

THE GLOBAL SPOTLIGHT ON TRANSPARENCY: RENEWED FOCUS ON TAX AND FINANCIAL REGULATORY ENFORCEMENT IN SINGAPORE

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Government Enforcement Alert

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The global spotlight on transparency in tax and financial reporting has come to Singapore, signalling cause for renewed focus on compliance for investors and global business operators. On 6 April, the Singaporean Ministry of Finance (“MOF”) and the Monetary Authority of Singapore (“MAS”) issued a statement announcing that, in light of Singapore's serious view regarding tax evasion, it will not tolerate its business and financial centre being used to facilitate tax-related crimes, noting that MOF and MAS are conducting checks in connection with the recent “Panama Papers” leak from the Mossack Fonseca law firm in Panama. The Panama Papers, which evidently include documents referencing current or former world leaders, as well as numerous other politicians and public officials, have given rise to allegations ranging from financial impropriety to tax evasion and corruption. Affirming the determination to meet such developments with enforcement measures, the MOF and MAS stated that they will not hesitate to take firm action where evidence is developed reflecting wrongdoing by any individual or entity in Singapore. Such statements by Singaporean regulators are not isolated comments likely to disappear as the 24-hour news cycle rolls on or the political fallout from the public disclosure of the Panama Papers cools. Elsewhere, regulators have taken note of the disclosures and begun to investigate them, the latest being the UK Financial Conduct Authority, which has written to 20 large institutions based in the UK requiring them to hand over details of any links they may have to Mossack Fonseca. These investigations may extend beyond tax evasion to corruption, sanctions and export control violations, money laundering, and other economic crimes. We expect Singapore to follow suit.

Despite the wide-reaching implications of the Panama Papers, their disclosure constitutes merely one chapter in the larger story of the enhancement of expectations for transparency in tax and financial regulatory compliance around the world. The U.S. Department of Justice (“U.S. DOJ”) has been battling tax evasion via foreign accounts for years, culminating in a recent shift in Swiss banking practice that shattered the perception that such institutions were bastions of secrecy. Swiss banks signed amnesty agreements with the U.S. DOJ that required disclosing the operations they used to help U.S. customers hide taxable assets, naming the bankers and middlemen who enabled them, and detailing the flow of untaxed money. Simultaneously, U.S. authorities have prompted thousands of Americans to disclose accounts the Internal Revenue Service considered to have been “hidden” from them. This shift toward greater transparency in Switzerland has led directly to a flood of information that is now giving U.S. investigators intelligence to build new cases against individuals and institutions in other

countries. For its part, the U.S. DOJ has announced its intention to continue following leads and following the money, wherever that leads them.

Importantly for those conducting business in Singapore as a global financial centre, at least some of the money the U.S. DOJ is following reportedly leads to financial institutions in Singapore. In February 2016, the U.S. Government pursued an action in a federal court in Florida resulting from an IRS investigation into “non-compliant” American taxpayer Ching-Ye Hsiaw (*United States of America v. UBS AG*, case number 1:16-mc-20653). While UBS reportedly refused to provide the information in order to comply with its obligation under Singapore’s bank secrecy laws, the U.S. Government argues that its interest in combatting tax evasion outweighs the interest of the Singaporean Government in preserving the privacy of banking customers. As the ongoing UBS case indicates, maintaining compliance with all applicable regulatory regimes is an increasingly difficult prospect for individuals and businesses engaged in cross-border dealings at a time of growing pressure to crack down on global tax evasion and money laundering.

Expectations for financial reporting, accountability, and compliance are shifting as heightened scrutiny and public attention to transparency continue to rise on an unprecedented global scale. As regulatory enforcement translates this expectation into action in global financial centres like Singapore, keeping up to date on the current compliance environment and implementing appropriate compliance measures are critical components of sound business positioning both in and out of the spotlight.

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