

SINGAPORE GETS SERIOUS ABOUT MONEY LAUNDERING

Date: 13 October 2016

Government Enforcement Alert

By: Brian F. Saulnier, Andre Jumabhoy

The fallout from the scandal surrounding 1MDB and the Singapore-based banks that facilitated the flow of funds to and from those connected with the Malaysia-backed sovereign fund shows no signs of abating, as the recent enforcement actions taken by the Monetary Authority of Singapore ("MAS") demonstrate.

To recap, on 24 May 2016, MAS announced having served BSI with notice of intention to withdraw its status as a Singapore merchant bank (the first such instance since 1984), citing breaches of Anti-Money Laundering ("AML") requirements, problems with operational oversight, and gross misconduct by BSI staff. MAS referred six members of BSI's senior management and staff to the Public Prosecutor in Singapore for suspected criminal offenses. This was swiftly followed on 13 June 2016, with the announcement that MAS would create dedicated AML and Enforcement departments, including a special supervisory team established to monitor AML risks and provide on-site supervision of financial institutions in Singapore. The new Enforcement department provides oversight for enforcement actions arising from breaches of MAS regulations in the banking, insurance, and capital markets industries. The MAS described this move, which became effective 1 August 2016, as intended to enhance its "supervisory focus," consolidating functions previously performed by different departments within MAS.

The new Enforcement department wasted no time in flexing its muscles. On 11 October 2016, MAS announced that it was withdrawing the status of Falcon Bank Ltd. ("the Bank") for what it described as "serious failures in anti-money laundering controls and improper conduct by senior management at the Head Office in Switzerland as well as the Singapore Branch."

MAS had previously identified weaknesses in the Bank's controls for client acceptance and transaction surveillance in 2013, which led to the Bank being fined SGD\$300,000 and a direction to strengthen its internal controls. MAS appears to believe the Bank failed to heed the prior directive by the regulator. A 2015 inspection by MAS allegedly uncovered an even larger number of regulatory breaches which caused MAS to direct the bank to cease its operations in Singapore. In particular, MAS cited:

- The failure of Falcon's Bank's head office to guard against a conflict of interest when managing the account of a "customer," who has not been identified, and the bank's former Board Chairman, Mohamed Ahmed Badawy Al-Husseiny.^[1] MAS said that the Board Chairman "misled and influenced" the Singapore branch into processing the customer's "unusually" large transactions despite numerous red flags;
- "Improper conduct" of the Singapore Branch Manager and senior managers at the Head Office which effectively impaired the compliance function in the Singapore branch. Without elaborating, MAS stated that, "[t]heir interference was wrongful and egregious in nature" and contributed to substantial breaches of

AML regulations. The Singapore Branch Manager, Mr. Jens Sturzenegger, was arrested by Singapore Commercial Affairs Department on 5 October 2016.

Finally, MAS cited the Bank's "persistent and severe lack of understanding" of MAS's AML requirements and its belief that it would be unable to comply with these requirements going forward as an additional factor in deciding to shut down its operations. As part of its enforcement actions, MAS imposed financial penalties amounting to SGD\$4.3 million for fourteen breaches, including failing to file suspicious transaction reports ("STR").

Foreign banks are not the only ones being targeted as part of this initiative. MAS announced that it had completed inspections of the Development Bank of Singapore ("DBS") and UBS in relation to their 1MDB activities, which allegedly revealed several breaches of AML requirements and control lapses. The lapses were not, however, considered to amount to "pervasive control weaknesses," which may have resulted in even stiffer action. In this instance, MAS levied financial penalties amounting to SGD\$1 million against DBS for ten breaches and SGD\$1.3 million against UBS for thirteen breaches. In addition to the payment of penalties, and in what might be a first-of-its-kind action in Singapore, MAS imposed a requirement on both banks to appoint independent parties to confirm that rectification measures have been effectively implemented and for those parties to report their respective findings to MAS. The appointment of an independent monitor follows the US approach.

If it was not already clear from the action taken against BSI, this latest round of measures should leave no one in any doubt that Singapore is serious about money laundering. Given the renewed focus on supervisory and enforcement measures by the MAS, financial institutions with exposure to Singapore regulations should carefully consider their supervisory systems and regulatory obligations, and ensure compliance with any remedial steps required as a result of MAS inspections or supervisory reviews.

Notes:

[1] Mohamed Ahmed Badawy Al-Husseiny was identified in an article in the Wall Street Journal on 1 April 2016 as having extensive dealings with 1 MDB. See <http://www.wsj.com/articles/authorities-investigating-malaysias-1mdb-fund-focusing-on-bond-proceeds-1459541896>

KEY CONTACTS



BRIAN F. SAULNIER
PARTNER

PITTSBURGH, LONDON
+1.412.355.6504
BRIAN.SAULNIER@KLGATES.COM

This publication/newsletter is for informational purposes and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without first consulting a lawyer. Any views expressed herein are those of the author(s) and not necessarily those of the law firm's clients.