

February 2024

Singapore's tough stance on Money Laundering: the importance of Anti-Money Laundering regulations and Know Your Customer checks for companies and individuals



“They have the edge over other firms given that they actually are prepared to push the interests of their clients and if not successful will propose alternative solutions.”

The Legal 500 Asia Pacific 2024

What is AML and how does it affect you?

In one of the world's largest anti-money laundering operations, over S\$3 billion worth of assets consisting of 152 properties, 62 vehicles and cash were seized or frozen by the Singapore Police Force in a case that has rocked the island state. While the 10 suspects who had been arrested may all be foreigners (i.e., non-Singaporeans), many others who have been interviewed and investigated include Singapore citizens and Singapore permanent residents.

Money laundering is the concealment of the sources of illegally obtained money, typically by means of illegitimate businesses or through the use of multiple bank transfers all designed to hide its true criminal origin. Anti-Money Laundering ("**AML**") is the prevention of the activity of money laundering. Singapore has always taken a strong stance against money laundering activities, being a member of the Financial Action Task Force since 1992 and a founding member of the Asia/Pacific Group on Money Laundering since 1997. The key AML regulations in Singapore are:

- the [Corruption, Drug Trafficking and Other Serious Crimes \(Confiscation of Benefits\) Act 1992](#) ("**CDSA**"),
- the Terrorism (Suppression of Financing) Act 2002;
- the [Housing Developers \(Anti-Money Laundering and Terrorism Financing\) Rules 2023](#); and
- the [Estate Agents \(Prevention of Money Laundering and Financing of Terrorism\) Regulations 2021](#).

Under the CDSA, a person may be guilty of an offence if they either have (a) **knowledge** or (b) **reasonable grounds to believe** that the money in question is linked to criminal activities. Pursuant to certain amendments introduced in 2023, a revised version of the CDSA is being put forward which will include what is commonly believed to be a lower threshold to establish that an AML offence by a person has been made out. Now, so long as the person commits certain prescribed acts "*rashly*" or "*negligently*" then an offence has been made out.

By the term "*rashly*", all that is required to be shown is that the person does an act knowing that a real risk of money laundering can exist. For example, a person would commit the offence if they acted rashly by

proceeding to carry out transactions which they had some suspicion about, but they did not make further enquiries to address those suspicions.

And by the term "*negligently*", all that is required to be shown is that the person (a) omits to do an act that a reasonable person would do or (b) does any act that a reasonable person would not do. Again, by way of example, a person would commit the offence by continuing with a transaction despite the presence of red flags that are noticeable by an ordinary, reasonable person.



The common consensus is that these amendments effectively lower the level of culpability required for an offence to be established, because now it is no longer necessary for the person to have the actual knowledge (or have any reasonable grounds to believe) that their activity relates to wrongdoing.

Individuals who commit the offence under the **rash** limb, are punishable with a maximum fine of S\$250,000 or imprisonment not exceeding five (5) years or both; whilst individuals who commit the offence under the **negligent** limb, are punishable with a maximum fine of S\$150,000 or imprisonment not exceeding three (3) years or both.

In addition, a corporate entity convicted of either the **rash** or the **negligent** limb would be punishable with the higher of (a) a maximum fine of S\$1,000,000 or (b) twice the value of the benefits from the criminal act in respect of which the offence was committed.

The amendments also include an additional Section 55A to the CDSA which introduces a new offence of assisting another to retain benefits from the criminal conduct. Hence, a money mule may be guilty of an offence if:

- a) the value of the property he/she dealt with is disproportionate to his/her known sources of income; or
- b) he/she allowed another person to access, operate or control his/her payment account and failed to take reasonable steps to find out the purpose of this arrangement; or
- c) he/she received or transferred money using his/her payment account and failed to take reasonable steps to find out the source or destination of the money; or
- d) he/she received money from or transferred money to another person and failed to take reasonable steps to find out that person's identity and physical location.

Individuals who commit an offence under Section 55A are punishable with a maximum fine of S\$50,000 or imprisonment not exceeding three years or both. Any person who is not an individual (i.e. a company) would be punishable with the higher of (a) a maximum fine of S\$1,000,000 or (b) twice the value of the benefits from the criminal act in respect of which the offence was committed.

When these 2023 amendments to the CDSA come into force, individuals and companies may very well find themselves in a more challenging position to provide the adequate evidence and justification to defend a money laundering charge.

Another piece of legislation that was recently enacted to further strengthen AML regulations in Singapore is the [Housing Developers \(Anti-Money Laundering and Terrorism Financing\) Rules 2023](#). Under this Act, developers would now have to provide for:

- Customer Due Diligence ("CDD") measures (Part 2);
- keeping proper records of CDD checks for a specified period (Section 15);
- ongoing monitoring (Section 13);

- taking additional measures relating to targeted financial sanctions (Section 14); and
- identifying, managing and mitigating risk from new technologies (Sections 16 and 17).

Some of these changes have since been reflected in the Urban Redevelopment Authority's amendments to the [standard option to purchase](#) for the sale of uncompleted properties.

Equally, estate agents and real estate salespersons face stringent scrutiny as the [Estate Agents \(Prevention of Money Laundering and Financing of Terrorism\) Regulations 2021](#) provides that they are also required to conduct customer due diligence to prevent money laundering activities and to file a Suspicious Transaction Report as a legal obligation if and when the occasion requires.

These recent changes reflect Singapore's view on its serious commitment to combat money laundering activities and its willingness to go far to impose legal obligations on both individuals and companies to be vigilant and to report suspicious activities/transactions.

What is KYC and how does it help companies and individuals?

Know Your Customer ("KYC") checks are the process of verifying and establishing the customer's or client's information and their source of funds before the start of the business relationship. While KYC and AML are terms that are often used interchangeably, they are not the same because:

- KYC is typically done at the start of a business relationship, whilst AML checks are typically conducted periodically and throughout the lifetime of the business relationship; and
- KYC is designed to identify and verify the customer's identity and source of funds, whereas the purpose of AML checks is to detect, prevent and report suspicious activities relating to the crime of money laundering.

Therefore, it is strongly recommended that companies and individuals employ both KYC and AML checks as part of their CDD measures as their purposes and processes differ from each other.

Get in touch



Colin Jarraw
Partner at Virtus Law
T: +65 6661 6523
E: colin.jarraw@shlegalworld.com



Jamie Loh
Associate at Virtus Law
T: +65 6661 6853
E: jamie.loh@shlegalworld.com

With thanks to Tai Jiew Tan, a trainee solicitor in the banking and finance team, for his assistance on this article. The Singapore law aspects of this article were written by members of Virtus Law (a member of the Stephenson Harwood (Singapore) Alliance).

Stephenson Harwood is a law firm of over 1300 people worldwide, including 200 partners. Our people are committed to achieving the goals of our clients – listed and private companies, institutions and individuals.

We assemble teams of bright thinkers to match our clients' needs and give the right advice from the right person at the right time. Dedicating the highest calibre of legal talent to overcome the most complex issues, we deliver pragmatic, expert advice that is set squarely in the real world.

Our headquarters are in London, with eight offices across Asia, Europe and the Middle East. In addition, we have forged close ties with other high quality law firms. This diverse mix of expertise and culture results in a combination of deep local insight and the capability to provide a seamless international service.

The Stephenson Harwood (Singapore) Alliance (the "**Alliance**") is part of the Stephenson Harwood network and offers clients an integrated service in multi-jurisdictional matters involving permitted areas of Singapore law. The Alliance is comprised of Stephenson Harwood LLP and Virtus Law LLP. Court litigation services in Singapore, and Singapore law advice are provided by the Singapore law firm, Virtus Law LLP.