

Singapore: Anti-money Laundering Update

Dedicated Anti-money Laundering Departments Formed; First Merchant Banking Licence Revoked Since 1984 due to AML Compliance Failures

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On 13 June 2016, the Managing Director of the Monetary Authority of Singapore (the MAS), Mr. Ravi Menon, announced the establishment of two new dedicated departments to supervise anti-money laundering (AML) efforts and to boost regulatory enforcement, respectively. The new departments are expected to be operational by 1 August 2016.

This follows the earlier MAS announcement last month that BSI Bank's licence to operate as a merchant bank was being withdrawn due to, amongst other reasons, BSI Bank's serious breaches of AML requirements.

These two announcements reflect the regulator's serious commitment against money laundering and are consistent with the trend over recent years where the regulator has steadily intensified its oversight of financial institutions.

Establishing departments dedicated to AML supervision & enforcement

Currently, AML functions are carried out by a number of different departments within MAS. However, MAS has recognised that as Singapore's financial centre evolves into a more complex, sophisticated hub (bolstered by an influx of high net worth individuals and the operation of two casinos), there is a real need for a specialised AML department equipped to deal with complicated money laundering operations and the increased risk of sophisticated criminal organizations seeking to take advantage of any gaps in regulatory supervision.

The new AML Department aims to streamline existing responsibilities relating to AML and other unlawful financial activities, as the MAS seeks to enhance its supervision of how financial institutions manage money laundering and other similar risks.

A new Enforcement Department will also be established to centralise and strengthen AML enforcement functions. The new Enforcement Department will liaise with the Commercial Affairs Department of the Singapore police force, which is responsible for the investigation of most financial crimes in Singapore, to investigate misconduct relating to capital markets, as well as enforce penalties on institutions that have been found guilty of breaching the MAS's regulations on AML, financing of terrorism and other illicit financing.

Closure of BSI Bank

The MAS's closure of BSI Bank marks the first time that it has ordered a bank to cease business in Singapore since 1984, when it shut Jardine Fleming (Singapore) Pte Ltd down for providing inadequate advisory functions.

The MAS had inspected BSI Bank at least three times over the past five years, and had consistently found serious shortcomings in the degree and quality of its control regime and its policies on due diligence checks. The MAS's most recent and more intrusive inspection in 2015 uncovered numerous breaches of AML regulations as well as a "*pervasive pattern of non-compliance*". In summary, the MAS had found that:

- i. BSI was riddled with extensive control failures leading to multiple and significant violations of AML regulations;
- ii. BSI's senior management had not exercised an effective and appropriate degree of supervision of their staff;
- iii. BSI perpetuated a culture with an excessively inappropriate appetite for risk, at the expense of compliance with both internal and the MAS's regulatory controls; and
- iv. Various staff members were guilty of multiple acts of gross misconduct.

Staff referred to the Public Prosecutor regarding criminal offences

The MAS has also referred six members of BSI Bank's senior management to the Public Prosecutor for investigation into whether they have committed criminal offences, such as:

- i. Wilfully making material misrepresentations to auditors;
- ii. Abetting the improper valuations of assets; and
- iii. Receiving instructions from persons who were not their customers or their customers' authorised representatives regarding issues relating to their customers' accounts.

Out of these six members of senior management, one is currently suspended by the bank, whilst another is currently in remand and has been charged by the Public Prosecutor for committing a number of offences.

Penalties levied on BSI Bank

The MAS has levied pecuniary penalties on BSI Bank amounting to S\$13.3 million for its 41 breaches of MAS Notice 1014 - Prevention of Money Laundering and Countering the Financing of Terrorism. It had found that BSI had breached certain due diligence requirements by approving suspicious transactions despite the concerns of the bank's compliance officers and the insufficiency of supporting documentation. Further, BSI Bank had failed to continuously and consistently check for suspicious transactions being made on the request of its customers.

Commentary

Singapore's position as a major financial hub makes it attractive and vulnerable to criminal elements who seek to launder money or raise funds for illegal purposes.

The MAS is conscious of this and clearly expects financial institutions in Singapore, including insurance companies and banks, to adhere to its regulations on AML, countering the financing of terrorism and preventing other financial crime. Increasingly, regulatory rigour will be directed to ensuring those expectations are met.

The BSI Bank licence revocation should act as a "*wake up call*" against any doubts in this regard and any complacency. Financial institutions must ensure that their internal controls and due diligence policies match the expectations of MAS and are complied with consistently and effectively across the organisation.

Kennedys' regulatory & compliance team

Kennedys advise local and international clients on managing their legal risks in relation to matters such as anti-bribery laws, anti-money laundering & terrorist financing regulations, international trade controls and sanctions. Among other things, we assist clients in developing compliance programs and manuals, and provide AML training.

We recognise that financial crime risks are increasingly international in nature and that acting in such matters requires not just a comprehensive knowledge of the legal issues, but also experience in dealing with involved regulators & investigators and an understanding of local business environments. Our Singapore-based team consists of a balance of international and local lawyers, admitted in the United States, the United Kingdom, Hong Kong, Singapore and Indonesia, who are able to fluently speak English, Mandarin, Cantonese, Malay, Bahasa Indonesian and Korean.

We are also able to call upon our growing network of over 1,400 people in 37 offices across the Asia Pacific region, the Middle East, Europe, the United States and South America.

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