Three statutes and one regulator

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Singapore's AML/CFT regime rests on three statutes, each of which does a different job. The Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 (CDSA) creates the money-laundering offences, the duty to report suspicious transactions and the confiscation machinery.[1] The Terrorism (Suppression of Financing) Act 2002 (TSOFA) criminalises the financing of terrorism, freezes terrorist property and imposes a separate reporting duty on everyone in Singapore who holds information about terrorist property.[2] The Monetary Authority of Singapore Act 1970 and the sectoral Acts, above all the Payment Services Act 2019 (PSA) and the Financial Services and Markets Act 2022 (FSMA), give MAS the power to issue binding notices to the financial institutions it supervises. The same Acts let MAS inspect, direct, compose and punish them.[3]

The division of labour matters for a DPT service provider. The CDSA and TSOFA apply to everyone in Singapore, licensed or not, and their offences are prosecuted by the Attorney-General's Chambers on investigations run by the Commercial Affairs Department (CAD) of the Singapore Police Force. The MAS notices apply only to the institutions MAS regulates and are enforced by MAS itself through supervisory action. A DPT business therefore lives under two parallel systems with different triggers, different standards of proof and different enforcers. The criminal system

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asks whether a person knew or had reasonable grounds to believe that property represented the proceeds of crime. The supervisory system asks whether the institution had and followed adequate controls. A firm can be in breach of the second without anyone being guilty under the first. The reverse is possible too.

Why the CDSA matters even to a well-run firm

The CDSA is drafted with an unusually wide net. Its money-laundering offences cover concealing, converting, transferring or removing benefits from criminal conduct, acquiring, possessing or using such benefits, and assisting another person to retain them.[4] "Criminal conduct" means any offence listed in the Second Schedule, which runs to several hundred entries and includes foreign offences that would be serious offences had they occurred in Singapore. Since 1 July 2013 the Schedule has included serious tax offences under the Income Tax Act 1947 and the Goods and Services Tax Act 1993. Undeclared foreign income routed through a Singapore wallet has since then been a laundering risk for the custodian who holds it.[5]

The mental element has been lowered over the years. For the offence of acquiring, possessing or using benefits, it suffices that the accused had reasonable grounds to believe that the property represented such benefits.[6] A DPT exchange that onboards a customer against obvious red flags therefore exposes its officers to a criminal charge framed not around what they knew but around what a reasonable person in their position would have inferred. In my practice this is the single point that most changes the behaviour of founders once they understand it: the compliance programme is the officer's own defence file.

The Anti-Money Laundering and Other Matters Act 2024 widened the net again. It was introduced after the S$ 3 billion case and passed by Parliament on 6 August 2024.[7] Its most important change for practitioners concerns proof. The prosecution may now establish a money-laundering charge without showing that the property was derived from a specific predicate offence, provided it proves that the property was benefits from criminal conduct and that the accused dealt with it with the required knowledge or belief. The Act also brought all foreign serious

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environmental crimes into the Schedule and aligned the treatment of foreign serious tax offences with domestic ones. It lowered the casino cash-transaction CDD threshold from S$ 10,000 to S$ 4,000. It allowed the Inland Revenue Authority of Singapore (IRAS) and Singapore Customs to share tax and trade data with the Suspicious Transaction Reporting Office (STRO). Finally, it gave the courts power to deal with seized property when the accused has absconded.[8]

Notes

1. Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 (2020 Revised Edition), Singapore Statutes Online; the money-laundering offences are in Part 6 (ss. 50–57 in the 2020 Revised Edition numbering), the disclosure duty in s. 45. ↩
2. Terrorism (Suppression of Financing) Act 2002 (2020 Revised Edition), ss. 3–6 (offences), s. 8 (duty to provide information to the police), Singapore Statutes Online. ↩
3. Payment Services Act 2019, s. 102 (power to issue directions and notices) and Part 7 (supervision and enforcement); Financial Services and Markets Act 2022, Part 9 (digital token service providers) and Part 10 (supervisory powers). ↩
4. CDSA 1992, ss. 51, 54 and 56 (2020 Revised Edition), covering assisting another to retain, concealing or transferring, and acquiring, possessing or using benefits from criminal conduct respectively; the parallel drug-dealing offences are in ss. 50, 53 and 55. ↩
5. CDSA 1992, Second Schedule, as amended with effect from 1 July 2013 to include offences under ss. 96 and 96A Income Tax Act and ss. 62 and 63 Goods and Services Tax Act; see Part M, Chapter VIII on the tax side. ↩
6. CDSA 1992, s. 56(1) (2020 Revised Edition): "knowing or having reasonable grounds to believe". ↩

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7. Anti-Money Laundering and Other Matters Act 2024, passed 6 August 2024; Second Reading speech of the Minister of State for Home Affairs, Parliamentary Debates, 6 August 2024. ↩

8. Anti-Money Laundering and Other Matters Act 2024, amending the CDSA, the Casino Control Act 2006, the Income Tax Act 1947, the Criminal Procedure Code 2010 and related Acts; Ministry of Home Affairs press release of 2 July 2024 on introduction of the Bill. ↩

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