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Anti-Corruption

Law and Practice – Singapore

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SINGAPORE

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Law and Practice

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SINGAPORE LAW AND PRACTICE

Contributed by WongPartnership LLP ***Authors:*** Alvin Yeo, Joy Tan, Melanie Ho, Simran Toor

WongPartnership LLP's services extend beyond Singapore, with a particular focus on the Asia-Pacific region. The firm has over 300 lawyers in its Singapore, Beijing, Shanghai and Yangon offices, and has partnerships with firms in Abu Dhabi, Dubai, Jakarta, Kuala Lumpur and Manila. WongPartnership prides itself on its twin strengths in transactional work and dispute resolution, and is recognised as a legal powerhouse in landmark M&A and capital markets transactions, in complex and high-value litigation, and in international commercial and investment arbitration matters. The firm has a full-service compliance, investigations and enforcement practice across all major regulated industry sectors in Singapore, including a dedicated criminal practice, specialising in commercial crimes, corruption, market and securities offences, and cybercrime/technology offences.

Authors

Alvin Yeo, Senior Counsel, is the firm's chairman and senior partner, whose main practice areas are banking and corporate disputes, contentious investigations, insolvency and restructuring, and construction and civil engineering matters. Alvin has extensive experience in financial services regulatory matters under the Companies Act, the Securities and Futures Act, and other regulatory statutes, including in relation to corporate fraud, anti-money laundering issues and insider trading. He is a member of the Appeals Advisory Panel for Monetary Authority of Singapore proceedings, the Disciplinary Tribunal Chairman Panel for the Singapore Medical Council (for doctors) and the Supreme Court (for lawyers), the Court of the Singapore International Arbitration Centre (SIAC) and the International Chamber of Commerce Commission on Arbitration. He is also the vice-president of the LCIA Asia Pacific Users' Council, a Fellow of the Singapore Institute of Arbitrators and on the panel of arbitrators of various institutions, including the International Centre for Dispute Resolution.

Joy Tan, a partner, is the deputy head of the commercial and corporate disputes practice and the joint head of the corporate governance and compliance practice and the financial services regulatory practice. Joy's main practice areas are banking, corporate and commercial dispute resolution, and contentious investigations. She regularly advises on corporate governance and financial services regulatory matters under the Companies Act, the Securities and Futures Act and other regulatory statutes, including in relation to corporate fraud, anti-money laundering and insider trading. Joy is on the Panel of Arbitrators of SIAC and a panel member of The Law Society Disciplinary Tribunals appointed by The Honourable Chief Justice under the Legal Profession Act. Joy graduated with first-class honours from Cambridge University.

Melanie Ho is the deputy head of the specialist and private client disputes practice, and a partner in the international arbitration practice.

Her main practice areas include medical law, defamation law, employment and commercial contracts investigations for companies and defence work for white-collar crime, specialising in defence work for corruption, falsification of accounts and technology crimes. Melanie is a member of the Appeals Board of the Dubai Healthcare City (DHCC), the final appellate authority within the DHCC that hears cases on medical and professional misconduct of healthcare professionals, the first Singaporean lawyer invited to be appointed to the Appeals Board. A member of the Association of Criminal Lawyers Singapore, Melanie graduated from the National University of Singapore.

Simran Toor is a partner in the specialist and private client disputes practice. Her main areas of practice include white-collar and financial crime, prosecution work for government bodies, regulatory investigations, and banking and commercial litigation. Prior to joining WongPartnership. Simran worked as a prosecutor with the Attorney-General's Chambers in Singapore, and was named by the Global Investigations Review 2016 as being part of WongPartnership's team of lawyers "with plenty of government experience".

Simran has been an elected member of the Council of the Law Society of Singapore since 2010, and currently serves on its Executive Committee. She is admitted to the Singapore Bar, having obtained an LLM (banking and finance) from University College London.

1. Offences

1.1 Legal framework for offences

The key anti-bribery and anti-corruption laws in Singapore are found in the following acts of parliament:

- the Prevention of Corruption Act, Chapter 241 (the "PCA"), first enacted in 1960;
- the Corruption, Drug Trafficking and other Serious Offences (Confiscation of Benefits) Act, Chapter 65A (the "CDSA"), first enacted in 1992; and
- Chapter IX of the Penal Code, Chapter 224 (the "PC"), first enacted in 1871.

In practice, the vast majority of corruption-related prosecutions are brought under the PCA. The scope of the PC corruption-related provisions is much narrower, covering only offences by or relating to public servants.

There are no published guidelines on the interpretation and enforcement of Singapore's anti-corruption laws.

That said, some basic information can be found on the website of the authority empowered to investigate and enforce corruption-related offences, the Corrupt Practices Investigation Bureau (CPIB). The website contains general information for the public on issues such as what acts amount to corruption under the PCA, information on the management and reporting of corruption complaints to the CPIB and case studies of recent corruption cases prosecuted by the CPIB. The CPIB's website can be accessed at the following link: https://www.cpib.gov.sg

The CPIB also publishes an annual report that, amongst other things, highlights the key developments and trends. The 2015 annual report highlighted three main industry sectors as being of *"concern."* They are (i) construction (eg, building construction, addition and alteration works, and renovation); (ii) marine services (eg, bunkering, shipping and shipyard works); and (iii) procurement (eg, purchase and sale of equipment, construction materials and food and beverages).

A copy of the CPIB's 2015 annual report can be accessed at the following link: https://www.cpib.gov.sg/sites/cpibv2/files/CPIB_AnnualReport2015.pdf.

Some of the "key highlights" for 2016 identified in the 2016 annual report including the following:

- corruption cases registered for investigation by the CPIB in 2016 decreased by 11% from 2015, reaching a new low;
- custodial sentences were meted out to the majority of individuals charged with corruption offences;
- as part of the CPIB's private sector engagement, a new set of anti-standards has been launched by the International Organization for Standardisation (ISO 37001). This specifies a series of measures to help organisations prevent, detect and address bribery. These include adopting an anti-bribery policy, appointing a person to oversee anti-bribery compliance, training, risk assessments and due diligence on projects and business associates, implementing financial and commercial controls, and instituting reporting and investigation procedures. The 2016 annual report can be accessed at this link: http://library.parl.gov.sg/sites/default/files/paperpresented/pdf/2015/Misc.7of2017.pdf.

Singapore ratified the United Nations Convention against Corruption on 6 November 2009. It is also party to the United Nations Convention against Transnational Organised Crime, which it ratified on 28 August 2007.

In addition, Singapore participates in a number of international anti-corruption initiatives, including the Asia-Pacific Economic Cooperation's Anti-Corruption and Transparency Experts' Working Group, the G20's Anti-Corruption Working Group and the Organisation for Economic Co-operation and Development's Anti-Corruption Initiative for Asia and the Pacific.

Singapore has also been a member of the Financial Action Task Force (FATF) since 1992 and in 1997 was one of the founding members of the Asia/Pacific Group on Money Laundering (APG).

1.2 Bribery

Under the PCA and the PC, the term "*gratification*" is used to refer to bribes.

Section 2 of the PCA defines this term as including the following:

- money or any gift, loan, fee, reward, commission, valuable security or other property or interest in property of any description, whether movable or immovable;
- any office, employment or contract;
- any payment, release, discharge or liquidation of any loan, obligation or other liability whatsoever, whether in whole or in part;
- any other service, favour or advantage of any description whatsoever, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary or penal nature, whether or not already instituted, and including the exercise or the forbearance from the exercise of any right or any official power or duty; and
- any offer, undertaking or promise of any gratification within the meaning of the paragraphs above.

As is evident, the statutory definition of gratification covers a broad range of eventualities and is meant to be non-exhaustive.

In keeping with this broad approach, the Singaporean courts have adopted an expansive approach to interpreting the term. Gratification has been held to include monetary reward (see PP v Syed Mostafa Romel (2015) 3 SLR 1166), sexual favours (see PP v Peter Benedict Lim Sin Pang (2013) SGDC 192) and even the mere opportunity to purchase shares in a company, which would unlock the possibility of future dividends (see PP v Teo Chu Ha (2014) SGCA 45).

The CPIB, on its website, acknowledges that "*gifts and entertainment are often offered in the legitimate course of business to promote good relations.*" In other words, business expenditures and courtesies will not contravene the provisions of the PCA or the PC, so long as they are legitimate. Examples of legitimate business expenditures and courtesies may include tokens of appreciation, modest gifts, meals or entertainment, which are intended to create goodwill, improve the company's image or better present its products or services.

As a general rule, it is advisable for precautions to be taken, such that allegations of impropriety are avoided. These include avoiding overly lavish business gifts, expenses or entertainment, ensuring that a justifiable business purpose is apparent in connection with each such transaction and ensuring transparency in the payment and accounting process that records these transactions.

Other good practices recommended by the CPIB include setting internal policies on when gifts and entertainment may be given, accepted or declared, informing business counterparties of these policies and ensuring that proper records are kept of these transactions (see https://www.cpib.gov.sg/about-corruption/prevention-of-corruption).

The term "*facilitation payments*" is neither used nor defined in the relevant legislation. In so far as such payments fall within the broad definition of gratification under Section 2 of the PCA, they are treated as acts of corruption amounting to a criminal offence.

Section 5 of the PCA, which contains the general prohibition against corruption, makes it an offence to give and receive bribes. Section 5 states as follows:

"Punishment for corruption

5. *Any person who shall by himself or by or in conjunction with any other person:*

(a) corruptly solicit or receive, or agree to receive for himself, or for any other person; or

(b) corruptly give, promise or offer to any person whether for the benefit of that person or of another person,

any gratification as an inducement to or reward for, or otherwise on account of:

- *any person doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed; or*
- *any member, officer or servant of a public body doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which such public body is concerned,*

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding five years or to both."

Similarly, Section 6 of the PCA, which prohibits corrupt transitions with agents, makes it an offence for an agent to give and receive bribes in relation to his/her principal's affairs. Section 6 states as follows:

"Punishment for corrupt transactions with agents

6. *If:*

(a) any agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business;

(b) any person corruptly gives or agrees to give or offers any gratification to any agent as an inducement or reward for doing or forbearing to do, or for having done or forborne to do any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

(c) any person knowingly gives to an agent, or if an agent knowingly uses with intent to deceive his principal, any receipt, account or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead the principal,

he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding five years or to both."

Notably, where the giver or receiver is a person in the employment of the Singaporean government or any public body, their acts are presumed to be corrupt unless the con-

trary is proved. The relevant provision is found in Section 8 of the PCA, which states as follows:

"Presumption of corruption in certain cases

8. *Where in any proceedings against a person for an offence under Section 5 or 6, it is proved that any gratification has been paid or given to or received by a person in the employment of the government or any department thereof or of a public body by or from a person or agent of a person who has or seeks to have any dealing with the government or any department thereof or any public body, that gratification shall be deemed to have been paid or given and received corruptly as an inducement or reward as hereinbefore mentioned unless the contrary is proved.*"

The relevant legislation does not criminalise a person's failure to prevent corruption.

However, Section 27 of the PCA places a legal obligation on any individual or company required by the CPIB to give information on any subject of inquiry by the CPIB. Section 27 states as follows:

"Legal obligation to give information

27. *Every person required by the director* [of the CPIB] *or any officer to give any information on any subject which it is the duty of the director* [of the CPIB] *or that officer to inquire into under this Act and which it is in his power to give, shall be legally bound to give that information.*"

Bribery between private parties in a commercial setting is covered by the legal framework in Singapore. The provisions of Sections 5 and 6 of the PCA (as discussed above) are wide enough and cover acts of corruption in a private, commercial setting.

Prior to the PCA's enactment in 1960, parliament made it clear that the intention behind the Act was to address corrupt activities in the public and private sectors, and that Singapore would adopt a low-tolerance approach to any such transgression. As stated by Ong Pang Boon, the then Minister of Home Affairs, the Act, "*while directed mainly at corruption in the public services, is applicable also to corruption by private agents, trustees and others in a fiduciary capacity. To those who corrupt and those who are corrupt, the warning is clear – take heed and mend their ways. Just retribution will follow those who persist in corrupt practices.*"

Since then, numerous prosecutions have been brought under Sections 5 and 6 of the PCA, covering public and private sector offences. In fact, private sector corruption cases outnumber the public sector cases.

1.3 Accounting provisions

Section 199 of the Companies Act, Chapter 50, requires a company to keep proper books and records to explain its transactions and financial position for at least five years. Failure to do so may attract penal sanctions for the company and its officers. The relevant extracts of Section 199 are reproduced below:

"Accounting records and systems of control

199. *(1) Every company shall cause to be kept such accounting and other records as will sufficiently explain the transactions and financial position of the company and enable true and fair financial statements and any documents required to be attached thereto to be prepared from time to time, and shall cause those records to be kept in such manner as to enable them to be conveniently and properly audited.*

(2) The company shall retain the records referred to in subsection (1) for a period of not less than five years from the end of the financial year in which the transactions or operations to which those records relate are completed.

(2A) Every public company and every subsidiary company of a public company shall devise and maintain a system of internal accounting controls sufficient to provide a reasonable assurance that

- *assets are safeguarded against loss from unauthorised use or disposition; and*
- *transactions are properly authorised and that they are recorded as necessary to permit the preparation of true and fair financial statements and to maintain accountability of assets.*

(6) If default is made in complying with this section, the company and every officer of the company who is in default shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 12 months and also to a default penalty."

In addition, Chapter XVIII of the PC sets out various offences relating to documents or electronic records. These include offences such as forgery (Section 463 of the PC), making a false document or false electronic record (Section 464 of the PC), using as genuine a forged document or electronic record (Section 471 of the PC) and falsification of accounts (Section 477A of the PC).

Section 477A and its accompanying explanatory note are reproduced below:

"Falsification of accounts

477A. *Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully*

and with intent to defraud destroys, alters, conceals, mutilates or falsifies any book, electronic record, paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully and with intent to defraud makes or abets the making of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in any such book, electronic record, paper, writing, valuable security or account, shall be punished with imprisonment for a term which may extend to ten years, or with a fine, or with both.

Explanation — It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded, or specifying any particular sum of money intended to be the subject of the fraud or any particular day on which the offence was committed."

Section 477A offences often accompany the commission of corruption offences, particularly where attempts have been made by a "*clerk, officer or servant*" of a company to cover up corrupt payments (eg, where such payments are falsely recorded in the company's books as "*commissions*" or where payment vouchers falsely describe the payment as "*entertainment*"). It is therefore common for an offender to face charges for both corruption and falsification of accounts, arising from one corrupt transaction.

1.4 Intermediaries

Section 29 of the PCA makes it an offence to "*abet*" the commission of a corruption offence and the commission outside Singapore of any act, in relation to the affairs or business or on behalf of a principal residing in Singapore, which if committed in Singapore would be an offence under the PCA. The definition of abet is found in Part V of the PC, which provides that a person "*abets*" the doing of a thing where he/she (i) instigates any person to do that thing; (ii) conspires with another, subsequent to which an illegal act or omission is carried out in order to the doing of that thing; or (iii) intentionally aids another in the doing of that thing.

In addition, Section 31 of the PCA makes in an offence to engage in a "*criminal conspiracy*" to commit any corruption offence. In brief, Part V of the PC provides that a "*criminal conspiracy*" takes place when two or more persons agree to do, or cause to be done, an illegal act or a legal act by illegal means.

Lastly, Section 5 of the PCA is worded broadly enough to cover the commission of a corruption offence through an intermediary. In particular, Section 5 makes it an offence for any person to give or receive bribes "*by himself or by or in conjunction with any other person*." This may be used as the catch-all provision in relation to offences committed through an intermediary.

1.5 Corruption

Broadly speaking, four elements must exist before a corruption offence under the PCA can be made out. These are as follows:

- there must be a giving or acceptance of gratification;
- the gratification must be an inducement or reward;
- there must be an objective corrupt element to the transaction; and
- the gratification must be given or accepted with guilty knowledge.

With regard to the mental element (mens rea) encapsulated by the third and fourth elements above, the Singaporean courts will adopt the two-stage test set out in the High Court case of Chan Wing Seng v Public Prosecutor (1997) 1 SLR(R) at [20] to [25]. In order for the mental element to be made out, the court must be satisfied that:

- There is an objectively corrupt element in the transaction based on the ordinary standard of the reasonable man. This question must be answered only after the court has inferred what the offender intended when he entered into the transaction at hand (ie, an objective inquiry).
- The offender knew or realised what he did was corrupt by the ordinary and objective standard (ie, a subjective inquiry).

1.6 Scope

Generally, there is no limitation period for criminal offences in Singapore. This applies to the offences discussed above.

The PCA has extraterritorial reach, in limited circumstances. Section 37 provides that where an offence (as described under the PCA) is committed by a Singaporean citizen in any place outside Singapore, that person may be dealt with in respect of that offence as if it had been committed within Singapore.

The terms "*person*" and "*party*" are defined in the Interpretation Act, Chapter 1, as including "*any company or association or body of persons, corporate or unincorporate.*" Therefore, any offence under the PCA, PC or CDSA may be committed by an individual as well as any of the aforementioned entities.

Generally speaking, an entity will attract criminal liability where a corruption offence is committed in the course of business by a person in control of the entity's affairs, to such a degree that the entity can be said to think or act through this person. In practice, however, court prosecutions of such entities have been rare. This may be due to the complexities

involved in proving the required mens rea ascribable to the entity. In such situations, the approach has been to charge the individuals within the entity who were involved in the corrupt endeavour.

Singapore does not have any legislative provision that imposes vicarious liability on a company or association for the corrupt acts of its employees or agents.

2. Defences & Exceptions

2.1 Defences

The relevant legislation does not contain any expressly enacted defences to the anti-corruption offences.

In defending a corruption charge, challenge may be had to the key elements required to prove the offence, such that it cannot be made out at law or fact. For example, it may be argued that the required mental element (mens rea) or some required element of the alleged criminal act (actus reus) cannot be proved.

Chapter IV of the PC sets out the various general defences available against a criminal charge. These include the defences of accident (Section 80 of the PC), unsoundness of mind (Section 84 of the PC), intoxication (Sections 85 and 86 of the PC) and duress (Section 94 of the PC). However, the typical factual matrices that underpin a corruption offence do not lend themselves to the applicability of these general defences.

2.2 De minimis exceptions

The general defences to a criminal charge encapsulated in Chapter IV of the PC include a de minimis defence (Section 95 of the PC). For reference, Section 95 is reproduced below:

"Act causing slight harm

95. *Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.*"

However, it is unlikely that this general defence will have any applicability to corruption offences under Singaporean law. First, cases have been prosecuted where the bribe or gratification involved was minimal, including where the bribe was attempted but never carried out. Second, given the strict policy approach taken by lawmakers and the CPIB to the implementation and enforcement of corruption offences in Singapore, it is unlikely that any bribe, no matter how small, will be interpreted by the Singaporean courts as causing "*harm… so slight that no person of ordinary sense and temper would complain of such harm.*"

2.3 Exempt industries/sectors

There are no sectors or industries exempt from the above offences.

2.4 Safe harbour or amnesty programme

There is no express or publicised safe harbour or amnesty programme arising from the self-reporting of corruption offences.

However, Section 36 of the PCA provides some measure of protection to the identity of informers who have lodged complaints under the PCA. The protection covers three areas. First, the complaint itself (eg, where in written form or reduced to written form) shall not be admitted into evidence in any civil or criminal proceeding whatsoever. Second, no witness in any proceeding shall be obliged or permitted to disclose the name or address of any informer, or state any matter that might lead to the discovery of his or her identity. Third, if any document in evidence or liable to inspection in any civil or criminal proceeding contains any entry that names, describes or may lead to the discovery of the informer's identity, the court shall cause such parts of the document to be concealed or obliterated from view.

The only exceptions to this protection arise where a court is, after full inquiry into the case, of the opinion that the informer wilfully made in the complaint a material statement that he or she knew or believed to be false or did not believe to be true, or if in any other proceeding the court is of the opinion that justice cannot be fully done between the parties without the discovery of the informer, the court may require the production of the original complaint, if in writing, and permit inquiry and require full disclosure concerning the informer.

That said, acts of co-operation, self-reporting, remediation and genuine remorse are viewed favourably by the investigating authorities, the Public Prosecutor and the Singaporean courts.

By virtue of Article 35(8) of the Constitution of the Republic of Singapore and Section 11 of the Criminal Procedure Code, the Attorney-General has the power, exercisable at his direction, to institute, conduct or discontinue any proceedings for any criminal offence. Whilst there is no published guideline on how the Attorney-General may consider or treat factors such as self-reporting, adequate compliance or remediation, in practice, such acts are often taken into account when deciding the approach to take in any given prosecution. These factors frequently go towards arriving at a reduced plea or sentence bargain, or even the granting of immunity from prosecution.

Likewise, the Singaporean courts have generally attached mitigating value to a person surrendering him or herself to

the authorities before investigations could implicate them (see PP v Siew Boon Loong (2005)] 1 SLR(R) 611). The Singaporean High Court in PP v Ang Seng Thor (2011) 4 SLR 217 appeared to go even farther when it stated, obiter, that even more mitigating value may be attached where the offender discloses not only their own, but also their accomplice's crimes.

3. Penalties

3.1 Penalties on conviction

A person convicted of an offence under the PCA faces a fine, imprisonment, or both. The prescribed penalties for the key offences (ie, Sections 5 and 6) are set out below:

- Section 5: Fine not exceeding SGD100,000, or imprisonment for a term not exceeding five years, or both.
- Section 6: Fine not exceeding SGD100,000, or imprisonment for a term not exceeding five years, or both.

In addition, Section 7 of the PCA provides that the penalty may be increased where the matter in relation to which the offence was committed was a contract or a proposal for a contract with the government or any department thereof or with any public body or a subcontract to execute any work comprised in such a contract. In such situations, the prescribed penalty is a fine not exceeding SGD100,000, or imprisonment for a term not exceeding seven years, or both.

Where the offender has received bribes, Section 13 provides that in addition to the above-mentioned punishments, where a person is convicted of accepting any gratification, the court may order the person to pay a penalty equivalent to the amount of gratification received.

Additionally, the CDSA provides for the confiscation of benefits derived from, amongst other "*serious offences,*" the offence of corruption. Under Section 5 of the CDSA, an application for a confiscation order can be made by the Public Prosecutor once a person has been convicted of one or more such serious offences.

Lastly, where a person who is a director of a company is convicted of an offence involving fraud or dishonesty (such as a corruption offence), he or she will be disqualified from acting as a director, or taking part (whether directly or indirectly) in the management of a company, for a period of five years.

3.2 Guidelines applicable to the assessment of penalties

The main sentencing considerations in corruption cases are deterrence and punishment. This approach was promulgated by the Singaporean High Court in the case of Public Prosecutor v Ang Seng Thor (2011) 4 SLR 217.

More recently, the High Court in PP v Syed Mostafa Romel (2015) 3 SLR 1166 dispelled any notion that a presumption existed in favour of non-custodial sentences for private sector corruption. In doing so, the High Court set out three broad categories of private sector corruption typologies and provided a general guide on the appropriate sentence for each:

- in a situation where the receiving party (recipient) is paid to confer on the paying party (giver) a benefit that is within the recipient's power to confer without regard to whether the giver ought properly to have received that benefit, the issue of whether the custodial threshold is crossed depends on the facts;
- in a situation where the recipient is paid to forbear from performing what he or she is duty-bound to do (thereby conferring a benefit on the giver), custodial sentences will frequently be imposed; and
- in a situation where the recipient is paid so that he or she will forbear from inflicting harm on the giver (even though there may no legal basis for the infliction of such harm), the recipient can generally expect a custodial sentence.

In cases involving public sector corruption, the "*public service rationale*" will apply. In such a scenario, the public interest in preventing a loss of confidence in Singapore's public administration takes precedence and where there is a risk of such harm occurring, "*a custodial sentence [is] normally justified*" (see PP v Ang Seng Thor (2011) 4 SLR 217). This principle has been reaffirmed more recently in the High Court cases of Tjong Mark Edward v PP (2015) SGHC 91 at [75].

4. Whistle-blowing

4.1 Protection afforded to whistle-blowers

No protection is afforded to whistle-blowers. However,Section 36 of the PCA provides some measure of protection to the identity of informers who have lodged complaints under the PCA (see **2.4 Safe harbour or Amnesty Programme**).

4.2 Incentives for whistle-blowers

There are no incentives for whistle-blowers to report bribery or corruption. However, the Singaporean courts have generally attached mitigating value to a person surrendering him or herself to the authorities before investigations could implicate them (see **2.4 Safe Harbour or Amnesty Programme**).

5. Enforcement

5.1 Enforcement body

The agency responsible for investigating and enforcing anti-corruption offences in Singapore is the CPIB.

Court prosecutions of such offences fall under the ambit of the Financial and Technology Crime Division of the Attorney-General's Chambers (AGC). The AGC also works together with, and has general prosecutorial oversight of, the CPIB in the course of its investigations.

5.2 Guidance for enforcement bodies

There is no guidance available as to how the enforcement body should act.

However, the CPIB website contains a general overview of the process by which it conducts its investigation into a corruption complaint. Notably, this states that all complaints will first be channelled to a central Complaints Evaluation Committee, after which the CPIB will make a decision on the follow-up action to be taken within 14 days.

There is little publicly available information on the Complaints Evaluation Committee. However, a newspaper article published in 2012 gives some insight on this Committee's constitution and work: tips-offs or complaints received by the CPIB will be discussed by a Complaints Evaluation Committee every Thursday. The Complaints Evaluation Committee, which is chaired by the director of the CPIB and various other directors and assistant directors of different branches, deliberates on each complaint to assess which warrants an investigation.

5.3 Jurisdiction for the enforcement body/bodies

The CPIB is empowered by the PCA to investigate corruption-related offences under the Act and in the course of doing so, any other offences that may be uncovered, whether under the PCA or any other act of parliament.

5.4 General powers and limitations of the enforcement body/bodies

Part IV of the PCA confers on the CPIB the powers of arrest, investigation, search and seizure. Part IV also grants the Public Prosecutor (ie, the AGC) various powers of investigation and inspection.

By virtue of Section 17 of the PCA, the CPIB is empowered to investigate all offences under the PCA, certain offences under the PC and any seizable offences under any written law disclosed during the course of its investigation of an offence under the PCA. These powers can be exercised without the order of the Public Prosecutor. In addition, CPIB officers are conferred with the full investigation powers conferred on the police under Part IV of the Criminal Procedure Code, Chapter 68.

Notwithstanding these relatively broad powers, CPIB officers may also exercise certain powers if given authorisation by the Public Prosecutor to do so. Under Section 20 of the PCA, the Public Prosecutor may authorise the CPIB to inspect a banker's book and to take copies of relevant entries.

5.5 Discretion for mitigation

By virtue of Article 35(8) of the Constitution of the Republic of Singapore and Section 11 of the Criminal Procedure Code, the Attorney-General has the power, exercisable at his direction, to institute, conduct or discontinue any proceedings for any criminal offence.

Accordingly, the AGC has the unfettered discretion to extend any plea or sentencing offer to the offender concerned. The same would apply to any plea or sentencing agreement arrived at subsequent to negotiations with the offender or his legal counsel.

There are no published or standard guidelines on the factors that may be taken into account by the AGC in such offers or negotiations. Factors that may be considered include the mental or physical health of the offender and/or the extent of the offender's co-operation in any ongoing or further prosecutions. Typically, such negotiations are confidential.

5.6 Jurisdictional reach of the body/bodies

The CPIB is entitled to investigate offences committed by any person within Singapore. This reach is extended with regard to Singaporean citizens only, by virtue of Section 37, which criminalises PCA offences committed by Singaporean citizens in any place outside Singapore.

In the latter scenario, the CPIB may work together with the relevant jurisdiction to investigate the matter. Under the Mutual Assistance in Criminal Matters Act, Chapter 65A, Singapore may request legal assistance from a "*prescribed foreign country.*" Such assistance includes the taking of evidence, search and seizure, and locating or identifying persons of interest.

Currently, the list of "*prescribed foreign country*" includes the United Kingdom, the United States of America, Hong Kong, Malaysia, India, Vietnam, Brunei, Laos, Indonesia, Myanmar, the Philippines, Cambodia and Thailand.

6. Future changes

6.1 Likely changes to the applicable legislation or the enforcement body

In January 2015, Prime Minister Lee Hsien Loong announced that the CPIB was reviewing the PCA, together with the AGC. The CPIB's manpower would also be increased by more than 20% and a One-Stop Corruption Centre would be set up so that complaints could be made more discreetly and in a more accessible manner.

To date, the results of this review and/or any changes to be made have yet to be announced.

WongPartnership LLP
12 Marina Boulevard Level 28
Marina Bay Financial Centre Tower 3
Singapore 018982

Tel: +65 6416 8000
Fax: +65 6532 5711
Email: contactus@wongpartnership.com
Web: http://www.wongpartnership.com