Combating Money Laundering

Accountants to Do More

Criminals are continually looking for ways to conceal the true origins of proceeds of crime. They employ various techniques to move illegal proceeds around to create distance from the illegal sources of those proceeds. Criminals hope to integrate those illegal proceeds into the financial system, allowing them to pass those proceeds off as "legitimate" monies.

Moving illegal proceeds around to mask their true origins (or money laundering) requires criminals to use the services of others, in particular financial institutions. Understandably, a significant amount of focus had been (and will continue to be) on regulating and strengthening preventative measures in the financial services sector.

In recent times though, there have been increased calls internationally for professionals such as accountants to do more to combat money laundering. Criminal schemes and money laundering techniques are constantly evolving. Though financial institutions...
A professional accountant is required under Singapore law to lodge a report with the Suspicious Transactions Reporting Office, Commercial Affairs Department, if he knows or has reason to suspect that any property is connected to criminal conduct, and if such knowledge or suspicion arose in the course of his trade, profession, business or employment.

remain the core and traditional avenue for laundering illegal proceeds, in light of increased sophistication in anti-money laundering measures implemented by the financial services sector, criminals are also seeking alternative channels and increasing the use of professionals such as accountants as part of their criminal activities.

To that end, the Financial Action Task Force (FATF) has issued a number of recommended anti-money laundering measures which accountants should have in place. These measures include customer due diligence and record-keeping requirements if an accountant provides certain designated higher risk services to clients, for example, when they assist in the creation, operation and management of companies or other legal entities.

As one of the 36 member jurisdictions of the FATF, Singapore is committed to implement all the FATF recommendations. In this regard, ISCA will be issuing a new enhanced (proposed Guide) that is consistent with international standards as recommended by FATF. The public consultation of the proposed guide, titled “Requirements of Anti-Money Laundering and Countering the Financing of Terrorism – A Guide for Professional Accountants in Singapore”, is now concluded and ISCA will be issuing it in its final form soon.

LEVEL UP OR RISK BEING HELD LIABLE FOR ASSISTING IN A CRIME

Services provided by professional accountants can be highly sought after as accountants possess the necessary expertise or are able to perform certain activities which are needed by launderers to create successful criminal schemes. For example:

- Criminals exploiting accountants to create corporate vehicles, trusts and other complex legal arrangements which they need to facilitate money laundering.
- Criminals exploiting accountants as reputable “front men” to carry out financial transactions on their behalf, such as getting accountants to establish and act as trustees of bank accounts, and assisting the criminals in making funds transfers and issuing and cashing cheques;
- Criminals wanting to mask their identities and engage unsuspecting accountants as nominee directors and nominee shareholders of companies involved in money-laundering schemes.
- A professional accountant faces the risk of being held liable for assisting in a crime, even though he had done so unknowingly. Under Singapore’s anti-money laundering laws, the prosecution need not prove that a person had actual knowledge that the proceeds are from illegal sources. Instead, a person can be held liable based on evidence showing that he had “reasonable grounds to believe” that proceeds are from illegal sources.
- A defense that the accountant either did not know or had no reasonable grounds to believe, is to demonstrate that he had in place and had followed adequate anti-money laundering measures consistent with good industry practices. As professionals, defending purely on grounds of ignorance is risky, particularly when any reasonable person would likely have regarded the particular facts and circumstances to be suspicious. Without having and taking appropriate measures expected of a reasonable professional accountant, the prosecution could make a case that the accountant is doing business on the basis of deliberately “shutting his mind to the obvious” (such as not having reasonable measures on identification of red flags so that appropriate steps would have been taken to establish the nature of the source of funds).

To illustrate the point, in the appeal case of PP v Jeanette Ang (2012), the defendant lost her appeal against conviction of a money-laundering crime and her nine-month jail sentence. The defendant had acted upon the instructions of the stranger and assisted him to transfer the criminal proceeds out of Singapore. The judge ruled that given the suspicious circumstances in which the monies were handled, it would have been abundantly clear to the defendant, as well as to any reasonable observer, that the monies were tainted by some illegal activities.

Anti-money laundering standards expected of professional accountants are changing internationally and are influencing change in Singapore. Professional accountants will need to evaluate the adequacy of their anti-money laundering measures against the proposed Guide by ISCA. Overall, the Financial Action Task Force (FATF) is an inter-governmental body established in 1989 by the ministers of its member states to develop and promote effective measures against money laundering and terrorist financing and other related threats to the integrity of the operational measures for combating money laundering, terrorist and other complex legal arrangements which they need to facilitate money laundering. For example, criminals exploiting accountants to create corporate vehicles, trusts and other complex legal arrangements which they need to facilitate money laundering.
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there is an expectation for accountants to level up, particularly those who are providing services designated as higher risk under the proposed Guide, and which are in line with the FATF recommendations. Otherwise, the accountant should exercise caution not to disclose related information to the alleged perpetrator (or any other parties) so as to avoid tipping (him) off. It is an offence under the Singapore law if doing so is likely to prejudice an investigation or impending investigation.

In practice, there may be circumstances which can be challenging. In such cases, the accountant should seek legal advice and consider checking with the relevant authorities.

**COMPLACENCY IS YOUR WORST ENEMY**

A professional accountant need not be a criminal participant in a client's illegal scheme to be liable for charges. As explained earlier, if the professional accountant is unable to establish a reasonable defence, he is still at risk of being held liable for assisting a money-laundering crime.

Accountants need to be vigilant at all times and guard against being exploited by criminals by implementing adequate anti-money laundering measures. The professional accountant shall have regard to the proposed Guide to be issued by ISCA, and as such engage in good practices to know your clients; ensure ongoing monitoring, guidance and processes to identify red flags; promote training and uphold compliance and audit.

Complacency is your worst enemy. Resting on your laurels and not being careful gives criminals the opportunity to exploit and use you to carry out their illegal activities. The consequences can be severe, and the impact on your reputation potentially irreparable. You only need to be caught out once. 


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