

THE LATEST REGIONAL TRENDS IN CORRUPTION AND EFFECTIVE COUNTERMEASURES BY CRIMINAL JUSTICE AUTHORITIES

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I. INTRODUCTION

Corruption is an age-old crime, perhaps among the oldest known to humankind. It is a manifestation of greed and exploitation of power by corrupt individuals or entities. The nature of the crime remains unchanged, but its methods have likely evolved alongside advancements in the technological, economic and the legal environment that we operate under. Therefore, it is timely that the latest regional trends and countermeasures are reviewed. The Corrupt Practices Investigations Bureau (“CPIB”) is the agency in Singapore dedicated to the fight against corruption. We are pleased to have the opportunity to share our experiences and insights and contribute to the collective effort of like-minded countries and agencies in the endeavour to combat corruption.

II. CORRUPTION SITUATION IN SINGAPORE

The present level of corruption in Singapore is low and under control. Corrupt occurrences are usually incidental and opportunistic, and not institutional or endemic. Majority of the corruption cases reported and consequently investigated are from the private sector. On the other hand, public sector cases are typically petty corruption committed by low or mid-level public officials. Statistically, private sector cases form a range of between 85% to 92% of yearly corruption cases from 2014 to 2017. Among the private sector cases, construction and building maintenance, wholesale and retail, and the logistics industry are areas of concern as we continue to see cases relating to these industries.

A. Countermeasures through Effective Law Enforcement

1. Enforcement under the Prevention of Corruption Act

As corruption stems from greed, one of CPIB’s strategies to rip corruption at its core is to disgorge the criminal gains of the corrupt through the conduct of rigorous asset recovery efforts and strict enforcement of associated money laundering offences. The aim is to render corruption a high risk and low reward activity. In Singapore, investigators in CPIB are empowered under the Prevention of Corruption Act (“PCA”) to arrest, search and seize properties related to the commission of corruption offences.

In particular, Section 13 of the PCA contains an in-built mechanism to recover and disgorge criminal proceeds from corrupt receivers. Anyone who is convicted of corruptly receiving any gratification in contravention of the Act shall be assessed and ordered by the court to pay a

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penalty equal to the amount of gratification received. The imposition of a penalty under this Act is not a discretionary judicial measure but a mandatory one that has to be imposed, in addition to any other punishments such as fines or imprisonment term that the court may mete out.

Between the period from 2015 to 2017, seizures made pursuant to investigations and subsequently ordered by the Court to be forfeited to the State amounted to S\$3.2 million. Correspondingly and coincidentally, a total penalty of S\$3.2 million has been imposed by the Courts against corrupt receivers in the same period.

The following case illustrates CPIB's concerted effort in disgorging illicit benefits. In 2017, a former executive of an oil major was charged with receiving bribes amounting to S\$5.7 million from a businessman, in return for advancing the former's business interest with the oil major¹. The accused person was also charged with associated money laundering activities relating to the use of the criminal proceeds. Through investigations, the accused person was established to have utilized his criminal proceeds to partially finance the purchase of 3 landed properties and 2 condominium apartments in Singapore. Accordingly, caveats were placed on these assets to prevent dissipation, with the view of eventually forfeiting the criminal benefits to the State. The trial against the accused person is ongoing.

2. Enforcement under the Corruption, Drug Trafficking and other Serious Crimes (Confiscation of Benefits) Act

The pursuit of depriving criminals of their benefits of criminal conduct is also aided by the Corruption, Drug Trafficking and other Serious Crimes (Confiscation of Benefits) Act ("CDSA"). The CDSA is the primary legislation in Singapore that criminalizes the laundering of criminal benefits and provides for the investigation and confiscation of such benefits. Specifically, it provides an extended reach beyond assets directly traceable to a criminal offence.

Under the CDSA, the court may make a restraint order or charging order on property owned or linked to a person, as long as the court is satisfied that there is a reasonable cause to believe that benefits have been derived from his or her criminal conduct. In the eventuality that the person is convicted of a serious offence such as corruption as specified in the CDSA's schedule, a confiscation order may be applied against him or her for the benefits that he or she had derived from the criminal conduct. Any property or any interest therein (including income accruing from such property or interest) held by that person that is disproportionate to his or her known sources of income, if it cannot be explained satisfactorily to the court, is presumed to have been derived criminally until proven otherwise.

In the case of a match fixer² convicted in 2014 for attempting to fix a football match, CPIB had conducted financial investigations against the accused person as he was suspected to be in possession of assets disproportionate to his known sources of income, which include luxury vehicles and real estate property. A concealed income analysis was performed against the

¹ See Straits Time article <https://www.straitstimes.com/singapore/courts-crime/ex-bp-exec-charged-in-57m-bribery-case>

² See Straits Times article <https://www.straitstimes.com/singapore/courts-crime/businessman-match-fixer-eric-ding-si-yang-led-the-high-life>

accused and he was found to have accumulated illegitimate income over the years. An application to confiscate the realizable assets of the accused under the CDSA has been made to the Court and trial proceedings are underway.

B. Countermeasures through Public-Private Sector Partnership

Apart from rigorous enforcement efforts, CPIB also adopts a dual-pronged approach of public outreach and education to address private sector corruption. CPIB has been exploring collaborative opportunities with professional bodies and industry stakeholders to reach out to the private and business sectors. We engage the private sector through various platforms, such as forum and prevention talks. In these talks, we share with companies and businesses cases of interests, update them on the developments in the international arena and also caution them on the pitfalls and risks involved in non-adherence to our domestic anti-corruption and related laws.

1. Launch of the Singapore Standard (SS) ISO 37001 on Anti-Bribery Management Systems

In April 2017, CPIB and SPRING Singapore³ co-launched the Singapore Standard (SS) ISO 37001 on Anti-Bribery Management Systems⁴, aimed at helping companies strengthen their anti-bribery systems and processes. The SS ISO 37001 is a voluntary standard designed to help companies establish, implement, maintain and improve their anti-bribery compliance programmes. It specifies requirements for top management leadership and commitment, anti-bribery policies and procedures, risk assessments, reporting, monitoring and investigation procedures, among several other requirements.

2. Development of PACT: “A Practical Anti-Corruption Guide for Businesses in Singapore”

Recognizing that not all companies have the financial resources to adopt the SS ISO 370001, CPIB also developed an easy to comprehend 4-step guidebook titled PACT: “A Practical Anti-Corruption Guide for Businesses in Singapore”⁵ to assist business owners to implement an anti-corruption system within their companies. The PACT guidebook comes with business sector case studies from different industries and provides free samples of Anti-Corruption Policy, Code of Conduct, Declaration Forms and Risk Assessment Checklist for businesses. PACT’s four-step framework is as follows;

- (i) Pledge - Companies are encouraged to implement their own anti-corruption policy and to create a code of conduct that employees can refer to in order to safeguard themselves from falling foul of the law;

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³ SPRING Singapore is formerly an agency under the Ministry of Trade and Industry responsible for helping Singapore enterprises grow and building trust in Singapore products and services. As the enterprise development agency, SPRING works with partners to help enterprises in financing, capability and management development, technology and innovation, and access to markets. As the national standards and accreditation body, SPRING develops and promotes an internationally recognized standards and quality assurance infrastructure.

⁴ The (SS) ISO 37001 was Singapore’s adaptation of ISO 37001 Anti-Bribery Management Systems that was launched on 15 October 2016. CPIB had led the working group from Singapore in the negotiation of the ISO 37001.

⁵ Refer to: <https://www.cpib.gov.sg/sites/cpibv2/files/PACT%20A%20Practical%20Anti-Corruption%20Guide%20For%20Businesses%20in%20Singapore.pdf>

- (ii) Assess - Companies are encouraged to identify areas of high corruption risks and to conduct periodical risk assessments focusing on vulnerable job functions and processes;
- (iii) Control & Communicate - Companies are encouraged to keep accurate records and clear operating procedures, a robust reporting or whistle-blowing systems and audit checks that are carried out periodically. Companies should communicate the anti-corruption policy, code of conduct, internal control and reporting system to all its employees, business partners and other stakeholders, if any;
- (iv) Track – Companies are encouraged to review their anti-corruption systems in a timely manner following company re-organization, expansion in operations, new legal/national/international anti-bribery standards, and shifts in the business operating environment.

3. Anti-Corruption Partnership Network for the Private Sector

CPIB has also established an *Anti-Corruption Partnership Network* with member companies from the private sector. 25 companies have accepted CPIB's invitation and attended the inaugural event on 11 September 2018. The Network is an initiative by the CPIB to promote ownership on the prevention of corruption in the private sector. It is a platform through which awareness and materials on anti-corruption can be shared, and conversations can be held with like-minded representatives from the member companies to drive the anti-corruption cause. The desired outcome is for companies to adopt anti-corruption measures and inculcate a culture of integrity and business ethics within their companies.

III. INTERNATIONAL TRENDS OBSERVED FROM SINGAPORE'S PERSPECTIVE

In our modern era of increasing connectivity, criminal activities as well as corruption can easily transcend the boundaries of individual jurisdictions. Law enforcement agencies have to look beyond their own shores and participate in collaborative efforts with foreign counterparts to further investigations and bring corrupt offenders to justice. This is evident in our investigations as CPIB also pursues money laundering investigations pursuant to foreign corruption predicate offences. Frequently, assistance is required from foreign authorities to prove a money laundering offence; that the monies transacted within Singapore are related to corrupt activities investigated by that foreign authority. On our part, active cooperation with foreign authorities ensure that corrupt proceeds, if any, are identified early and the assets linked to foreign corruption or other foreign serious crimes can be seized in exercise of our domestic investigative powers, without the need for court orders. This ability to act quickly to seize criminal assets prevents the dissipation of criminal proceeds and provides for possible repatriation of funds subsequently to the requesting states, where applicable.

Over the years, we have observed a steady increase in money laundering investigations arising from foreign predicate corruption offences. In fact, more than a third of money laundering investigations undertaken by CPIB relate to foreign predicate corruption offences. Furthermore, about 70% of assets recovered by CPIB are linked to foreign predicate corruption cases.

A. Countermeasures through Active Cooperation

The following case studies illustrate the active cooperation undertaken by CPIB and its counterparts.

In 2016, there were adverse news that senior public officials of a foreign country were investigated for corruption and that criminal assets linked to them flowed to a few countries, including Singapore. Given the reasonable suspicion that assets in Singapore might be criminal proceeds, CPIB convened money laundering investigations into the assets of the senior public officials in Singapore. Domestic investigations quickly identified several bank accounts of the senior public officials and their family members amounting to more than SGD 20 million and they were seized to prevent dissipation while investigations were ongoing. Caveats were also placed on two other properties. With assistance from the foreign authority, CPIB officers also flew to this country to record statements from one of the senior public official and his wife. Meanwhile, CPIB is defending the seizure of the assets made pursuant to our domestic investigations before our court, with the assistance of inputs obtained from the foreign authority. The case is still under investigation and the funds remain frozen at this point.

In another case in 2016, CPIB received information that a local bank account was featured in a foreign adverse news and there were suspicious bank transactions in the bank account. CPIB then, through our Financial Intelligence Unit, immediately alerted the foreign authority and sought their confirmation on whether the bank account was featured in their corruption investigation. The foreign authority was also informed of the urgency of the matter as the beneficial owner was making plans to move the funds out of Singapore. Within a day, the foreign authority responded and produced court affidavits to exhibit that the bank account in question was related to a foreign offence. With the information, CPIB immediately launched a money laundering investigation and seized close to US\$16 million in the account. Almost a year later, the foreign authority followed up with a formal mutual legal assistance request to Singapore to restrain the bank account. Had CPIB not acted to seize the assets earlier, the funds in the bank account would have been dissipated by the time the MLA request reached Singapore.

These case studies underscore the need for close cooperation among the international community for effective investigation and ultimately recovery of assets.

IV. EMERGING TRENDS

On the technological front, the advent of cryptocurrencies is a familiar theme in international law enforcement fora. The novelty of the blockchain technology backing the operation of such alternative “currencies” have compelled law enforcement agencies to relook their investigation capabilities when dealing with such emerging technologies. As a financial hub, Singapore has seen the growth in number of cryptocurrency exchanges and initial coin offerings which are indicative that the adoption of virtual currencies is gaining traction. CPIB has not investigated any case involving the use of cryptocurrencies but remains vigilant and mindful of its potential use in corrupt transactions. To keep abreast of such technologies, our Computer Forensics Branch and Investigations Training Unit have jointly developed investigative procedures to guide officers when dealing with the seizure and management of cryptocurrencies. CPIB officers

are also trained in the use of open source information to track and trace the origins of cryptocurrency transactions.

V. CONCLUSION

In our experience, corruption cannot be combated effectively in isolation by the sole efforts of individual jurisdictions or its criminal justice system. Domestically, anti-corruption efforts have to be complemented by public-private partnerships where companies instil anti-corruption programmes with strong internal controls. At the international level, law enforcement agencies have to foster and deepen cooperation to ensure expedient and fruitful resolution to corruption cases.

Ex-BP exec charged in \$5.7m bribery case



Clarence Chang Peng Hong, a former executive of BP Singapore, is accused of obtaining about US\$4 million (\$5.7 million) in bribes from a businessman. The 51-year-old allegedly used corrupt proceeds to make partial payments for several properties to the tune of \$3.97 million. Chang, who was charged in court yesterday, had his bail of \$200,000 extended until April 6. ST PHOTO: WONG KWAI CHOW

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Former regional director allegedly took bribes to advance interests of businessman's firm



A former executive of BP Singapore was hauled to court yesterday to face charges of obtaining about US\$4 million (S\$5.7 million) in bribes from businessman Koh Seng Lee.

Clarence Chang Peng Hong, BP's former eastern regional director for marine fuels, allegedly took the bribes to advance the business interests of Mr Koh's company with BP.

Chang, who faces 47 charges, allegedly corruptly obtained bribes amounting to US\$3.95 million from Mr Koh, executive director of Pacific Prime Trading (PPT), via Chang's HSBC bank account in Hong Kong.

A total of 19 payments ranging from US\$100,000 to US\$350,000 were made to his bank account between July 2006 and September 2008.

Chang, 51, is said to have also corruptly agreed to accept a bribe of \$500,000 from Mr Koh some time before September 2009 to advance the business interests of PPT with BP.

'ACTIVITIES OF CONCERN'

We became aware of some activities of concern in 2010 which we reported to the authorities. These charges have been filed by the Singapore authorities, we cannot comment on them.

A BP SPOKESMAN, who says Chang's employment with BP ended in July 2010.

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Besides allegations that he had received bribes, Chang was accused of moving the corrupt proceeds through his various bank accounts and, separately, using some of the proceeds to partially pay for properties.

On 16 occasions between January 2007 and March 2010, while he was at BP, Chang allegedly transferred a total of \$4.7 million, which were benefits of corrupt proceeds, from his HSBC account in Hong Kong to a POSB bank account and two other HSBC Singapore accounts. The amounts ranged from \$76,568 to \$725,500.

He also faces 10 charges of allegedly using the corrupt proceeds to make partial payments for several properties to the tune of \$3.97 million. The properties comprise three houses in Da Silva Lane in Hougang, Jalan Limau Purut in Tanah Merah and Ettrick Terrace in Siglap, and two condominium units in Pasir Ris Grove.

He is also accused of using \$111,000, which formed part of his benefits of criminal conduct, to acquire share capital in MindChamps Preschool @ City Square on Sept 16, 2009.

Chang's lawyer Alfonso Ang told the court that he had just been briefed. The case was adjourned to April 6, and Chang's \$200,000 bail has been extended until then.

A BP spokesman said in an e-mail that Chang's employment with BP ended in July 2010.

"We became aware of some activities of concern in 2010 which we reported to the authorities. These charges have been filed by the Singapore authorities, we cannot comment on them," she said.

The Corrupt Practices Investigation Bureau said in a statement that Singapore adopts a zero-tolerance approach towards corruption. The bureau said it takes a serious view of any corrupt practices and will not hesitate to take action against any party involved in such acts.

The maximum punishment for corruption is a \$100,000 fine and five years' jail on each charge.

If convicted of offences under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act, Chang could be fined up to \$500,000 and/or jailed for up to seven years on each charge.

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Businessman match-fixer Eric Ding Si Yang 'led the high life'



Ding's luxury buys included an Aston Martin V8 Vantage for \$551,500, and a house in East Coast for \$1.1 million. ST PHOTO: ONG WEE JIN

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Prosecutors seek jail, heavy fine ahead of sentencing



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An Aston Martin V8 Vantage for \$551,500, a Porsche 911 for \$281,400 and a terraced house in East Coast for \$1.1 million - all paid for in cash.

These were the luxury purchases which prosecutors cited yesterday to show the "trappings of wealth" of local businessman Eric Ding Si Yang, 32, that arose from his match-fixing activities.

Earlier this month, he was found guilty of three counts of corruption for providing three Lebanese football officials with prostitutes as bribes for fixing future matches.

Prosecutors pressed for a stiff sentence of four to six years behind bars, and a fine of between \$120,000 and \$300,000 to be imposed.

Deputy public prosecutor Alan Loh said a heavy punishment was warranted because Singapore's feted reputation as one of the least corrupt countries in the world had been "tarnished" by international reports of match-fixing cartels operating out of the country.

He called match-fixing an "insidious undermining of the basic precepts of fair play" that causes great harm to society as it creates a "high-yield method for criminal organisations to launder money".

"The dangers of allowing match-fixing to proliferate uninhibited are thus far more sinister than would appear at first blush," he said, urging the court to make a "powerful and unambiguous statement" that match-fixing has no place in Singapore.

Mr Loh also cited court evidence that Ding has had ties with Dan Tan Seet Eng, named by Interpol as "the leader of the world's most notorious match-fixing syndicate", who is now under detention.

In mitigation, defence counsel Thong Chee Kun called the prosecutors' sentencing recommendations "draconian". He argued for a huge fine or, if the court deems it warranted, a short custodial sentence.

Mr Thong said it is "trite law" that each case should be decided on its own facts.

"It cannot be right to make Mr Ding pay for the actions of every match-fixer in Singapore," he argued. "The fact that Mr Ding had made certain purchases does not mean Mr Ding has used ill-gotten gains to finance his lifestyle." The defence also argued that no harm was caused because no match was fixed, and that the value of the bribes was low - though the prosecution argued this should bear little weight in "syndicated crime".

Ding is expected to be sentenced on Thursday.

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