

# How white is your Persil?

Singapore spares no effort stamping out money laundering to keep the country 'clean and white'

By SHASHI NATHAN



ILLUSTRATION: ISTOCK

**T**HE Singapore government has been stepping up its efforts to protect the country's reputation as a clean and trusted financial centre. The Republic's standing as a global transportation hub and financial centre makes it susceptible to cross-border money laundering and terrorist financing activities. Internationally-oriented and cash-intensive sectors are especially prone to such criminal conduct. To combat transnational money laundering, Singapore has established an extensive international cooperation network for supervision and law enforcement.

## Developments in compliance and regulation

The Monetary Authority of Singapore Act (MAS Act) specifically provides the central bank with the power to govern the operations of financial institutions, by issuing directions or regulations for the prevention of money laundering or the financing of terrorism. The Anti-Money Laundering (AML) and Countering the Financing of Terrorism (CFT) policy objectives are aimed to detect, deter and prevent money laundering, associated predicated offences and terrorism financing.

The aim is also to protect the integrity of its financial system from illegal activities and illicit fund flows. To achieve its policy objective, Singapore has in place a number of measures, centred on rigorous compliance, civil penalties, as well as criminal prosecutions.

The MAS has published a number of regulations and directions in what it terms Notices on the Prevention of Money Laundering and Countering the Financing of Terrorism (AML/CFT Notices). These notices impose various controls on Approved Trustees, Capital Markets Intermediaries, Commercial Banks, Credit Card or Charge Card Licensees, and Financial Advisors among others, which include customer due diligence, record keeping, ongoing transaction monitoring and rigorous supervision.

To ensure its effectiveness, the MAS Act also provides that non-compliance with any of these regulations is an offence punishable with a fine of up to S\$1 million. A further fine of S\$100,000 may apply for every day that the offence continues after the conviction. Pursuant to the MAS Act, directors and officers may also be liable where the contravention of its regulations is attributable to their consent, connivance or neglect.

## Heightened penalties for criminal offences

Taking this a step further – under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap 65A, 2000 Rev Ed) (CDSA), it is a criminal offence for an individual or a company to be involved in money laundering. The CDSA targets two main groups

of money laundering offenders. The first group represents those who hide the proceeds of their own criminal conduct (that is, the Primary Money Launderers). The second group encompasses those who assist the primary criminal to hide their criminal proceeds, or acquires those criminal proceeds (that is, the Secondary Money Launderers).

### Primary money launderers

With respect to the first group, it is an offence under the CDSA for any person to:

- i) conceal or disguise any property (or its nature, source, location, disposition, movement or ownership) which, in whole or in part, directly or indirectly, represents his benefits from criminal conduct;
- ii) convert or transfer that property or remove it from the jurisdiction; and
- iii) acquire, possess or use that property.

### Secondary money launderers

As for the second group, the above also applies when the person knows, or has reasonable grounds to believe that the property, in whole or in part, directly or indirectly, represents another person's benefits from criminal conduct.

It is also an offence for a person to enter into an arrangement with another where that person knew or had reasonable grounds to believe that the other engages in or has engaged in criminal conduct, or has benefited from criminal conduct.

It is noteworthy that in the case *Ang Jeanette v Public Prosecutor*, the offender, Ang, was charged with secondary money laundering for remitting monies under instructions from various individuals, as requested by her brother who said that he was "in trouble". While it was not proven that Ang had known that the monies were tainted by some predicate offence, the conclusion was that the suspicious nature of having been asked to transfer \$2 million would have made it abundantly clear to her that the monies were tainted.

Primary and secondary money launderers convicted under any of the above sections face up to 10 years jail and/or a fine of up to S\$500,000. If the offender is a company, it faces a fine of up to S\$1 million. These penalties were increased by the CDSA Amendment Bill in 2007.

The main impetus for the amendments seems to have been the increase in transnational threats and the urgent need to address the increasingly complex challenges posed by the abuse of financial systems by terrorists and money launderers.

### Tightening the reins

In May this year, the MAS ordered the shutdown of the Sin-

gapore branch of BSI Bank after a "more intrusive" third inspection revealed that there were multiple breaches of anti-money laundering regulations and a "pervasive pattern of non-compliance" with the regulations. BSI Bank was fined S\$13.3 million for 41 breaches of anti-money laundering regulations and six members of BSI Bank's senior management were also referred by the MAS to the Public Prosecutor for possible prosecution.

So far, two individuals have been charged in what is said to be the "most complex, sophisticated and largest money-laundering case" handled by the Commercial Affairs Department (CAD). It is interesting to note that the regulator is taking a firm stance on such breaches. These investigations show that the MAS takes a dim view of this and will not hesitate to investigate companies or institutions that flout the law.

In June, the MAS also announced that it would be setting up two new departments and a dedicated Supervisory Team to enhance its supervisory focus. These departments and the Supervisory Team will work with the CAD to investigate capital markets misconduct. They will also be responsible for enforcement actions arising from regulatory breaches of MAS's banking, insurance and capital markets regulations.

Recently, the MAS ordered the shutdown of the Singapore branch of a second financial institution, Falcon Bank, for serious failures in AML controls and improper conduct by senior management at the Singapore branch, as well as the head office in Switzerland. Falcon Bank was fined S\$4.3 million for 14 breaches, which included failures to adequately assess irregularities in activities pertaining to customer accounts and in filing suspicious transaction reports.

All these clearly demonstrate that the MAS is tightening the reins on monetary transactions and taking swift action against those who breach regulations. Coupled with the increased penalties and lower threshold requirements for prosecution, it is apparent that Singapore intends to spare no effort in combating money laundering activities. These changes are certainly a welcome step for Singapore, which has two casinos and sees a steady influx of high net worth individuals.

For wealth managers and private bankers alike, it is time to watch this space closely. Although one can never fully prevent rogue individuals from circumventing the system, the onus is on both the institutions and employees to be constantly vigilant.

We all try to treat stains as soon as they occur, but the best way to keep a shirt white is to prevent stains from happening in the first place. **W**

Shashi Nathan is Partner, Withers KhattarWong