order under the OCA, and the court will make a confiscation order if the court is satisfied, on a balance of probabilities, that the person has carried out an organised crime activity within the defined statutory period and has derived benefits from the organised crime activity (Section 61 OCA).

“Organised crime activity” refers to any activity carried out by a person in (or outside) Singapore amounting to a serious offence specified in the Schedule to the OCA (which includes Sections 50, 51, 53 and 54 of the CDSA) and is carried out at the direction of or in furtherance of the illegal purpose of a group which the person knows or has reasonable grounds to believe is an organised criminal group (Section 48(1)(a)–(b) OCA). Where the activity is carried out by a person outside Singapore, the organised criminal group must be locally linked.

Such “organised crime activity” also includes being a member of an organised criminal group, recruiting members for such a group, instructing the commission of offences for such a group, and otherwise supporting or aiding such a group (Section 48(1)(c) OCA read with Part 2 OCA).

### 1.15 Are there limitations to the right to appeal against a confiscation order?

There is no right to appeal against a confiscation order.

### 1.16 Are there limitations to the right to challenge a confiscation order on grounds of illegality?

There is no right to challenge a confiscation order on grounds of illegality.
1.11 How are criminal actions resolved or settled if not through the judicial process? Are records of the fact and terms of such settlements public?

Criminal proceedings may be withdrawn or discontinued at the pre-trial stage after negotiations between the Defence and the Prosecution. If the Prosecution agrees, they may withdraw the charges and issue a warning or allow for the offences to be compounded in lieu of prosecution.

It would not be accurate to describe this as a settlement, and the reasoning for the Prosecution's exercise of discretion has been kept private and not made available either to the Defence or the public in general.

Deferred Prosecution Agreement ("DPA")

Certain specified criminal actions against a company, partnership or unincorporated association, including those in respect of offences under Sections 50, 51, 53 and 54 of the CDSA, may be resolved through DPAs (Part 7A of the Criminal Procedure Code (Cap 68) ("CPC").

DPAs are not available to individuals (Section 149D(1) CPC). A DPA is an agreement entered into between the PP and the company, partnership or unincorporated association under which the PP agrees not to prosecute the alleged offence if the company, partnership or unincorporated association agrees to comply with the requirements imposed on it by the DPA (Sections 149A and 149C CPC). The requirements that a DPA may impose include paying a financial penalty, compensating victims of the alleged offence and disgorging any profits made from the alleged offence (Section 149E(3) CPC).

Such DPAs are subject to judicial oversight. A DPA only comes into force if the General Division of the High Court approves the DPA, and declares that the DPA is in the interest of justice and that its terms are fair, reasonable and proportionate (Section 149F CPC). After such approval, the DPA is published.

1.12 Describe anti-money laundering enforcement priorities or areas of particular focus for enforcement.

Anti-money laundering ("AML") enforcement priorities are focused on: (a) corporations and professional service providers who become involved with ML and terrorism financing; (b) individuals who act as money mules for overseas organised syndicates (i.e. where an individual is paid to accept money transfers into his or her bank account and transfer them out again, so as to cover the tracks of illicit funds); and (c) dealers in precious stones and/or precious metals ("PSMDs").

To target corporations and professional service providers, in 2018, penalties for ML offences committed by non-individuals (i.e. entities) were increased in order to strengthen deterrence.

To combat overseas organised syndicates and their ML operations involving money mules, Section 55 of the CDSA was introduced to criminalise the possession or use of any property which may reasonably be suspected to be Criminal Benefits (see question 1.2).

For PSMDs, a risk-based supervisory and regulatory regime was implemented in 2019 to mitigate ML and terrorism-financing risks in the PSMD sector. The Anti-Money Laundering/Countering the Financing of Terrorism Division of the Ministry of Law ("ACD") in charge of the regime has identified unregistered dealings and compliance with AML/Countering the Financing of Terrorism ("CFT") regulations as areas of particular focus for enforcement from October 2019 to March 2021. The ACD has also listed regulated dealings via online platforms and higher-risk regulated dealers as enforcement priorities for 2021/2022.

2 Anti-Money Laundering Regulatory/ Administrative Requirements and Enforcement

2.1 What are the legal or administrative authorities for imposing anti-money laundering requirements on financial institutions and other businesses? Please provide the details of such anti-money laundering requirements.

The Monetary Authority of Singapore ("MAS") imposes AML requirements on FIs in Singapore.

Other authorities impose AML requirements on non-financial businesses and professions ("Designated Businesses"), such as:

- the Casino Regulatory Authority of Singapore (for casinos);
- the Accounting and Corporate Regulatory Authority ("ACRA") (for corporate service providers, public accountants and accounting entities); and
- the Council for Estate Agents ("CEA") (for estate agents and salespersons).

Details of these requirements can be found in section 3 below.

2.2 Are there any anti-money laundering requirements imposed by self-regulatory organisations or professional associations?

Yes. The Institute of Singapore Chartered Accountants imposes AML requirements on professional accountants, and the Law Society of Singapore imposes AML requirements on law practices and legal practitioners.

2.3 Are self-regulatory organisations or professional associations responsible for anti-money laundering compliance and enforcement against their members?

Yes. For example, legal practitioners and law practices that contravene AML requirements under the Legal Profession Act 1966 (Cap 161) (including the Legal Profession (Prevention of Money Laundering and Financing of Terrorism) Rules 2015) may be subject to disciplinary proceedings or regulatory action.

2.4 Are there requirements only at national level?

Yes, see question 1.8.

2.5 Which government agencies/competent authorities are responsible for examination for compliance and enforcement of anti-money laundering requirements? Are the criteria for examination publicly available?

MAS enforces AML requirements under MAS-administered laws and regulations.

Yes, reference can be made to the MAS Enforcement Monograph, which outlines MAS's approach to enforcement and its various AML guidelines.

2.6 Is there a government Financial Intelligence Unit ("FIU") responsible for analysing information reported by financial institutions and businesses subject to anti-money laundering requirements?

Yes, the Suspicious Transaction Reporting Office ("STRO") is Singapore's FIU. The STRO receives and analyses suspicious
transaction reports (“STRs”), cash transaction reports (“CTRs”) and cash movement reports (“CMRs”) for physical currency and bearer negotiable instruments (“CBNIs”). Information is then disseminated to the relevant enforcement and regulatory agencies where possible offences are detected.

2.7 What is the applicable statute of limitations for competent authorities to bring enforcement actions?

There is no limitation period for enforcement actions.

2.8 What are the maximum penalties for failure to comply with the regulatory/administrative anti-money laundering requirements and what failures are subject to the penalty provisions?

Penalties for failure to comply with AML requirements vary across industries.

An FI that fails to comply with any AML direction issued or regulation made by MAS is liable to a fine not exceeding S$1,000,000, and in the case of a continuing offence, is also subject to a further fine of S$100,000 for every day or part of a day during which the offence continues after conviction (Section 27B(2) Monetary Authority of Singapore Act 1970 (Cap 186)).

2.9 What other types of sanction can be imposed on individuals and legal entities besides monetary fines and penalties?

The types of sanctions that can be imposed vary across industries.

For FIs, MAS can impose sanctions such as:
- revocation or suspension of licences;
- removals of directors and officers;
- prohibition orders (“POs”) barring persons from conducting regulated activities or from taking part in management of the FI;
- reprimands; and
- warnings.

2.10 Are the penalties only administrative/civil? Are violations of anti-money laundering obligations also subject to criminal sanctions?

No, violations of AML obligations may also be subject to criminal sanctions.

For FIs, failing to comply with their AML obligations is an offence (see question 2.8).

2.11 What is the process for assessment and collection of sanctions and appeal of administrative decisions? a) Are all resolutions of penalty actions by competent authorities public? b) Have financial institutions challenged penalty assessments in judicial or administrative proceedings?

In general, the relevant regulatory authority will assess the appropriate sanction(s) to be imposed based on its own internal guidelines and precedents. Judicial review of administrative decisions is possible.

(a) Not all resolutions of “penalty actions” are published, although the facts and circumstances of certain cases may be published by the relevant regulatory authorities (e.g. MAS, ACRA or CEA) at their discretion.

(b) There do not appear to be any reported instances in which FIs have challenged penalty assessments in judicial or administrative proceedings.

3 Anti-Money Laundering Requirements for Financial Institutions and Other Designated Businesses

3.1 What financial institutions and non-financial businesses and professions are subject to anti-money laundering requirements? Describe any differences in the anti-money laundering requirements that each of them are subject to.

FIs subject to AML requirements include:
- banks;
- merchant banks;
- finance companies;
- money changers;
- remittance agents;
- insurers;
- insurance brokers;
- capital markets intermediaries;
- trust companies;
- financial advisers;
- the Central Depository (Pte) Ltd (“CDP”); and
- stored value facility holders.

Other Designated Businesses subject to AML requirements include:
- casino operators;
- corporate service providers;
- estate agents and salespersons;
- legal practitioners and law practices;
- moneylenders;
- payment service providers (“PSPs”);
- pawnbrokers;
- professional accountants and professional accounting firms (including public accountants and accounting entities); and
- PSMDs.

In general, the types of AML requirements are similar for FIs and Designated Businesses. Both are required to implement procedures regarding:
- risk assessment and risk mitigation, and applying a risk-based approach;
- customer due diligence (“CDD”);
- recordkeeping;
- suspicious transaction reporting; and
- other internal policies, procedures, and controls.

The AML requirements vary across sectors. As MAS adopts a risk-based approach, the AML requirements are calibrated according to the degree of risk posed by FIs and Designated Businesses. FIs and Designated Businesses with higher exposure to ML risks would be subject to more AML requirements. More details can be found below.

3.2 Describe the types of payments or money transmission activities that are subject to anti-money laundering requirements, including any exceptions.

The types of payments or money transmission activities subject to AML requirements include:
- account issuance services;
- domestic money transfer services;
3.5 Are certain financial institutions or designated businesses required to maintain compliance programmes? What are the required elements of the programmes?

Yes. The requirements vary across industry sectors. Generally, FIs and Designated Businesses are required to maintain compliance programmes that reflect the nature and risk profiles of their business. Measures typically relate to CDD, reporting, recordkeeping, and internal policies, procedures, and controls (see question 3.1 above). More details can be found below.

3.6 What are the requirements for recordkeeping or reporting large currency transactions? When must reports be filed and at what thresholds?

Recordkeeping

Requirements for recordkeeping vary across industry sectors. FIs and other Designated Businesses must retain CDD information and other data, detailed identification and information relating to a transaction for at least five years. FIs must also retain records of financial transactions for a minimum of five years (Section 43 CDSA).

PSMDs must maintain records of cash transactions exceeding S$20,000, as well as customer information, for a period of five years (Section 67 CDSA; Section 18 Precious Stones and Precious Metals (Prevention of Money Laundering and Terrorism Financing) Act 2019 (“PSPMA”)).

PSPs must record adequate details of transactions that equal or exceed S$20,000 so that the transactions can be reconstructed (including the amount and type of currency involved) (Paragraph 16 of MAS Notice PSN01).

Reporting large currency transactions

A PSMD (regulated dealer) must submit a CTR for cash transactions or designated transactions that exceed S$20,000 in a transaction (or in a day) (Section 17 PSPMA). For such transactions entered into before 10 April 2019, Section 68 of the CDSA applies (Section 40 PSPMA).

A pawnbroker must also submit a CTR with the STRO for the sale of any precious stone, precious metal or precious product to a customer for which cash (or a cash equivalent) exceeding S$20,000 is received as payment (Section 74A Pawnbrokers Act 2015).

A casino operator is required to file a CTR with the STRO for cash transactions with a patron involving an aggregate amount of S$10,000 or more in a transaction (Regulation 3 Casino and Precious Metals (Prevention of Money Laundering and Terrorism Financing) Regulations 2009).

3.7 Are there any requirements to report routinely transactions other than large cash transactions? If so, please describe the types of transactions, where reports should be filed and at what thresholds, and any exceptions.

Yes. STRs and CMRs are the other types of reports that may be filed with the STRO.

For when a STR must be filed, see question 3.11. For when a CMR must be filed, see question 3.8.

3.8 Are there cross-border transactions reporting requirements? Who is subject to the requirements and what must be reported under what circumstances?

Yes. A person who moves or attempts to move into or out of
Singapore CBNIs exceeding S$20,000 (or its equivalent in foreign currency) must submit a CMR in respect of the movement.

A person who receives CBNIs from outside Singapore the total value of which exceeds S$20,000 (or its equivalent in foreign currency) must submit a CMR in respect of the receipt within five business days (Sections 60 and 62 CDSA; Regulations 2A and 4A Corruption, Drug Trafficking and Other Serious Crimes (Cross Border Movements of Physical Currency and Bearer Negotiable Instruments) Regulations 2007).

3.9 Describe the customer identification and due diligence requirements for financial institutions and other businesses subject to the anti-money laundering requirements. Are there any special or enhanced due diligence requirements for certain types of customers?

CDD measures include:
(a) identifying and verifying the identity of the customer (or any beneficial owner in relation to the customer);
(b) understanding the purpose and intended nature of the business relationship with the customer; and
(c) ongoing monitoring of the business relationship with the customer.

A risk-based approach is commonly adopted. Enhanced CDD measures are required for politically exposed persons and their family members and close associates. Enhanced CDD measures are also required where the customer or beneficial owner is from or in a country that has been identified by the Financial Action Task Force (“FATF”) as high risk, or which is known for having inadequate AML measures.

For such persons, enhanced CDD measures would be implemented, such as obtaining the approval of senior management before establishing or continuing business relations with the customer, taking reasonable measures to establish the customer’s source of wealth and funds, and conducting enhanced ongoing monitoring of business relations with the customer.

3.10 Are financial institution accounts for foreign shell banks (banks with no physical presence in the countries where they are licensed and no effective supervision) prohibited? Which types of financial institutions are subject to the prohibition?

Yes, as below:

- Banks, finance companies and merchant banks are prohibited from entering into or continuing correspondent banking or other similar service relationships with foreign shell banks (MAS Notice 626).
- Capital markets intermediaries are prohibited from correspondent account service relationships with foreign shell banks (MAS Notice SFA04-N02).
- Money-changing and remittance business licensees are prohibited from providing remittance services to foreign shell banks (MAS Notice 3001).
- The CDP is prohibited from having correspondent account relations with foreign shell banks (MAS Notice SFA03AA-N01).
- Stored value facility holders are prohibited from having correspondent account service and other similar service relationships with foreign shell banks (MAS Notice PSOA-N02).

Each of the above FIs must also take appropriate measures when establishing the relevant relationship to satisfy itself that correspondent FIs do not permit their accounts to be used by foreign shell banks.

3.11 What is the criteria for reporting suspicious activity?

If a person knows or has reasonable grounds to suspect that any property: (a) in whole or in part, directly or indirectly, represents the proceeds of drug dealing/criminal conduct; (b) was used in connection with drug dealing/criminal conduct; or (c) is intended to be used in connection with any act which may constitute drug dealing/criminal conduct, and the information or matter on which the knowledge or suspicion is based came to his attention in the course of his trade, profession, business or employment, then he must make a STR disclosing the knowledge or suspicion, or the information or other matter on which that knowledge or suspicion is based, as soon as is reasonably practicable after it comes to his attention (Section 45 CDSA).

3.12 What mechanisms exist or are under discussion to facilitate information sharing 1) between and among financial institutions and businesses subject to anti-money laundering controls, and/or 2) between government authorities and financial institutions and businesses subject to anti-money laundering controls (public-private information exchange) to assist with identifying and reporting suspicious activity?

(1) FIs in Singapore can share relevant information with branches and subsidiaries of the same financial group for risk management purposes, subject to appropriate safeguards. Such sharing may include information contained within a STR, the fact that an STR has been filed, and the STR itself.

On 1 October 2021, MAS published a consultation paper to seek views on the introduction of a regulatory framework and secure digital platform named COSMIC (for “Collaborative Sharing of ML/FT Information & Cases”) to allow FIs to securely share risk information with each other for AML/CFT purposes. This will enable FIs to alert each other about potentially suspicious activity involving their customers and prevent persons from exploiting information gaps between FIs. FIs will also be able to review the risk information shared on the platform using data analytics. MAS plans to launch the platform in 2023 and six major banks will be participating in the initial phase, after which MAS intends to progressively extend the platform’s coverage to more FIs.

(2) The Anti-Money Laundering and Countering the Financing of Terrorism Industry Partnership (“ACIP”) was established in 2017 to bring together government authorities and FIs. ACIP comprises CAD, MAS, the Association of Banks Singapore and eight major banks. ACIP has published papers and held industry dialogues and workshops. Following the recommendations of ACIP, CAD and MAS are taking steps to standardise data sets in STR and annual data collection, respectively, to allow for deeper analysis of data collected. They are also considering how standardised data sets and risk analytics can be shared with industry participants to help participants enhance their risk-based AML/CFT programmes.

In end-2019, ACIP held a workshop on the adoption of data analytics in enhancing AML/CFT effectiveness. Several ACIP member banks presented on how they had implemented data analytics to enhance their AML/CFT processes and key takeaways were drawn for the broader industry to benefit from.
3.13 Is adequate, current, and accurate information about the beneficial ownership and control of legal entities maintained and available to government authorities? Who is responsible for maintaining the information? Is the information available to assist financial institutions with their anti-money laundering customer due diligence responsibilities as well as to government authorities?

Recent efforts have been made to improve transparency on beneficial ownership and control. Since 31 March 2017, most legal entities incorporated in Singapore have been required to maintain a private Register of Registrable Controllers (“RORC”) at their registered office address, containing identification details of individuals and legal entities that have significant interest or significant control. From 30 July 2020, most legal entities must also lodge the information in their RORC with ACRA’s Central Register of Controllers (“ACRA’s Central Register”).

If there are any changes to the information in the RORC, entities must first update their RORC, before lodging the same information with ACRA’s Central Register within two business days.

The information in the RORC and ACRA’s Central Register are only available to law enforcement agencies for the purpose of enforcing laws under their purview, such as the investigation of ML offences.

3.14 Is it a requirement that accurate information about originators and beneficiaries be included in payment orders for a funds transfer? Should such information also be included in payment instructions to other financial institutions? Describe any other payment transparency requirements for funds transfers, including any differences depending on role and domestic versus cross-border transactions.

Yes, the bank ordering the wire transfer must identify the wire transfer originator, verify his identity and record adequate details of the wire transfer. These requirements do not apply to a transfer and settlement between two FIs where both FIs are acting on their own behalf as the wire transfer originator and the wire transfer beneficiary (MAS Notices 626, 824, 1014, and 3001).

Differences for domestic versus cross-border transactions

For cross-border wire transfers, the bank ordering the wire transfer must include in the payment instructions information such as the name and account number of both the wire transfer originator and wire transfer beneficiary, as well as the wire transfer originator’s residential address or registered or business address, unique identification number or the date and place of birth, incorporation or registration of the wire transfer originator if the amount to be transferred exceeds S$1,500 (MAS Notices 626, 824, 1014, and 3001).

For domestic wire transfers, the bank ordering the wire transfer must include in the payment instructions information such as the name and account number of the wire transfer originator and the wire transfer originator’s residential address or registered or business address, unique identification number or the date and place of birth, incorporation or registration of the wire transfer originator (MAS Notices 626, 824, 1014, and 3001).

Nevertheless, the bank may include only the wire transfer originator’s account number provided that it will permit the transaction to be traced back to the wire transfer originator and wire transfer beneficiary, and the bank is able to provide the wire transfer originator information set out in the preceding paragraph upon request by the beneficiary institution, MAS, law enforcement authorities or other relevant authorities in Singapore (MAS Notices 626, 824, 1014, and 3001).

3.15 Is ownership of legal entities in the form of bearer shares permitted?

No, it is not permitted (see Sections 66 and 364 Companies Act 1967 (Cap 50)).

3.16 Are there specific anti-money laundering requirements applied to non-financial institution businesses, e.g., currency reporting?

Yes, such requirements are applied (see question 3.1).

3.17 Are there anti-money laundering requirements applicable to certain business sectors, such as persons engaged in international trade or persons in certain geographic areas such as free trade zones?

The regulatory requirements are targeted at specific industries (see questions 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.9, 3.10 and 3.14).

3.18 Are there government initiatives or discussions underway regarding how to modernise the current anti-money laundering regime in the interest of making it more risk-based and effective, including by taking advantage of new technology, and lessening the compliance burden on financial institutions and other businesses subject to anti-money laundering controls?

Yes. The Government Technology Agency of Singapore has developed MyInfo, a digital platform containing personal data verified by the government. As of mid-2021, close to 700 digital services offered by government agencies and businesses, including FIs and Designated Businesses, have implemented MyInfo. MyInfo removes the need for customers to submit physical identification documents to FIs and Designated Businesses for verification purposes, as the information in MyInfo can be used and relied upon instead. FIs and Designated Businesses that use MyInfo when onboarding customers enjoy a reduced compliance burden as a result.

The government has also actively encouraged the private sector to use and develop new technology to combat ML. On 13 August 2020, MAS committed S$250 million over the next three years under the enhanced Financial Sector Technology and Innovation Scheme to accelerate technology and innovation-driven growth in the financial sector, which includes the use of technology to combat ML. MAS also plans to launch a digital information-sharing platform for FIs in 2023 (see question 3.12).

3.19 Describe to what extent entities subject to anti-money laundering requirements outsource anti-money laundering compliance efforts to third parties, including any limitations on the ability to do so. To what extent and under what circumstances can those entities rely on or shift responsibility for their own compliance with anti-money laundering requirements to third parties?

FIs and Designated Businesses may outsource CDD compliance efforts to third parties, provided that:

(a) the entity is satisfied that the third party it intends to rely upon is subject to and supervised for compliance with AML/CFT requirements consistent with standards set by the FATF, and has adequate AML/CFT measures in place to comply with those requirements;
In July 2021, MAS also published a consultation paper which proposes to strengthen its investigative powers under various legislation, including the PSA and the proposed Omnibus Act. As at the time of writing, the results of the consultations have not yet been published.

4.2 Are there any significant ways in which the anti-money laundering regime of your country fails to meet the recommendations of the Financial Action Task Force (“FATF”)? What are the impediments to compliance?

No. In the FATF’s last Mutual Evaluation Report relating to the implementation of AML/CFT standards in Singapore, published in 2019, Singapore was compliant or largely compliant with 37 of the FATF 40 Recommendations.

4.3 Has your country’s anti-money laundering regime been subject to evaluation by an outside organisation, such as the FATF, regional FATFs, Council of Europe (Moneyval) or IMF? If so, when was the last review?

Yes (see question 4.2).

4.4 Please provide information on how to obtain relevant anti-money laundering laws, regulations, administrative decrees and guidance from the internet. Are the materials publicly available in English?

The relevant AML laws, regulations, administrative decisions, and guidance can be obtained from various official websites. These include Singapore Statutes Online (http://sso.agc.gov.sg/), STRO’s website (https://www.police.gov.sg/Advisories/Crime/Commercial-Crimes/Suspicious-Transaction-Reporting-Office) and MAS’s website (http://www.mas.gov.sg).

4 General

4.1 If not outlined above, what additional anti-money laundering measures are proposed or under consideration?

In July 2020, MAS published a consultation paper to obtain feedback on a proposed new Omnibus Act which would enhance and consolidate MAS’s regulatory powers in relation to FIs and digital services. The proposed Omnibus Act also contains a harmonised and expanded power to issue POs, a new part on the regulation of VASPs created in Singapore for AML/CFT purposes, and a harmonised power to impose requirements on technology risk management.

However, FIs and Designated Businesses cannot rely on third parties to conduct ongoing monitoring on business relationships with customers.

Notwithstanding any outsourcing of compliance efforts to third parties, FIs and Designated Businesses remain fully responsible and accountable for their own compliance with AML requirements.
Gary Low is the Co-Head of the Firm’s Criminal Law Practice. He practises both civil and criminal litigation. He has an active civil/commercial practice and has acted in a wide variety of matters, including disputes in banking and finance, commercial disputes, arbitrations, directors’/shareholders’ disputes, minority oppression, tortious liability, property and contractual disputes. Gary has also represented clients for commercial crimes, corruption and securities offences such as insider trading and market manipulation. He has also advised on AML practices and been involved in investigations by various corporations into alleged wrongdoings of employees in relation to fraud, criminal breach of trust, cheating, breach of fiduciary duties and other misconduct. Gary is a recommended lawyer in multiple publications such as The Legal 500 Asia Pacific (Dispute Resolution), Who’s Who Legal (Business Crime Defence – Corporates), Global Investigations Review 100 and Benchmark Litigation Asia Pacific (Commercial and Transactions, White Collar Crime).

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Drew & Napier’s Criminal Practice comprises an exceptional team of specialists from across the firm’s practice groups, including Banking & Corporate, Tax, Intellectual Property and Dispute Resolution. We provide our clients with a single access point for representation on commercial, securities, and non-commercial crimes. Our lawyers have dealt with an extensive range of criminal matters and have experience in regulatory, trial, and appeal processes. We are committed to providing support for our clients at every stage of the criminal justice process, from investigations to prosecutions in court. Our clients include major corporations, listed companies and individuals.

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