

# EFFECTIVE MEASURES AGAINST CORPORATE CRIME AND CORPORATE LIABILITY IN SINGAPORE

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## I. INTRODUCTION

Singapore is renowned for having one of the most dynamic and vibrant financial and business sectors in the world. We are home to one of the largest asset management communities in Asia, managing in excess of S\$720 billion in assets. Our capital markets have developed depth and sophistication, and we remain one of the leading foreign exchange centres in the world. We continue to attract global talent to our shores,<sup>1</sup> and a majority of the multi-national corporations (MNCs) in Singapore have set up their global and regional headquarters here. In the latest IMD World Competitiveness Yearbook 2007, Singapore has been ranked second in the World Competitiveness Scoreboard 2007. This is an improvement from our ranking for 2006 where we were ranked third behind the USA and Hong Kong.

Our achievement is largely attributable to strong fundamentals like a stable political environment, robust legal and judicial frameworks, efficient infrastructure and a safe, conducive business environment. In an era which has seen catastrophic corporate scandals and meltdowns like the saga surrounding companies like Enron and Worldcom, trustworthiness has taken on an important significance in global business. Singapore's reputation as a trusted hub and jurisdiction has given us a competitive advantage in attracting global investments, which in turn leads to our strong economic growth.

We are, nevertheless, acutely aware that this reputation of trustworthiness which we have painstakingly built up over the years can evaporate overnight once fraud and corporate shenanigans are allowed to creep in and take root. Singapore has had its share of corporate scandals like the incidents involving Barings Bank, and more recently China Aviation Oil. While these incidents have prompted some to question the strength of our regulatory framework, the fact that these cases have unfolded is proof of the effectiveness of our system as well. It is impossible to prevent corporate frauds absolutely. The crux lies in having a robust legal framework and enforcement and regulatory systems in place to minimize the opportunities for such occurrences, and where incidents and failures do surface, to swiftly and effectively address them.

It is with this philosophy in mind that Singapore has placed a high premium on combating corporate and economic crime. In this respect, we have adopted a system consisting of several mutually reinforcing components like a wide and comprehensive legal framework, a robust enforcement and supervision regime, close collaboration with market players and stakeholders, engagement in the global co-operation network in combating crime, and the commitment of our corporate leaders in maintaining integrity.

## II. LEGAL FRAMEWORK FOR DEALING WITH CORPORATE CRIME

As a former British colony, Singapore inherited the English common law system.<sup>2</sup> Our present legal system is shaped largely by Singapore's rapid political, social and economic development<sup>3</sup> over the years.

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<sup>1</sup> The Economist's "World in 2005" publication rated Singapore as the best Asian city to live in. The IMD World Competitiveness Yearbook 2005 has also declared Singapore as the most attractive Asian economy to foreign-skilled professionals.

<sup>2</sup> Singapore was founded by Sir Thomas Stamford Raffles of the British East India Company in 1819. In 1826, the British Parliament passed the Second Charter of Justice which provided for the setting up of the Court of Judicature of Prince of Wales' Island (Penang), Singapore and Malacca with civil and criminal jurisdictions similar to the courts in England, and the reception of English law in Singapore.

<sup>3</sup> In 1993, all appeals to the Privy Council were abolished. A permanent Court of Appeal, presided by the Chief Justice and two Justices of Appeal was designated Singapore's highest court. In the same year, the Application of English Law Act (Chapter 71A), which provided for a cut-off date (12 November 1993) for the continuing reception of the English common law was passed.

While retaining our common law roots, Singapore has also drawn on the civil law traditions. The common law doctrine of *stare decisis* (judicial precedent) continues to be a key characteristic of our legal system. *Ratio decidendi* found in the decisions the Singapore Court of Appeal are binding on the High Court, District Court and Magistrate's Court. The English common law also continues to have a strong influence in traditional common law areas like Contract, Tort and Restitution Law. In other areas like Criminal Law, Company Law and Securities Law, however, Singapore has adopted the code-based civil law approach, with the law in these areas set out in statutes passed by legislature.

We have a judiciary that has, over the years, achieved worldwide recognition for its efficiency and competence. The Singapore courts have built up significant judicial expertise and resources to handle a wide range of cases, including complex commercial and economic crime cases. Many such cases have been tried before the Singapore courts with the corresponding result that a corpus of judicial decisions and sentencing principles has emerged which are increasingly shaping and influencing commercial and business practices in Singapore and the region.

Singapore possesses a broad and comprehensive legal framework of substantive, procedural and evidentiary laws which seeks to address the widest possible range of corporate and economic crime, and to adequately empower law enforcement and prosecution agencies to combat such crimes, with the ultimate objective of protecting investors. We have enacted both laws which are focused on specific areas, as well as statutes containing provisions which are worded with sufficient depth and width to cover a myriad of such crimes. We have consistently benchmarked our laws against the laws of leading developed jurisdictions. Our parliament has also been able to react swiftly by enacting new laws as well as amending existing ones to keep up with developments in our social and economic realm,<sup>4</sup> and to effectively deal with the emerging sophistication of corporate and economic crimes brought about by such developments.

#### **A. Criminal Laws and Sanctions**

Corporate and economic crime in Singapore is predominantly dealt with by way of criminal sanctions or administrative actions.<sup>5</sup> The alternative of civil sanctions is at present available only for securities offences such as insider trading and market misconduct. Criminal sanctions consist largely of imprisonment and fines or penalties. Individuals convicted of crimes involving fraud or dishonesty may also be disqualified from holding directorships in companies for a specified period. Where an offence is committed by a company or corporation's directors, officers or employees, criminal liability may be imposed on the company or corporation as well.<sup>6</sup>

##### 1. General Corporate Fraud

The key offences involving fraud are found in the Penal Code (Cap 224) ('Penal Code'). They include the offences of criminal breach of trust, cheating, forgery, falsification of accounts, and offences involving counterfeit currency.

A person<sup>7</sup> commits Criminal Breach of Trust (CBT) if he or she, being entrusted with property or with dominion over property, dishonestly misappropriates or converts to his or her own use that property.<sup>8</sup> There are varying degrees of severity of CBT prescribed under the Penal Code, ranging from "simple" CBT which is punishable with a maximum imprisonment of three years to the aggravated form of CBT as a public servant, banker, attorney or agent which carries a maximum punishment of imprisonment for life. Cases of embezzlement of funds by company directors or employees are prosecuted for the offence of CBT.

<sup>4</sup> The World Economic Forum's "Global Competitiveness Report 2005-2006" ranked Singapore's parliament first out of 117 countries for effectiveness as a law-making and oversight institution. In the World Bank's "Doing Business in 2006" report, which ranks 155 economies on key business regulations and reforms, Singapore ranked second after New Zealand as a country where investors are most protected.

<sup>5</sup> Administrative actions would include composition of offences or the issuance of administrative warnings or reprimands.

<sup>6</sup> This is premised on the fact that companies function through their directors and officers who represent the companies' directing mind and will. Their acts are therefore regarded as the companies' acts. For example, where a director, officer or employee acting on behalf of the company commits insider trading, both the company and director/officer/employee will be guilty and liable.

<sup>7</sup> The word "person" includes any company or association or body of persons, whether incorporated or not.

<sup>8</sup> Sections 405 to 409, Penal Code. See <http://agclwb.agc.gov.sg>

The offence of cheating is committed when a person deceives another, and through that deception, fraudulently induces the person so deceived to deliver any property or do something which causes damage or harm to that person in body, mind, reputation or property.<sup>9</sup> Like the offence of CBT, there are different categories of the offence based on severity. Simple cheating is punishable with a maximum three years' imprisonment while the most severe category of cheating, where the victim is induced to deliver property, or to make, alter or destroy any valuable security<sup>10</sup> is punishable with a maximum of seven years' imprisonment. Cases involving fraudulent investment scams like boiler room scams,<sup>11</sup> high yield investment programmes,<sup>12</sup> advance fee fraud,<sup>13</sup> fraudulent transactions involving credit cards (genuine or counterfeit), fraudulent applications for credit cards or loan facilities, trade financing fraud,<sup>14</sup> etc., are prosecuted under these provisions of the Penal Code.

Forgery as a criminal offence is the making of a false document<sup>15</sup> or part of a document with the intention to commit fraud.<sup>16</sup> Simple forgery carries a maximum punishment of two years' imprisonment. The most severe form of forgery, which is forgery of a valuable security, carries a maximum punishment of imprisonment for life. It is also an offence to knowingly use a forged document, or possess a forged document with the intention of using it.<sup>17</sup> Cases involving counterfeit or forged documents like the making, possession or use of counterfeit credit cards, forged bank documents like cheques or bills of exchange, forged loan application forms, forged trade documents like bills of lading and sales invoices, forged insurance certificates, etc., will be prosecuted under these provisions.

An employee who fraudulently destroys or falsifies any book, paper, writing, valuable security or account which belongs to his or her employer commits the offence of falsification of accounts.<sup>18</sup> The offence carries a maximum punishment of seven years' imprisonment. Cases involving manipulation of a company's ledgers and other accounting records are dealt with under this provision. The objective of falsification is often to enable false and misleading financial reports and statements to be prepared and presented.<sup>19</sup>

Under the Penal Code, it is an offence to forge or counterfeit any currency or bank note, or to traffic in or

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<sup>9</sup> Sections 415 to 420 Penal Code.

<sup>10</sup> Section 30 Penal Code. A "valuable security" denotes a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished, or released, or whereby any person acknowledges that he or she lies under legal liability, or has not a certain legal right.

<sup>11</sup> These involve high-pressure phone sales operations by salesmen who may make repeated calls offering the sale of share investments in third party businesses and promising extraordinary profit at little or no risk. Boiler-room operators may also maintain websites and provide local contact details to give victims the impression that their operation is proper. Local bank accounts are sometimes used to receive payments from victims but the monies will be quickly dissipated to overseas bank accounts. In many cases, these salesmen would become uncontactable as well.

<sup>12</sup> In such scams, victims are persuaded to invest in sophisticated or exotic-sounding schemes commonly known as high yield investment programmes (HYIP). Such investment schemes are usually offered via the Internet with promises of high returns. Usually, the investment and withdrawals are made via e-currency, such as e-gold, e-bullion and INTGold. Many HYIP have turned out to be ponzi scams, where the invested funds from new entrants are used to pay existing investors. HYIP usually discloses little or no details on their management and the underlying investment to generate the promised returns.

<sup>13</sup> This is usually defined as any scam that tricks victims into paying money upfront on the false hope of receiving a large windfall later. The advance payment is required by the fraudsters as a processing fee. Common examples are false offers to lease standby letters of credit which could be used for credit enhancement purposes.

<sup>14</sup> Trade financing fraud involves the issuance of false shipping documents which represent the existence of certain goods, their quality or value. The use of false shipping documents is usually either for the buyer to fraudulently obtain bank financing or for the seller to fraudulently collect monies against a letter of credit.

<sup>15</sup> Section 464 Penal Code: a person makes a false statement if he dishonestly or fraudulently:

a) makes, signs, seals or executes (collectively, "creates") a document or part of it with the intention of causing it to be believed that the document was created by, or by the authority of, a person by whom the maker knew it was not created;  
b) alters a document in a material part thereof, after it had been made or executed, without lawful authority; or  
c) causes a person to sign, seal, execute or alter a document, knowing that such person could not or did not know the contents of the document or the nature of the alteration, by reason of unsoundness of mind, intoxication or deception.

<sup>16</sup> Sections 465 to 474 Penal Code.

<sup>17</sup> Sections 471 and 474 Penal Code.

<sup>18</sup> Section 477A Penal Code.

<sup>19</sup> This would constitute separate offences under the Companies Act (Cap 50) and the Securities & Futures Act (Cap 276).

knowingly possess forged or counterfeit currency or bank notes. These offences apply to local as well as foreign currency. Forgery or counterfeiting of currency notes, and trafficking in forged or counterfeit currency notes carries a maximum punishment of imprisonment for life. The maximum punishment for possession of counterfeit currency notes is imprisonment for ten years.<sup>20</sup> In Singapore, we have experienced a variety of offences involving counterfeit currency, from the relatively amateurish form of scanning and printing of currency notes via colour printers, to the use of premium quality US dollar bills which fooled even experienced money-changers. We have, thankfully, not encountered any syndicated counterfeiting of our local currency.<sup>21</sup>

## 2. Securities Fraud

The Securities & Futures Act (Cap 276) (SFA) contains the main body of rules governing securities fraud and market misconduct as well as prohibited conduct in futures trading and leveraged foreign exchange trading.<sup>22</sup> These offences include insider trading, false trading and market rigging, market manipulation, affecting the price of securities by the dissemination of misleading information and fraudulently inducing persons to deal in securities.

The SFA was enacted in 2001 to replace and consolidate the old Securities Industry Act (Cap 289) (SIA) and other legislation<sup>23</sup> dealing with market regulation. The new Act sets out the regulatory framework for the capital markets in a single statute. One of the objectives for passing the new Act was to provide an enhanced market enforcement regime crucial for a disclosure based regime. Any transgressions must be dealt with expeditiously and firmly in order to preserve investor confidence.

### (i) Insider Trading

The SFA redefined the offence of insider trading in Singapore. Under the old SIA,<sup>24</sup> the offence was based on the defendant's connection with the company and made only the insider and the tippee (a person acting on information furnished by an insider) liable for insider trading. There was difficulty in extending liability to others who are further down the information chain and who had knowingly traded on inside information.

Under the SFA, the focus is now on the essence of the offence, that is, trading while in possession of undisclosed price-sensitive information by the defendant, whether he or she is connected to the company or not. A person,<sup>25</sup> whether connected to a corporation<sup>26</sup> or not, and who possesses price sensitive information which he or she knows is not generally available is prohibited from dealing in, or procuring another person to deal in, the shares of the said corporation. He or she is also prohibited from communicating the information, whether directly or indirectly, to anyone whom he or she knows or ought reasonably to know, will likely deal in the shares of the corporation.<sup>27</sup> There is a rebuttable presumption against the defendant that he or she knew that the information he or she possessed was undisclosed and price sensitive upon proof by the prosecution that he or she was in possession of the information, and that the information was not generally available.<sup>28</sup> It is also not necessary for the prosecution to prove that the accused person intended to use the information for the purpose of insider trading.<sup>29</sup> The offence of insider trading is punishable with a maximum fine of S\$250,000 or imprisonment for up to seven years.<sup>30</sup>

<sup>20</sup> Sections 489A, 489B and 489C Penal Code.

<sup>21</sup> We attribute this to the resources and effort directed by our government towards making it immensely difficult and hence not cost effective to counterfeit the Singapore dollar bill.

<sup>22</sup> Part XII of the Securities & Futures Act (Cap 289).

<sup>23</sup> The Futures Trading Act (Cap 160), the capital-raising provisions in the Companies Act (Cap 50) and certain provisions in the Exchanges (Demutualization & Merger) Act (Cap 99B).

<sup>24</sup> Section 103 SIA.

<sup>25</sup> A "person" includes any company or association or body of persons, corporate or unincorporated. See Section 2 of the Interpretation Act (Cap 1).

<sup>26</sup> Section 214 SFA, read with section 4(1) Companies Act (Cap 50), includes both a locally incorporated company or a foreign company.

<sup>27</sup> Sections 218 and 219 SFA. Section 218 SFA also sets out who "a person connected to a corporation" is; what constitutes "information"; when information is considered to be generally available; and when the information is considered price sensitive.

<sup>28</sup> Section 218(4) SFA.

<sup>29</sup> Section 220 SFA.

<sup>30</sup> Section 221 SFA.

The provisions in the SFA pertaining to insider trading apply to acts occurring outside Singapore in relation to securities of a local corporation or securities listed or traded in Singapore, as well as conduct within Singapore in relation to securities of an overseas corporation or securities listed or traded overseas.

(ii) *Market Misconduct*

(a) False Trading and Market Rigging

1. The offence of false trading and market rigging involving securities under the SFA include the following activities:

- (i) the creation of a false or misleading appearance of active trading in any securities on a securities exchange in Singapore, also known as 'churning';<sup>31</sup>
- (ii) the creation of a false or misleading appearance with respect to the market for, or price of, any securities on a securities exchange in Singapore;<sup>32</sup>
- (iii) affecting the price of securities by way of purchases or sales which do not involve a change in the beneficial ownership of those securities, also known as 'wash sales';<sup>33</sup>
- (iv) affecting the price of securities by means of any fictitious transactions or devices, also known as 'sham transactions'.<sup>34</sup>

Section 197(3) of the SFA sets out the circumstances under which a person is deemed to have created a false or misleading appearance of active trading in securities. It is a defence if the defendant is able to establish that the acts or transactions were not carried out with the purpose of creating a false or misleading appearance of active trading or false or misleading appearance with respect to the market for or price of securities.<sup>35</sup>

False trading involving futures contracts or leveraged foreign exchange trading is set out in section 206 of the SFA. Section 207 of the SFA also prohibits the act of bucketing: executing, or holding out as having executed, an order for the purchase or sale of a futures contract on a futures market or foreign exchange in connection with leveraged foreign exchange trading without having effected a bona fide purchase or sale.

(b) Market Manipulation

Under the SFA, a person is prohibited from carrying out two or more transactions in the securities of a corporation which will have the effect of affecting or maintaining the price of securities, with the object of inducing other persons to deal in the securities of the corporation or of a related corporation.<sup>36</sup> Transactions under the provision include the making of offers to buy or sell securities, and invitations to treat.<sup>37</sup> Acts covered under this section include increasing a share price to induce others to buy, decreasing a share price to induce others to sell, and maintaining a stock price to induce other to buy or sell.

(c) Dissemination of Misleading Information

A person is also prohibited from disseminating false or misleading information and statements which

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<sup>31</sup> Section 197(1) (a) SFA. 'Churning' involves a series of fictitious transactions designed to create a false impression of activity in a particular counter. The aim of all such activities would be to lure gullible investors into buying the security. Once enough buying pressure has been created to push the price up, the manipulator will sell and take his or her profit.

<sup>32</sup> Section 197(1) (b) SFA. The prices quoted on the stock exchange are theoretically a reflection of supply and demand for securities. Activities intended to give a false or misleading appearance in respect of the market for, or price of, the securities are prohibited to ensure that the market reflects genuine forces of demand and supply.

<sup>33</sup> Section 197(2) SFA. A 'wash sale' occurs when there is a series of transactions at the end of which there is no change in beneficial ownership of securities. Section 197(5) SFA also provides that a transaction does not involve a change in beneficial ownership if a person who had an interest in the securities prior to the transaction has an interest in the securities after the transaction, e.g. buying and selling the same block of shares through nominees. The aim similarly is to create the impression of activity to lure the gullible investor.

<sup>34</sup> Section 197(2) SFA. A 'sham transaction' is done with the intention of giving the appearance of creating rights and obligations different from the actual rights or obligations actually intended to be created. For example, a company transferring securities to brokers who then re-sell the securities to a subsidiary of the company may amount to a sham transaction.

<sup>35</sup> Section 197(4) and Section 197(6) SFA.

<sup>36</sup> Section 198 SFA.

<sup>37</sup> Section 198(2) SFA.

are likely to induce the dealing of securities, or which are likely to affect the market price of securities.<sup>38</sup> The prices of securities are largely dependent on investor confidence, which can be influenced by positive or negative information. The provision targets people who attempt to ‘talk up’ or ‘talk down’ the market by spreading false rumours.

(d) **Fraudulently Inducing Persons to Deal in Securities**

Under the SFA, it is an offence to induce another person to deal in securities by (a) the intentional or reckless making of a misleading or false statement, promise or forecast; (b) the dishonest concealment of material facts; or (c) by way of recorded information which is false or misleading in a material particular.<sup>39</sup>

(e) **Employing Manipulative and Deceptive Devices**

The SFA also contains a catch-all provision designed to cover any other form of securities fraud not specifically dealt with in the other sections.<sup>40</sup> The provision prohibits (a) employing any device, scheme or artifice to defraud; (b) engaging in any fraudulent or deceptive act, practice or course of business; or (c) making an untrue statement of a material fact or omitting to state a material fact necessary to make statements made not misleading, in connection with the purchase or sale of any securities. The provision would be useful in dealing with instances of ‘cornering’<sup>41</sup> of securities. The section has also been invoked against dealers’ representatives (*remisiers*, meaning ‘intermediaries’) who engage in unauthorized securities trading using their clients’ accounts.

Market misconduct offences are punishable with a maximum fine of S\$250,000 or imprisonment for up to seven years. The provision applies to both conduct outside Singapore in relation to securities listed or traded in Singapore, as well as conduct within Singapore in relation to securities listed or traded overseas. An act done partly in and partly outside Singapore which, if done wholly in Singapore, would constitute an offence under the SFA would be dealt with as if the offence was committed in Singapore.<sup>42</sup> This is to deter perpetrators of market misconduct from using Singapore as a haven for their illegal activities. An act done outside Singapore which has a substantial and reasonable effect in Singapore, and which would constitute an offence under the SFA would be dealt with as if the offence was committed in Singapore as well.<sup>43</sup> This confers on our courts extra-territorial jurisdiction over foreign acts that affect the integrity of Singapore’s markets.

### 3. Fraud Offences under the Companies Act (Cap 50)

The Companies Act (Cap 50) (hereinafter ‘Companies Act’) sets out various types of offences in relation to the conduct of the company and its directors and officers. In this segment, only those offences with the element of fraud will be covered. The offences in relation to a breach of directors’ duties and other regulatory breaches will be discussed in a later segment.<sup>44</sup>

(i) *False and Misleading Statements*

Section 401(2) of the Companies Act provides that every person who willfully makes a false or misleading statement in any return, report, certificate, balance sheet or other documents required to be submitted under the Companies Act commits an offence punishable with a fine not exceeding S\$50,000 or imprisonment for a term not exceeding two years or both.

It is also an offence, punishable with the same penalty, to knowingly lodge, file or submit any document to the Registrar of Companies which is false or misleading.<sup>45</sup>

<sup>38</sup> Sections 199 and 211 SFA.

<sup>39</sup> Sections 200 and 209 SFA.

<sup>40</sup> Sections 201 and 210 SFA.

<sup>41</sup> ‘Cornering’ arises when a group of buyers attempts to monopolize a security with a view to controlling the price. The scam works best for counters with a limited number of shares in the free float. When investors, especially speculators, sell short (i.e. sell shares they do not already have in expectation of a drop in the share price) and they are unable to deliver subsequently, the persons who cornered the market would then be in a position to dictate the price.

<sup>42</sup> Section 339(1) SFA.

<sup>43</sup> Section 339(2) SFA.

<sup>44</sup> See Part VI “Preventing Corporate Crime” below.

<sup>45</sup> Section 401(2A) Companies Act.

An officer of a corporation who, with intent to deceive, makes or furnishes (or knowingly and willfully authorizes or permits the making or furnishing) of any false or misleading statement or report to a director, auditor, member, debenture holder or his or her trustee of the corporation, and in the case of a subsidiary corporation, to an auditor of the holding company, commits an offence punishable with a maximum fine of \$10,000 and/or two years' imprisonment.<sup>46</sup>

(ii) *Frauds by Officers*

An officer of a corporation who fraudulently procures any money, chattel or marketable security whether for him or herself or the corporation commits an offence punishable with a maximum fine of S\$15,000 and/or imprisonment for a maximum of three years.<sup>47</sup>

An officer of a company who induces any person by fraudulent means to give credit to the company,<sup>48</sup> or conceals or dissipates property of the company in order to defraud creditors<sup>49</sup> commits an offence punishable with the same penalty.

#### 4. Corruption

The Prevention of Corruption Act (Cap 241) (PCA) is the principal legislation dealing with corruption. It criminalizes the acts of giving and taking of bribes, and covers situations of agreeing or attempting to give or receive gratification. Corruption involving public servants is covered under Chapter IX of the Penal Code (Chapter 224) as well.<sup>50</sup>

A person is guilty of an offence under the PCA if he or she corruptly solicits, receives or gives any gratification as an inducement to do or forbear from doing anything in respect of any matter or transaction.<sup>51</sup> Where the gratification is corruptly given to or accepted by an agent as an inducement to do or forbear from doing any act in relation to his or her principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business, both the agent and the giver shall be guilty of an offence.<sup>52</sup> A person who corruptly gives or receives any gratification would be guilty even if the recipient did not have the intention, power, right or opportunity to do or forbear to do the act for which the gratification was received.<sup>53</sup>

The transaction involved must have a 'corrupt element' and the giver must know that he or she is doing a corrupt act.<sup>54</sup> 'Gratification' is given a wide definition under the PCA and is not limited to pecuniary benefits.<sup>55</sup> Proof of a receipt by or payment to a Government employee or employee of a public body of a gratification from a person who has or seeks dealings with the Government or public body raises a rebuttable presumption that the gratification was corruptly given.<sup>56</sup> For citizens of Singapore, they are caught by the Act if they commit any offence under the PCA. In this regard, the PCA has extra-territorial jurisdiction.<sup>57</sup>

An offence under the PCA is punishable with a maximum fine of S\$100,000 and/or imprisonment up to five years. Where the transaction relates to a contract with the Government of Singapore or any public body, the maximum term of imprisonment is increased to seven years.<sup>58</sup> This enhanced punishment is applicable to the corrupt procuring of withdrawals of tenders for Government contracts, bribery of Members of Parliament or members of a public body.<sup>59</sup> A person convicted of an offence under the PCA can also be ordered by the court

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<sup>46</sup> Section 402 Companies Act.

<sup>47</sup> Section 404(3) Companies Act.

<sup>48</sup> Section 406(a) Companies Act.

<sup>49</sup> Sections 406(b) and 406(c) Companies Act.

<sup>50</sup> Sections 161 to 165 Penal Code.

<sup>51</sup> Section 5 PCA.

<sup>52</sup> Section 6 PCA.

<sup>53</sup> Section 9 PCA.

<sup>54</sup> See *Chan Wing Seng v Public Prosecutor* [1997] 2 SLR 426.

<sup>55</sup> Section 2 PCA. See *Explanations* to Section 161 Penal Code as well.

<sup>56</sup> Section 8 PCA.

<sup>57</sup> Section 37 PCA.

<sup>58</sup> Section 7 PCA.

<sup>59</sup> Sections 10 to 12 PCA.

to pay as a penalty a sum which is equal to the amount of the gratification.<sup>60</sup> A principal may recover as a civil debt any illegal gratification received by the agent in money value from the agent or any person who has given such gratification.<sup>61</sup> The court can also make a confiscation order under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap 65A) (CDSA) in respect of the benefits derived by the defendant.<sup>62</sup>

## 5. Money Laundering and Terrorism Financing

There are two separate legal regimes<sup>63</sup> governing money laundering and terrorism financing offences in Singapore. They are found in the CDSA and the Terrorism (Suppression of Financing) Act (Cap 325) (TSOFA).

### (i) Money Laundering

The CDSA is the key anti-money laundering legislation in Singapore. It was passed on 6 July 1999 to expand the scope of money laundering offences to include non-drug related offences. Under the CDSA, the laundering of proceeds from all drug trafficking and serious offences<sup>64</sup> constitutes a money laundering offence. These offences are set out in Part VI of the CDSA. They can be divided into two broad categories. The first category relates to the concealment or transfer of benefits of crime while the second category relates to assisting another person to retain benefits of crime.

#### (a) Concealing or Transferring Benefits of Crime

There are three types of offences under this category. The first is committed when a person:

- (i) conceals or disguises any property which (in whole or in part, directly or indirectly) represents his or her benefits from drug trafficking or from criminal conduct; or
- (ii) converts or transfers that property or removes it from Singapore.<sup>65</sup>

An example of this offence would be when a criminal launders his or her own proceeds of crime by, for e.g., transferring them to an offshore bank account or converting them into movable (jewellery) or immovable property (a house).

The second type of offence is committed when a person knowingly (in both subjective and objective senses) assists a person to commit the first offence so as to avoid the prosecution of a money laundering offence or to avoid the enforcement of a confiscation order under the CDSA.<sup>66</sup> An example of such an offence would be when lawyers or bankers knowingly assist their clients to receive or transfer proceeds of crime.

The third type of offence is committed when a person who, knowing or having reasonable grounds to believe that any property (in whole or in part, directly or indirectly) represents another person's benefits from drug trafficking or criminal conduct, acquires that property for no or inadequate consideration.<sup>67</sup> An example would be when a person knowingly purchases a jewellery item from a criminal at a fraction of the market value for the item.

#### (b) Assisting Another to Retain Benefits of Crime

The offence under this category is committed when a person enters into an arrangement, knowing or having reasonable grounds to believe that by the arrangement:

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<sup>60</sup> Section 13 PCA.

<sup>61</sup> Section 14 PCA.

<sup>62</sup> Section 5 CDSA. Confiscation of benefits derived from criminal conduct is discussed at Part V of this paper.

<sup>63</sup> This is a rather unique feature of Singapore's anti-money laundering regime as in most other jurisdictions terrorist financing is criminalized as a money laundering offence under their anti-money laundering regimes.

<sup>64</sup> Section 2 CDSA. The First Schedule to the CDSA contains a list of five drug trafficking offences and the Second Schedule contains a list of 182 serious offences. Offences under the PCA as well as offences involving corruption and fraud under the Penal Code are included in the list. The list does not include offences under the SFA, Companies Act or Income Tax Act (tax evasion).

<sup>65</sup> Section 46(1) & 47(1) CDSA.

<sup>66</sup> Section 46(2) & 47(2) CDSA.

<sup>67</sup> Section 46(3) & 47(3) CDSA.



- (i) the retention or control by or on behalf of a criminal's benefits of drug trafficking or criminal conduct is facilitated (whether by concealment, removal from Singapore, transfer to nominees or otherwise); or
- (ii) the criminal's benefits from drug trafficking or criminal conduct are
  - (1.) used to secure funds that are placed at the criminal's disposal, directly or indirectly; or
  - (2.) are used for the criminal's benefit to acquire property by way of investment or otherwise AND knowing or having reasonable grounds to believe that the criminal is carrying/has carried on drug trafficking or is engaging/has engaged in criminal conduct and has benefited from these criminal activities.<sup>68</sup>

A person charged with this offence has a good defence<sup>69</sup> if he or she can prove that:

- (a) he or she did not know and had no reasonable ground to believe that the arrangement was related to any person's proceeds of drug trafficking or criminal conduct; or
- (b) he or she did not know and had no reasonable ground to believe that, by the arrangement, the retention or control by the criminal of the proceeds from drug trafficking or criminal conduct would be facilitated or used; or
- (c) he or she intended to disclose to an authorized officer his or her suspicion or belief that the benefits were derived from drug trafficking or criminal conduct and he or she has a reasonable excuse for failing to do so; or
- (d) he or she, being an employee, had disclosed his or her suspicion or belief that the benefits were derived from drug trafficking or criminal conduct to the appropriate person in accordance with procedures established by his or her employer for the making of such disclosures.

The penalty for the commission of any of the offences in the two categories above is a maximum fine of S\$200,000 and/or a term of imprisonment not exceeding seven years.<sup>70</sup>

(c) Tipping-off Offence

The CDSA also provides for the offence of 'tipping off'.<sup>71</sup> The offence is committed when a person who

- (i) knows or has reasonable grounds to suspect that an authorized officer<sup>72</sup> is acting or proposing to act, in connection with an investigation conducted for the purposes of the CDSA; or
- (ii) knows or has reasonable grounds to suspect that a disclosure has been made to an authorized officer under the CDSA; and
- (iii) discloses to any other person information which is likely to prejudice the investigation.

An example would be a banker calling up a client to inform him or her of the CAD's investigation into his or her bank account or to inform the customer that the bank's compliance officer has lodged a STR (suspicious transaction report) against him or her.

An exception is provided for information disclosed by lawyers to their clients 'in connection with the giving of advice to the client in the course of and for the purpose of the professional employment, of the advocate and solicitor.'<sup>73</sup> The exception does not apply, however, if the disclosure was made for an illegal purpose.<sup>74</sup>

It is a defence for a tipping-off offence if the 'tipper' can prove that he did not know and had no reasonable ground to suspect that the disclosure was likely to be prejudicial to the investigation.<sup>75</sup>

The punishment for a tipping-off offence is a maximum fine of S\$30,000 and/or imprisonment not

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<sup>68</sup> Section 43(1) & 44(1) CDSA.

<sup>69</sup> Section 43(4) & 44(4) CDSA.

<sup>70</sup> Sections 43(5), 44(5), 46(6) & 47(6) CDSA.

<sup>71</sup> Sections 48(1) & 48(2) CDSA.

<sup>72</sup> Section 2 CDSA includes the CNB, CPIB, CAD and police officers and any other person authorized by the Minister.

<sup>73</sup> Section 48(3) CDSA.

<sup>74</sup> Section 48(4) CDSA.

<sup>75</sup> Section 48(5) CDSA.

exceeding three years.<sup>76</sup>

*(ii) Terrorism/Terrorist Financing*

Singapore has, in the wake of the September 11 incident and our near escape with an aborted terrorist attack,<sup>77</sup> passed a series of anti-terrorism laws. A key focus of these laws was in the area of anti-terrorism financing. The relevant provisions are found in the following statutes and regulations:

- a) The Terrorism (Suppression of Financing) Act (Cap 325) (TSOFA);
- b) Regulations 5 to 7 and 9 and 10 of the United Nations (Anti-Terrorism Measures) Regulations 2001 (UN Regulations);
- c) Monetary Authority of Singapore (Anti-Terrorism Measures) Regulations 2002 (MAS Regulations).

The Terrorism (Suppression of Financing) Act (Chapter 325) (TSOFA) was passed on 8 July 2002 by Parliament to give effect to the International Convention for the Suppression of the Financing of Terrorism which Singapore signed on 18 December 2001 and the United Nations Security Council Resolution 1373.

The UN Regulations were passed to give effect to Resolution 1373, (2001) (Imposing Measures Against Terrorism) and Resolution 1390 (2002) of the UN Security Council. The MAS Regulations were enacted, pursuant to section 27A of the Monetary of Singapore Authority Act (Cap 186), to apply the relevant provisions in the UN Regulations to financial institutions in Singapore.<sup>78</sup>

The terrorism/terrorist financing offences contained in the TSOFA, UN Regulations and MAS Regulations can be summarized as follows:

- i) intentionally or knowingly providing or collecting funds or property to use them to commit a terrorist act;<sup>79</sup>
- ii) knowingly dealing with any property owned or controlled by or on behalf of any terrorist or terrorist entity;<sup>80</sup>
- iii) knowingly entering into or facilitating a financial transaction related to a dealing in property owned or controlled by or on behalf of any terrorist or terrorist entity;<sup>81</sup>
- iv) knowingly providing any financial services or other related services relating to any terrorist property or for the benefit of any terrorist or terrorist entity;<sup>82</sup>
- v) knowingly providing funds, economic resources or financial or other related services for the benefit of any Prohibited Person (defined as a terrorist, a terrorist entity and a person acting on behalf or at the direction of the terrorist or terrorist entity);<sup>83</sup>
- vi) intentionally or knowingly using or possessing a property for the purpose of facilitating or carrying out a terrorist act.<sup>84</sup>

The punishment prescribed for any of the above offences is a maximum fine of S\$100,000<sup>85</sup> and/or

<sup>76</sup> Section 48(1) & 48(2) CDSA.

<sup>77</sup> In 2002, the Singapore authorities uncovered a plot by a terrorist group to carry out terrorist acts in Singapore. They had formulated plans to hijack an aircraft from a neighbouring country and then crash it into the control tower of Changi International Airport. There was also a plan to drive two trucks laden with explosives into the United States Embassy and detonate them there. Our authorities also discovered they had conducted surveillance on our naval base, a Mass Rapid Transit station, and government ministry buildings. Fortunately our security services were able to uncover these plots in time and place the criminals under arrest.

<sup>78</sup> The provisions in both Regulations are identical. The MAS Regulations were necessary as Regulation 3 of the UN Regulations specifically states that the regulations do not apply to financial institutions.

<sup>79</sup> Section 3 TSOFA, Regulation 5 UN Regulations, Regulation 5 MAS Regulations.

<sup>80</sup> Section 6(1)(a) TSOFA, Regulation 6(a) UN Regulations, Regulation 6(a) MAS Regulations.

<sup>81</sup> Section 6(1)(b) TSOFA, Regulation 6(b) UN Regulations, Regulation 6(b) MAS Regulations.

<sup>82</sup> Section 6(1)(c) TSOFA, Regulation 6(c) UN Regulations, Regulation 6(c) MAS Regulations.

<sup>83</sup> Section 4 TSOFA, Regulation 7(1) UN Regulations, Regulation 7(1) MAS Regulations.

<sup>84</sup> Section 5 TSOFA.

<sup>85</sup> The penalties under the TSOFA are set out in each of the offence-creating provisions. For the UN Regulations, the punishment is found in Section 5 of the UN Act (Chapter 339). Punishment for the offence under the MAS Regulations is found in Section 27A(5) MAS Act.

imprisonment not exceeding five or ten years.

#### 6. Other Offences

Besides the offences discussed so far, there are other offences set out in other statutes that would fit within the genre of corporate and economic crime. These offences will be discussed briefly in this segment.

##### (i) *Tax Evasion*

The offence of tax evasion is set out in the Income Tax Act (Cap 134). Any person who, willfully with intent to evade tax or assist another person to evade tax, omits any income or makes any false statement in an income tax return, or gives any false answer to any question or request for information made under the Act is guilty of an offence punishable with a maximum fine of S\$10,000 and/or imprisonment not exceeding three years. The offender will also have to pay a penalty of treble the amount of tax evaded in addition to the fine or imprisonment meted out against him or her.<sup>86</sup>

If the person intending to evade tax prepares or maintains any false books of account or other records or falsifies any book of account or records, or makes use of any fraud, art or contrivance, he or she will be liable to a stiffer punishment of a maximum fine of S\$50,000 and/or imprisonment for a term not exceeding five years. The offender will have to pay, in addition, a penalty four times the amount of tax evaded.<sup>87</sup>

Repeat offenders are liable to a minimum imprisonment term of six months.<sup>88</sup> The Comptroller of Income Tax may, however, compound these offences.

In any prosecutions under these two sections, the offender is presumed to have willfully intended to evade tax until he or she is able to rebut the presumption.<sup>89</sup>

##### (ii) *Computer Related Crime*

The advent of computers and the Internet has brought about a proliferation of fraud committed through the use of computers or the Internet. The problem of electronically perpetrated fraud, particularly through theft of virtual identity and security information, is on the rise. Scams like the Nigerian advance fee fraud have also been perpetrated through the use of various forms of information technology. Identity thieves have managed to steal personal banking information through bogus websites simulating those of banks and financial institutions, and thereafter utilizing the information to illegally transfer funds from the victim's bank accounts. In this respect, cyber-criminals have also targeted databases of banks and financial institutions.

The Computer Misuse Act (Cap 50A) (CMA) contains a set of offences to deal with computer related offences. Under the CMA, any person who knowingly causes a computer to perform any function for the purpose of securing unauthorized access to any computer programme or data is guilty of an offence punishable with a maximum fine of S\$5,000 and/or to imprisonment for a term not exceeding two years.<sup>90</sup>

A person who secures access to a computer programme or data held in a computer to commit an offence involving property, fraud, dishonesty or which causes bodily harm is liable to be punished with a maximum fine of S\$50,000 and/or to imprisonment for a term not exceeding ten years.<sup>91</sup> Perpetrators of online scams and identity theft will be caught under this provision, although in such cases, they will be charged for the principal offences under the Penal Code, SFA or other statutory provisions dealing with the offences.

Any acts of unauthorized modification of the contents of any computer constitutes an offence punishable with a maximum fine of S\$10,000 and/or to imprisonment for a term not exceeding three years.<sup>92</sup>

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<sup>86</sup> Section 96(1) Income Tax Act.

<sup>87</sup> Section 96A(1) Income Tax Act.

<sup>88</sup> Sections 96(2) and 96A(2) Income Tax Act.

<sup>89</sup> Sections 96(3) and 96A(3) Income Tax Act.

<sup>90</sup> Section 3(1) CMA.

<sup>91</sup> Section 4 CMA.

<sup>92</sup> Section 5 CMA.

Other acts criminalized under the CMA include the unauthorized use or interception of computer service, unauthorized obstruction of use of a computer and unauthorized disclosure of any password or access code for any wrongful gain or purpose, or with the knowledge that it would cause wrongful loss to any person.<sup>93</sup>

The CMA has extra-territorial effect as well and applies to any person, whatever his or her nationality or citizenship, and whether he or she is outside or within Singapore, as well as whether the act was committed outside or within Singapore, so long as the offender was in Singapore at the material time or the computer, programme or data was in Singapore at the material time.<sup>94</sup>

## **B. Civil Sanctions**

Besides being liable to criminal sanctions and penalties, offenders are subject to civil liabilities under the common law as well. Victims of fraud may file civil suits against the perpetrators. Directors who embezzle or mismanage company funds may be sued by the company and/or its shareholders for failing to discharge their fiduciary duties as directors of the company.

Under the SFA, civil sanctions are specifically prescribed for insider trading and market misconduct. These sanctions are either by way of a civil penalty ordered by the court on the application of the MAS, or compensation to victims of the offence.

### 1. Civil Penalty

Under Section 232 of the SFA, MAS may, with the consent of the public prosecutor, bring an action in court against a person who has committed any securities offence under Part XII of the SFA for an order of civil penalty of a sum:

- (i) not exceeding three times the amount of profit gained or loss avoided by the offender; or
- (ii) equal to S\$50,000 for a natural person or S\$100,000 for a corporation,

whichever amount is greater.<sup>95</sup>

Where the offence did not result in profit gained or loss avoided, the court may order the offender to pay a civil penalty of a sum between S\$50,000 and S\$2 million.<sup>96</sup>

Civil penalty actions cannot be commenced against offenders who have been charged and convicted or acquitted for the offence.<sup>97</sup> A civil penalty action shall be stayed after criminal proceedings are commenced against the offender, and may be continued only if the charge was subsequently withdrawn or the offender is granted a discharge not amounting to an acquittal.<sup>98</sup> A civil penalty is subject to a six year limitation period.<sup>99</sup>

The MAS may allow an offender to consent to an order of civil penalty being made against him or her by the court on such terms as may be agreed between MAS and the offender.<sup>100</sup> Alternatively, MAS may also enter into an out-of-court settlement with or without admission of liability with an offender to pay the civil penalty.<sup>101</sup>

### 2. Civil Liability

Under Section 234 of the SFA, persons who have suffered loss when trading contemporaneously<sup>102</sup> with

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<sup>93</sup> Sections 6, 7 and 8 CMA.

<sup>94</sup> Section 11 CMA.

<sup>95</sup> Section 232(2) SFA.

<sup>96</sup> Section 232(3) SFA.

<sup>97</sup> Section 233(2) SFA.

<sup>98</sup> Section 233(3) SFA.

<sup>99</sup> Section 233(1) SFA.

<sup>100</sup> Section 232(4) SFA.

<sup>101</sup> Section 232(5) SFA.

<sup>102</sup> The factors to be considered in determining whether a transaction took place contemporaneously are set out in Section 234(5) SFA.

the offender may seek an order against the offender for payment of compensation for the loss suffered,<sup>103</sup> regardless of whether the offender has been convicted, or has had a civil penalty imposed on him or her, subject to a maximum recoverable amount, which is the amount of profit made or loss avoided by the offender.<sup>104</sup>

### III. INVESTIGATING CORPORATE CRIME

There are several characteristics of corporate and economic crimes which differentiate them from other general crimes. They are likely to be committed by people with high intellect, such as lawyers, accountants and bank officials. There is often a high degree of planning and preparation involved, both in the commission of the offences as well as in covering up the tracks. Many of these offences involve syndicates. Rapid technological advancements have also significantly increased the capabilities of these criminal elements. With the proliferation of the Internet, fraudsters now have a global reach and very often, it is impossible to even identify the perpetrator.

Given these tremendous challenges in dealing with modern corporate and commercial crime, it is imperative that enforcement agencies are well equipped, both in terms of hardware and 'heart-ware'. Besides harnessing the latest technology and recruiting bright and talented investigators, enforcement agencies also need to constantly upgrade their institutional knowledge and capabilities in order to keep up with the challenges of investigating and solving modern corporate and commercial crimes.

In this respect, Singapore has devoted significant resources to developing premier investigating agencies like the Commercial Affairs Department and Corrupt Practices Investigation Bureau which rank amongst the best in the world in terms of their professionalism, knowledge and integrity. These agencies are supported by a strong and robust legal framework which provides them with wide ranging investigative powers to enable them to carry out swift and effective investigations. As a result, Singapore has earned the distinction of having one of the most efficient enforcement regimes in the world.<sup>105</sup>

Besides the CAD and CPIB, the MAS, which administers the civil penalty regime under the SFA, has an enforcement section which investigates the relevant offences under the SFA. Our Accounting and Corporate Regulatory Authority ('ACRA'), which regulates companies, businesses and public accountants, also carries out investigation in the areas under its purview. Investigators from MAS and ACRA are highly qualified and are given wide investigative powers under the respective statutes as well.

#### A. Our Enforcement and Investigation Agencies

##### 1. Commercial Affairs Department (CAD)

The CAD is the principal investigation agency for economic crime in Singapore. Established in 1984 under the Ministry of Finance, the CAD has evolved into a premier white-collar criminal investigation agency handling a wide spectrum of commercial and financial crimes. It was reconstituted as a department of the Singapore Police Force in 2000. Since its inception in 1984, the CAD has achieved remarkable acclaim by solving numerous high-profile commercial crime cases, some of which have attracted international media coverage.

The CAD has its own dedicated investigative and intelligence resources. Specialist divisions are set up within the department, each focusing on specialized areas of commercial and financial fraud and other related crimes. There is also a dedicated unit for the investigation of money-laundering related crimes and recovery of proceeds of criminal activities.

##### (i) Commercial Crime Division

The Commercial Crime Division handles general fraud cases. It is made up of two branches:

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<sup>103</sup> Section 234(1)(b) SFA: the loss is calculated by measuring the difference between the price of the securities at which the securities were dealt with in that transaction and their likely price if the offence had not been committed.

<sup>104</sup> Section 234(6) SFA.

<sup>105</sup> The World Economic Forum's "Global Competitiveness Report (GCR) 2005-2006" ranked Singapore's police service first out of 117 countries for her reliability in protecting businesses from crime.

- (a) **Financial Fraud Branch**  
The Financial Fraud Branch investigates all types of credit card fraud, including fraudulent online transactions, merchant collusion and counterfeiting. It also investigates other major cases involving counterfeit currency syndicates and factoring fraud;
- (b) **General Fraud Branch**  
The General Fraud Branch investigates organized fraud with a focus on syndicated scams. These include syndicated false insurance claims, syndicated forgery of travel documents, fly-by-night business operations and syndicated get-rich-quick scams.

*(ii) Corporate Fraud Division*

Corporate and commercial frauds committed by directors or officers of companies and business entities are investigated by the Corporate Fraud Division. These include offences like criminal breach of trust, falsification of accounts and cheating offences under the Penal Code (Chapter 224), as well as contraventions of the Companies Act (Chapter 50), Business Registration Act and Bankruptcy Act. The division also investigates offences committed by lawyers and accountants. These would include breaches of the Legal Profession Act (Chapter 161) and Accountants Act (Chapter 2).

Officers from the Corporate Fraud Division are equipped with advanced forensic accounting skills and legal knowledge to deal with the highly complex nature of the cases they investigate. Many of the officers in the Division possess professional qualifications in accounting and law as well.

*(iii) Securities & Maritime Fraud Division*

The Securities & Maritime Fraud Division comprises two branches:

- (a) **Securities Fraud Branch**  
The Securities Fraud Branch investigates all criminal offences under the Securities & Futures Act (Chapter 289), which includes market misconduct offences such as insider trading and market rigging as well as other regulatory offences under the Act. The branch also investigates contraventions of the Financial Advisers Act (Chapter 110) and the Commodity Trading Act (Chapter 48A);
- (b) **Maritime and Investment Fraud Branch**  
The Maritime & Investment Fraud Branch investigates maritime, investment and financing-related frauds. This broad portfolio covers fraud involving trade financing instruments like letters of credit, prohibited pyramid-selling schemes, fraudulent obtaining of financing and investment scams.

*(iv) Financial Investigation Division*

The Financial Investigation Division handles money-laundering cases and offences related to money-laundering. The Division consists of three branches:

- (a) **Suspicious Transaction Reporting Office (STRO)**  
The STRO receives and analyses Suspicious Transaction Reports (STRs). It provides financial intelligence information for the detection of money-laundering, terrorism financing and other criminal offences. It is also Singapore's Financial Intelligence Unit (FIU). As the central agency in Singapore for receiving, analysing and disseminating reports of suspicious transactions, STRO turns raw data contained in STRs into financial intelligence that could be used to detect money-laundering, terrorism financing and other criminal offences. It also disseminates financial intelligence to relevant enforcement and regulatory agencies.
- (b) **Financial Investigation Branch**  
The Financial Investigation Branch investigates money-laundering and other offences under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A), as well as offences under the Terrorism (Suppression of Financing) Act (Chapter 325). The branch has been successful in investigating several major money-laundering cases, some of which I will be discussing in a later part of this paper.
- (c) **Proceeds of Crime Unit**  
The Proceeds of Crime Unit is responsible for the identification and seizure of proceeds of crime,

and thereafter managing such assets until they are returned to the rightful beneficiaries or confiscated under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A). Enforcement agencies who encounter incidences of money laundering while investigating into any offence may refer the matter to the unit for a joint investigation and subsequent prosecution. This process has the effect of improving the time taken to recover criminal assets. The unit also investigates offences committed by or through non-bank value transfer systems like remittance agents and money changers under the Money-Changing and Remittance Businesses Act (Chapter 187).

Besides recruiting talented and professionally qualified candidates, the CAD also regularly embarks on highly specialized training programmes for its investigators. These include joint training programmes with world-renowned economic crime enforcement agencies and industry leaders as well as training via video-conferencing with specialist agencies around the world.

## 2. Corrupt Practices Investigation Bureau (CPIB)

The CPIB is an independent body which investigates and aims to prevent corruption in the public and private sectors in Singapore. Established in 1952, it derives its powers of investigation<sup>106</sup> from the Prevention of Corruption Act (Cap 241) (PCA). The Bureau is headed by a director who is appointed by the President of Singapore. He is assisted by a Deputy Director, assistant directors and special investigators.<sup>107</sup>

The Bureau is responsible for safeguarding the integrity of the public service and encouraging corruption-free transactions in the private sector. It is charged with the responsibility of checking on malpractices by public officers and reporting such cases to the appropriate government departments and public bodies for disciplinary action. For the private sector, the focus is on promoting good governance and ethical practices to ensure a level playing field.

Investigation is conducted by the Operations Division which has within it an elite Special Investigation Team which handles complex and major cases. During the investigation process, the CPIB officers frequently work with various Government agencies and private organizations in gathering evidence and obtaining necessary information. Completed investigation papers are submitted to the public prosecutor for legal assessment and prosecution.<sup>108</sup>

The successful prosecution against many corrupt offenders has reduced corruption in Singapore to a near non-existent level. This has contributed to Singapore's reputation for having zero tolerance for corruption. Singapore has also consistently received high ratings in Transparency International's Corruption Perceptions Index.<sup>109</sup> Amongst an average of 130 countries featured in the last five years, Singapore has been ranked as the fifth least corrupt country in the world, with an average score of 9.3 on a scale of 1.0 (highly corrupt) to 10.0 (highly clean).

The Bureau also carries out corruption prevention by reviewing the work methods and procedures of departments and public bodies which are more susceptible to corruption, and recommending remedial and preventive measures to these departments and public bodies. Officers from the Bureau regularly conduct lectures and seminars to educate public officers on issues concerning corruption. Such lectures and seminars are conducted for private organizations as well.

## 3. Monetary Authority of Singapore (MAS)

The MAS is the *de facto* central bank of Singapore. Established under the Monetary Authority of Singapore Act (Chapter 186) (MAS Act), the MAS acts as chief supervisor and regulator of Singapore's financial services sector. It has prudential oversight over the securities and futures market and the banking and insurance industries. The MAS also enforces the civil penalty regime for insider trading and market misconduct.

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<sup>106</sup> Sections 17 to 22 PCA.

<sup>107</sup> Section 3 PCA.

<sup>108</sup> Under the PCA, no prosecution can be instituted except by or with the written consent of the Public Prosecutor.

<sup>109</sup> Transparency International is a leading international non-governmental organization formed with the mission to promote anti-corruption on a worldwide scale. Its Corruption Perceptions Index is one of the most commonly-used measures for corruption in research due to its reputation for accuracy.

The MAS conducts investigations and audits in exercise of its powers or performance of its functions, to ensure compliance, as well as over any alleged or suspected contraventions of any provisions or regulations under the SFA, Banking Act (Chapter 19), Business Trusts Act (Chapter 31A), Financial Companies Act (Chapter 108), Financial Advisers Act (Chapter 110), Insurance Act (Chapter 142), Money Changing and Remittance Businesses Act (Chapter 187) and Trust Companies Act (Chapter 336).

Investigative powers in relation to contraventions of provisions in the SFA are conferred on MAS investigators under Part IX Division 3 of the SFA. These include requiring a person to give “all reasonable assistance” in an investigation,<sup>110</sup> examining a witness under oath and recording of statements from the witness,<sup>111</sup> and requiring a person to provide information or produce documents or books relating to any matter under investigation.<sup>112</sup>

Powers of inspection and investigation are also conferred on the MAS under the other Acts mentioned above. In cases involving financial and insurance companies or advisers/intermediaries, such inspections and investigations would be carried out by MAS under conditions of secrecy.

#### 4. Accounting and Corporate Regulatory Authority (ACRA)

The ACRA was formed on 1 April 2004 from the merger between the then Registry of Companies and Businesses (RCB) and the Public Accountants Board (PAB). The main role of ACRA is the regulation of companies, businesses and public accountants<sup>113</sup> in Singapore.

The formation of ACRA was part of a move by the government of Singapore to move away from the industry self regulation in the wake of big accounting scandals such as Enron in the United States. ACRA performs a pivotal role in the monitoring of corporate compliance with disclosure requirements and accounting standards, and the regulation of public accountants performing statutory audits.

ACRA has its own in-house legal advisers and investigators who carry out its enforcement functions. These include investigations into regulatory breaches of provisions under the Companies Act (Cap 50), Business Registration Act (Cap 32), Limited Liability Partnerships Act (Cap 163A) and audit inspections on public accountants pursuant to the Accountants Act (Cap 2).

### **B. Co-operation amongst These Agencies**

Though separate in terms of their constitution and specific areas of enforcement, the CAD, CPIB, MAS and ACRA work together as part of a multi-agency enforcement framework. For example, the CAD and CPIB often engage in joint investigations in cases where both fraud and corruption offences are committed by the same accused person(s). In such cases, investigators from both agencies will co-ordinate their investigations and share information with one another.

Another instance is where upon preliminary evaluation, it is determined that a civil penalty action would be more appropriate than criminal sanctions, the CAD may hand over a case to the MAS for their investigation and follow-up action. Similarly, where MAS encounters a case which warrants criminal sanctions, it will refer the matter to the CAD.

This co-operation and co-ordination between our enforcement agencies has allowed us to take swift, efficient and appropriate action against individuals and entities involved in the commission of corporate and commercial crimes.

### **C. The Investigation Process**

#### 1. Commencement of Investigations

Investigations by our enforcement agencies are usually triggered by one or more of the following:

- (i) a complaint lodged by a person(s) who may or may not be the victim of the alleged crime. In some

<sup>110</sup> Section 154(1)(a) SFA.

<sup>111</sup> Section 154(1)(b) SFA. The manner of examination and recording is set out in Sections 156 to 158 SFA.

<sup>112</sup> Section 163 SFA.

<sup>113</sup> Its functions are specifically set out in Section 6 of the ACRA Act (Cap 2A).



- instances, the person lodging the report can be the offender or contravening person him or herself;
- (ii) information gathered from the media. For example, published articles or reports on questionable activities or conduct taking place in a particular corporation may be sufficient to cause the enforcement agency to suspect that an offence(s) has been committed by or within the corporation and decide to commence investigation into its affairs.

The enforcement agency will evaluate every complaint or case arising from information from the media before deciding on whether to start the investigation process. Crucial factors like whether any offence has been disclosed, the availability of the potential defendants, witnesses and documentary records, as well as the prospect of making out a case sufficient to support a court prosecution, will be considered. This evaluation process does not usually involve the prosecuting agency, although for complex or sensitive cases, the enforcement officer may seek legal advice from a DPP or State Counsel from the Attorney-General's Chambers.

## 2. Powers of Investigations

Once a decision is made to initiate investigations, an investigator or team of investigators will be assigned to the case. CAD investigators are conferred similar powers of investigation as police officers. These powers are set out in Part V of the Criminal Procedure Code (Cap 68) ('CPC'). An investigator may, by order in writing, require the attendance of any person in Singapore to assist in investigations. If such a person fails to attend, the investigator may apply to the court for a warrant to secure his or her attendance.<sup>114</sup> The investigator is empowered to examine and record statements from witnesses, and require these witnesses to execute bonds to secure their attendance to testify in subsequent court proceedings.<sup>115</sup> The investigator is also empowered to issue orders to persons (individuals or companies) to produce any document or exhibit relevant to the investigation<sup>116</sup> and to seize them if necessary.<sup>117</sup> If such orders are not complied with, the investigator may conduct a search at any place or premises (or apply to the court for a search warrant where the offence investigated is non-seizable<sup>118</sup>) to retrieve the documents or exhibits.<sup>119</sup> In the context of bank documents and information such as deposit statements and account information, an investigator (not below the rank of inspector) may conduct an inspection at the bank's premises.

Investigators from the CPIB are conferred, subject to authorization by the public prosecutor, even wider powers of investigations under the PCA. These include the investigation of any bank account, share account, purchase account, expense account or any other account or any safe deposit box in any bank, the inspection of banker's books in relation to any public servant suspected to have committed a corruption offence, or his or her spouse, child or trustee/agent. The public prosecutor is also empowered to require the accused person to make a sworn statement in writing listing out all properties owned by him or her, his or her spouse and children, as well as to obtain from the Comptroller of Income Tax, all information available to relating to the accused person's affairs.

## 3. Leveraging on Professional Expertise and Technology

Our enforcement agencies are also equipped with professional expertise and state-of-the art modern equipment to handle the often highly complex nature of white-collar crime investigations. Both the CAD and CPIB have computer forensics teams who are able to retrieve incriminating computer data and information like emails and soft copies of documents which have been previously deleted. The CAD has its in-house team of auditors who are adept at conducting forensic auditing. It also has a panel of experts consisting of leading industry experts whom the investigators can seek advice from concerning issues like accepted industry practices or whether a particular piece of information is price sensitive. The Police and CPIB also have a well established polygraph testing framework to aid in their investigations.<sup>120</sup> Our Health Sciences

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<sup>114</sup> Section 120 CPC.

<sup>115</sup> Sections 121 and 126 CPC.

<sup>116</sup> Section 58 CPC.

<sup>117</sup> Section 68 CPC.

<sup>118</sup> A police officer may arrest any person suspected of having committed a seizable offence without having been issued a warrant of arrest by the court. The CPC specifically sets out which offences are seizable and which are not under its Schedule A. Generally, non-seizable offences are less serious than seizable ones.

<sup>119</sup> Sections 61 and 125 CPC.

<sup>120</sup> Although polygraph test results are inadmissible as evidence in our courts, polygraph tests have continued to play a role as highly important and valuable investigation tools.

Authority (HSA) also provides support to criminal investigations by conducting forensic examinations like handwriting analysis and analysis to ascertain the authenticity of documents.

Once an investigation is complete, the investigator will put up a report on his or her findings and make a recommendation on the course of action to adopt against the offender(s). The investigation papers will then be forwarded to the Attorney-General's Chambers for legal assessment.

#### **IV. PROSECUTING CORPORATE CRIME**

Article 35(1) of the Constitution of Singapore creates the office of the Attorney-General. The Attorney-General of Singapore is a non-political appointee and performs two primary roles:

- a) principal legal adviser to the Government; and
- b) public prosecutor.

The Attorney-General as public prosecutor has powers to institute, conduct or discontinue any proceedings for any offence.<sup>121</sup> The CPC further provides that the Attorney-General shall be the public prosecutor, with control and direction of all criminal prosecutions and proceedings.<sup>122</sup> This confers on the public prosecutor sole discretion over the prosecution of offences in Singapore.

##### **A. Attorney-General's Chambers - Criminal Justice Division**

The Criminal Justice Division (CJD) is the organizational extension of the Attorney-General's role as the public prosecutor and is the chief prosecuting agency in Singapore.

Officers of the CJD act as Deputy Public Prosecutors (DPPs) and Assistant Public Prosecutors (APPs) under the authority of the Attorney-General. DPPs conduct criminal prosecutions in the Subordinate Courts and High Court. They also conduct Magistrate's Appeals and Criminal Appeals, and appear in Coroner's, Disposal and Preliminary Inquiries. APPs conduct only criminal prosecutions in the Subordinate Courts.

Besides criminal litigation, DPPs also exercise the Attorney-General's control and direction of criminal prosecutions by advising law enforcement agencies in their investigations. Investigation papers from various enforcement agencies are submitted to CJD for DPPs to evaluate whether any offences have been disclosed and, if so, what charges should be preferred against the accused persons.

In view of the transnational nature of crime in our increasingly globalized world, CJD's work also has an international dimension. Officers process all requests from foreign states for assistance in criminal matters, including extradition requests. In addition, CJD officers are also actively involved in negotiations for treaties and agreements involving criminal matters, as well as participating in international conferences on issues concerning criminal justice.

The CJD is divided into eight Directorates, each handling different areas of work. There are six Trial Litigation Directorates, one Appellate Litigation Directorate and one Advisory Directorate. Of the six Trial Litigation Directorates, there are specialized Directorates each for Financial & Securities Offences and Corruption and Specialist Offences.

The Financial & Securities Offences Directorate consists of DPPs who specialize in the prosecution of complex commercial and economic crimes like corporate fraud and insider trading. Offences committed by professionals like lawyers and accountants are prosecuted by DPPs from the directorate as well. DPPs from the directorate undergo regular training programmes and also attend conferences and seminars to keep themselves abreast of developments in the area of corporate and finance laws as well as the latest trends in economic and commercial crimes.

The DPPs in the directorate work closely with the officers from the CAD, providing advice on legal issues arising during the investigation stage, as well as legal evaluation and assessment upon completion of

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<sup>121</sup> Article 35(8) of the Constitution of Singapore. See <http://agclwb.agc.gov.sg>

<sup>122</sup> Section 336 of the Criminal Procedure Code (Chapter 68).

investigations. Some of the DPPs from this Directorate are also physically based at the CAD's premises to provide legal support at close proximity to the investigation teams at the CAD.

The Corruption & Specialist Crimes Directorate deals with cases investigated by the CPIB. This includes providing legal advice to the CPIB investigators, legal assessment and prosecution of these cases. The Directorate also handles cases investigated by specialized branches of the Singapore Police Force such as organized crime, vice offences, gambling offences, intellectual property offences and computer crimes.

The CJD conducts training courses for departmental prosecutors and law enforcement officers to update them on legal developments which may be relevant for their operations. These courses improve the quality of investigation, which in turn assist in prosecution. The CJD also has a task force to enforce timeliness in submission of investigation papers by law enforcement agencies to ensure efficient administration of criminal justice.

This close working relationship between the DPPs and investigators is one of the key attributes in Singapore's remarkable capabilities at solving and successfully prosecuting complex commercial and economic crimes. We do our best to work as a team.

## **B. The Criminal Prosecution Process**

### **1. Deciding Whether to Prosecute**

Upon completion of investigations, the investigating agency will submit the investigation papers to the Attorney-General's Chambers for legal assessment on the sufficiency of evidence to support the offences investigated. The process of legal assessment would involve the DPP going through the statements recorded from the witnesses and documents and exhibits seized. Where necessary, DPPs may carry out interviews with witnesses as well to clarify certain aspects of their statements as well as to assess their veracity.

In the context of corporate and commercial offences, this process will often involve going through voluminous statements and documents. DPPs often have to seek the views and opinions of experts (for example, in insider trading cases, whether a particular piece of information is price sensitive) in determining whether a particular offence is made out.

Depending on the nature of the offences committed, the factual matrix of the case and the sufficiency of evidence, a decision would then be made on the course of action to adopt against an accused person. The public prosecutor in exercising his or her prosecutorial discretion may decide to prosecute the accused person in court, or to direct the enforcement agency to take alternative action like composition<sup>123</sup> or the issuance of a warning to an accused person in lieu of prosecution. In the case of corporate or commercial cases, factors like the prevailing market realities and industry practices and the need to balance the often conflicting objectives of law enforcement and business efficiency will often have to be taken into consideration in this decision-making process.

### **2. Charging an Accused Person**

Once the decision is made to proceed with prosecution, an accused person will be produced in court and charged formally. The accused person may elect to plead guilty to the charge or to claim trial. In most cases, however, an accused person's plea is seldom taken on the first occasion he or she is charged. Adjournments are usually sought by the accused person to seek legal advice or representation, or if they are already represented by a lawyer, to make representations<sup>124</sup> to the Attorney-General's Chambers. The matter would then be fixed for a pre-trial conference (PTC).

### **3. Pre-trial**

The PTC is conducted by a District Judge and attended by the prosecutor and the accused or his or her defence counsel. The purpose of a PTC is to expedite criminal proceedings through proper case management.

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<sup>123</sup> An offence is compounded if the criminal charge is withdrawn following a settlement between an accused person and the person who has the power to compound the offence under the law (usually a victim or a government body).

<sup>124</sup> These are letters written by an accused person's counsel to the Attorney-General's Chambers requesting either a withdrawal or reduction of the charges, or other forms of plea bargaining.

Where an accused person claims trial, a PTC will encourage disclosure and the narrowing down of issues to expedite the trial. In the Subordinate Courts, a District Judge will preside over the PTC which is held in the chambers of the District Judge. The prosecutor and the accused or his or her defence counsel would disclose their respective positions at the PTC and narrow down the issues that may be of contention at trial. The court also takes the opportunity to tie down administrative matters with both parties i.e. the number of witnesses to be examined by the prosecutor and the accused or his or her defence counsel, the manner of adducing evidence from the witnesses, the number of days required for trial, etc.

In the High Court, the Registrar of the Supreme Court or any of his or her deputies and assistants will preside over the pre-trial conferences. These pre-trial conferences are held in chambers. Pre-trial conferences for criminal cases pending before the High Court are conducted very much like those in the Subordinate Courts.

#### 4. Trial

Where an accused pleads not guilty to a charge, the trial is the forum where evidence is adduced by the prosecution and the defence in order for the court to determine whether the accused is guilty of the charge against him or her. The evidentiary and procedural laws governing trials are found in the Evidence Act (Cap 97) and the CPC.

A trial begins with the prosecution's case. The prosecutor will lead evidence from the prosecution witnesses in court. Each witness will first be examined-in-chief by the prosecutor, followed by cross-examination by the defence and, if necessary, re-examination by the prosecutor.<sup>125</sup> The prosecution closes its case when all the prosecution witnesses have testified.

After the prosecution closes its case, the court will decide whether there is some evidence (not inherently incredible) which if the court were to accept as accurate, would establish each essential element in the charge. If a *prima facie* case is not made out, the accused would be acquitted at this stage. On the other hand, if a *prima facie* case is proved, the court will call upon the accused to enter upon his or her defence.

If the accused elects to give evidence on the stand, he or she will be the first witness for the defence. His or her evidence-in-chief will first be given, followed by cross-examination by the prosecutor and, if necessary, he or she will be re-examined. Even if the accused elects to remain silent, he or she can still call witnesses to testify for the defence. Each of these witnesses will first be examined-in-chief by the accused or his or her counsel, followed by cross-examination by the prosecutor and, if necessary, re-examination by the accused or his or her counsel. The defence closes its case when all the defence witnesses have testified. Thereafter, if the prosecution intends to call rebuttal evidence, an application will be made at this stage.

Both parties will then make their closing submissions with the defence presenting first followed by the prosecution. The prosecution has the right of reply on the whole case after the accused or his or her counsel has summed up the whole case. The court will then give its verdict.

Trials in a Magistrate's Court, District Court and the High Court are conducted in similar fashion. There is, however, an important distinction between trials in the High Court and trials in the Magistrate's and District Courts. Preliminary inquiries have to be conducted for all criminal cases sought to be tried before the High Court but not for cases sought to be tried in a Magistrate's or District Court. A preliminary inquiry is essentially a committal proceeding, and is a procedural safeguard to ensure that no one is made to stand trial in the High Court unless a *prima facie* case for the offence is established.

In certain situations, a Magistrate's Court or District Court hearing a criminal case may come to the opinion that the matter is one that ought properly to be tried before the High Court, or, the public prosecutor may make an application<sup>126</sup> to transfer the case to the High Court. The High Court may also order that a case shall be transferred from a Magistrate's Court or District Court and tried before the High Court.<sup>127</sup>

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<sup>125</sup> Section 140(1) Evidence Act.

<sup>126</sup> Section 186(1) CPC.

<sup>127</sup> Section 185(1) CPC.

#### 5. Post Trial

On conclusion of the trial, the court will deliver its verdict. If an accused person is found guilty, he or she will be convicted and sentenced accordingly. If he is found not guilty, he or she will be given an acquittal and released immediately.

The relevant orders will also be issued by the court for documents and exhibits tendered during the trial to be disposed of or returned to the rightful owners.<sup>128</sup> Where there are disputes or competing claims over these exhibits or documents, a disposal inquiry will be convened.

#### 6. Appeal

If either party is dissatisfied with the trial court's decision, they may file an appeal. There are generally four types of appeals: prosecution's appeal against acquittal, prosecution's appeal against sentence, an accused person's appeal against conviction and an accused person's appeal against sentence.

An appeal against a decision in a case originating in a Magistrate's Court or a District Court will be heard by the High Court. There is no further right of appeal to the Court of Appeal against the decision of the High Court.

The Court of Appeal hears criminal appeals against any decision made by the High Court in the exercise of its original criminal jurisdiction.<sup>129</sup>

Where an accused person has pleaded guilty and been convicted, there shall be no appeal except as to the extent or legality of the sentence.<sup>130</sup>

#### 7. Criminal Revision

Where a trial court's decision is subsequently found to be palpably wrong such that an injustice was occasioned, e.g. when the trial court imposed a sentence which was wrong in law, a criminal revision may be filed at the High Court.<sup>131</sup>

### **C. The Civil Penalty Process**

For securities fraud cases like insider trading and market misconduct under the SFA which can either be dealt with by way of criminal prosecution or the imposing of a civil penalty, the CAD and MAS have guidelines and protocols in place to determine at a very early stage of investigation whether a particular case should proceed on the 'criminal track' or 'civil track'. Factors like the severity of the offence(s), the extent of market impact, the need for effective deterrence and the evidential strength of the case<sup>132</sup> would all be relevant considerations.

Once a case is placed on the 'civil track', the investigation will be conducted by investigators from the MAS. Upon completion of investigations, the MAS will decide on the course of action to adopt against the offender. This could include offering compensation or issuing a letter of warning to the offender, where the offence is relatively minor or technical in nature, resulting in minimal loss or damage. MAS may also enter into a settlement with the offender to pay a civil penalty with or without any admission of liability.

If the MAS decide to bring an action in court on the civil track, the case will be forwarded to the Attorney-General's Chambers with their recommendations with a view to obtaining the requisite consent from the public prosecutor. Upon the public prosecutor's consent, MAS will then proceed with the court action via the normal civil process. A full civil trial may ensue following which the court will make an order for a civil penalty against the offender if the court is satisfied on a balance of probabilities that he or she has contravened the relevant provisions. Alternatively, the offender may consent to the order being made against

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<sup>128</sup> Section 386 CPC.

<sup>129</sup> Section 29A2 Supreme Court of Judicature Act (Cap) (SCJA).

<sup>130</sup> Section 244 CPC and Section 44(2) SCJA.

<sup>131</sup> Section 268 CPC.

<sup>132</sup> For criminal prosecutions, the burden of proof for the prosecution is the higher standard of beyond reasonable doubt whereas in a civil penalty action, the burden of proof is the civil standard of balance of probabilities.

him or her (without going through a trial) on such terms as may be agreed between the MAS and the offender.

## V. RECOVERING PROCEEDS OF CORPORATE CRIME

The traditional process of prosecuting a criminal and having him or her convicted and sentenced accordingly is often insufficient to deter most commercial and financial crimes, which often reap highly lucrative returns. A person minded to commit such crimes has little hesitation in taking the risk of being caught, convicted and incarcerated as it would be worthwhile if he or she is able to enjoy the benefits after his or her release from prison.

As such, robust action is needed to remove a criminal's financial incentive to commit financial or economic crime. This can be achieved through determined efforts to identify, seize, and confiscate proceeds of crime and/or return stolen property to the victims.

The process of asset recovery may even uncover more predicate offences than initially reported, from the funds tracing and concealed income analysis of the suspect(s).

The legislative framework for the confiscation of benefits of crime in Singapore is found in the CDSA.

### A. Confiscation Orders

A confiscation order is an order by the court, upon the conviction of an accused person of a drug trafficking or serious offence, to confiscate the benefits derived by him or her from these offences.<sup>133</sup> The order is made on the application of the public prosecutor.

The amount to be recovered under the order will be determined by the court based on guidelines provided under the CDSA.<sup>134</sup> Any property or interest disproportionate to the accused person's known sources of income shall be deemed benefits derived from criminal conduct.<sup>135</sup>

The order has the same effect as a fine imposed on the accused person. An accused person is liable to imprisonment in default of payment for a term not exceeding two to ten years (depending on the amounts involved) if he or she fails to pay the amount ordered. The term of imprisonment will commence only after the accused has served the imprisonment for the predicate offence.<sup>136</sup>

If an accused person absconds before he or she is convicted for the predicate offence, the court can still issue a confiscation order if there is evidence which if unrebutted would warrant a conviction against the accused for the predicate offence.<sup>137</sup> If an accused person is deceased, proceedings will continue against his or her personal representatives or beneficiaries of his or her estate and the order will be made against the estate of the accused person.<sup>138</sup>

### B. Restraint and Charging Orders

Where there is reasonable cause to believe that benefits of criminal conduct have been derived before an accused person is convicted, the High Court may, on the application of the public prosecutor, make a restraint order to prohibit any person from dealing with any realizable property,<sup>139</sup> or an order imposing a charge ('charging order') on realizable property for securing payment to the Government pursuant to a confiscation order.<sup>140</sup> A charging order can, however, only be made with respect to interests in immovable property in Singapore, local securities (including units in any unit trust), foreign securities registered in Singapore, or interests under any trust.<sup>141</sup>

<sup>133</sup> Sections 5(1) CDSA.

<sup>134</sup> Sections 10, 11 and 12 CDSA.

<sup>135</sup> Section 8 CDSA.

<sup>136</sup> Section 14 CDSA.

<sup>137</sup> Sections 26 and 27 CDSA .

<sup>138</sup> Section 28 CDSA.

<sup>139</sup> Sections 15 and 16 CDSA.

<sup>140</sup> Sections 15 and 17 CDSA.

<sup>141</sup> Section 17(4) and 17(5) CDSA.

### C. Financial Investigation

Investigations to identify and seize benefits of criminal conduct are handled by CAD's Proceeds of Crime Unit. Investigators from the unit are empowered under the CDSA to:

- i) apply to the court to issue an order to produce materials (production orders); and<sup>142</sup>
- ii) apply to the court for a search warrant in relation to specified premises.<sup>143</sup>

Where the production order sought is against a financial institution,<sup>144</sup> the application will have to be made in the High Court, by the Attorney-General.<sup>145</sup> All financial institutions are required to retain all financial transaction documents for a minimum retention period of six years.<sup>146</sup> Failure to do so will render the financial institution liable to be fined an amount not exceeding S\$10,000.

A person who fails to comply with a production order may be fined an amount not exceeding \$10,000 or imprisoned for a term not exceeding two years, or both. Failure to comply with a production order includes giving false or misleading materials or failing to give the correct information to the investigator.

Any person who hinders or obstructs an investigator in the execution of a search warrant is also liable to the same punishment.

## VI. INTERNATIONAL CO-OPERATION

Singapore recognizes that in order to effectively combat and deter corporate and economic crime in the present age of globalization, it is both necessary and vital to engage in and contribute pro-actively to regional and global efforts to control such crimes. In this respect, Singapore is committed towards strengthening and enhancing cross border enforcement and regulatory co-operation as well as facilitating information exchange and technical co-operation.

### A. Extradition and Mutual Legal Assistance

Singapore has an Extradition Act (Cap 103) that allows for the extradition of fugitives who are in Singapore to a state that requests for their extradition to face trial for offences committed in that state or *vice versa*. We have also enacted a Mutual Assistance in Criminal Matters Act (Cap 190A) (MACMA) which came into effect in April 2000. The MACMA enables Singapore to provide and obtain international assistance in criminal matters between Singapore and places outside Singapore. Such assistance includes the taking of evidence and production of things, effecting service of judicial documents, arranging for travel of persons to a requesting place to assist in a criminal matter, identifying or tracing proceeds of crime, the recovery, forfeiture or confiscation of property derived by crime and the identification and location of witnesses and suspects.<sup>147</sup>

In accordance with international norms, these laws that provide for extradition and mutual legal assistance in criminal matters are premised on reciprocity, which is achieved where states enter into a treaty to extradite offenders or to provide mutual legal assistance in criminal matters to each other. Singapore has signed extradition treaties with Hong Kong SAR and Indonesia. As a member of the British Commonwealth of nations, however, Singapore is a party to the many Commonwealth "Schemes" on rendition of fugitives and mutual legal assistance in criminal matters. These "Schemes" are not treaties but rather arrangements agreed upon between the Law Ministers of Commonwealth countries to enact similar laws in their respective jurisdictions to provide for these matters. We also have similar arrangements with countries who have entered into extradition treaties with the United Kingdom when Singapore was still a British Colony (e.g. Germany).

Recently, Singapore has also signed the Treaty on Mutual Legal Assistance in Criminal Matters among

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<sup>142</sup> Section 30 CDSA.

<sup>143</sup> Section 34 CDSA.

<sup>144</sup> Section 2 CDSA includes a bank, merchant bank, finance company, capital market services licence holder under SFA, financial adviser under FAA, and insurance company.

<sup>145</sup> Section 31 CDSA.

<sup>146</sup> Section 37 CDSA. "Financial transaction document" and "minimum retention period" are defined in Section 36 CDSA.

<sup>147</sup> Sections 21, 22, 26, 29, 33, 37, and 38 MACMA.

Like-minded States.<sup>148</sup> This Treaty was signed in Kuala Lumpur on 29 November 2004, initially by eight member states of ASEAN. The remaining two member states became signatories on 17 January 2006. The Treaty has so far been ratified by Singapore, Malaysia, Vietnam, Brunei and Laos, and has come into force as between these five countries. With the Treaty, the countries of ASEAN have put in place a legal system to enhance their respective investigation and prevention processes against transnational crimes.

In addition to the Treaty, there are other initiatives to further strengthen ASEAN's legal infrastructure to fight transnational crime. In the 6th ASEAN Law Ministers Meeting held in Hanoi in September 2005, in-principle approval was given to commence work on an ASEAN Model Extradition Treaty to guide member states intending to enter into extradition arrangements with one another.

## **B. Membership in International Anti-Money Laundering and Counter-Terrorism Financing Organizations**

Singapore is also a member of several international anti-money laundering and counter financing of terrorism (AML/CFT) organizations. Membership in these organizations underscores Singapore's commitment to the fight against money laundering and terrorism financing.

### 1. Financial Action Task Force (FATF)

The FATF (based in Paris) was set up in 1989 to examine the problem and trends of money laundering activities. Singapore has been a member of the FATF since September 1991. FATF has issued a set of 40 Recommendations, currently used internationally to measure the effectiveness of a country's anti-money laundering regime. Shortly after the terrorist attacks of 11 September 2001, the FATF expanded its mission to include the development and promotion of policies to combat terrorist financing. To this end, in October 2001, the FATF further issued its Eight Special Recommendations (SR) i.e. SR I to SR VIII on terrorism financing aimed at denying terrorists and their supporters, access to the international financial system. In October 2004, the FATF issued a new SR i.e. SR IX which focuses on the use of cash couriers in terrorism financing activities. As a member of FATF, Singapore must comply with both sets of recommendations.

### 2. Asia Pacific Group on Money Laundering (APG)

Singapore is also a founding member of the Asia/Pacific Group on Money Laundering (APG) and strongly supports its objectives and activities. The APG was formed in 1997 to prevent and detect money laundering in the region. Singapore hosted the inaugural region-focused plenary meeting of the FATF in June 2005 and it was the first time the meeting featured a joint session between FATF and the APG. The hosting of the plenary meeting by Singapore offers an opportunity for the APG to showcase the contributions of APG member countries in the global fight against money-laundering and terrorist financing.

### 3. Egmont Group Of FIUs

The Egmont Group of FIUs was established in June 1995 to provide an avenue for the timely sharing of information and provision of assistance between different jurisdictions. An FIU is defined as a central, national agency responsible for receiving (and as permitted, requesting), analysing and disseminating to the competent authorities disclosures of financial information concerning suspected proceeds of crime, or required by national legislation or regulation, in order to counter money laundering.

CAD's STRO was admitted into the Egmont Group in June 2002. As Singapore's FIU, STRO represents Singapore at international forums and regional bodies in global anti-money laundering and counter terrorism financing efforts and maintains close working relationships with FIUs in other countries through the Egmont Group of FIUs.

Under the CDSA, STRO is also authorized to share information with its foreign counterparts on the condition that there is an arrangement with the foreign agency for the sharing of information on the basis of reciprocity and confidentiality.<sup>149</sup>

<sup>148</sup> See [www.aseansec.org](http://www.aseansec.org)

<sup>149</sup> Section 41 CDSA. Any information shared is for intelligence or investigation purposes only and cannot be used as evidence in court. The arrangement can be in the form of a Memorandum of Understanding (MOU), and for this purpose, STRO has signed MOUs with ten foreign countries/jurisdictions and is actively involved in negotiations with a number of other countries.



## VII. PREVENTION OF CORPORATE CRIMES

Corporate and economic crime carries with it drastic consequences and impact which frequently cannot be adequately remedied. In many instances, victims are unable to recover their losses even if the culprits have been apprehended and dealt with under the law. Companies and corporations have also been brought irrecoverably to their knees as a result of fraud committed by their directors and employees. Prevention is thus a key pillar for any strategy to combat corporate and economic crime effectively.

Singapore's focus in this aspect has been on:

- i) the regulation and supervision of our financial and business sector; and
- ii) promoting good governance and corporate accountability.

### A. Regulation and Supervision

The MAS carries out its function as chief supervisor and regulator of the financial sector in Singapore through measures like licensing or registration of business entities. Persons who wish to engage in regulated activities have to comply with rules and regulations prescribed by MAS, which frequently conducts audits and inspections to ensure compliance by the licensees. MAS is also empowered to administer enforcement measures like the issuance of administrative warnings and reprimands or imposing composition fines for breaches of the respective regulations.

Under the SFA, any person who wishes to carry on a business in the regulated activities of dealing in securities, trading in futures contracts, leveraged foreign exchange trading, fund management, advising on corporate finance, securities financing and/or providing custodian services for securities must apply for a capital markets services licence from MAS before commencing business. Licences are required as well for individual representatives of holders of a capital markets services licence. Similar licensing/registration requirements exist for banks, business trusts, finance companies, insurance companies/agents/brokers/intermediaries, financial advisers and money-changing or remittance businesses.

Licences will only be granted upon applicants meeting stringent financial and other requirements like having officers, employees and substantial shareholders who are fit and proper persons (for example, persons who are sufficiently qualified or experienced, and who have not been previously convicted of an offence(s) involving fraud and dishonesty).

Any company or person who engages in these regulated activities without the requisite licence commits an offence and is liable to be punished with fines ranging from S\$20,000 to S\$250,000 or imprisonment not exceeding three years.

The greatest challenge for MAS remains the need to maintain an often delicate balance between effective regulation and supervision to promote a safe, sound, fair, efficient and transparent financial and business sector on the one hand, and creating a business friendly environment for businesses to progress, innovate and develop. In this respect, MAS adopts a risk-focused supervisory framework which affords stronger and stable institutions more latitude for innovation and creativity, while maintaining stricter control on weaker entities. A key objective of the MAS is the promotion of a disclosure based regulatory regime by establishing a framework that facilitates timely, accurate and adequate disclosure by institutions. An example would be MAS's pro-active approach in providing advice and guidance to institutions on measures to adopt or modifications to existing operations to ensure compliance with regulations.

### B. Corporate Governance

Singapore has long recognized that in our development into a regional and global financial hub, the integrity of our government and institutions has been a major factor in our ability to draw investments and talent. We have managed to maintain a competitive edge in the midst of intense competition brought about by globalization and an increasingly borderless capital market by our uncompromising fidelity to integrity and accountability.

Singapore has built up an international reputation for good corporate governance over the years. We have been ranked as having the best corporate governance in Asia in several surveys, including Corporate

Governance Watch 2005 published by the Asian Corporate Governance Association. In 2006, the Political and Economic Risk Consultancy (PERC) reported that out of the 14 countries surveyed, Singapore ranked second behind the USA for our quality of corporate governance. The World Economic Forum's Global Competitiveness Report for 2005-2006 ranked corporate ethics in Singapore firms to be among the top five of the 117 economies assessed in the study. In the face of these accolades and affirmation, however, Singapore acknowledges that there is still considerable improvement to be made. It is therefore crucial for Singapore to continue to promote and enhance our corporate governance standard.

The corporate governance framework in Singapore can be found in our Companies Act and Code of Corporate Governance.

## 1. Companies Act

The Companies Act prescribes specific eligibility criteria for persons intending to be directors of companies. Hence in Singapore, directors who breach their fiduciary duties are exposed to both civil and criminal liability.

A director is required under the Companies Act to "act honestly and use reasonable diligence" in the discharge of his or her duties.<sup>150</sup> This means that a director must act in what he or she honestly considers to be the interest of the company.<sup>151</sup> He or she must not place him or herself in a position of conflict between the company's and his or her personal interests<sup>152</sup> and he or she must not employ the powers and assets he or she is entrusted with for any improper purposes. He or she must also exercise a reasonable degree of care and diligence which will not bring any foreseeable risk of harm to the company.<sup>153</sup> A director must declare the nature of his or her interest if he or she is in any way interested in a transaction with the company.<sup>154</sup> Directors in breach of these requirements are liable to fine of a maximum of S\$5,000 or imprisonment for a period not exceeding one year.

Directors are also required to disclose their shareholdings, debentures or participatory interests, or any rights, options or contracts in relation to the shares of the company or related corporation, or any changes in these interests to both ACRA and the Stock Exchange. The penalty for a breach of this requirement carries a maximum fine of S\$15,000 or imprisonment up to three years.<sup>155</sup>

Directors are also required to furnish, at the company's annual general meeting, true and fair financial statements which comply with accounting standards. A failure to do so renders each director liable to a maximum fine of S\$50,000. If the failure was committed fraudulently, the punishment will be an enhanced maximum fine of S\$100,000 and imprisonment for up to three years.<sup>156</sup>

A director who knowingly disseminates any statement of the company's capital which is misleading is liable to be fined up to S\$50,000 or imprisonment for up to two years.<sup>157</sup>

Companies in Singapore are prohibited from giving loans to their directors or directors of related companies (including their spouses or children), or to companies for which these directors are interested in 20% or more of their equity share, or to provide guarantee or security for such loans save in certain excepted circumstances. Any director who authorizes the making of such a loan is liable to a maximum fine of S\$20,000 or imprisonment for up to two years.<sup>158</sup>

## 2. Code on Corporate Governance

The Code of Corporate Governance was introduced in 2001 by our Ministry of Finance. It was subsequently reviewed and enhanced and the new Code of Corporate Governance 2005 was issued based on recommendations

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<sup>150</sup> Section 157 Companies Act.

<sup>151</sup> *Multi-Pak Singapore Pte Ltd v Intraco Ltd* [1994] 2 SLR 282.

<sup>152</sup> *Boardman & Phipps* [1967] 2 AC 46.

<sup>153</sup> *National Companies and Securities Commission v Hurley* (1995) 13 ACLC 1635 at 164.

<sup>154</sup> Section 156 Companies Act.

<sup>155</sup> Sections 165 & 166 Companies Act.

<sup>156</sup> Sections 201 & 204 Companies Act.

<sup>157</sup> Section 401 Companies Act.

<sup>158</sup> Sections 162 & 163 Companies Act.

by the Council on Corporate Disclosure and Governance (CCDG). Singapore launched the CCDG on 16 August 2002. The task of the CCDG includes prescribing accounting standards in Singapore, reviewing and enhancing the existing corporate disclosure framework based on international best practices, as well as to promote good corporate governance in Singapore. The Chairman and members of the CCDG are appointed by the Minister for Finance. The CCDG's composition includes representatives from businesses, professional bodies, academic institutions and government. The CCDG's functions were taken over by the MAS and Singapore Exchange Limited (SGX) with effect from September 2007.

While it is not mandatory for companies to comply with the Code of Corporate Governance 2005, listed companies are required to disclose their corporate governance practices and give explanations for deviations from the Code in their annual reports. The MAS and Singapore Exchange Limited (SGX) has recently embarked on a comprehensive review of the state of corporate governance practices of listed companies based on key areas in the Code, with a view to determining practical measures to enhance corporate governance amongst listed companies. Some of these measures include collaborating with the Singapore Institute of Directors (SID) to explore the enhancement of efforts in director training and professional development in Singapore, as well as providing practical guidelines for audit committees on how they can better perform the critical role they play in the performance and governance of listed companies.

### **C. Co-operation with the Private Sector**

To fight corporate and economic crime, partnership with the corporate and financial community is essential. One of the best defences against such crimes is for market players and stakeholders to be aware of and be sensitized to the risk of corporate and economic crime. This is especially crucial given the complexities involved in such crimes. There is also much to be gained by leveraging on industry expertise and resources to complement the government's efforts.

#### **1. The Stock Exchange of Singapore**

The stock market in Singapore is run by the Singapore Exchange Limited (SGX). It maintains both the Main Board as well as SESDAQ. Currently, there are more than 700 companies listed with SGX. The SGX is the frontline regulator of the stock market and plays an important role in promoting a fair, orderly and transparent marketplace. It works closely with MAS in developing and enforcing rules and regulations for issuers and market participants.

##### *(i) Enforcement*

SGX is empowered to investigate<sup>159</sup> alleged misconduct by members (stockbroking companies), their directors, employees and trading representatives. Investigations may be initiated based on a referral from the surveillance department (or any other department), a complaint from external bodies, or on the SGX's own initiative.

Where the investigation reveals a possible breach of SGX rules or bye-laws, disciplinary action may be taken against the offender. This may result in a reprimand, fine, suspension or expulsion. If there is a direct contravention of the law, the matter would be referred to the relevant authorities like the CAD or MAS for further action.

##### *(ii) Market Surveillance*

SGX conducts surveillance of trading activities of the securities and derivatives markets to detect unusual trading activities and prohibited trading practices or conduct, including insider trading and market manipulation. Two types of surveillance are carried out by the SGX—securities surveillance and derivatives surveillance.

For securities surveillance, a real-time market surveillance system which automatically alerts any irregular market behaviour such as unusual price and volume movements is employed. Each alert is then analysed by a surveillance analyst who assesses whether the particular market activity can be explained by public information such as company specific news, industry trends or economic factors. Where no explanation is apparent, the listed company may be required to indicate whether it knew why there might be unusual trading in its shares. It may also be required by the SGX to disclose material information to the public where

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<sup>159</sup> Chapter 14 of the SGX Rules.

such information might reasonably be expected to significantly affect the trading volume and price of the securities.<sup>160</sup>

In derivatives surveillance, SGX officers are stationed on the trading floor during intense trading activities, i.e. during the opening and closing of key designated contracts. At other times, surveillance cameras are used to observe floor activities. Pit observers and other floor officials ensure that prices are accurately reported and disseminated. Each trading pit also has its own committee that deals with price infractions and trade disputes. All floor trading activities are under constant video-camera surveillance and are tape-recorded.

SGX also carries out important supervisory functions like supervision of listed companies and admission of members and risk management for the clearing of securities and derivatives trade.

SGX reviews the admission and registration of members, their directors, and trading representatives to ensure that they meet the admission or registration criteria before admitting or registering them. It conducts annual inspections of their members to ensure that the trading rules and regulations are complied with and adequate internal controls are in place. SGX also monitors the financial health of its members, who are required to file financial reports with SGX periodically. In addition, members are required to submit their annual audited accounts to SGX.

## 2. Professional Organizations

Professional organizations play an important role in maintaining high standards of professionalism, competence and integrity amongst their members.

### (i) *The Law Society of Singapore*

The Law Society of Singapore was established in 1967 pursuant to the enactment of the Legal Profession Act (Chapter 161). All practicing lawyers in Singapore are members of the Society. The Law Society's key role is the maintenance and enhancement of the standards of legal practice and the conduct and learning of the legal profession in Singapore. It performs this role by promulgating and enforcing rules on professional etiquette, discipline, ethics and the keeping of proper accounts by lawyers. The Law Society is managed by a Council of the Society which has powers to investigate any misconduct by lawyers and take disciplinary actions accordingly.

The Supreme Court of Singapore plays a major role in the maintenance of discipline within the legal profession as well. It has powers to impose sanctions like striking a lawyer off the Rolls, suspension of practice or censure, depending on the severity of the misconduct.

### (ii) *Institute of Certified Public Accountants of Singapore (ICPAS)*

The ICPAS is the national organization of the accountancy profession in Singapore. It was established in June 1963 as the Singapore Society of Accountants (SSA) under the Singapore Society of Accountants Ordinance, then reconstituted and renamed the ICPAS on 11 February 1989, under the Accountants Act 1987. As of 1 April 2004, ICPAS is reconstituted as a society under the Societies Act.

The role of the ICPAS is to maintain a high standard of technical competence and integrity amongst members of the accountancy profession in Singapore. Besides administering the Institute's membership, the ICPAS caters for the training and professional development of its members through regular courses conducted by its training arm, the Singapore Accountancy Academy (SAA).

### (iii) *Singapore Institute of Directors (SID)*

The SID is a national association of company directors for the local business community whose objective is to promote "high standards of corporate governance through education and training and upholding of the highest standard of professional and ethical conduct of directors". The SID works closely with its network of members and professionals such as accountants and lawyers, and the authorities to identify ways to uphold and enhance standards of corporate governance and directorship in Singapore. The SID has a code of conduct

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<sup>160</sup> A list of events that require disclosure is contained in the SGX's listing manual, and include amongst other events mergers and acquisitions.

for directors in Singapore as minimum standards of compliance in discharging their fiduciary duties and is responsible for the discipline of its members.

### 3. Suspicious Transaction Reporting

The process of laundering criminal proceeds requires extensive use of financial instruments and facilities. The implication is that members of the financial community, such as banks, insurance companies, fund managers, and even moneychangers and remittance companies, will be targeted by money launderers as possible conduits for laundering money. Other bona fide businesses and companies may be misled to assist in the receipt and payment of tainted monies or property related to terrorism. Professionals such as lawyers and accountants may also unwittingly assist in the criminals' money laundering schemes. Given Singapore's status as a financial hub, money launderers will want to abuse our financial infrastructure to launder their criminal proceeds.

It is therefore vital for Singapore to build and maintain a robust Suspicious Transaction Reporting framework. Under the CDSA, reporting of a suspicious transaction is mandatory. Section 39(1) of the CDSA states:

“Where a person knows or has reasonable grounds to suspect that any property, in whole or in part, directly or indirectly represents the proceeds of drug trafficking or criminal conduct, or was used or intended to be used in connection with drug trafficking or 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, he shall disclose the knowledge, suspicion or the information or other matter ... to an authorised officer as soon as is reasonably practicable after it comes to his attention.”

A failure to report a suspicious transaction is an offence and is punishable with a fine not exceeding S\$10,000.

A similar disclosure obligation is imposed under the TSOFA. Section 8 of the TSOFA provides that every person in Singapore and every citizen of Singapore outside Singapore who has possession, custody or control of any property belonging to a terrorist, or information about any transaction in respect of such property, must immediately inform the Commissioner of Police. Regulation 9 of the MAS (Anti-Terrorism Measures) Regulations 2002 also imposes such an obligation on every financial institution in Singapore.

Persons making STRs are given protection under Section 39(6) of the CDSA which states that such disclosure to the authorized officer “shall not be treated as a breach of any restriction upon the disclosure imposed by law, contract or rules of professional conduct” and shall not be liable for any loss arising out of the disclosure. Under the TSOFA a person or institution which has made such a disclosure in good faith is protected from any criminal or civil proceedings.<sup>161</sup> Hence, a banker is relieved of his or her banking secrecy obligations<sup>162</sup> when making such disclosures.

A person who has made an STR is also deemed not to have been in possession of the information disclosed for the purposes of Sections 43, 44, 46 and 47 of the CDSA.<sup>163</sup> This means he or she would not be liable for any money laundering offence(s) connected to the information disclosed.

Information between lawyers and their clients which are subjected to legal privilege are, however, exempted from the reporting obligations under Section 39(1) of the CDSA.<sup>164</sup> It is also a defence if a person has a reasonable excuse for not disclosing the information.<sup>165</sup>

Suspicious Transactions Reports (STRs) have been very useful in combating crime. CAD has successfully detected a wide variety of criminal activity, such as cheating, criminal breach of trust, forgery and securities

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<sup>161</sup> Section 8(5) TSOFA.

<sup>162</sup> Section 47 Banking Act (Chapter 19). Bankers also have a duty of confidentiality to their clients under the common law (*Tournier v National Provincial & Union Bank of England* [1924] 1 KB 461).

<sup>163</sup> Section 40 CDSA.

<sup>164</sup> Section 39(6) CDSA.

<sup>165</sup> Section 39(4) CDSA.

trading malpractices, as well as money laundering and terrorism financing. STR information has directly or indirectly led to the seizure of S\$110 million of proceeds of crime since 2000.

CAD's STRO is also constantly seeking to forge strong partnerships with the private sector. STRO serves as the point of contact between the law enforcers and the financial and business community. It also conducts various outreach programmes like feedback and dialogue sessions to various industry sectors to raise anti-money laundering and counter financing of terrorism (AML/CFT) awareness, as well as to encourage the increase in both the quantity and quality of STRs. STRO also provide guidelines on the manner of reporting STRs (such as the design of reporting forms and procedures for reporting STRs), advice on ML/TF typologies, as well as the types of suspicious transactions that the respective industries should look out for.

## **VIII. CONCLUSION**

The control of corporate and economic crime involves a delicate balancing act, straddling between the objectives of robust and adequate regulation and enforcement on one hand, and the fostering of business enterprise and innovation. In the effort to raise corporate governance standards and promoting good regulatory practices, we must be mindful that this will not result in unnecessarily onerous and costly burden on businesses.

While Singapore has achieved significant success in our efforts at controlling and combating corporate and economic crime thus far, we recognize that we cannot rest on our laurels. We will need to constantly fine tune our system by learning from the experiences of other jurisdictions and ensuring that we keep abreast of the latest developments. We must remain nimble and agile in our ability to deal with emerging trends in corporate and economic crime as we continue to safeguard and preserve our reputation and integrity as a trusted international financial and business hub with tenacity and resolve.