

A NEW SHERIFF IN TOWN: THE MONETARY AUTHORITY OF SINGAPORE CREATES NEW ANTI-MONEY LAUNDERING AND ENFORCEMENT DEPARTMENTS

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On 13 June 2016, the Monetary Authority of Singapore (“**MAS**”) announced that it will create dedicated Anti-Money Laundering (“**AML**”) and Enforcement departments, including a special supervisory team to be established to monitor AML risks and provide on-site supervision of financial institutions in Singapore.^[1] The new Enforcement department will provide oversight for enforcement actions arising from breaches of MAS regulations in the banking, insurance, and capital markets areas. The MAS described this move as intended to enhance its “supervisory focus,” consolidating functions previously performed by different departments within MAS. The changes are set to take place on 1 August 2016.

This decision by MAS appears to be the latest domino to fall in a line of recent actions taken by the MAS in response to alleged violations of policy and control functions at BSI Bank Limited (“**BSI**”), a wholly-owned subsidiary of Swiss bank BSI SA. Last month the MAS ordered BSI, operating in Singapore since 2005, shut down following alleged failures of bank governance connected with the scandal surrounding Malaysian sovereign wealth fund 1 Malaysia Development Berhad (“**1MDB**”). The 1MDB scandal arises out of accusations in the mainstream media that Malaysian Prime Minister Najib Razak received over USD 1 billion in his personal account from the fund's holdings.

Back in 2011, MAS inspections of BSI revealed policy and process failures, raising concerns with the bank's enforcement of control measures. A follow-on MAS review in 2014 uncovered problems with due diligence for assets related to investment fund structuring; and, in 2015, MAS noted multiple AML violations and pervasive non-compliance. Consequently, on 24 May 2016, MAS announced having served BSI with notice of intention to withdraw its status as a Singapore merchant bank (the first such instance since 1984), citing breaches of AML requirements, problems with operational oversight, and gross misconduct by BSI staff. MAS referred six names from among BSI's senior management and staff to the Public Prosecutor in Singapore for suspected criminal offenses.

Further, Switzerland's Office of the Attorney General also opened criminal proceedings against BSI SA Bank arising from revelations of deficiencies in governance at the bank which may have facilitated offenses related to 1MDB.^[2] In May, the Swiss Financial Market Supervisory Authority (“**FINMA**”) ordered BSI SA to pay

disgorgement fines of CHF 95 million (USD 96 million). Simultaneous with the actions taken by MAS against BSI, FINMA approved Swiss bank EFG International's acquisition of BSI Group.

In terms of insight for other merchant banks as to what to expect for future regulatory enforcement, MAS indicated that its decision to withdraw BSI's merchant bank status was the result of repetitive lapses and the 2015 findings, including widespread control failures leading to serious AML violations, "poor and ineffective oversight" by senior management, "unacceptable risk culture" and "blatant disregard" for MAS regulations and compliance measures, as well as gross misconduct.^[3] Managing Director of the MAS Ravi Menon noted that:

BSI Bank is the worst case of control lapses and gross misconduct that we have seen in the Singapore financial sector. It is a stark reminder to all financial institutions to take their anti-money laundering responsibilities seriously.^[4]

Intermittently and on an "as-needed" basis, MAS issues Notices on the Prevention of Money Laundering and Countering the Financing of Terrorism ("AML/CFT Notices"), one violation of which can carry a penalty of up to SGD 1 million under the MAS Act. With respect to BSI, MAS provided notice that it will impose USD 13.3 million in penalties "for 41 breaches of MAS Notice 1014," one such AML/CFT Notice. Citing the interests of BSI's customers, however, BSI's assets and liabilities will be allowed to be transferred to either EFG Bank AG's branch in Singapore or to BSI's parent, BSI SA. MAS Managing Director Menon affirmed that "MAS is absolutely committed to safeguarding the integrity and reputation of Singapore's financial centre" and that "[o]n this, there can be no compromise."^[5]

Given the renewed focus on supervisory and enforcement measures by the MAS, financial institutions with exposure to Singapore regulations should carefully consider their regulatory obligations and ensure compliance with remedial steps required as a result of MAS inspections or supervisory reviews.

Notes:

^[1] *MAS Sets Up Dedicated Departments to Combat Money Laundering and Strengthen Enforcement*, MAS.gov.sg, 13 June 2016, available at <http://www.mas.gov.sg/News-and-Publications/Media-Releases/2016/MAS-Sets-Up-Dedicated-Departments-to-Combat-Money-Laundering-and-Strengthen-Enforcement.aspx>.

^[2] *Swiss attorney-general opens criminal proceedings against BSI*, Channel NewsAsia.com, 24 May 2016, available at <http://www.channelnewsasia.com/news/world/swiss-attorney-general/2811598.html>.

^[3] *MAS directs BSI Bank to shut down in Singapore*, MAS.gov.sg, 24 May 2016, available at <http://www.mas.gov.sg/News-and-Publications/Media-Releases/2016/MAS-directs-BSI-Bank-to-shut-down-in-Singapore.aspx>.

^[4] *Id.*

^[5] *Id.*

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