

The background of the top half of the page features a collage of Singaporean banknotes. A prominent 50 Singapore Dollar note is shown in the upper left, featuring a portrait of a man. Below it, a 10 Singapore Dollar note is visible, also with a portrait. To the right, a portion of a purple 2 Singapore Dollar note is seen. The notes are slightly overlapping and have a soft, blurred effect. A dark red diagonal bar cuts across the bottom of the image, separating the banknote collage from the title and footer.

Anti-money laundering: Legal developments and enforcement trends in Singapore

February 2024

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Anti-money laundering: Legal developments and enforcement trends in Singapore

The recent arrests of ten foreign nationals in Singapore in a massive anti-money laundering (AML) operation has attracted significant public attention. Many financial institutions (FIs) in Singapore are closely watching this case. Some have been assisting with investigations by the authorities and/or related regulatory reviews by the Monetary Authority of Singapore (MAS).

Recent developments and trends also show that the Singapore government remains committed to strengthening its AML regime, especially within the financial sector. MAS expects FIs to play a critical gatekeeper role in detecting and mitigating money laundering risks, and will not hesitate to take firm enforcement action against FIs that are found to be in breach of MAS' requirements.



Island-wide raids and arrests

On August 15, 2023, more than 400 officers from the Singapore Police Force conducted simultaneous raids island-wide in a major AML operation. Ten foreign nationals were arrested and charged with various offences, including money laundering and forgery. The total value of the property that has been seized or prohibited from disposal by the authorities exceeds S\$3 billion as of January 2024. It is believed that the proceeds originated from criminal activities outside of Singapore, including illegal online gambling and unlicensed moneylending.ⁱ



MAS' regulatory reviews involving FIs

Many FIs in Singapore are closely monitoring this case. It was reported that the suspects have banking relationships with more than 10 FIs in Singapore.ⁱⁱ The monies in the seized bank accounts amounted to more than S\$1.45 billion as of October 2023.ⁱⁱⁱ It was revealed in Parliament that MAS is conducting detailed supervisory reviews and inspections of the FIs with "a major nexus" to this case.^{iv}

The ongoing regulatory reviews come on the heels of a series of recently concluded enforcement actions by MAS in connection with the Wirecard saga. In June 2023, it was announced that MAS imposed composition penalties of S\$3.8 million on three banks and an issuer. The FIs were found to have had inadequate AML controls in place when they dealt with persons who were involved in transactions with, or had links to, Wirecard AG or its related parties. Money laundering-related control breaches have been, and will remain, a key area of focus for MAS.

FIs' role in Singapore's AML strategy

FIs in Singapore must comply with strict AML requirements, in line with standards set by the Financial Action Taskforce (FATF) and international best practices. Singapore adopts a risk-based approach to combating money laundering. MAS, as sectoral regulator, prescribes AML requirements for different classes of FIs, calibrated according to their level of risk.^v MAS also ensures the FIs' compliance through close supervision and surveillance.^{vi}

Among FIs, banks are categorized as "high risk", due to inherent vulnerabilities and their potential exposure to complex, cross-border activities and high-risk clients.^{vii} Banks must comply with MAS Notice 626,^{viii} which sets out requirements on, among others, risk assessment, risk mitigation, when and how customer due diligence (CDD) is to be performed, and record-keeping obligations.

A cornerstone of Singapore's AML strategy is the suspicious transaction reporting regime. Where an FI detects suspicious customer behaviour, it must lodge a Suspicious Transaction Report (STR) with the Suspicious Transaction Reporting Office (STRO) and take appropriate mitigation measures. Such measures could include imposing restrictions on the customer's account or terminating the FI's relationship with the customer. FIs must also extend a copy of the STR to MAS for information.^{ix}

Failure to file an STR where required constitutes a criminal offence. Pursuant to section 45(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 (CDSA),^x a person has a duty to inform the STRO if the person knows or has reasonable grounds to suspect, through the course of his trade, profession, business or employment, that any property or any transaction that the person is dealing with may be illicit. A violation of that provision may attract fines and, for individuals, an imprisonment term.^{xi}



The STRO is the main detection node for money laundering activities within Singapore.^{xii} Between 2020 and 2022, the STRO received an average of 43,000 STRs annually. Over 80% of the STRs in that period were filed by FIs.^{xiii} In the recent case, the Police's coordinated intelligence probe in early 2022 was in part prompted by certain STRs that were filed by FIs and other companies.^{xiv}

Legal and enforcement developments and trends

It remains to be seen how the cases against the suspects will pan out. At this stage, it is also unclear whether the regulatory reviews by MAS will uncover any lapses in the FIs' AML controls. Further details will likely emerge only after the investigations, regulatory reviews, and any other related court proceedings have run their course.

For now, however, there are several developments and trends pertaining to Singapore's AML strategy that are of relevance to FIs, which we discuss below. The recent/ongoing developments will further enhance the three prongs of Singapore's AML strategy – prevention, detection, and enforcement.^{xv}

Together, these developments and trends show that the Singapore government remains committed to strengthening the AML regime. Within the financial sector, MAS expects FIs to play a critical gatekeeper role in combating money laundering, and has demonstrated that it will not hesitate to take firm enforcement action against FIs when lapses are disclosed.

1 Prevention: Legislative/regulatory review and reform

There are several areas of legislative/regulatory review and reform, which are aimed at strengthening the “prevention” prong of Singapore's AML strategy.

New inter-ministerial committee to review AML regime

In October 2023, it was announced in Parliament that an inter-ministerial committee would be set up to review Singapore's AML regime with the benefit of the learning points from the recent case, and to keep the regime up to date with increasingly sophisticated crimes.

The inter-ministerial committee will comprise officeholders from the MAS, Ministry of Home Affairs (MHA), Ministry of Law (MinLaw), Ministry of Manpower (MOM), and Ministry of Trade and Industry (MTI).^{xvi} The establishment of a new inter-ministerial committee reaffirms Singapore's whole-of-government approach to combating money laundering.

One of the committee's main areas of review is how FIs can enhance their controls and collaborate more effectively with each other and the authorities to guard against and flag suspicious transactions.^{xvii} FIs should monitor and review any findings/recommendations that the committee may release in due course.

New offences under the CDSA: Rash and negligent money laundering

On May 9, 2023, amendments^{xviii} to the CDSA were passed to introduce two new offences of rash and negligent money laundering. These amendments will allow a money laundering offence to be made out at a lower level of culpability. We discussed these new offences in our prior client alert.

A person (which includes a corporate entity) can be liable for rash money laundering for proceeding to carry out a transaction when the person had suspicions about it but failed to make further enquiries to address those suspicions. A person can be liable for negligent money laundering for proceeding to carry out a transaction despite the presence of red flags which would be noticeable by an ordinary, reasonable person.^{xix}

Where a person who is not an individual (e.g. a corporate entity) is convicted of rash or negligent money laundering, the maximum fine is S\$1 million, or twice the value of the benefits from criminal conduct in respect of which the offence was committed, whichever is higher. Where an individual is convicted of rash or negligent money laundering, he shall be liable to a fine and/or imprisonment term.

The legislative intent of the new money laundering offences is to tackle the increase in scam cases in Singapore, by empowering the authorities to more effectively deal with money mules who abet scammers.^{xx} However, the offences appear to be capable of wider application, including potentially to FIs. It remains to be seen how the authorities will enforce these provisions.

The amendments to the CDSA are expected to come into force shortly. Previously, it had been announced in Parliament that the amendments would be implemented approximately six months after they were passed (which

was in May 2023). The delay in implementation is to allow the public to familiarize themselves with the new laws.^{xxi}

ACRA's proposals to tighten corporate regulatory controls

In 2022, the Accounting and Corporate Regulatory Authority (ACRA) also proposed a new Corporate Services Providers Bill (CSP Bill) as well as amendments to the Companies Act and ACRA Act to tighten regulatory control over companies incorporated in Singapore.

ACRA's proposals aim to, among other things, address the risks presented by the misuse of nominee arrangements in creating shell companies to cloak the identity of a company's true beneficial owners. Such shell companies are frequently used to facilitate money laundering and evade detection by the authorities.^{xxii} ACRA has observed a significant increase in cases of misuse of nominee directorship arrangements.^{xxiii}

Two of ACRA's proposals are as follows:

- Corporate services providers (CSPs) will be required to ensure that the individuals they appoint to act as nominee directors are fit and proper, and satisfy prescribed training requirements if such individuals hold more than a legally prescribed number of nominee directorships by way of business, unless the individuals fall within the category of "*qualified persons*" (e.g. lawyers or accountants).^{xxiv}
- To enhance the transparency of nominee arrangements, nominee directors and shareholders will be required to disclose their nominee status and the identity of their nominators to ACRA. The nominee status shall be made publicly available. Presently, such information is only disclosed to the nominees' companies; it is neither submitted to ACRA nor publicly available.^{xxv}

The proposed new CSP Bill and other related proposals are expected to be tabled in Parliament in early 2024.^{xxvi}

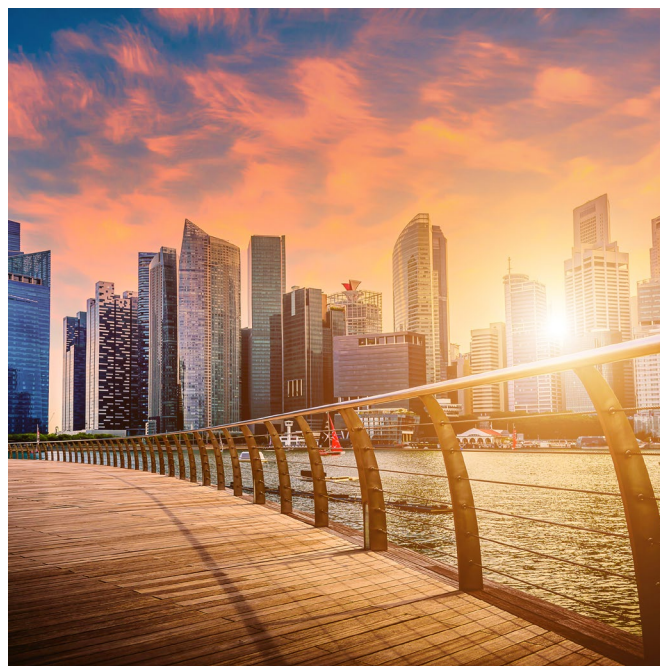
If the proposals are passed into law, FIs should assess whether they need to update their existing AML policies, procedures, and controls to leverage new information (e.g. information on nominee arrangements) for their CDD and transaction monitoring.

2 Detection: FI-FI information sharing and MAS Information Paper

The second prong of Singapore's AML strategy is "*detection*". Improving FIs' ability to detect money laundering risks remains a key focus area in this regard.

Secure digital information sharing platform for FIs – COSMIC

A significant development to boost FIs' detection capabilities is the upcoming launch of information sharing platform COSMIC. COSMIC stands for Collaborative



Sharing of Money Laundering/Terrorism Financing Information & Cases.

COSMIC is a secure digital platform that will allow FIs to share with one another information on customers who exhibit multiple red flags indicative of potential financial crime concerns, if stipulated thresholds for information sharing are met.^{xxvii} COSMIC will be operated by MAS. Currently, information sharing between FIs is not permitted due to customer confidentiality provisions under the Banking Act 1970. This information sharing gap has been observed to be a weakness that some criminals exploit, for instance by layering their illicit activities across multiple FIs.^{xxviii} MAS is currently conducting a public consultation on the scope of customers whose information may be shared via COSMIC, and its intention is for such scope to capture all business relations between a person and bank in Singapore that are relevant for AML/CFT purposes.^{xxix}

When implemented, the information shared on COSMIC will enable a participant FI that receives information to augment its risk understanding of a customer. This will equip FIs with critical information to detect suspicious behavior with greater speed and accuracy. One of COSMIC's targeted risk areas is also the misuse of corporate or other vehicles to obscure the nature of transactions or ownership of assets. This has been said to be a typology used by the suspects in the recent case.^{xxx}

Participant FIs will be expected to integrate information received from COSMIC into their broader AML/CFT controls (a public consultation on such specific requirements, which will be incorporated into existing MAS AML/CFT regulations, is ongoing at present).^{xxxi} Other than the participant FIs, information shared on COSMIC will also be accessible to MAS and the STRO for supervisory purposes and data analysis.^{xxxii}

COSMIC is expected to be rolled out in June 2024, if not earlier.^{xxxiii} It will be introduced in phases, starting with six banks that are major players in the commercial and small- and medium-size enterprises banking segment.^{xxxiv} The initial phase is expected to last about two years. MAS plans to progressively expand the use of COSMIC to a wider segment of the financial sector and to more focus areas in subsequent phases.^{xxxv}

MAS Information Paper

Beyond imposing requirements, MAS publishes guidance



papers and circulars on emerging AML risks and criminal typologies. Through these, MAS seeks to highlight good practices, raise FIs' awareness of risks and improve industry standards.^{xxxvi}

On August 30, 2023, MAS published an information paper^{xxxvii} on strengthening AML/countering the financing of terrorism (CFT) controls and practices to detect and mitigate risks of misuse of legal persons/arrangements and complex structures. This paper details the key typologies observed by MAS during its inspection of FIs and elaborates on the regulator's expectations of FIs.^{xxxviii}

According to the information paper, one recurring area of weakness observed by MAS pertains to executional lapses (as opposed to systemic deficiencies).^{xxxix} Executional lapses present in multiple forms, such as failing to perform further checks or seek clarifications when complex corporate structures or products are involved. That in turn may be attributable to insufficient training to recognise red flags, or a formalistic "check box" approach towards implementing AML controls.

MAS has advised FIs to benchmark themselves against the practices and supervisory expectations set out in the

information paper, conduct a gap analysis, and implement specific remediation/enhancement measures as appropriate.^{xl}

3 Enforcement: MAS' enforcement trends and key priorities

The third prong of Singapore's AML strategy is "enforcement". Tackling breaches of AML requirements by FIs remains a key enforcement focus area for MAS.^{xli}

Key enforcement priorities

Based on statistics released in Parliament in October 2023, MAS opened 20 investigations in the past five years against FIs for suspected breaches of AML/CFT requirements. Of these 20 investigations, enforcement action was taken against 17 FIs. At the individual level, MAS opened 25 investigations against individuals. Of these 25 investigations, enforcement actions were taken against 11 individuals.^{xlii}

On September 19, 2023, MAS released its Enforcement Report 2022/2023,^{xliii} which covers the reporting period of January 2022 to June 2023. The report sets out MAS' findings and supervisory observations on key enforcement actions (including some pertaining to money laundering-related control breaches), and identifies key areas of risks and weaknesses for FIs.

In the Enforcement Report, MAS emphasised a continuing focus on asset and wealth managers as an enforcement priority for 2023/2024. To this end, MAS will step up its supervisory engagements to focus on serious regulatory breaches, which include poor risk management.^{xliiv}

On enhancing individual accountability, the Enforcement Report also lays down MAS' expectation of the board of directors and senior managers to exercise strong oversight over money laundering and terrorism financing risks, as well as ensure the effective implementation of key AML/CFT controls.^{xliv}

MAS cautioned that it will not hesitate to take stern action against errant FIs and hold senior management accountable in appropriate cases.^{xlvi}

Past enforcement outcomes and MAS' enforcement powers

The Enforcement Report also provides details of the spate of enforcement actions linked to German-based payments processor Wirecard AG, as an example of MAS' enforcement of breaches of money laundering-related controls.

In 2020, Wirecard AG revealed severe irregularities in its financial statements, which were allegedly attributable to a fraud perpetrated by the company's executives. Following investigations, in June 2023, it was announced that MAS handed composition penalties amounting to S\$3.8 million to three banks and an issuer. These four FIs were found to have had inadequate AML/CFT controls in place when they dealt with persons who were involved in transactions

with, or had links to, Wirecard AG or its related parties. The specific breaches identified by MAS included the following:

- Failure to understand the customers' ownership and control structure;
- Failure to pay special attention to and inquire into the background and purpose of transactions that were inconsistent with the FIs' knowledge of the customers and their business;
- Failure to pay special attention to and inquire into the background and purpose of transactions that were unusually large and exhibited an unusual pattern that had no apparent economic purpose; and
- Failure to update customers' money laundering risk ratings, which resulted in a failure to perform timely enhanced CDD.^{xlvii}

Aside from financial penalties, other forms of enforcement actions by MAS for money laundering-related control breaches include the revocation of a bank's licence or issuance of formal reprimands to FIs. In one case, MAS also required an FI to appoint an independent external party to validate the implementation and effectiveness of the FI's remediation measures and report its findings to MAS.^{xlviii}

To hold errant individuals accountable, MAS issued prohibition orders (POs) in some cases, which could include an order prohibiting an individual from holding office or from working in the financial sector.

One recent development relating to POs is the expansion of MAS' power to issue POs under Part 3 of the Financial Services and Markets Act 2022^{xlix} (FSMA). Under the FSMA, MAS will have power to prohibit any person who is not fit and proper from engaging in any activity regulated by MAS. Currently, MAS only has the power to issue POs against persons regulated under piecemeal legislation, i.e. the Securities and Futures Act 2001, the Financial Advisors Act 2001, and the Insurance Act 1966. There are others within the financial sector who do not fall within the existing categories. The FSMA is being implemented in phases from April 2023 to 2024,¹ and part 3 of the FSMA has yet to come into force. We discussed MAS' expanded powers to issue POs in our prior client alert.

What does this mean for FIs?

FIs in Singapore should carefully review their AML policies, processes and controls and ensure they align with the Singapore government's three-pronged strategy, which is based on prevention, detection, and enforcement.

To strengthen operational capabilities, FIs should invest in enhanced training so that their employees and officers are equipped with the relevant skills and an awareness of emerging money laundering risk typologies.



MAS' emphasis on individual accountability in the latest Enforcement Report should not be overlooked. Beyond ensuring that there are structural AML controls in place, board members and individuals in senior management roles need to exercise appropriate oversight to effectively detect any executional lapses.

Recent law-enforcement action underscores the reality that money-laundering risks will always be present in a global financial hub such as Singapore. As Singapore's financial services sector continues to grow in size and geostrategic importance, FIs will need to strike a balance between leveraging the opportunities this presents and managing the attendant AML compliance risk.

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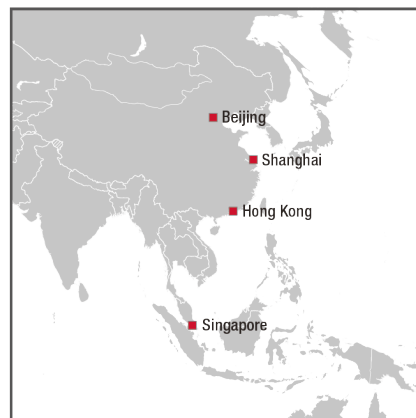
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- ⁱ Ministerial statement by Second Minister for Home Affairs Mrs Josephine Teo (October 3, 2023)
- ⁱⁱ Bloomberg article (October 10, 2023)
- ⁱⁱⁱ Ministerial statement by Second Minister for Home Affairs Mrs Josephine Teo (October 3, 2023)
- ^{iv} Ministerial statement by MOS Mr Alvin Tan (October 3, 2023)
- ^v Ministerial statement by Second Minister for Home Affairs Mrs Josephine Teo, Annex 1, paragraph 3 (October 3, 2023)
- ^{vi} Ministerial statement by Second Minister for Home Affairs Mrs Josephine Teo (October 3, 2023)
- ^{vii} Ministerial statement by Second Minister for Home Affairs Mrs Josephine Teo, Annex 1, paragraph 4 (October 3, 2023): *“To support our risk-based approach, Singapore’s national risk assessment framework categorises financial and non-financial sectors into four tiers of risks – high, medium-high, medium-low and low. In the financial sector, banks are assessed to be high risk due to inherent vulnerabilities and potential exposure to complex, cross-border activities and high-risk clients.”*
- ^{viii} MAS Notice 626
- ^{ix} MAS Notice 626, paragraph 14.2
- ^x CDSA
- ^{xi} CDSA, Section 45(3)
- ^{xii} Ministerial statement by Second Minister for Home Affairs Mrs Josephine Teo, Annex 1, paragraph 10 (October 3, 2023)
- ^{xiii} Ministerial statement by Second Minister for Home Affairs Mrs Josephine Teo (October 3, 2023)
- ^{xiv} Ministerial statement by Second Minister for Home Affairs Mrs Josephine Teo (October 3, 2023): *“In 2021, our anti-money laundering regime picked up a few signals, including the use of suspected forged documents to substantiate sources of funds in bank accounts in Singapore. Some Suspicious Transaction Reports (STRs) were filed by financial institutions and other companies. Police began looking separately into these alerts. In early 2022, Police launched a comprehensive, coordinated intelligence probe.”*
- ^{xv} Ministerial statement by Second Minister for Home Affairs Mrs Josephine Teo (October 3, 2023): *“Singapore’s anti-money laundering strategy has three prongs and that applies across various sectors. First, prevention, underpinned by a robust legal and regulatory framework to deter criminals. The second prong, detection, is anchored by our STR regime and supervision by sectoral regulators. Our third prong, enforcement, is about taking strong action when there is suspicion of money laundering.”*
- ^{xvi} Ministerial statement by Second Minister for Finance and National Development Ms Indraneel Rajah (October 3, 2023)
- ^{xvii} Ministerial statement by Second Minister for Finance and National Development Ms Indraneel Rajah (October 3, 2023)
- ^{xviii} Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) (Amendment) Bill
- ^{xix} Second Reading of CDS (Amendment) Bill (May 8, 2023)
- ^{xx} Second Reading of CDS (Amendment) Bill (May 8, 2023): *“The Bills we are proposing today will add to our suite of anti-scam measures outlined above. We propose to empower the authorities to deal more effectively with money mules and to prevent the abuse of Singpass for scam operations.”*
- ^{xxi} Second Reading of CDS (Amendment) Bill (May 9, 2023): *“We will cooperate with key stakeholders and intensify public education efforts before implementing the Bills to explain the dangers, the new guardrails and the red flags that we should be mindful of. If passed, the Bills are intended to come into force approximately six months later to allow time for members of the public to familiarise themselves with the new laws.”*
- ^{xxii} ACRA’s website
- ^{xxiii} Annex A referred to on ACRA’s website. S/N 11 of Annex A: *“Currently, there has been a significant increase in the misuse of nominee directorship arrangements in the creation and misuse of shell companies by concealing the identity of a company’s true beneficial owners, in order to facilitate money laundering.”*
- ^{xxiv} Annex A referred to on ACRA’s website. See S/N 11 of Annex A.
- ^{xxv} Annex A referred to on ACRA’s website. See S/N 12 of Annex A.
- ^{xxvi} Ministerial statement by Second Minister for Finance and National Development Ms Indraneel Rajah (October 3, 2023)
- ^{xxvii} Second Reading of FSM (Amendment) Bill
- ^{xxviii} Ministerial statement by MOS Mr Alvin Tan (October 3, 2023)
- ^{xxix} MAS Consultation Paper on the Regulations Relating to FI-FI Information Sharing for AML/CFT (6 December 2023), section 3.4.
- ^{xxx} Ministerial statement by MOS Mr Alvin Tan (October 3, 2023)
- ^{xxxi} MAS Consultation Paper on Notice Relating to FI-FI Information Sharing for AML/CFT (16 November 2023), section 4.
- ^{xxxii} Second Reading of FSM (Amendment) Bill: *“Apart from participant financial institutions, MAS will have access to all information shared on the platform. This is necessary for MAS to monitor if participant financial institutions are using COSMIC appropriately, and will also support MAS’ broader supervisory and surveillance role to ensure that financial institutions have robust defences against financial crime. STRO, which analyses and disseminates financial intelligence to law enforcement and regulatory agencies, will also be able to view and use COSMIC information to support the prevention and detection of financial crime.”*
- ^{xxxiii} Ministerial statement by MOS Mr Alvin Tan (October 3, 2023)
- ^{xxxiv} MAS’ Response to feedback received on Consultation Paper on the FI-FI Information Sharing Platform for AML/CFT (March 20, 2023): *“MAS will prescribe the specific FIs that will participate on COSMIC. In the initial phase, this will be the six banks that are major players in the commercial and small-medium enterprises (“SME”) banking segment.”* The six banks are DBS, OCBC, UOB, SCB, Citibank, and HSBC.
- ^{xxxv} MAS’ Response to feedback received on Consultation Paper on the FI-FI Information Sharing Platform for AML/CFT (March 20, 2023)
- ^{xxxvi} Ministerial statement by MOS Mr Alvin Tan (October 3, 2023)
- ^{xxxvii} MAS Information Paper
- ^{xxxviii} MAS Information Paper, Page 2
- ^{xxxix} MAS Information Paper, Page 3: *“While we did not observe systemic deficiencies from our review, executional lapses were observed as a result of weak oversight and lack of risk awareness and vigilance to identify unusual red flags.”* See also Case Study 5 at page 11.
- ^{xl} MAS Information Paper, Page 2
- ^{xli} MAS Explainer on Enforcement Report: *“Our key focus areas are tackling market misconduct, breaches of anti-money laundering/countering the finance of terrorism requirements and financial services misconduct.”*
- ^{xlii} Ministerial statement by MOS Mr Alvin Tan (October 3, 2023)
- ^{xliiii} MAS Enforcement Report 2022/2023
- ^{xliiv} MAS Enforcement Report 2022/2023, Page 28: *“MAS will continue to pay attention to asset and wealth managers as their proper conduct remains vital in ensuring Singapore’s position as a leading asset and wealth management hub. MAS expects them to comply with applicable laws and regulations, including business conduct and AML/CFT requirements, and will step up supervisory engagements to focus on serious regulatory breaches such as those involving dishonesty, gross conflict of interest and poor risk management.”*
- ^{xliiv} MAS Enforcement Report 2022/2023, Page 19
- ^{xlivi} MAS Enforcement Report 2022/2023, Page 28
- ^{xliivii} MAS Enforcement Report, Page 20
- ^{xliiviii} MAS Enforcement Report, Page 17
- ^{xlix} FSMA
- ^l MAS Website