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Foreword

In February 2012, the Financial Action Task Force (FATF), released the revised Anti-Money Laundering and Countering the Financing of Terrorism (CFT) recommendations.

Singapore as one of the world's premier wealth management locations has been at the forefront of implementing the recommendations.

In response to FATF's recommendation, Singapore has designated serious tax offences under the relevant sections of the Singapore Income Tax Act and Goods and Services Tax Act as a money laundering predicate offence. Tax evasion, as distinct from tax avoidance, is now a crime that gives rise to a charge of money laundering. While the move to criminalise tax evasion will enhance Singapore's role in combating money laundering and terrorist financing, as well as strengthen her image as a financial hub, it is envisaged that financial institutions will face real challenges when it comes to practical implementation.

In this issue, we discuss the challenges that financial institutions may face in implementing a framework of sound practices when the criminalisation of laundering of tax evasion proceeds takes legislative effect from 1 July 2013.

Updates on regulatory, accounting and tax changes are also provided. We believe you will find this edition useful.

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Designation of Tax Crimes as Money Laundering Predicate Offences in Singapore

By: Alan Lau and Gary Haran Doyle

The fiscal squeeze brought on by the ongoing global financial crisis has brought about a renewed focus on recovering missing tax revenue. Governments from both sides of the Atlantic are going after tax evasion proceeds, which are often stashed away in offshore financial centres. In addition to personal tax avoidance, there was a campaign in the February 2013 G20 summit in Russia for an international clampdown on corporate tax avoidance.

In recent years, reputable banks in Switzerland and Austria provided client data to various governments' ministries. In 2009, the United States government demanded the names and account details of 10,000 US customers from UBS. The Swiss government had to amend its laws to allow UBS to do this lawfully.

What has changed?

The Financial Action Task Force (FATF), a global standard setting body for Anti-Money Laundering (AML), released in February 2012 their revised AML and Countering the Financing of Terrorism (CFT) recommendations. These recommendations seek to mitigate new aggravated threats to individual countries' financial systems and call on governments to treat tax-evasion as a money laundering predicate offence.

Singapore, recognised as one of the world's premier wealth management locations, has been at the forefront of implementing the recommendations. Her response to FATF's recommendations is to designate serious tax offences under Section 96 and Section 96A of the Singapore Income Tax Act and Section 62 and Section 63 of the Goods and Services Tax Act as a money laundering predicate offence; that is, tax evasion is now a crime that gives rise to a charge of money laundering.

What must we do?

The criminalisation of laundering of tax evasion proceeds takes legislative effect from 1 July 2013 via an update of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (CDSA). The Monetary Authority of Singapore (MAS) has said its Guidelines will take effect from July 2013. A public consultation paper was released by the MAS in October 2012. The salient points of the consultation paper are:

- The MAS require financial institutions to wield their full suite of AML / CFT tools to effectively detect and deter the laundering of proceeds from wilful or fraudulent tax evasion through the financial system; and
- Tax evasion is treated from a Singapore perspective, i.e. that Singapore standards are used, not global standards.

The consultation period was closed in December 2012 and responses to feedback received were issued on 28 March 2013. Based on the findings of the consultation paper, the MAS has clarified that FIs are expected to apply risk assessment and mitigation controls to detect and deter the proceeds arising from offences of wilful or fraudulent tax evasion (be it a domestic or a foreign offence) as provided for by the CDSA. This is in line with the spirit of the FATF recommendations and the MAS is of the view that tax offences, whether committed in Singapore or elsewhere, are considered a predicate money laundering offence within the ambit of the CDSA when the funds derived from such illicit activities are brought into Singapore. It is also worth noting that the reach of the updated CDSA in relation to tax evasion covers both new and existing accounts of financial institutions.

On the same day that the feedback to the consultation paper was released by the MAS, the Private Banking Industry Group in Singapore also announced that they have established a set of industry sound practices that provides a conceptual framework for the implementation of regulatory changes. This industry-led effort is welcomed by the MAS and other financial institutions may wish to reference the framework which is now available on the website of the Association of Banks in Singapore as an addendum to the Private Banking Code of Conduct.

How do financial institutions differentiate tax evasion from tax avoidance?

Tax evasion is a serious tax offence and is characterised by fraud and deceit, for example where a taxpayer falsifies or intentionally omits information in the submission of his returns, books and accounts. Penalties for tax evasion are a punitive three to four times the amount of tax undercharged and / or imprisonment terms spanning three to seven years.

On the other hand, tax avoidance is characterised by open disclosure and denotes a situation where a taxpayer has arranged his affairs in a perfectly legal manner (meaning, with proper commercial justification and substance) such that he has either reduced his income or that he has no income on which tax is payable.

Looking out for tell-tale signs of tax evasion

Some of the potential indicators of tax evasion include:

- presence of entities with complex business structures
- multi-layering of entities across various jurisdictions
- presence of entities set up across various jurisdictions with weak tax / law jurisdictions
- falsifying legal origin of income / ownership of assets; and
- fabrication of loan rise in net worth of assets and or manipulation of price / sales through substantial related party transactions.

By red-flagging unusual transactions, financial institutions may take actions to seek and verify client information or representations. This would provide an insight into the flow of monies and may uncover the source or destination

of laundered proceeds into assets such as real estate, vehicles, investments, yachts and / or foreign bank accounts.

Practical difficulties – Cost vs. benefit analysis

While the move to criminalise tax evasion may strengthen Singapore's image as an open financial hub, it is envisaged that financial institutions will face real challenges when it comes to practical implementation. For instance, private bankers and their compliance teams may not have the tax expertise to draw the line between funds arising from legitimate tax planning and that from fraudulent tax evasion.

In addition, there is a huge volume of banking transactions passing through Singapore on a daily basis. Any suspicious transactions picked up must be escalated or cleared by the bank quickly. Also, internal service standard requirements imposed by banks may require client transactions to be cleared more quickly. Greater enhancements through compliance software systems, such as additional client acceptance and surveillance checks, on-going monitoring procedures for the detection of unusual transactions and maintaining of proper records of due diligence, or even through increasing the manpower of the compliance department to perform critical reviews of all existing accounts may be required.

Further, it would be very challenging for financial institutions to adopt a one-size-fits-all approach given that effective risk assessment and mitigation would need to factor in institution-specific variances due to in its core business activities, product offerings, clientele, geographical concentration and internal risk tolerances.

Amidst the various challenges, financial institutions may wish to adopt some of the following measures:

- establishment of an in-house tax-risk compliance committee to oversee related projects
- review onboarding processes and include a tax-risk review in the Know-Your-Client exercise
- design new Behaviour Detection System scenarios to enhance monitoring controls
- review existing AML scenarios and adapt to take into account tax evasion
- maintaining proper records of due diligence performed to assess the tax legitimacy of assets accepted, including supporting basis and documentation for account acceptance or retention and other related decisions;
- ensuring that its staff adhere to all internal control and compliance policies and procedures and are provided adequate training to fulfil the requirements; and
- filing of suspicious transactions report if the financial institution suspects that assets are the proceeds of wilful or fraudulent tax offences.

Meanwhile, KPMG looks forward to the issuance of the relevant MAS Notices and Guidelines to provide more clarity on the requirements and remediation steps that may be adopted by financial institutions in addition to its existing AML / CFT framework.

Regulatory, accounting and tax updates

Regulatory Updates

Financial Institutions

MAS Notice on Reporting of Suspicious Activities & Incidents of Fraud

Under the new Notice, a report shall be lodged with the Monetary Authority of Singapore (MAS) no later than 5 working days after the discovery of any suspicious activities and incidents of fraud where such activities or incidents are material to the safety, soundness or reputation of the financial institution (FI).

The new Notice has taken effect from 23 January 2013.

MAS Notice on Prevention of Money Laundering and Countering the Financing of Terrorism

Under the revised Notice, amendments include the prohibition of a bank in Singapore from entering into or continuing correspondent banking relationships with banks that do not have adequate controls against criminal activities or that are not effectively supervised by the relevant authorities.

The amendments have taken effect from 23 January 2013.

Banks

MAS Notice 637 (Amendment No. 2) 2012

On 28 December 2012, this Notice was revised to incorporate the proposed amendments from the MAS Consultation Paper – Proposed Amendments to MAS Notice 637 to Implement Composition of Capital Disclosure Requirements dated 5 November 2012. The amendments will require Singapore-incorporated banks to disclose their capital positions through the following:

- breakdown of the full list of regulatory capital items and regulatory adjustments
- reconciliation of all regulatory capital elements back to the audited financial statements
- description of the main features of regulatory capital instruments issued; and
- provision of the full terms and conditions of regulatory capital instruments and the calculation of any ratios involving components of regulatory capital.

The amendments take effect in two phases on 1 January 2013 and 31 March 2013.

Banks/Merchant Banks

MAS Notice on Motor Vehicle Loans

Under the new Notice, the key requirements include the following:

A bank / merchant bank shall not:

- grant any credit facility for the purchase of a motor vehicle to a borrower where the aggregate of the amount granted under the credit facility and the balance outstanding under any other credit facility granted to the Borrower for the purchase of that motor vehicle exceeds the "Relevant Amount" as defined in the Notice and where the tenure of the credit facility exceeds 5 years; or
- enter into any hire-purchase agreement for the hiring of a motor vehicle with a hirer where the hire-purchase price exceeds the "Relevant Amount" as defined in the Notice and where period of hire exceeds 5 years.

The new Notice also stipulates requirements for the purchaser's or hirer's contribution; verification measures to be performed in relation to the granting of credit facilities and entering into hire-purchase agreements; re-financing facilities and subsequent hire-purchase agreements; as well as excluded facilities.

This Notice has taken effect from 26 February 2013.

MAS Notice on Residential Property Loans

Key amendments in the revised Notice provides that a borrower with any outstanding residential property loan may still be granted the "Relevant Amount" applicable to a borrower without any outstanding residential property loan, if he can reasonably satisfy the bank/merchant bank that:

- Where the credit facility applied for is for the purchase of a second residential property, and being an Executive Condominium (EC) purchased directly from a Property Developer or a Housing Development Board (HDB) flat,
  1. he owns only one existing residential property which he intends to sell; and
  2. he is the owner of the second residential property.
- Where the credit facility applied for is for the purchase of a residential property in any other case, he has discharged all outstanding credit facilities for the purchase of all such other residential property. The borrower is required to provide the bank/merchant bank:
  1. a sale and purchase agreement signed by both the borrower (as the seller) and buyer, and a certificate from the Inland Revenue Authority of Singapore (IRAS) showing that stamp duty has been paid if his existing residential property is a private property or an EC; or
  2. a letter from HDB approving the sale of the HDB flat if his existing residential property is a HDB flat.

In addition, the revised Notice introduces new requirements whereby a credit facility for the purchase of a HDB flat or any re-financing facility in relation to a HDB flat should not be granted to any borrower if the monthly repayment instalment exceeds

30 percent of the borrower's gross monthly income, or in the case of a joint application where there are two or more borrowers, 30 percent of the aggregate of the borrowers' gross monthly income.

The amendments have taken effect from 12 January 2013.

Securities, Futures and Fund Management and Financial Advisers

MAS Guidelines on Short Selling Disclosure [Guideline No. SFA 15-G02]

The Guidelines aim to provide market participants with a better understanding of short selling and to set out MAS' position on short selling.

The Guidelines have taken effect from 9 January 2013.

Notice and Practice Note on the Sale of Investment Products [Notice No. SFA04-N12]

Notice and Practice Note on Recommendations on Investment Products [Notice No. FAA-N16]

- The revised Notice SFA04-N12 and its Practice Note set out new requirements imposed on:
  1. licensed persons, exempt FIs and their representatives in respect of:
     a) dealing in Specified Investment Products or Overseas-Listed Investment Products for an individual retail investor;
     b) dealing in units in a collective investment scheme, the units of which are Excluded Investment Products (EIP), for participants of such collective investment scheme; and
  2. responsible persons for collective investment schemes, the units of which are EIP.
- The revised Notice FAA-N16 and its Practice Note introduce new requirements on a financial adviser providing financial advisory services in relation to units in a collective investment scheme or an investment-linked policy sub-fund, the units of which are EIP.

The amendments have taken effect from 11 December 2012.

Accounting Updates

Update on RAP 7 (2012), the recommended accounting practices for unit trusts and REITs in Singapore

The revised Statement of Recommended Accounting Practice (RAP) 7 – Reporting Framework for Unit Trusts was issued by the Institute of Certified Public Accountants of Singapore (the ICPAS) on 29 June 2012. This revised RAP 7 (or RAP 7 (2012)) is effective for unit trusts, including real estate investment trusts (REITs), with annual reporting periods beginning on or after 30 June 2012.

In December 2012, the ICPAS issued a list of frequently asked questions (FAQ) on RAP 7 (2012) which addresses a number of interpretation issues.

For a comprehensive discussion on the changes introduced by RAP 7 (2012) and how they impact the financial reporting practices of unit trusts and REITs, you could download our updated September 2012 Supplement at http://www.kpmg.com/SG/en/IssuesAndInsights/frm/Issue40-Sep2012-Supplement.pdf.

Tax Updates

Singapore Budget 2013

The 2013 Budget Statement was tabled in the Parliament on 25 February 2013 by Deputy Prime Minister and Minister for Finance, Mr Tharman Shanmugaratnam. The Budget 2013 focuses on the strategies for achieving quality growth and an inclusive society. Several existing incentivised schemes for businesses were enhanced and liberalised to encourage businesses and industries to grow. There were also several measures introduced to continually address Singapore's longer term challenges.

The following highlights are relevant to the Singapore financial services sector:

1. Extending and enhancement of the Financial Sector Incentive (FSI) scheme (refer to table on next page)

2. Exchanging and redefining the QDS and Qualifying Debt Securities Plus (QDS+) Incentive Scheme

- The QDS scheme offers the following tax concessions on qualifying income from QDS:
  i. 10 percent concessionary tax rate for qualifying companies and

bodies of persons in Singapore; and

ii. tax exemption for qualifying non-residents and qualifying individuals.

To qualify as QDS, debt securities must be substantially arranged by financial institutions in Singapore.

- The QDS+ scheme grants tax exemption for all investors on qualifying income derived from QDS that are:
  i. debt securities (excluding Singapore Government Securities) with an original maturity of at least 10 years; and
  ii. Islamic debt securities.

Both the QDS and QDS+ schemes will expire on 31 December 2013. To further promote Singapore's debt market, both the QDS and QDS+ scheme will be extended for five years to 31 December 2018.

For debt securities issued during the period of 1 January 2014 to 31 December 2018, the requirement that the QDS has to be substantially arranged in Singapore will be rationalised to ease compliance for issuers and provide greater certainty. The QDS+ scheme will be refined to allow debt securities with standard early termination clauses to qualify for the QDS+ scheme, subject to conditions.

The other existing conditions of the schemes remain unchanged. Further details will be released by the MAS by end June 2013.

1. Extending the tax exemption on income derived by primary dealers from trading in Singapore Government securities

To continue encouraging trading in Singapore Government securities, the current tax exemption on income derived by primary dealers from trading in Singapore Government securities which expires on 31 December 2013 will be extended for another 5 years to 31 December 2018.

2. Extending the Tax Incentive Scheme for Approved Special Purpose Vehicle ("ASPV") engaged in asset securitisation transactions.

Currently, the ASPV scheme grants the following tax concessions to an ASPV for asset securitisation transactions:

- tax exemption on income derived by an ASPV from approved asset securitisation transactions;
- Goods and Services Tax (GST) recovery on its business expenses at a fixed rate of 76 percent;
- remission of stamp duties on the instrument of transfer of assets to the ASPV for approved asset securitisation transactions; and
- tax exemption on payments to qualifying non-residents on over-the-counter financial derivatives in connection with an asset securitisation transaction.

The scheme will expire on 31 December 2013. To continue developing the structured debt market, the ASPV scheme will be extended for another 5 years to 31 December 2018. All existing conditions of the scheme remain unchanged.

Further details will be released by the MAS by end May 2013.

Table for Extending and enhancement of the Financial Sector Incentive (FSI) scheme#

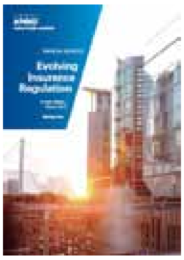
The key features of the current FSI scheme as well as the proposed changes are summarised below:

FSI award	Current FSI Scheme		Proposed changes to the FSI scheme	
	Concessionary tax rate	Expiry date of award	Extension of award	New treatment
A: FSI – Standard Tier (FSI-ST)	12%	31-Dec-13	31-Dec-18	• Range of incentivised activities and financial instruments will be broadened. • Qualifying Debt Securities ("QDS") incentive will apply to debt securities arranged by recipients of the FSI-ST award with effect from 1 January 2014, subject to conditions.
B: FSI-Fund Management (FSI-FM)	10%	31-Dec-13	31-Dec-18	-
C: FSI-Headquarter Services (FSI-HQ)	10%	31-Dec-13	31-Dec-18	• Withholding tax exemption will be granted automatically to FSI-HQ award recipients on interest payments made during the period of their FSI-HQ award for qualifying loans. This has taken effect from 25 February 2013.
D: FSI-Bond Market (FSI-BM)	5%	31-Dec-13	31-Dec-18	• FSI-BM and FSI-EM will be merged to form a single FSI-Capital Markets (FSI-CM) award. • Range of incentivised activities and financial instruments will be broadened. • QDS incentive will apply to debt securities arranged by recipients of the FSI-ST award with effect from 1 January 2014, subject to conditions.
E: FSI-Equity Market award (FSI-EM)	5%	31-Dec-13	31-Dec-18	
F: FSI-Credit Facilities Syndication (FSI-CFS)	5%	31-Dec-13	31-Dec-18	• Range of incentivised activities and financial instruments will be broadened.
G: FSI-Derivatives Market (FSI-DM)*	5%	31-Dec-13	31-Dec-18	• The 5 sub-awards will be merged to form a single FSI-DM award.
H: FSI-Islamic Finance (FSI-IF)	5%	31-Dec-13	Not extended	• FSI-IF allowed to expire on 31 March 2013. Existing qualifying Islamic financing activities will be incentivised under FSI-ST award (12%).

Unless otherwise specified above, the proposed changes will take effect on 1 January 2014. Existing award recipients can continue with their awards till the end of their award tenures provided they continue to fulfil the conditions under the respective awards. Further details will be released by the Monetary Authority of Singapore (MAS) by June 2013.

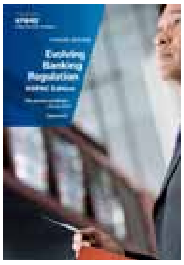
* With 5 separate sub-awards: financial derivatives, over-the-counter (OTC) commodity derivatives, exchange traded commodity derivatives, OTC and exchange-traded commodity, financial, OTC and exchange-traded commodity derivatives

Global topics



Evolving Insurance Regulation - A New Dawn (March 2013)

This publication analyses the increasingly wide range of regulatory drivers for insurers and examines ways in which the industry can balance these new demands, while keeping an eye on creating positive value for enhanced performance.



Evolving Banking Regulation: ASPAC Edition (February 2013)

A global overview of regulatory reforms and their impacts on the banking sector. This year's regional editions highlight the challenges, alongside a snapshot of global regulatory activity and what it means for banking, in 2013 and beyond.

IFRS Newsletter: Insurance, February 2013 (Issue 33)

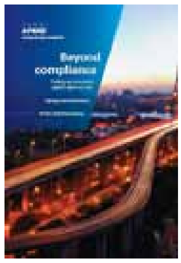
This edition of IFRS Newsletter: Insurance highlights the results of the IASB and the FASB (the Boards) discussions in January 2013 on the joint insurance contracts project.

Rethinking operations: A closer look at operational transformation

This white paper highlights how the financial services companies need to transform their operational models to prepare themselves for extremely dynamic market conditions.

Last Boarding Call - An overview of the alternative industry preparedness for AIFMD

For its third consecutive year, KPMG has conducted a survey of global asset managers in order to gauge their attitudes, opinions and preparedness regarding the impending changes associated with the Alternative Investment Fund Managers Directive (AIFMD).



Beyond compliance - Putting an economic capital value on risk (February 2013)

This article describes a new approach to articulating how risk management enhances economic capital and helps deliver growth.

Analysis of Final FATCA Regulations (January 2013)

Following the (17 January 2013) release of the final regulations for the Foreign Account Tax Compliance Act (FATCA), this document contains a comprehensive analysis of the changes, by section, incorporating salient points from our initial release.

Final FATCA Regulations & the Practical Implications for International Banks (February 2013)

A newsletter providing an update and practical implications regarding the impact that the final FATCA regulations will have on international (i.e., non-U.S.) banking organisations.

FATCA Final Regulations in Booklet Form (February 2013)

A formatted copy of the final FATCA regulations released on January 17 – it includes a hyperlinked table of contents, highlighted section names and page number references to the original release to help make navigating the content easier.

To obtain any of the reports, please send a request to sg-marketing@kpmg.com.sg.

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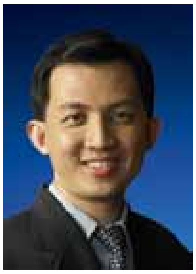

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