

## Client Alert

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## MAS Takes a Firm Approach Against Money Laundering

Recent enforcement measures undertaken by the Monetary Authority of Singapore (the "**MAS**") signify the financial regulator's zero-tolerance stance against money laundering.

On 24 May 2016, the MAS served notice on BSI Bank Limited ("**BSI**"), directing BSI to shut down in Singapore for breaches of anti-money laundering requirements. The MAS has also referred the names of six BSI employees to the Public Prosecutor to assess if they have committed criminal offences.

The following client alert examines these developments in greater detail.

### Background Facts

BSI SA is a private bank headquartered in Switzerland, with subsidiaries in various countries including Singapore. In 2011 and 2014, the MAS carried out inspections on BSI and found repeated instances of weaknesses in the bank's control regime. A third inspection revealed that BSI had breached anti-money laundering regulations and disregarded compliance requirements. For example, BSI approved numerous unusual transactions which had no economic substance.

In addition, the MAS found that certain members of BSI's senior management failed to discharge their oversight responsibilities, and that various employees committed acts of gross misconduct. This included taking instructions from persons, other than the customers' authorised representatives, on matters pertaining to the customers' accounts.

One employee in particular, Mr Yeo Jiawei ("**Yeo**"), was charged by the Public Prosecutor for various offences including money laundering, and is currently in remand.

### Decision

#### ***Breaches by BSI***

On 24 May 2016, the MAS served a notice of intention on BSI to withdraw its status as a merchant bank in Singapore.

The regulator also levied a fine in the sum of \$13.3 million for 41 regulatory breaches under MAS Notice 1014 on the Prevention of Money Laundering and Countering the Financing of Terrorism. The breaches include failures to perform enhanced customer due diligence on high risk accounts, and to monitor suspicious customer transactions on an ongoing basis.

These stringent measures follow enforcement proceedings launched by the Swiss Financial Market Supervisory Authority ("**FINMA**") against BSI SA for serious breaches of money laundering regulations. FINMA has ordered the payment of CHF95 million, approved the takeover of BSI by EFG

International, and commenced proceedings against two of BSI SA's former managers.

### ***Proceedings Against Yeo***

Yeo faces a total of nine charges, which include money laundering, cheating BSI and perverting the course of justice.

With regard to the money laundering offences, Yeo was charged under section 47(1)(c) of the Corruption, Drug Trafficking and other Serious Crimes (Confiscation of Benefits) Act (Cap 65A). Section 47(1)(c) criminalises the acquiring, possessing or use of benefits of criminal conduct, which is punishable by a fine not exceeding \$500,000 and/or imprisonment for a term not exceeding 10 years.

In addition, Yeo allegedly cheated his employer by concealing fees that arose from deals between BSI SA and two other companies, through an entity that Yeo owned.

Furthermore, the prosecution highlighted Yeo's role in perverting the course of justice. Yeo had allegedly contacted other witnesses who were key figures in the investigations and was accused of instructing a witness to destroy evidence.

In recent proceedings, the High Court revoked Yeo's bail on the ground that Yeo was likely to interfere with investigations and fabricate evidence. Accordingly, Yeo must remain in custody until trial. A pre-trial conference is fixed for 28 July 2016 and Yeo's counsel has indicated to the Court that the defence hopes to have the trial in September if possible.

## **Comments**

The MAS's response to BSI's regulatory breaches should serve as a clear warning to all organisations to conduct their operations and business activities in compliance with anti-money laundering regulations. Notably, this is the first time in 32 years that the MAS has taken the drastic measure of shutting a bank down. The MAS has clearly adopted a no-nonsense approach towards money laundering offences.

In the light of regulatory trends, companies should establish robust Know Your Client ("KYC") standards for screening their clients. There should also be formal processes for assessing compliance risks in the markets where a company does its business. In order to raise compliance awareness, companies should provide mandatory compliance training for all employees and it would be prudent to carry out regular audits to monitor the conduct of employees. Companies should endeavour to deal promptly with allegations of misconduct, and discipline those who violate compliance requirements. With these considerations in mind, companies will need to have senior compliance officers with the authority to manage the overall compliance programme.

Moving forward, the MAS has stated that it is conducting reviews of several other financial institutions and bank accounts through which suspicious transactions have taken place. The outcome of the proceedings against Yeo will be closely watched. It also remains to be seen if any action will be taken against the other BSI employees referred to the Public Prosecutor, or any of the other institutions which are under review.