The statutory duty

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The duty to report sits in s. 45 of the CDSA and binds every person in Singapore, whether or not they are regulated. A person who knows or has reasonable grounds to suspect that any property represents the proceeds of, or was used or is intended to be used in connection with, drug dealing or criminal conduct must disclose that knowledge or suspicion to a Suspicious Transaction Reporting Officer. The duty arises where the knowledge or suspicion was acquired in the course of the person's trade, profession, business or employment. Disclosure must follow as soon as is reasonably practicable after the matter comes to the person's attention.[1] Failure to disclose is an offence. An individual faces a fine of up to S$ 250,000 or imprisonment for up to three years or both, while a body corporate faces a fine of up to S$ 500,000.[2]

Three features of the duty deserve attention. First, it is personal. The officer who forms the suspicion is the person who must ensure that disclosure is made. The firm's internal escalation procedure is the mechanism by which the officer discharges that duty. A compliance officer who receives an escalation and sits on it has committed the offence, whatever the firm's policy says. Second, the trigger is "reasonable grounds to suspect", an objective test. The question is whether a reasonable person with the officer's knowledge would have suspected. The officer's

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actual state of mind is relevant only as evidence of what the facts showed. Third, the duty is limited to knowledge acquired in the course of trade, profession, business or employment. A private individual who learns of suspicious conduct socially has no duty under s. 45, though TSOFA imposes a wider duty for terrorism financing.

The Terrorism (Suppression of Financing) Act 2002 imposes a separate and broader duty. Every person in Singapore, and every citizen outside Singapore, who has possession, custody or control of property belonging to a terrorist or terrorist entity, or information about a transaction in respect of such property, must inform the Commissioner of Police immediately.[3] The TSOFA duty is not confined to the course of business and has no "reasonable grounds" qualifier for the information element. In practice it is discharged through the same STRO channel.

Notes

1. CDSA 1992, s. 45(1) and (2) (2020 Revised Edition); the disclosure is made to the Suspicious Transaction Reporting Office (STRO) within the Commercial Affairs Department of the Singapore Police Force, which is Singapore's financial intelligence unit. ↩
2. CDSA 1992, s. 45(3) and (4) (2020 Revised Edition), as amended by the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) (Amendment) Act 2014, which raised the penalties. ↩
3. Terrorism (Suppression of Financing) Act 2002, s. 8(1) (2020 Revised Edition), duty to provide information about terrorist property to the Commissioner of Police; s. 8(3) makes failure an offence. ↩

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