

SINGAPORE

Little or no enforcement

1.8% of global exports

Investigations and cases

In the period 2016-2019, Singapore opened at least one investigation, commenced no cases and concluded one foreign bribery case with sanctions.

In 2018, Singapore's Attorney General reportedly requested evidence through mutual legal assistance (MLA) from relevant foreign authorities for use in its investigations and those of the Corrupt Practices Investigation Bureau (CPIB) into individuals involved in the alleged corrupt conduct of Singapore-based shipbuilder **Keppel Offshore & Marine Ltd (Keppel)**.¹ In 2017, Keppel and its US subsidiary reached a settlement with Singapore's Attorney General's Chambers (AGC), the US Department of Justice and the Public Prosecutor's Office in Brazil. The two companies jointly agreed to pay a combined total penalty of more than US\$422 million to resolve charges with authorities in the United States, Brazil and Singapore, arising out of a decade-long scheme to pay millions of dollars in bribes to officials in Brazil. Singapore will receive 25 per cent of the penalty paid.² The CPIB issued Keppel a "conditional warning".³

In July 2019, the Singapore police announced that the country was returning to Malaysia S\$50 million (US\$35 million) in funds seized in connection with an

investigation into a transnational money-laundering case by the Monetary Authority of Singapore (MAS) regarding the Malaysian state investment fund **1MDB**.⁴ Several major banks and individuals have been charged and fined for their roles in the case.⁵

Also in 2019, the Attorney General's Office reported that the prosecution service secured the first conviction of a foreign accused person based overseas, who had set up shell companies and corporate bank accounts in Singapore for the purposes of money laundering.⁶

In other jurisdictions, in the UK, the Serious Fraud Office (SFO) started criminal proceedings against **Unaoil Ltd** and **Unaoil Monaco** in mid-2018, in relation to alleged corrupt payments to secure the award of a contract worth US\$733 million for **Leighton Contractors Singapore PTE Ltd** to build two oil pipelines in southern Iraq.⁷ In 2018, the Central Bureau of Investigation (CBI) in India commenced investigations into allegations that unnamed public servants and others entered into a conspiracy with a private airline to expedite action by officials at the Ministry of Civil Aviation in an approval process and change in aviation policies to suit that company.⁸ According to media reports, AirAsia India had engaged HNR Trading PTE Ltd, a Singapore-registered entity to assist its "regulatory and corporate affairs liaising". One news report said the CBI filed a First Information Report stating "During 2015-16, AirAsia remitted about Rs12.28 crore [US\$1.7 million] to M/s HNR Trading Ltd, Singapore (co-accused) for a sham contract on the basis of a bogus agreement on plain papers, which was utilised for paying bribe to unknown public servants of Indian government and others for securing permit for operation of international

¹ Response of the Singapore Prime Minister to a question in Parliament in January 2019, <https://sprs.parl.gov.sg/search/sprs3topic?reportid=written-answer-4399&fbclid=IwAR2tULF06FbPW6Ok9zgf32ShA8D87JfNMBI6jbz4eNB3jUbOZ6DfblFw9qY>

² <https://www.justice.gov/opa/pr/keppel-offshore-marine-ltd-and-us-based-subsiary-agree-pay-422-million-global-penalties>

³ <https://www.cpi.gov.sg/press-room/press-releases/conditional-warning-issued-keppel-offshore-marine-ltd>

⁴ <https://www.straitstimes.com/asia/se-asia/singapore-returning-503-million-linked-to-1mdb-scandal>

⁵ See the *Exporting Corruption Report 2018*, entry on Singapore, p.101, for details.

⁶ <https://www.agc.gov.sg/docs/default-source/publications/agc-annual-report-2019.pdf>

⁷ <https://www.sfo.gov.uk/cases/unaoil/>; <https://www.sfo.gov.uk/2018/06/26/unaoil-group-companies-summonsed-as-part-of-sfos-ongoing-corruption-investigation/>; <https://www.afr.com/companies/cimic-signs-investigation-agreement-with-uss-doj-on-alleged-leighton-bribes-20190301-h1bw3u>. The SFO subsequently dropped its investigation into three of the executives, for which it was criticised, <https://www.theguardian.com/uk-news/2019/jun/30/serious-office-faces-questions-over-decision-to-drop-bribery-investigation>

⁸ http://www.cbi.gov.in/pressreleases/pr_2018-05-29-1.php

scheduled air transport services [sic]”.⁹ AirAsia Group Bhd has denied the allegations.

Recent developments

The MAS has increased its focus on money laundering. As a leading financial centre and fintech hub, Singapore is vulnerable to money laundering, with large cross-border flows and the use of Singapore-based shell firms to evade detection.¹⁰ The MAS has been getting tougher with banks since 2016 and has levied nine separate fines for non-compliance, totalling SG\$28.5 million (US\$21 million).¹¹ In early 2020, it imposed a SG\$400,000 (US\$289,000) penalty on accounting firm **TMF Trustees Singapore Limited** for its failure to comply with anti-money laundering requirements.

From May 2020, Singapore’s Accounting and Corporate Regulatory Authority (ACRA) has required all companies, foreign companies and Limited Liability Partnerships, unless exempted, to lodge beneficial ownership (controller) information in their Registers of Registrable Controllers with ACRA’s online filing and information retrieval system.

The Financial Action Task Force (FATF) issued a Follow-Up Report on Singapore in 2019.¹² It found that some of the deficiencies identified in its 2016 report were addressed, but some remain, including inadequate customer due diligence requirements applicable to casinos and real-estate agents, and a lack of reporting obligations required of real-estate agents.

Amendments to Singapore’s Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act came into effect on 1 April 2019. The amendments subject legal persons to confiscation of SG\$1 million (US\$737,900) or twice the value of the property involved, the benefit from drug dealing or the benefit from criminal conduct, whichever is higher. According to FATF’s 2019 report, the fines now available for legal persons are sufficiently dissuasive.

Transparency of enforcement data

The Singapore government does not publish statistics on its foreign bribery enforcement. However, crime statistics are produced by the police and the Ministry of Home Affairs.¹³ The Singapore government does not publish updated statistics on MLA requests made and received and responses provided. However, the Attorney General Chambers’ 2019 Annual Report states that it handled a total of 1,243 MLA and extradition matters in 2019.¹⁴

All Singapore Supreme Court judgments are published in full.¹⁵ Selected latest judgments issued by the Singapore state court are published on its website and are available for three days from the date of posting.¹⁶ Thereafter, users are redirected to LawNet, run by the Singapore Academy of Law, for civil and criminal case judgments.¹⁷

Beneficial ownership transparency

⁹ <https://www.cnbctv18.com/aviation/cnbctv18-com-investigation-singapore-company-a-logistics-provider-linked-to-airasia-india-for-lobbying-by-cbi-was-engaged-soon-after-board-meet-79433.htm>; <https://www.channelnewsasia.com/news/asia/airasia-group-denies-allegations-of-aviation-corruption-by-india-10446878>; <https://economictimes.indiatimes.com/industry/transportation/airlines/-aviation/more-individuals-under-cbi-lens-for-airasia-lobbying/articleshow/64626271.cms?from=mdr>

¹⁰ <https://insights.namescan.io/singapores-mas-focuses-on-shell-firms-to-fight-money-laundering/>; <https://www.channelnewsasia.com/news/singapore/shell-firms-money-laundering-monetary-authority-mas-11804128>

¹¹ <https://sbr.com.sg/financial-services/commentary/further-tightening-financial-regulation-in-singapore>

¹² <https://www.fatf-gafi.org/publications/mutualevaluations/documents/fur-singapore-2019.html>; <http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Singapore-2016.pdf>

¹³ <https://www.police.gov.sg/media-room/statistics>; <https://data.gov.sg/dataset?organization=ministry-of-home-affairs-singapore-police-force>

¹⁴ <https://www.agc.gov.sg/docs/default-source/publications/agc-annual-report-2019.pdf>

¹⁵ From 2000, <https://www.supremecourt.gov.sg/news/supreme-court-judgments>

¹⁶ <https://www.statecourts.gov.sg/cws/Resources/Pages/Latest-Judgments.aspx>; There is no explanation as to how judgments are selected for posting. It is assumed that selection is based on the legal significance of the case.

¹⁷ <https://www.lawnet.sg/lawnet/web/lawnet/home>; LawNet is a service of the Singapore Academy of Law, which is a Singapore statutory body and Singapore’s official law-reporting agency.

Singapore now has a central register of companies' beneficial ownership information, maintained by ACRA, which is accessible to agencies in Singapore, such as law enforcement, but not to the public.¹⁸ This is in addition to the existing requirement, in force since March 2017, for companies, including foreign companies, and Limited Liability Partnerships to maintain beneficial ownership information at registered office addresses, in the form of a Register of Registrable Controllers.¹⁹ A controller is defined as someone who has either significant interest or significant control over the company. This is defined at the 25 per cent threshold recommended by FATF. In general, the controller can be either an individual or an entity (such as a corporate shareholder). The new ACRA requirement does not apply to trusts.

Inadequacies in legal framework

There is no definition of foreign public officials under the Prevention of Corruption Act (PCA), and Singapore has no other specific legislation on corruption committed by foreign public officials. It is of concern that the PCA does not apply to some individuals acting for or on behalf of delinquent corporations, such as the board of directors, senior management and agents. A company can only be found legally liable if the employee involved in bribery is established to be a "controlling mind", i.e. a senior executive of the company.²⁰ In addition, the extraterritorial element of the law applies only to Singaporean citizens, not Singaporean companies.²¹

Penalties for bribery are either a fine not exceeding SG\$100,000 (US\$70,000) or imprisonment for up to five years (private-sector bribery) or seven years (public-sector bribery), or both. This maximum fine is too low, given that bribes in recent years have amounted to millions of US dollars. The UN Convention against Corruption (UNCAC) first cycle review of Singapore in 2015 stated that "the

reviewers welcome indications by Singapore that it is considering amending the PCA to distinctly provide for, and increase, the maximum penalties applicable to legal persons in corruption cases, an indirect consequence of which would be to further clarify the separate liability of entities and principals engaging in acts of corruption".²² This has yet to occur.

Singapore does not have dedicated legislation on whistleblower protection, including for reporting on corporate crimes. However, the CPIB makes a commitment to keep a complainant's identity confidential. The UNCAC first cycle review of Singapore recommended that Singapore "consider further expanding measures to protect reporting persons against unjustified treatment (art. 33)".²³

Inadequacies in enforcement system

Enforcement of laws that can be applied to bribery of foreign public officials remains low. Reasons given for this by commentators are, among other things, that the authorities give priority to prosecuting domestic corruption and there are difficulties in securing evidence in foreign bribery cases.²⁴ While Singapore introduced deferred prosecution agreements (DPAs) with the passing of the Criminal Justice Reform Bill in 2018, to date it has not used the process.

Recommendations

- Become a party to the OECD Anti-Bribery Convention
- Make public information on investigations and cases and the beneficial ownership information contained in the Registers of Registrable Controllers
- Define "foreign public officials" in the PCA and other applicable laws and broaden the scope of the PCA to include such individuals and third parties retained by corporations, who are involved in corrupt practices

¹⁸ <https://www.acra.gov.sg/corporate-service-providers/register-of-controllers>

¹⁹ <https://www.acra.gov.sg/legislation/legislative-reform/companies-act-reform/companies-amendment-act-2017/register-of-registrable-controllers>

²⁰ Lucas,B., "Comment: Singapore's foreign-bribery enforcement hindered by legal hurdles and hard-to-reach overseas evidence", 2 July 2020.

²¹ Lucas,B., "Comment: Singapore's foreign-bribery enforcement hindered by legal hurdles and hard-to-reach overseas evidence", 2 July 2020.

²² https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016_07_06_Singapore_Final_Country_Report.pdf

²³ www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016_07_06_Singapore_Final_Country_Report.pdf

²⁴ Lucas,B., "Comment: Singapore's foreign-bribery enforcement hindered by legal hurdles and hard-to-reach overseas evidence", 2 July 2020.

committed overseas • Establish laws that clearly prohibit Singaporean persons and entities from engaging in corrupt practices overseas • Expand the extra-territorial reach of the PCA so that the law can apply to non-Singaporeans who commit corrupt practices overseas where they are agents of a Singaporean company, or who have a Singaporean nexus • Strengthen criminal penalties under the PCA and other applicable anti-corruption laws • Enact overarching legislation to protect whistleblowers • Make greater use of alternatives to judicial proceedings, such as DPAs and non-prosecution agreements, in combatting corrupt practices • Increase collaboration with foreign governments, Interpol and other international anti-bribery organisations.