The lawyer's position

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Lawyers in Singapore are not exempt from s. 45. The duty applies to knowledge acquired in the course of a profession, of which the profession of law is no exception. The CDSA does, however, preserve legal professional privilege: an advocate and solicitor is not required to disclose information that is subject to privilege.[1] The boundary is the one familiar from English law. A communication made to the lawyer for the purpose of obtaining legal advice, or in connection with litigation, is privileged and need not be reported. Information that the lawyer acquires while acting as a transactional agent, for example while handling funds or forming companies, is not privileged merely because a lawyer received it. And a communication made in furtherance of a criminal purpose is never privileged.

The Legal Profession (Prevention of Money Laundering and Financing of Terrorism) Rules 2015 add a regulated layer. Law practices must conduct CDD when they prepare for or carry out specified transactions for clients. The specified transactions include the buying and selling of real estate, the management of client money, securities or other assets, the organisation of contributions for the creation of companies and the creation, operation or management of legal persons or arrangements.[2] The Rules do not create a separate reporting duty, since s. 45 CDSA already supplies one, but they require the law practice to have a compliance structure

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that enables reporting and to keep records. A Singapore lawyer who structures a DAO foundation, holds token sale proceeds in a client account or sets up a VCC for a digital-asset fund is squarely within the Rules.

In my practice the question that arises most often is the one about advice. A client comes for advice on whether a past transaction was lawful. The facts suggest it was not. The communication is privileged, the advice may be given and no report is due. The same client then asks the lawyer to receive and hold the proceeds. The lawyer who does so has stepped out of the privileged zone into the transactional one, has acquired knowledge in the course of business, and has a reporting duty and a possible s. 51 exposure for assisting another to retain benefits of criminal conduct. The line is between advising and acting.

Cross-border perspective

A Swiss lawyer in Zug and a Singapore solicitor handling the same matter face different reporting duties. The Swiss lawyer is subject to the AMLA only when acting as a financial intermediary, for example when holding client funds in the course of a transaction. The Swiss reporting duty under Art. 9 AMLA applies only to that activity. Pure legal advice, including on company formation, remained outside the Swiss duty at the state-of-law date, pending the 2024–2026 reform discussed in Part F, Chapter VI. The Singapore solicitor is subject to s. 45 CDSA for any knowledge acquired in the course of the profession that is not privileged, and to the 2015 Rules for the specified transactions. A Swiss–Singapore team must therefore decide at the outset which lawyer handles funds and company formation, since that lawyer carries the heavier duty, and must ensure that privileged communications stay with the lawyer whose privilege protects them.

Notes

1. CDSA 1992, s. 45, proviso on privileged communications of advocates and solicitors; Evidence Act 1893, ss. 128 and 131 on legal professional privilege. ↩

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2. Legal Profession (Prevention of Money Laundering and Financing of Terrorism) Rules 2015, rr. 4–18, made under the Legal Profession Act 1966; Law Society of Singapore, Practice Direction on the Rules and Guidance Notes. ↩

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