

**MONEY LAUNDERING AND  
TERRORISM FINANCING RISK ASSESSMENT OF  
LEGAL ARRANGEMENTS IN SINGAPORE  
2024**

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## TABLE OF ACRONYMS

ML NRA	Singapore's Money Laundering National Risk Assessment Report 2024
TF NRA	Singapore's Terrorism Financing National Risk Assessment Report 2024
ACRA	Accounting and Corporate Regulatory Authority
AMLA	Administration of Muslim Law Act 1966
AML/CFT	Anti-Money Laundering and Countering the Financing of Terrorism
AML/CFT SC	Anti-Money Laundering, Countering the Financing of Terrorism Steering Committee
BTA	Business Trusts Act 2004
CAD	Commercial Affairs Department of the Singapore Police Force  Singapore's Financial Intelligence Unit, the Suspicious Transaction Reporting Office (STRO) is part of CAD.
CDD	Customer Due Diligence
CDP	Central Depository
CDSA	Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992
CEA	Council for Estate Agencies
CIS	Collective Investment Scheme
COC	Commissioner of Charities
DNFBPs	Designated Non-Financial Businesses and Professionals
Egmont Group	Egmont Group of Financial Intelligence Units
ECDD	Enhanced Customer Due Diligence
Exemption Regulations	Trust Companies (Exemption) Regulations
FATF	Financial Action Task Force
FI	Financial Institution
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
HNWI	High Net Worth Individuals
ISCA	Institute of Singapore Chartered Accountants
KYC	Know Your Client
LARA	Legal Arrangements Risk Assessment
Law Society	The Law Society of Singapore
LEA	Law Enforcement Agency
Legal Profession AML/CFT Rules	Legal Profession (Prevention of Money Laundering and Financing of Terrorism) Rules 2015
LTC	Licensed Trust Companies
MACMA	Mutual Assistance in Criminal Matters Act 2000
MAS	Monetary Authority of Singapore
MHA	Ministry of Home Affairs
MinLaw	Ministry of Law
ML/TF	Money Laundering and Terrorism Financing
MOF	Ministry of Finance
MUIS	Majlis Ugama Islam Singapore
NPO	Non-Profit Organisation
NRA	National Risk Assessment
PEP	Politically Exposed Person
PF	Proliferation Financing
PTC	Private Trust Company

REIT	Real Estate Investment Trust
SFA	Securities and Futures Act 2001
STR	Suspicious Transaction Report
STRO	Suspicious Transaction Reporting Office
TA	Trustees Act 1967
TCSP	Trust and Company Service Providers
TCA	Trust Companies Act 2005
Trustees Regs	Trustees (Transparency and Effective Control) Regulations 2017
TSOFA	Terrorism (Suppression of Financing) Act 2002
URA	Urban Redevelopment Authority
Warees Investments	Warees Investments Pte Ltd
WMS	<i>Wakaf Masyarakat Singapura</i>

## I. EXECUTIVE SUMMARY

- 1.1.1 Legal arrangements are generally used for a wide variety of legitimate purposes. There remains a risk however that they may be misused by bad actors to conceal the beneficial ownership of illicit proceeds. As an international financial centre and global trading hub, Singapore has taken significant Whole-of-Government measures to address the risk.
- 1.1.2 This document on the Money Laundering (ML) and Terrorism Financing (TF) Risk Assessment of Legal Arrangements in Singapore (LARA) presents an in-depth assessment of the potential ML/TF risks in relation to legal arrangements in Singapore. It sets out the extensive anti-money laundering and combating the financing of terrorism (AML/CFT) controls in place to address these risks. In putting together this document, Singapore has conducted an extensive review of data gathered from multiple sources – this ranges from the cases and typologies arising from crimes associated with the misuse of legal arrangements obtained from law enforcement agencies (LEAs); suspicious transaction reports/intelligence from the Suspicious Transaction Reporting Office (STRO); results of questionnaire issued to financial institutions (FIs) and designated non-financial businesses and professionals (DNFBPs); as well as reports published by both local and overseas groups, including the National Risk Assessments of other jurisdictions, and their Financial Action Task Force (FATF) Mutual Evaluation Reports.
- 1.1.3 In summary, Singapore’s observations are aligned with those of the global community including that of the FATF, that while legal arrangements could be misused, they are less frequently exploited as compared to legal persons (in particular companies). In the instances when legal arrangements are involved in ML cases, they are generally part of a broader complex structure involving companies; used to obscure asset ownership across multiple jurisdictions. It is notable that all of the ML cases relating to legal arrangements in Singapore that LEAs have investigated to-date have involved complex structures with either (i) Singapore Licensed Trust Companies (LTCs) as trustees; or (ii) are based overseas (i.e. foreign trusts).
- 1.1.4 Singapore has conducted a ML and TF risk assessment of the different types of legal arrangements, and the key findings in relation to these legal arrangements are as follows:
- (a) **Express Trusts where the trustee is a Trust Company:** They are assessed to be of **Medium-High** ML risk; but of **Low** TF risk. The increased ML risks stem from the nature of their clientele, which includes high-net-worth individuals (HNWIs) who may also come from higher-risk jurisdictions; as well as the fact that they often deal with high value assets and transactions, which may be part of complex trust structures. Singapore is cognizant of the risks involved. MAS therefore regulates trust companies under the TCA, requiring licensing for trust companies providing trust services to the public as a business, and adherence to AML/CFT requirements which are aligned with FATF standards for all trust companies, regardless of their clientele.
  - (b) **Foreign Legal Arrangements with Links to Singapore:** Foreign legal arrangements with links to Singapore are assessed to be of **Medium-High** ML risk and **Medium-Low** TF risk. Foreign legal arrangements are vulnerable to ML/TF as they are often part of complex structures, with layers placed across multiple jurisdictions that make its settlors/ultimate beneficial owner less obvious. Such vulnerabilities would be aggravated when such foreign trusts are set up in higher-risk locations (with weaker AML/CFT controls). Singapore has observed a few ML cases involving foreign legal arrangements but there have been no TF cases in Singapore thus far. Nonetheless,

international typologies have indicated that foreign legal arrangements (including charitable trusts) can potentially be abused for TF.

- (c) **Registered Business Trusts:** They demonstrate **Low** ML and TF risks, with no cases of ML or TF detected thus far, nor any evident cases of abuse internationally. They are also regulated by MAS under the Business Trusts Act 2004 (BTA), which imposes strict transparency and governance obligations on the trustee-manager.
- (d) **Collective Investment Schemes, including Real Estate Investment Trusts:** Both are rated as **Low** risk for ML and TF. This is primarily as they closely relate to other AML/CFT regulated FIs such as fund management companies, banks or financial advisors; and are also themselves subject to strict transparency and regulatory requirements by MAS under the Securities and Futures Act 2001 (SFA). They are also not a common typology, with only a smattering of (predicate) cases overseas, and no local instances involving ML/TF detected.
- (e) **Securities Depository:** It is assessed to be of **Low** ML and TF risk. Singapore LEAs have not observed any instance of the Central Depository (CDP) being misused for ML or TF purposes. International typologies have also noted that the laundering of funds and assets through the securities market would typically take place through various professional intermediaries instead. In Singapore, trading of securities is conducted via regulated broker-dealers and banks, which are subject to AML/CFT requirements, reducing their vulnerability to ML and TF risks.
- (f) **Other express trusts (i.e. residual trusts<sup>1</sup>):** They are assessed to pose **Low** ML and TF risks. Apart from the regulatory regimes discussed above, the remaining residual trusts are covered by Part 7 of the Trustees Act (TA) and the Trustees Transparency and Effective Control) Regulations 2017 (Trustees Regs). The trusts covered by these regulations can be created in writing, orally or even by conduct. These are not typically sophisticated arrangements, and are often used for simple personal affairs of private individuals. They may also be established as an incidental or ancillary part of business, or to benefit employees or families. As they are typically straightforward and lacking in complexity, the identity of the beneficial owner is readily discoverable. Empirically, LEAs have not encountered ML/TF cases related to such residual trusts. This observation is corroborated by international typology where cases which feature trusts are typically part of a wider scheme. Further, in a survey of FIs and DNFBPs conducted in 2024, the majority of respondents did not consider it likely for express trusts including residual trusts to be used for ML/TF. Regardless, trustees of such trusts are nonetheless required to keep up-to-date and accurate beneficial ownership information. The trustees are also required to provide them to FIs and DNFBPs when establishing business relationships with them, as well as to LEAs on request.
- (g) **Charitable Purpose Trusts:** They are rated as **Low** ML risk, and **Medium-Low** TF risk. Although no ML or TF cases have been detected, as has also been noted in Singapore's TF NRA, international and regional typologies have shown that terrorist financiers are known to use non-profit organisations (NPOs) to raise, move, and use funds. As such,

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<sup>1</sup> For the purposes of this LARA, we use the term “residual trust” to specifically refer to express trusts which are covered under Part 7 of the TA and Trustees Regs, rather than express trusts that are subject to other laws and regulation. This differs from its usage in American trust law, where it is often synonymous with a “bypass trust”, a legal arrangement established in estate planning.

charitable purpose trusts in Singapore have to be registered with the Commissioner of Charities, and are bound by strict transparency requirements under the Charities Act 1994.

(h) **Wakafs:** They are assessed to pose **Low** ML risk and **Medium-Low** TF risk. No ML or TF cases have been detected involving *wakafs* in Singapore. Singapore’s framework firmly mitigates the risks posed by the active terrorist threats in the region, given that donors lose control over the asset once it is placed into a *wakaf* (which defeats the purpose of bad actors hiding any beneficial interest). MUIS which is a government statutory board is the administrator of all *wakafs* (the trustee-equivalent), and has the discretion to appoint *mutawallis* to manage the *wakafs* on their behalf. *Wakafs* are further subject to strict regulatory oversight and controls by MUIS.

1.1.5 Studies have shown that trusts that are vulnerable to misuse are often more complicated to establish than companies. They are therefore more likely to require professional support to establish, which allows for gatekeeping. Transactions would also generally be conducted through a professional intermediary. FIs and DNFBPs (e.g. licensed trust companies, lawyers, real estate agents etc.) are therefore critical gatekeepers and are bound by stringent customer due diligence rules to prevent the misuse of legal arrangements, which significantly mitigates the risk.

1.1.6 Singapore works closely with international partners to combat cross-border ML and TF risks. Mutual Legal Assistance (MLA) requests and cooperation with foreign jurisdictions have proven effective in disrupting illicit activities linked to legal arrangements. Further, Singapore’s LEAs and STRO have successfully leveraged close collaboration with counterparts such as INTERPOL and EGMONT Group of FIUs to exchange information including those relating to legal arrangements for investigative purposes.

1.1.7 Overall, the regulatory and enforcement measures in place are robust and risk-calibrated according to the ML risk which ranges from **Low to Medium-High**, and the TF risk which ranges from **Low to Medium-Low** depending on the specific arrangement (see **Table 1** below). Trusts managed by trust companies remain a potential vulnerability, which is addressed and mitigated by robust compliance requirements and supervisory oversight. Singapore remains committed to continuously refining its legal frameworks and maintaining its strong position in the fight against financial crime.

**Table 1: Risk Assessment of Legal Arrangements**

	ML Risk	TF Risk
Express trust where the trustee is a Trust Company	Medium High	Low
Foreign Legal Arrangements with links in Singapore	Medium High	Medium Low
Registered Business Trust	Low	Low
Collective Investment Schemes (CIS) (including Real Estate Investment Trusts (REITs))	Low	Low
Securities Depository	Low	Low

Express trusts covered by Part 7 of the Trustees Act and Trustees (Transparency and Effective Control) Regulations 2017 (residual trusts)	Low	Low
Charitable Purpose Trust	Low	Medium Low
<i>Wakafs</i>	Low	Medium Low



## II. INTRODUCTION

### 2.1 Background

- 2.1.1 Legal arrangements, such as express trusts, can be used for a wide variety of reasons, such as wealth protection, succession planning, protection for vulnerable persons, commercial purposes, and charitable giving.
- 2.1.2 While the majority of legal arrangements are used for legitimate purposes, they can also be used by bad actors to conceal the beneficial ownership of illicit proceeds. The transparency of beneficial ownership of legal arrangements has therefore come under increasing global scrutiny, including from the FATF,<sup>2</sup> Global Forum on Transparency and Exchange of Information for Tax Purposes,<sup>3</sup> the World Bank<sup>4</sup> and the G20.<sup>5</sup> This is particularly so in light of concerns raised from typologies observed from the FATF reports,<sup>6</sup> and media exposé reports relating to the “Panama Papers”, “Paradise Papers” etc.

### 2.2 Objective

- 2.2.1 This LARA hence provides:
- (a) A consideration of the national ML/TF threats;
  - (b) An overview of the inherent vulnerabilities, mitigating features and global trends concerning the misuse of legal arrangements;
  - (c) An assessment of the risks posed by legal arrangements that can be created under Singapore law, administered in Singapore, or where the trustee resides in Singapore;
  - (d) An assessment of the risk posed by foreign legal arrangements that have sufficient links with Singapore; and
  - (e) An overview of key professional intermediaries which form a business relationship or enter transactions with legal arrangements.

### 2.3 Approach

- 2.3.1 This risk assessment is overseen by the Risks and Typologies Inter-agency Group. Consistent with the approach taken for all of Singapore’s Risk Assessments at the National Level (RAs), this assessment is a government-wide exercise which brings regulatory and supervisory, policy and law enforcement (including the financial intelligence unit) agencies together to present a holistic overview of the ML/TF risk presented by legal arrangements, and to enhance and

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<sup>2</sup> See the FATF, The Misuse of Corporate Vehicles, Including Trust and Company Service Providers (2005), accessible at <https://www.fatf-gafi.org/en/publications/Methodsandtrends/Themisuseofcorporatevehiclesincludingtrustandcompanyserviceproviders.html>

<sup>3</sup> See the Internationally Recognised Standard on the Exchange of Information on Request (EOIR), accessible at <https://www.un.org/esa/ffd/wp-content/uploads/sites/3/2017/05/Global-Forum-info-sheet-2017.pdf>

<sup>4</sup> See World Bank, The Puppet Masters (2011), accessible at <https://star.worldbank.org/publications/puppet-masters>

<sup>5</sup> See the G20 High-Level Principles on Beneficial Ownership Transparency as adopted in November 2014.

<sup>6</sup> FATF-Egmont Group, Concealment of Beneficial Ownership (2018)

deepen our collective understanding regarding the potential misuse of legal arrangements in Singapore.

- 2.3.2 The assessment is developed under the auspices of and with guidance from the AML/CFT Steering Committee (SC), which sets out Singapore’s policy objectives and directions for combating ML, TF and Proliferation Financing (PF). The AML/CFT SC comprises the Permanent Secretary of Home Affairs Development (MHA), the Permanent Secretary of the Ministry of Finance (MOF) and the Managing Director of the Monetary Authority of Singapore (MAS).<sup>7</sup> The senior-level oversight and the significant resources invested demonstrate Singapore’s strong commitment towards combatting ML/TF/PF.
- 2.3.3 To determine the ML/TF risk posed by legal arrangements to Singapore, we considered the range of legal arrangements operating in Singapore or with sufficient links to Singapore, Singapore’s economic and legal framework, and a wide range of qualitative and quantitative threats and vulnerability factors. This included an analysis of the information and data gathered from the following sources:
- (a) Multiple government agencies, including policymakers, LEAs, the financial intelligence unit, regulators and supervisors of legal arrangements, FIs and DNFBPs;
  - (b) The private sector, including through questionnaires issued to FIs and DNFBPs who come into contact with legal arrangements;
  - (c) Cases and typologies arising from crimes associated with the misuse of legal arrangements and related enforcement actions, including ML in Singapore;
  - (d) Mutual Legal Assistance (MLA) requests;
  - (e) Typology reports produced by the Singapore trust industry,<sup>8</sup> and international literature such as reports by the FATF and the World Bank relating to the abuse of legal persons and legal arrangements;<sup>9</sup> and
  - (f) Learnings from other jurisdictions of the risk posed by legal arrangements, as reflected in their risk assessments, FATF Mutual Evaluation Reports, and other reports.
- 2.3.4 Complementing this RA is a comprehensive suite of AML/CFT/Countering Proliferation Financing (CPF) publications issued by Singapore authorities, including the *Money Laundering National Risk Assessment Report 2024*, *Terrorism Financing National Risk Assessment 2024*, *Singapore’s 2024 Proliferation Financing National Risk Assessment*, *Environmental Crimes Money Laundering National Risk Assessment 2024*, *National Anti-Money Laundering Strategy*

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<sup>7</sup> Prior to the AML/CFT SC, the assessment was reviewed by the Risks and Typologies Inter-agency Group which oversees the identification and assessment of ML and TF risks at the whole-of-government (WoG) level and escalated to the AML/CFT Inter-Agency Committee (IAC) for subsequent review and approval.

<sup>8</sup> Singapore Complex Structures Working Group (consisting of members from the Singapore trust industry associations, namely the Singapore Trustees Association (STA) and Society of Trust and Estate Planning (STEP)), “Managing Money Laundering and Terrorism Financing (“ML/TF”) Risks associated with Complex Trust Structures”, (27 June 2022) (Industry Best Practice Paper) accessible at <https://www.sta.org.sg/industry-best-practice-paper/>

<sup>9</sup> Examples include the World Bank’s report “The Puppet Masters” (2011), FATF’s study “The Misuse of Corporate Vehicles, including Trust and Company Service Providers” (2006), and FATF-Egmont Group’s study “Concealment of Beneficial Ownership” (2018)

Singapore 2024, National Strategy for Countering the Financing of Terrorism, National Asset Recovery Strategy, Money Laundering and Terrorism Financing Risk Assessment of Legal Persons in Singapore 2024, and Virtual Assets Risk Assessment Report Singapore 2024. Users of this RA are recommended to also review these and other relevant publications to assist their respective risk assessments and implementation of risk mitigation measures.

## 2.4 Methodology

2.4.1 The approach and methodology we have adopted in developing this LARA are set out in **Table 2** below, and are similar to that adopted in Singapore’s other risk assessments, including the Money Laundering Risk Assessment Report (ML NRA),<sup>10</sup> and the Terrorism Financing Risk Assessment Report (TF NRA)<sup>11</sup>. It is aligned with the FATF’s Guidance and also takes reference from the World Bank’s NRA methodology.<sup>12</sup>

**Table 2: LARA Methodology**

<p><b>Threats*</b></p>	<ul style="list-style-type: none"> <li>• ML/TF cases, prosecutions &amp; convictions</li> <li>• MLA and other formal/informal requests for assistance/cooperation</li> <li>• STRs, intelligence</li> <li>• Regional/global typologies &amp; relevant reports</li> <li>• Surveys of/discussion with foreign LEA/FIU partner</li> </ul>
<p><b>Vulnerabilities</b></p>	<ul style="list-style-type: none"> <li>• Exposure to key threats</li> <li>• Higher risk customers/jurisdictions</li> <li>• Cross-border transactions</li> <li>• Complexity of structures/products</li> <li>• Cash intensity</li> <li>• Size and significance</li> </ul>
<p><b>Controls</b></p>	<ul style="list-style-type: none"> <li>• Legal and supervisory framework</li> <li>• Industry's ability to drive sector-wide initiatives</li> <li>• ML/TF risk management framework</li> <li>• Risk awareness &amp; understanding</li> <li>• Risk detection and mitigation techniques &amp; STR reporting capabilities</li> <li>• Contribution to public-private partnership</li> </ul>

*\*Taking their consequences<sup>13</sup> and impact into account*

<sup>10</sup> Accessible at <https://www.mas.gov.sg/publications/monographs-or-information-paper/2024/money-laundering-national-risk-assessment>

<sup>11</sup> Accessible at <https://www.mas.gov.sg/publications/monographs-or-information-paper/2024/terrorism-financing-national-risk-assessment-2024>

<sup>12</sup> Reference was taken from the Guidance on National Money Laundering and Terrorist Financing Risk Assessment published by the FATF in February 2013, the Terrorist Financing Risk Assessment Guidance published by FATF in July 2019, and the Introduction to the National Risk Assessment Tool published by the World Bank in June 2015.

<sup>13</sup> The impact or harm that ML/TF may cause.

2.4.2 In gist, Singapore assesses risk as a function of: (i) the ML/TF threats that Singapore is exposed to as a whole, and then as applicable to each sector; and (ii) vulnerabilities of the different sectors (after taking into account the AML/CFT controls to mitigate these risks). For the purposes of this LARA, the different legal arrangements are considered against the factors laid out in **Table 3**.

**Table 3: Factors considered to determine ML/TF risk of the different legal arrangements**

Risk/Control Factors	
Threats	Level of exposure to key ML/TF threats
	The propensity for misuse for illicit purposes
Vulnerabilities	Scale and significance
	Ease of set up
	Features and characteristics (e.g. complexity)
	Attractiveness for non-resident use
	Availability of basic and beneficial information (or trust relevant information)
Controls	The ability of LEAs to access basic and beneficial ownership information in a timely manner
	Quality of information obtained through CDD measures
	Maturity of the legal and supervisory framework
	Effectiveness of enforcement/sanctions supporting beneficial ownership/transparency
	Effectiveness of international cooperation

2.4.3 Taking these factors into account, different legal arrangements could be rated as High (H), Medium-High (MH), Medium-Low (ML) or Low (Low) ML/TF risk, according to the matrix in **Table 4**.

**Table 4: ML/TF Risk Assessment Matrix**

Risk Ratings		Vulnerabilities (including AML/CFT controls)			
		L	ML	MH	H
Threats	H	MH	MH	H	H
	MH	MH	MH	MH	H
	ML	ML	ML	MH	MH
	L	L	L	ML	ML

2.4.4 The risk rating for each type of legal arrangement was based on an assessment of relativity. A lower risk rating does not mean that there is no risk for the particular type of legal arrangement, as the risk of abuse of a legal arrangement (or other structures) cannot be fully eliminated – criminals will continue to find new ways to further their illicit activities.

### III. SETTING THE CONTEXT: SINGAPORE'S ENVIRONMENT

#### 3.1 Legal Framework

- 3.1.1 As a former British colony, Singapore's legal system has its roots in English common law and equity. Amongst the many legal concepts that were inherited was the notion that interest in a property can be bifurcated into legal and equitable interest. A trust can be formed when a trustee holds the legal interest in a property, while the beneficiaries hold the beneficial interest. English common law, including the rules of equity, requires trustees to hold and manage the trust property for the benefit of the beneficiaries. The concept of a trust continues to exist in Singapore today.
- 3.1.2 Other than inheriting English common law, Singapore, as a multicultural society, has embraced legal pluralism by accommodating Muslim law in specific personal matters. Of note, it is possible for Muslims to create a *wakaf* (i.e. a Muslim charitable purpose legal arrangement) under the Administration of Muslim Law Act 1966 (AMLA).
- 3.1.3 As would be elaborated on later in this document, the common law express trusts and *wakafs* are the two legal arrangements that can be created in Singapore.

#### 3.2 Competitive Wealth Management and Financial Centre

- 3.2.1 Singapore is a leading international financial centre and has deep expertise in the wealth management space. Singapore has been identified by the International Monetary Fund as one of the 29 systematically important financial centres in the world. Singapore currently hosts more than 1,000 FIs which offer a wide variety of financial products and services and serve a broad and diverse customer base. As of 2023, Singapore had S\$5.4 trillion in assets under management over the various financial and wealth services offered. 77% of the assets under management originated from outside Singapore.<sup>14</sup>
- 3.2.2 Several factors contribute to Singapore's appeal, including (i) a stable political, economic and social environment, (ii) a strong rule of law, (iii) a business-friendly environment and transparent tax regime, and (iv) a robust ecosystem, including experienced professional advisors and a reputable private banking industry.
- 3.2.3 Trust services – including services with respect to the creation of an express trust – are growing in importance and prevalence globally, as part of the wide array of wealth management services available to HNWIs. For instance, private bankers may advise their HNWI clients to use trusts for investment and wealth planning purposes, such as succession planning. We recognise the ML/TF risks that legal arrangements may pose and do not discount the possibility that bad actors may attempt to exploit legal arrangements in Singapore.

#### 3.3 Singapore's AML/CFT Legal and Enforcement Framework

- 3.3.1 Singapore adopts a whole-of-system approach to preventing, detecting and enforcing against ML/TF, involving close coordination and collaboration amongst Government agencies, public-private partnerships and international cooperation. For instance, MAS and CAD co-chair the

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<sup>14</sup> MAS Singapore Asset Management Survey 2023, accessible at <https://www.mas.gov.sg/publications/singapore-asset-management-survey>

AML/CFT Industry Partnership (ACIP), which is a government-industry partnership that brings together selected industry participants, supervisors, LEAs, Singapore's Financial Intelligence Unit (STRO), and other government agencies together to collaboratively identify, assess, and mitigate key ML/TF risks facing Singapore. As part of its work, the ACIP has set up the Legal Persons and Arrangements Working Group to strengthen the financial industry's understanding of risks arising from the misuse of legal persons and arrangements. In addition, the authorities also work closely with other industry bodies such as the Singapore Trustees Association to raise their ML/TF risk awareness. Singapore's efforts have resulted in a strong and effective legal and institutional framework for ML/TF enforcement, prosecution, asset recovery and international cooperation. Further details about Singapore's general AML/CFT legal and enforcement framework can be found in paragraph 4.4 of the ML NRA.

- 3.3.2 Specific to legal arrangements, trustees and trustees-equivalent are obliged to comply with the requirements in FATF Recommendation 25, including to obtain and hold adequate, accurate and up-to-date beneficial ownership information, and basic information.<sup>15</sup> Non-compliance with the requirements will result in the application of effective, proportionate and dissuasive sanctions.
- 3.3.3 Trustees may also enter into a business relationship or perform transactions with FIs and DNFBPs for various financial, legal, accounting and real estate services, making FIs and DNFBPs pivotal in the detection and prevention of trusts from being abused for ML/TF. Singapore hence requires FIs and DNFBPs to conduct customer due diligence (CDD) on legal arrangements and keep up-to-date records on beneficial ownership. Sectoral supervisors supervise the FIs and DNFBPs for compliance with their CDD obligations and impose effective, dissuasive and proportionate sanctions in the event of breaches. Professional intermediaries dealing with legal arrangements which pose higher ML/TF risk would also be subject to a higher level of supervisory scrutiny by their sectoral supervisors.
- 3.3.4 The above-mentioned obligations enable Singapore LEAs to obtain adequate, accurate and up-to-date information on the basic and beneficial ownership of legal arrangements (on the settlor(s), trustee(s), beneficiary(ies), and protector(s), if any) in a timely manner to conduct their investigations.
- 3.3.5 In addition, the suspicious transaction reporting framework in Singapore is a key tenet to combat money laundering and the financing of terrorism. It is provided in law that in the course of a person's trade, profession, business or employment if the person has reasonable grounds to suspect that any property may be connected to a criminal activity, the person is required to file a Suspicious Transaction Report (STR) to STRO<sup>16</sup>. This statutory obligation applies to all persons, including FIs and DNFBPs. Where possible offences are detected, the STRO disseminates the financial intelligence to relevant LEAs and sectoral supervisors to disrupt illicit activities. Some sectoral supervisors have also developed their own internal data analytics capabilities to identify suspicious networks/activities. These tools enable sectoral supervisors and LEAs to learn of suspected ML/TF cases and disrupt illicit activities.

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<sup>15</sup> These obligations are set out in MAS Notice TCA-N03 for trust companies; as well as in the TA and Trustees Regulations for most of the other trustees.

<sup>16</sup> Section 45(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 (CDSA).

## IV. NATIONAL MONEY LAUNDERING & TERRORISM FINANCING THREATS TO SINGAPORE

### 4.1 Key Money Laundering Threats

4.1.1 Singapore published a comprehensive money laundering national risk assessment in 2024. The ML NRA notes the following key ML threats:

- (a) **Fraud**, particularly **cyber-enabled fraud**. A high number of cases involve fraud conducted in foreign jurisdictions, or fraud targeting Singapore residents by foreign syndicates.
- (b) **Organised crime**, especially illegal online gambling, associated with foreign organised criminal groups.
- (c) The criminal proceeds of **foreign corruption**, **tax crimes**, and **trade-based money laundering** being laundered or layered through Singapore. These proceeds may be placed in Singapore before being transferred to other jurisdictions within a short span of time. In this respect, LEAs observed that ML cases often involve the use of legal persons, particularly shell companies, and the misuse of individual and corporate bank accounts, particularly for cross-border fund transfers. Trusts have also been used, though to a much lesser extent.
- (d) Other notable ML threats of concern include **environmental crime**, **cybercrime** (such as ransomware, hacking and website defacement) and **drug-related offences**.

4.1.2 For a more detailed explanation about Singapore's key ML threats, please refer to Part 3 and Part 6 of the ML NRA.

4.1.3 As elaborated in Part V of this document, the main misuse of legal arrangements to facilitate money laundering is to conceal the true owner of the assets and thereby obstruct investigations. We have assessed the ML threat posed by the different legal arrangements to range from **Low** to **Medium-High**, depending on the type of legal arrangement and its purpose.

4.1.4 Although international literature has provided some case studies showing how some legal arrangements have been used to facilitate the predicate offence itself (e.g. investment fraud), such typologies have not been observed in Singapore thus far. Nevertheless, LEAs and sectoral supervisors remain vigilant to the potential risks.

### 4.2 Key Terrorism Financing Threats

4.2.1 Singapore has also published its updated terrorism financing national risk assessment in 2024. In the TF NRA, it was observed that Singapore's key TF threats stem from:

- (a) **Terrorist groups** such as the Islamic State of Iraq and Syria (ISIS), Al-Qaeda (AQ), and splinter groups of the then-Jemaah Islamiyah (JI), as well as potential spillovers from the ongoing Israel-Hamas conflict and tensions in the Middle East; and
  - (b) **Radicalised individuals** who are sympathetic towards the cause of these terrorist groups. Among them, Singapore has convicted 7 individuals for TF offences from 2019 to-date.
- 4.2.2 The TF NRA further observed that transfers to finance such terrorist activities involve cash couriers, money remittances (or payment service providers performing cross-border money transfers), bank transfers, virtual currencies (or digital payment tokens) and online transactions. For self-radicalized individuals, their TF activities involved raising and/or moving funds out of Singapore through fairly unsophisticated channels and methods (e.g. through remittance agents), without multiple levels of layering, to support terrorist activities abroad.
- 4.2.3 There have been no TF activities observed in Singapore that were connected with any legal arrangement to date. The TF threat posed by all legal arrangements in Singapore is assessed to range from **Low to Medium-Low**, depending on the type of legal arrangement.



## V. OVERVIEW OF INHERENT VULNERABILITIES, MITIGATING FEATURES AND GLOBAL TRENDS CONCERNING THE MISUSE OF LEGAL ARRANGEMENTS

### 5.1 Inherent Vulnerabilities of Legal Arrangements

5.1.1 Literature from FATF and other sources such as the World Bank suggest that when a bad actor chooses to misuse legal arrangements, he or she may do so in the following ways or for the following reasons:

#### **(1) To conceal control or the ultimate beneficial owner of the trust assets (which may be proceeds of crime)**

5.1.2 There are a number of people who can potentially exert control over a trust, including the (i) trustee (who is the legal owner and can exert control over the asset, but is legally bound to act in the interest of the beneficiary), (ii) beneficiary (who generally cannot exercise any control but benefits from the trust assets), (iii) settlor (who is supposed to give up effective control of the trust assets when he transfers legal ownership to the trustee, but may still be able to exert some level of control or influence), and the (iv) protector (who may be given the power to veto a trustee's decision or even replace a trustee)<sup>17</sup>. Criminals may hence attempt to put their illicit assets in a trust to conceal their control or ultimate beneficial ownership over the said assets in order to hinder law enforcement efforts while retaining control through one or more of the parties listed.

5.1.3 There is also a view that the confidentiality that is generally afforded to legal arrangements makes it a useful vehicle for concealing control or beneficial ownership<sup>18</sup>. That is why FATF requires trustees and trustees-equivalent to cooperate to the fullest extent with competent authorities, and for countries to ensure that trustees and trustees-equivalent obtain and hold adequate, accurate and up-to-date beneficial ownership information and basic information and are not prevented by law or other enforceable means from providing competent authorities with the necessary information<sup>19</sup>.

#### **(2) To create barriers to recovery of assets**

5.1.4 Bad actors may wish to create barriers for third parties (e.g. creditors) trying to enforce their claims against assets. Legal arrangements present an exploitable vulnerability, as assets put in a legal arrangement are not legally owned by the settlor or beneficiaries. On the other hand, while the trustee has legal ownership over the asset, he or she is legally bound to manage the property for others. Unless the third parties can show that the trust was specifically set up to defeat legitimate claimants (i.e. it is a sham), it can be difficult for them to enforce their claim against the trust asset<sup>20</sup>.

5.1.5 This is less of an issue for FATF-compliant jurisdictions carrying out investigations, as their competent authorities would be empowered to seize assets that are suspected to be the proceeds of crime and to confiscate them if the suspicion is proven. There would also be levers

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<sup>17</sup> World Bank, *The Puppet Masters* (2011) at pg 45; FATF Egmont Group, *Concealment of Beneficial Ownership* (2018) at [30]

<sup>18</sup> World Bank, *The Puppet Masters* (2011) at pg 168

<sup>19</sup> FATF INR 25.4

<sup>20</sup> World Bank, *The Puppet Masters* (2011) at pg 170.

in place to ensure that the authorities can pursue such assets, including asset tracing capabilities and rules relating to bona fide third parties.<sup>21</sup>

### **(3) To use the legal arrangement as a layer in a complex structure**

- 5.1.6 Bad actors may also use legal arrangements in conjunction with other legal entities such as companies, to add layers of “legal distance” between themselves and the illicit assets. These multiple layers add complexity and has the effect of “anonymising” the transaction. Bad actors are also known to strategically place these layers across multiple jurisdictions to evade investigations, as investigating authorities may not have the legal power to procure evidence from all parties involved<sup>22</sup>.
- 5.1.7 In this regard, the FATF and Egmont Group (FATF-Egmont Group) analysed 106 case studies of which approximately one-quarter involved legal arrangements. They found that legal arrangements are “*rarely found to hold the actual proceeds of crime*”, but may form part of a wider scheme. In its study, almost all the cases involving legal arrangements involve it interacting with at least one company or other legal person. One common example appeared to be where a trust is used to hold a company’s shares, thereby disguising the beneficial owner of the company<sup>23</sup>.

## **5.2 Inherent Mitigating Features of Legal Arrangements**

- 5.2.1 Despite the potential ways in which legal arrangements can be misused, global trends show that they are not as widely misused as compared to legal persons (see section 5.3 below). Literature from the FATF and other credible sources suggests that this may be because of the following inherent mitigating features of legal arrangements:

### **(1) Using a legal arrangement entails giving up control over the trust asset**

- 5.2.2 Trusts require the settlor to relinquish legal ownership and control of the asset to a trustee. The introduction of a trustee may pose a vulnerability to a criminal operation, for instance, if the trustee is not complicit, or if control over the trustee is not guaranteed<sup>24</sup>.
- 5.2.3 In this respect, we highlight that while Singapore law does permit a settlor to reserve to himself powers of investment and asset management<sup>25</sup>, it does not allow settlors to reserve the distributive powers of a trust as is the case in some jurisdictions<sup>26</sup>. That is to say, the settlor

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<sup>21</sup> For instance, Singapore has enacted the legislations such as the CDSA, Criminal Procedure Code (CPC), and Terrorism (Suppression of Financing) Act (TSOFA), which empower competent authorities to exercise a variety of investigative powers such as the search, seizure, restraint and confiscation of criminal property in relation to ML, TF and predicate offences.

<sup>22</sup> World Bank, *The Puppet Masters* (2011) at pg 51; FATF Egmont Group, *Concealment of Beneficial Ownership* (2018) at [30]

<sup>23</sup> FATF Egmont Group, *Concealment of Beneficial Ownership* (2018) at [77] – [78]

<sup>24</sup> FATF Egmont Group, *Concealment of Beneficial Ownership* (2018) at [76]; UK’s National Risk Assessment of Money Laundering and Terrorist Financing 2020 at [11.8]

<sup>25</sup> Section 90(5) of the TA. See also *Singapore Parliamentary Debates, Official Report* (19 October 2004) vol 78 at col 852, per then-Minister for Law Prof. S Jayakumar.

<sup>26</sup> For instance, section 14 of the Cayman Islands Trust Law (2020 Revision) had expressly provided for a long list of powers which a settlor could reserve for himself, including the “*power to revoke, vary or amend the trust instrument*”; the power to reserve for himself a “*limited beneficial interest in the trust property*”; the power to “*give binding directions to the trustee in connection with the purchase, holding or sale of the trust property*” and the power to “*appoint, add or remove any trustee, protector or beneficiary*”. Likewise, section 9A(1) of the Trusts (Jersey) Law 1984 also allows a settlor to reserve for himself such broad powers.

is not allowed to have the power to distribute trust assets and therefore relinquishes significant control of the trust asset to a trustee. This has the effect of reducing the attractiveness of trusts to criminals for ML/TF purposes<sup>27</sup>. That said, the common law does allow a settlor to influence a trustee's decision as to whom and how to distribute trust assets to the beneficiaries in a discretionary trust by issuing a letter of wishes.

**(2) Setting up a legal arrangement is complicated, expensive, and requires professional support**

- 5.2.4 Setting up and managing legal arrangements that are vulnerable to misuse is more complicated and costly as compared to legal persons, with a different legal status<sup>28</sup>. There are specific legal rules that have to be adhered to for a trust to be constituted, and it can sometimes be complex and intricate in nature. Professional support is often required to draft the trust deed, transfer assets into the trust, navigate the complex legal framework (including tax implications), and adhere to administrative obligations. Expertise is also required to set up complex structures, especially those with cross-border elements.
- 5.2.5 The World Bank<sup>29</sup> and the FATF<sup>30</sup>, as well as a number of jurisdictions such as Australia<sup>31</sup> and New Zealand<sup>32</sup>, have observed that settlors will likely seek the services of DNFBPs, including lawyers, accountants, and trust and company service providers (TCSPs) when setting up a legal arrangement. In the FATF-Egmont Group's study, of the cases that involved misuse of legal arrangements, almost all involved such professional intermediaries<sup>33</sup>. This is similar to Singapore's experience, where all ML investigations involving legal arrangements to date involved such professional intermediaries in the setting up of the said legal arrangements.
- 5.2.6 The FATF-Egmont Group hence reports that *"the complexity and expense of establishing legal arrangements may limit their use when compared to the prolific exploitation of legal persons by criminals. The benefits associated with the use of legal arrangements, principally the separation of legal and beneficial ownership, might not be sufficiently significant to merit the additional investment when compared to the cost, availability and characteristics of legal persons"*<sup>34</sup>.

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<sup>27</sup> As per the Honourable Then-Chief Justice Chan Sek Keong at the 10<sup>th</sup> Singapore Conferences on International Business Law (22 Aug 2007) at [10], *"As an international financial centre, Singapore does not need legislation that permits absolute freedom and power to the settlor to do as he likes. There is always a danger that trust structures that cannot be controlled can be used for purposes damaging to the host state."*

<sup>28</sup> FATF Egmont Group, Concealment of Beneficial Ownership (2018) at [51]; UK's National Risk Assessment of Money Laundering and Terrorist Financing 2020 at [11.8]

<sup>29</sup> World Bank, The Puppet Masters (2011) at pg 102

<sup>30</sup> FATF, The Misuse of Corporate Vehicles including Trust and Company Service Providers (2006) at Pg 1 & 5

<sup>31</sup> Australia National Risk Assessment, Money Laundering in Australia (2024) at p 92, *"Professional service providers, such as lawyers and accountants, may play a key role in creating and managing trusts because of the complexity and technical expertise that may be required. This includes distinguishing between trusts that have different purposes, restrictions, requirements and risks. Facilitators may also act as trustees to create distance between a trust and its criminally-linked beneficial owners."*

<sup>32</sup> New Zealand National Risk Assessment of Money Laundering (2019), at p 37, *"Trusts are widely available in New Zealand and are usually established by lawyers, accountants and TCSPs"*; Express trusts, the most common type of trusts in New Zealand *"are commonly structured using nominees and professional trustees which hides beneficial ownership"*.

<sup>33</sup> FATF Egmont Group, Concealment of Beneficial Ownership (2018) at [156]

<sup>34</sup> FATF Egmont Group, Concealment of Beneficial Ownership (2018) at [51] & [79]; UK's National Risk Assessment of Money Laundering and Terrorist Financing 2020 at [11.8]

### **(3) Professional trustees are required to and incentivised to be vigilant about the legitimacy of legal arrangements**

5.2.7 Professional trustees (e.g. LTCs) are subject to AML/CFT obligations and are supervised for compliance with these requirements. Amongst others, they are required to inquire into the purpose of a legal arrangement, as well as the settlor's sources of funds and wealth for higher risk cases. A lack of a rational purpose or dubious provenance of the sources of funds and wealth could put them on notice that the legal arrangement is being used for improper purposes. Furthermore, as a trustee, it is also in their own interest to be diligent with their AML/CFT obligations. As the legal owner of the property, such professional trustees could end up involved in costly legal disputes. Professional trustees hence have a strong incentive to avoid suspicious clients and ensure that assets to be placed in the trusts are indeed owned by the settlor and are of legitimate origin<sup>35</sup>.

### **5.3 Global Trends Concerning the Misuse of Legal Arrangements**

5.3.1 Global trends show that legal arrangements do not feature prominently in ML cases. Some examples are set out below:

(a) FATF-Egmont Group's 2018 Report: In the FATF-Egmont Group's review of 106 ML case studies, trusts and other legal arrangements were identified in approximately one-quarter of the case studies<sup>36</sup>. Most of the examples involved common law express trusts, while two made use of civil law *fiducie*.<sup>37</sup>

(b) United Kingdom's 2020 National Risk Assessment: LEAs have identified very little evidence of UK trusts being abused for ML purposes; and within the UK, LEAs rarely encounter abuse of UK trusts in high-end ML investigations. Further, there are no known cases of UK trusts being abused for TF, and the risk for TF is also assessed to be low<sup>38</sup>.

(c) Hong Kong's 2022 National Risk Assessment: It was noted that "*there is little in the way of typologies or data to suggest domestic trusts are being abused for ML/TF purposes in Hong Kong. There is no confirmed ML case involving the use of a Hong Kong Trust. Our LEAs rarely encounter abuse of Hong Kong trusts in high-end ML investigations*"<sup>39</sup>.

5.3.2 Where legal arrangements do feature in investigations, a survey of the risk assessments of other common law jurisdictions shows that these cases involve either (i) **legal arrangements that form part of a complex structure** or (ii) **a foreign legal arrangement with links in the country in question**.

5.3.3 Singapore's observations align with those of the global community – legal arrangements seldom feature in ML cases in Singapore, and not at all for TF cases. Of the ML investigations that do involve legal arrangements, the legal arrangement either (i) **forms part of a complex**

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<sup>35</sup> World Bank, *The Puppet Masters* (2011), at pg 47

<sup>36</sup> FATF Egmont Group, *Concealment of Beneficial Ownership* (2018) at [51]

<sup>37</sup> FATF Egmont Group, *Concealment of Beneficial Ownership* (2018) at [75]

<sup>38</sup> UK's National Risk Assessment of Money Laundering and Terrorist Financing 2017, Chapter 9; UK's National Risk Assessment of Money Laundering and Terrorist Financing 2020, Chapter 11

<sup>39</sup> Hong Kong Money Laundering and Terrorist Financing Risk Assessment Report (July 2022) at para [7.16].

**structure and/or (ii) is a foreign legal arrangement with links to Singapore** (e.g. the trust asset is in Singapore, or the foreign legal arrangement holds Singapore-incorporated companies).

- 5.3.4 With these observations in mind, we will next turn to the risk assessment of the different types of legal arrangements in Singapore, as well as foreign legal arrangements with sufficient links to Singapore.

## VI. LEGAL ARRANGEMENTS RISK ASSESSMENT

### 6.1 Overview of Legal Arrangements

6.1.1 FATF defines legal arrangements as “*express trusts and other similar legal arrangements*”<sup>40</sup>. It goes on to define express trusts as trusts “*clearly created by the settlor, usually in the form of a document e.g. a written deed of trust. They are to be contrasted with trusts which come into being through the operation of the law and which do not result from the clear intent or decision of a settlor to create a trust or similar legal arrangements (e.g. constructive trust)*”<sup>41</sup>. Hence, resulting trusts (e.g. when a person pays for a property that is put in a third party’s name), and constructive trusts (e.g. when a person mistakenly pays a third party) are not legal arrangements for the purposes of FATF, and are excluded from this risk assessment.

6.1.2 The legal arrangements that are relevant for this risk assessment are set out in **Table 5** below.

**Table 5: Legal Arrangements that can be created in Singapore**

Legal Arrangement	Legal Basis
Express Trusts	Common Law
<i>Wakafs</i>	Administration of Muslim Law Act 1966

6.1.3 An express trust is formed when a settlor intentionally transfers property to a trustee, for the trustee to hold on trust for beneficiaries. A settlor can also declare himself to be a trustee for beneficiaries. One of the key features of trusts is therefore the separation of legal ownership (which is held by the trustee) and beneficial ownership (which is held by the beneficiaries) of a property held in trust. Although trusts as a general rule must have ascertainable beneficiaries or a class of beneficiaries, common law does allow for an exception, namely when the trust is for a charitable purpose (e.g. for the relief of poverty, advancement of education, advancement of religion, or other purposes beneficial to the community).

6.1.4 An express trust can be created as long as it fulfils the “three certainties”, namely the certainty of intention, subject matter and objects. An express trust can be **created via a written trust deed, orally or even by the settlor’s actions**, though we note FATF’s guidance that an express trust is usually “*in the form of a document e.g. a written deed of trust*”<sup>42</sup>.

6.1.5 A *Wakafs* is a Muslim charitable purpose legal arrangement. This is further discussed at Section 6.9 of this document.

6.1.6 Taking into account the (i) extent of exposure to ML and TF threats, as well as other information derived from investigations and intelligence obtained from various sources, such as STRO, foreign counterparts and MLAs, (ii) vulnerabilities of the different types of legal arrangements, and (iii) strength of relevant controls, **we assess the ML risks to range from Low to Medium-High, and the TF risks for all legal arrangements to range from Low to Medium-Low**. Please refer to **Table 1** above (under paragraph 1.1.7 above).

<sup>40</sup> FATF Methodology, General Glossary (Pg 129)

<sup>41</sup> FATF Methodology, General Glossary (Pg 126)

<sup>42</sup> FATF Methodology, General Glossary (Pg 126)

## 6.2 Express trust where the trustee is a Trust Company

6.2.1 Express trusts where the trustee is a trust company are assessed to pose **Medium-High** ML risk, and **Low** TF risk.

### **Background**

6.2.2 Singapore has a licensing regime for persons providing trust business to the public. Trust business is defined in the First Schedule of the Trust Companies Act 2005 (TCA) as “(a) the provision of services with respect to the creation of an express trust; (b) acting as trustee in relation to an express trust; (c) arranging for any person to act as trustee in respect of an express trust; and (d) the provision of trust business administration services in relation to an express trust.”

6.2.3 Section 3 of the TCA states that “a person must not carry on any trust business or hold himself, herself or itself out as carrying on any trust business in or from within Singapore unless that person is a licensed trust company” unless they fall within an exception<sup>43</sup>, or an exemption<sup>44</sup> applies. In addition to LTCs, the TCA also allows for the establishment of private trust companies<sup>45</sup> (PTCs) which are exempt from the licensing requirement in the TCA, but they are only allowed to provide trust business to a single family. Both LTCs and PTCs are subject to AML/CFT rules set by the MAS.

6.2.4 As of 31 Dec 2023, there were 65 LTCs<sup>46</sup>. The number of LTCs has remained stable over the years, though there has been a steady growth in trust assets under management, in line with the increased demand for wealth management services seen internationally and within the region.

### **Key exposure to ML/TF threat areas**

6.2.5 As mentioned at Parts IV and V above, trusts and other similar legal arrangements pose ML risks as they may be misused by criminals as vehicles to conceal the origin and beneficial ownership of the proceeds of crimes such as foreign corruption or foreign tax evasion. While the abuse of legal arrangements is less frequent than the abuse of legal persons, the cases of abuse that involved Singapore administered legal arrangements have thus far all involved trust companies-trustees (see Case Studies 1 and 2 below). Hence, the ML threat posed by express trusts administered by trust companies is assessed to be **Medium-High**.

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<sup>43</sup> Section 3(3) of the TCA, read with the Second Schedule

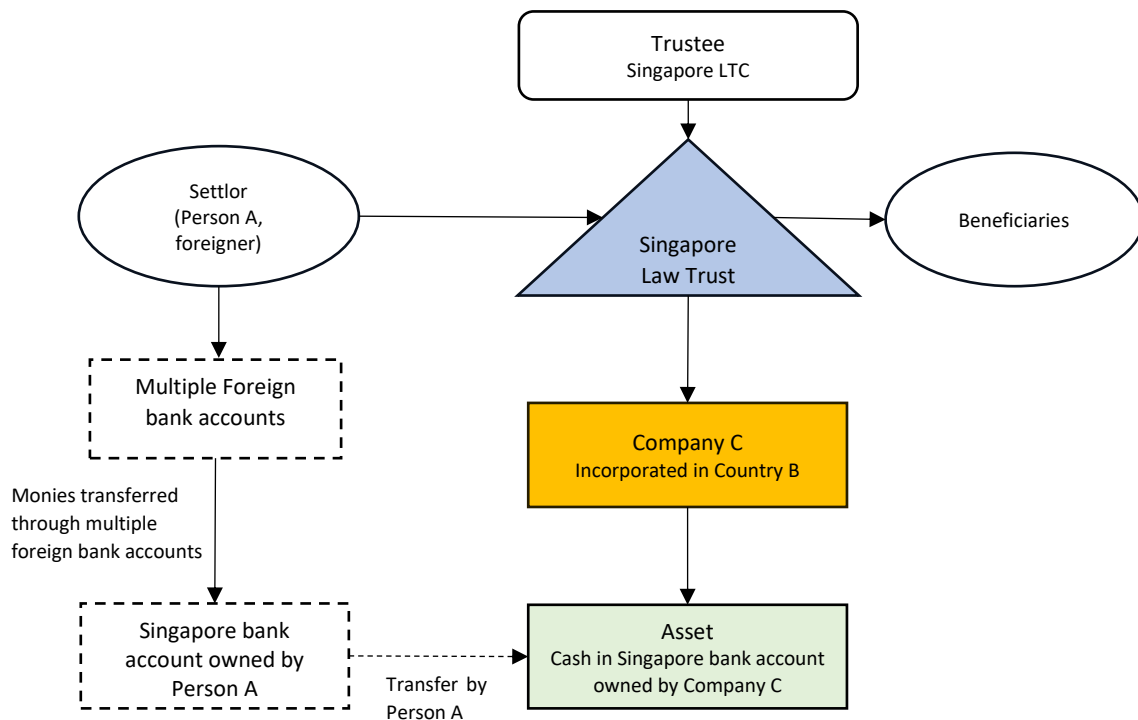
<sup>44</sup> Section 15 of the TCA and Reg 5 of the Trust Companies (Exemption) Regulations (the Exemption Regulations)

<sup>45</sup> A PTC is a corporation which: (i) is incorporated solely to provide trust business services in respect of specific trust(s) where; (ii) all settlors and beneficiaries to the trust are connected by blood or legal adoption; and (iii) it does not solicit business from, or provide trust business services to, the public.

<sup>46</sup> A list of the LTCs can be found on MAS’ website:

<https://eservices.mas.gov.sg/fid/institution?sector=Capital%20Markets&category=Licensed%20Trust%20Company>

**Case Study 1: ML investigation involving a Singapore law express trust administered by a Singapore LTC**



Singapore was alerted by foreign counterparts that it had received proceeds of crime derived from tax fraud committed in at least two overseas jurisdictions. The foreign counterparts provided information about the trust structure, which allowed CAD to identify the trustee of the trust (a Singapore LTC). Concurrently, STRO received reports that Company C's bank account was reportedly used as a conduit to receive and transfer proceeds relating to foreign tax evasion. Based on the information from the foreign counterparts and the STRO, CAD commenced domestic investigations in 2019 and seized assets comprising securities and cash in a private banking account in Singapore.

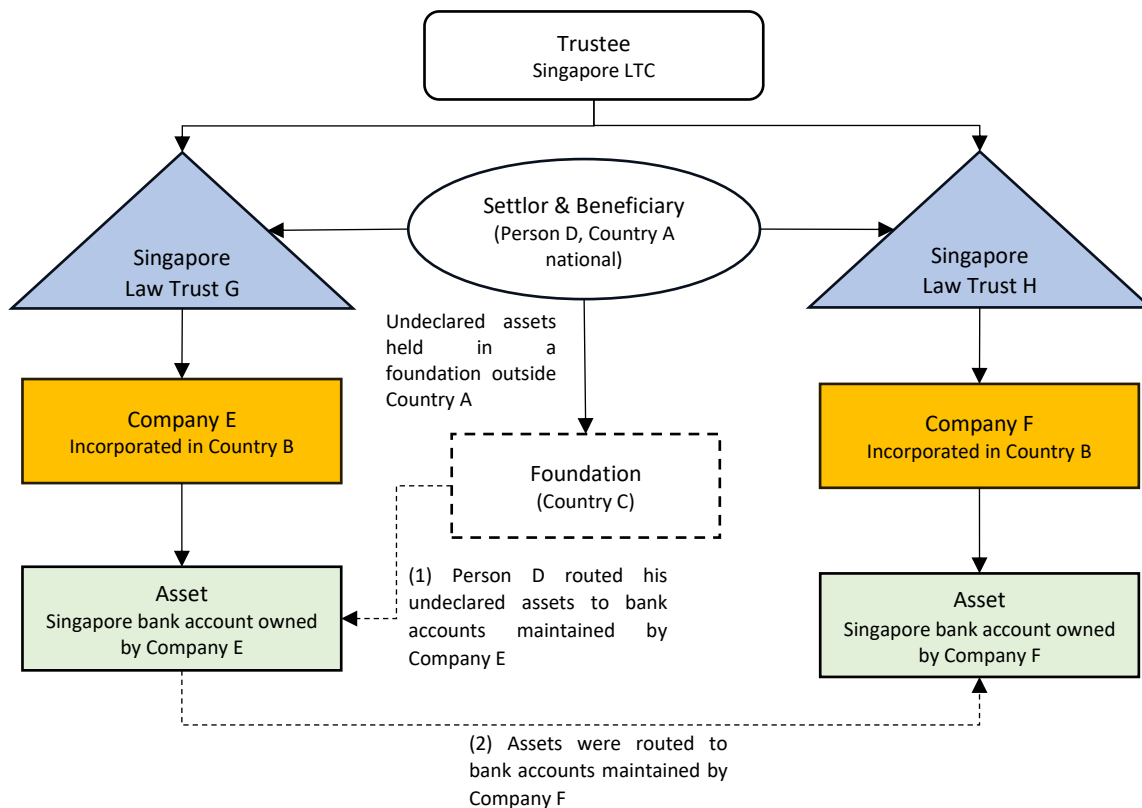
The proceeds of crime were allegedly transferred through multiple foreign bank accounts, and subsequently transferred to a Singapore bank account owned by Person A, a foreigner not based in Singapore. Person A then transferred the monies to a Singapore bank account owned by a company incorporated in Country B (Company C). Company C was fully owned by a Singapore law trust, of which Person A was the settlor.

Using the information provided by foreign counterparts and the STRO, CAD sent a production order to the trustee, the Singapore LTC. The Singapore LTC provided information on the trust structure, including identity information about the settlor (which was hitherto unknown), the beneficiaries, a copy of the trust deed and other related documents. The LTC complied with the production order within the stipulated timeline.

The seized assets were dealt with according to a settlement agreement between tax authorities of one of the overseas jurisdictions and Person A.



**Case Study 2: ML investigation involving express trusts administered by a Singapore LTC**



Person D, a national of Country A, faced a tax evasion charge under Country A's laws for failing to declare assets in undisclosed and untaxed offshore bank accounts held outside of Country A. Country A had commenced civil forfeiture proceedings against Person D, and issued an MLA request to Singapore.

Investigations revealed that a Singapore LTC had conspired with overseas asset managers to set up and administer two complex structures, with the aim of concealing the beneficial ownership of Person D's assets. The structures comprised two companies (Companies E and F) incorporated in Country B, which in turn maintained corporate bank accounts in Singapore. The two companies were each fully owned by a Singapore law trust (Trusts G and H), of which the Singapore LTC was the trustee.

From 2012 to 2017, Person D routed his undeclared financial assets from a foundation in Country C to corporate bank accounts owned by Company E, which were then transferred to the corporate bank accounts owned by Company F.

Working closely with Country A authorities during investigations, Singapore seized the funds in the corporate bank accounts amounting to approximately S\$3.5 mil (US\$2.6 mil). Pursuant to a settlement agreement between Country A authorities and accused Person D, the proceeds of the Country A tax evasion offences were eventually recovered and restituted to Country A's government.

Singapore is looking into possible regulatory and money laundering offences.

6.2.6 LEAs have not observed any misuse of express trusts administered by trust companies for TF thus far. And consistent with Singapore’s TF national risk assessment, the TF threat posed by such express trusts is assessed to be **Low**.

### ***Vulnerability Assessment***

#### Sector Characteristics

6.2.7 In the wealth management space, trusts are typically set up by HNWI’s for succession planning, estate planning, asset protection, wealth management and philanthropic purposes. Trust companies, which are in the business of providing trust services, have the technical expertise to give advice, structure the trust and other structures, draft the trust deed, transfer the assets into the trust, manage the trust assets and navigate legal complexities if the structure also includes foreign legal arrangements and legal persons etc. HNWI’s will typically engage a trust company to establish and administer their trusts. Bad actors may also be attracted to engage a trust company due to the technical expertise they can provide.

6.2.8 In general, trust companies are assessed to be more vulnerable to ML because they deal with:

- (a) Higher risk customers such as HNWI’s and Politically Exposed Persons (PEP), who may also come from jurisdictions with higher ML risks.
- (b) Complex trust structures as part of wealth management services for HNWI’s; and
- (c) Cross-border transactions and structuring, as a large portion of customers and assets under trusteeships and/or administration originate overseas.

6.2.9 These are risks that trust companies are aware of. In June 2022, the trust services industry, in partnership with MAS, published the Industry Best Practice Paper, setting out several hypothetical case studies, to highlight “*commonly observed characteristics of complex trust structures that may give rise to associated ML/TF risks and relevant red flags*”, and suggested “*recommended best practices to mitigate such risks*”<sup>47</sup>. Some common typologies in which complex structures may be set up as highlighted in the Industry Best Practice Paper are summarized as follows:

- (a) A Singapore express trust administered by a Singapore trust company may hold shares in a company (which may be incorporated in Singapore or overseas). That company can then in turn hold property (or real estate), as well as shares of other companies both locally and overseas.
- (b) A Singapore express trust administered by a Singapore trust company may, together with a foreign trust, jointly hold shares of a company (which may be incorporated in Singapore or overseas). That jointly-held company may then be used to hold shares of other companies, and/or other assets such as property.
- (c) A trust company may also act as a trustee for a “master trust”, whose beneficiaries may include other “sub-trusts” established for each family member. This “master trust” may also be used to hold other companies, which may in turn own other companies.

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<sup>47</sup> Para 4 of the Introduction of the Industry Best Practice Paper.

6.2.10 On the other hand, the cost of engaging a trust company to administer a trust (and knowledge of the stringent regulations that trust companies are subject to) makes it unattractive for TF as funds are channeled away from TF. In addition, as setting up a PTC requires all the settlors and beneficiaries to be connected by blood or legal adoption, it is unlikely that a PTC and a trust will be set up to carry out TF.

6.2.11 It should also be noted that trust companies do not usually carry out physical cash transactions and would typically transact with other regulated FIs such as banks. Therefore, there is typically an additional layer of AML/CFT monitoring and gatekeeping by other regulated FIs.

#### AML/CFT controls within the sector

6.2.12 Taking a risk-based and risk-appropriate approach, LTCs are regulated by MAS for AML/CFT to foster high standards of professional conduct and discourage illicit activity.

6.2.13 First, in relation to legal requirements, LTCs are licensed by MAS under the TCA. Each LTC is subject to a stringent screening process before it is awarded a licence. Amongst other things, MAS will consider the following factors<sup>48</sup>:

- (a) Fitness and propriety of the applicant, its shareholders, resident managers and directors.
- (b) Track record and management expertise of the applicant and its parent company or major shareholders.
- (c) Strength of internal compliance systems and processes of the applicant; and
- (d) Business model, plans and projections, and the associated risks.

6.2.14 LTCs must also have at least two resident managers<sup>49</sup> who must be approved by MAS<sup>50</sup>. Requiring managers to live and work in Singapore ensures that the persons managing the affairs of the LTC are in a position to exercise effective day-to-day control of the business. It is also easier for MAS to exercise supervision, and for LEAs to investigate when the managers are resident in Singapore. The requirement of having at least two managers also serves as a control to prevent any single individual from having the ability to engage in unnoticed illicit activity.

6.2.15 In addition, both LTCs and PTCs are required to comply with MAS Notice TCA-N03 on Prevention of Money Laundering and Countering the Financing of Terrorism (MAS Notice TCA-N03), and its accompanying Guidelines<sup>51</sup>. The Notice is periodically reviewed and updated by MAS, so that the requirements are aligned with the latest AML/CFT standards. The Notice was

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<sup>48</sup> MAS, Guideline TCA-G02, "Trust Companies Act – Guidelines on Criteria for the Grant of a Trust Business Licence" (Last revised on 24 Aug 2010); see also <https://www.mas.gov.sg/regulation/capital-markets/apply-for-licensing-or-registration-of-capital-market-entities/trust-business-licence>

<sup>49</sup> Section 8 of the Trust Companies Regulations

<sup>50</sup> Section 13 of the TCA

<sup>51</sup> MAS, "Guidelines to Notice TCA-N03 on Prevention of Money Laundering and Countering the Financing of Terrorism", accessible from <https://www.mas.gov.sg/regulation/guidelines/guidelines-for-prevention-of-money-laundering-and-cft-for-trust-companies-notice-tca-n03>.

last revised on 1 March 2022. Amongst other things, the Notice requires all trust companies to:

- (a) Conduct Customer Due Diligence (CDD), including for all trust relevant parties, such as the settlor(s) and beneficiary(ies).
- (b) Conduct Enhanced Customer Due Diligence (ECDD) where any trust relevant party is of higher risk, such as a PEP, and establish their source of wealth (SoW) and source of funds (SoF) via appropriate and reasonable means.
- (c) Keep the CDD and ECDD information, as well as keep and maintain proper records that will allow each individual transaction undertaken by the LTC or PTC to be reconstructed, for at least 5 years after the termination of the business contact or completion of the transaction.
- (d) Implement systems and processes to detect, monitor and promptly report suspicious transactions to STRO.

6.2.16 The AML/CFT measures have proven to be useful in practice in identifying and deterring ML/TF risks. This is particularly evident from **Case Study 3** below.

***Case Study 3: LTC filed STR and terminated business contact with trust relevant party due to concerns with settlor's SOW***

LTC A, a Singapore LTC, observed red flags in relation to the SOW of the settlor of a trust that the LTC administers:

- a) The initial fund injection into the trust was from the settlor's personal account with Bank B which was a related entity of LTC A. LTC A observed that the settlor's personal account with Bank B was funded with dividends from companies in Singapore which were purportedly owned by the Settlor. The dividends were also determined by LTC A to be the settlor's major SOW. However, LTC A was unable to establish and corroborate the settlor's SOW due to a lack of corroborative evidence.
- b) LTC A also commissioned an external intelligence report on the trust. The report indicated that there were sanctions concerns in relation to the shareholders of the businesses owned by the settlor, which raised further risk concerns on the settlor's SOW.

Given the red flags observed, LTC A filed an STR and terminated the trust relationship.

6.2.17 Second, MAS exercises supervisory oversight of trust companies to ensure that the above-mentioned AML/CFT obligations are complied with. Amongst the FIs, the LTC sector is an area MAS has been focusing its supervisory attention on in recent years, as it has been identified as posing medium-high risk because of its close connection with the broader wealth management sector, and the potential for trust structures to be misused by criminals to mask illicit activities and proceeds. As for PTCs, they are legally required to engage a LTC to conduct

checks that the PTC complies with the AML/CFT obligations in MAS Notice TCA-N03, and are covered as part of MAS' supervisory oversight of LTCs<sup>52</sup>.

- 6.2.18 Trust companies are subject to MAS' on-site and off-site supervision, in line with MAS' risk-based approach. MAS uses a combination of (i) supervisory information; (ii) internal data analytics capabilities; and (iii) a control factor assessment<sup>53</sup> tool to proactively identify specific LTCs of concern for additional supervisory interventions. Notably, amongst MAS supervisory interventions with LTCs in the past years, several for-cause inspections of LTCs were triggered because of concerns highlighted by surveillance inputs.
- 6.2.19 Third, where breaches of AML/CFT requirements are detected, MAS takes proportionate and dissuasive supervisory action. Failure to comply with the MAS Notice TCA-N03 is an offence, and the trust company shall be liable on conviction to a fine not exceeding S\$1 million for each such offence<sup>54</sup>. MAS can offer composition of up to S\$500,000<sup>55</sup>, in addition to other supervisory actions that MAS may take. Board and senior management of LTCs who fell short in their duties have also been taken to task. To raise industry awareness, MAS may also publish cases in which it has taken enforcement actions for non-compliance with its AML/CFT requirements. The two case studies below relate to the cases where MAS imposed financial penalties.

***Case Study 4: MAS imposes Composition Penalty of S\$1.1mil on Asiaciti Trust Singapore Pte Ltd for AML/CFT Failures (July 2020)***

In July 2020, MAS imposed a composition penalty of S\$1.1mil on Asiaciti Trust Singapore Pte Ltd (ATSPL) for its failure to comply with MAS's AML/CFT requirements. These failures were identified by MAS in an inspection.

MAS found that between 2007 and 2018, ATSPL did not implement AML/CFT policies and procedures and did not subject its AML/CFT controls to independent audits. In particular:

- (a) ATSPL did not have adequate procedures to determine if its business contact with relevant parties presented a higher risk for ML/TF. Consequently, ATSPL failed to establish, by appropriate and reasonable means, the source of wealth of an effective controller (EC) of a fund. ATSPL had simply relied on the EC's representations regarding his source of wealth without obtaining information to adequately corroborate his claims.
- (b) ATSPL also failed to conduct enhanced monitoring of its higher-risk customers. ATSPL did not inquire into the background and purpose of unusually large transactions with no obvious economic purpose, undertaken by customers who were politically exposed persons. Despite these unusual circumstances, ATSPL did not consider whether there were grounds for suspicion that would warrant the filing of suspicious transaction reports.

Other than imposing a financial penalty, MAS also required ATSPL to remedy the deficiencies. MAS closely monitored the remediation efforts to ensure that they were effective to address the

<sup>52</sup> Reg 4(2) of the Trust Companies (Exemption) Regulations

<sup>53</sup> The control factor assessment is sent to LTCs to assess the LTCs' AML/CFT risk management controls. It is used by MAS as a tool to raise general risk awareness of MAS's supervisory expectations and identify potential breaches of or potential concerns relating to adherence to MAS's AML/CFT requirements proactively.

<sup>54</sup> Section 16 of the Financial Services and Markets Act 2022

<sup>55</sup> Section 177 of the Financial Services and Markets Act 2022

weakness observed. MAS also required ATSP to appoint independent parties to audit the remediation measures, which provides added assurance on the adequacy and effectiveness of the remediation measures. The remediation efforts have been completed.

**Case Study 5: MAS Penalises Vistra Trust S\$1.1mil for failures in AML/CFT Controls (July 2022)**

In July 2022, MAS imposed a composition penalty of S\$1.1mil on Vistra Trust (Singapore) Pte. Limited (VTSP) for its failure to comply with MAS's AML/CFT requirements. These failures were identified by MAS in an inspection.

MAS found that there were serious breaches of MAS' AML/CFT requirements, which placed VTSP at a higher risk of being used as a conduit for illicit activities.

- (a) VTSP did not implement adequate procedures to determine if trust relevant parties presented a higher risk for ML/TF. This resulted in VTSP failing to identify certain higher risk accounts and subjecting those accounts to enhanced CDD measures, both during account acquisition as well as on an ongoing basis.
- (b) VTSP failed to perform adequate enhanced CDD for some accounts that had been identified as being of higher risk. Specifically, VTSP did not establish the settlor's source of wealth and source of funds, and failed to obtain VTSP's senior management's approval to establish or continue business contact with these higher risk accounts.

MAS directed VTSP to appoint an independent party to validate the adequacy and effectiveness of its remediation measures and report its findings to MAS; this has since been completed.

6.2.20 Based on MAS' assessment, trust companies generally have a good understanding of the AML/CFT requirements set out in MAS Notice TCA-N03. Nonetheless, MAS has observed that there is room for improvement in AML/CFT controls and monitoring of higher risk trust relevant parties. To date, CAD has not faced any difficulties obtaining relevant information from trust companies in a timely manner, for the purposes of their investigations when trust companies are implicated. Please refer to **Case Study 1** above at paragraph 6.2.5.

6.2.21 Fourth, MAS actively engages the industry to raise their risk awareness and standards. Amongst other things,

- (a) MAS has published several guidance papers that are relevant to trust companies, including the following documents: (i) "Guidance to Capital Markets Intermediaries on Enhancing AML/CFT Frameworks and Controls" in January 2019<sup>56</sup>; (ii) "Circular on Money Laundering and Terrorism Financing Risks in the Wealth Management Sector" in March 2023; and (iii) "Strengthening AML/CFT controls on risks of misuse of legal persons/arrangements and complex structures" in August 2023.
- (b) MAS educates and promotes AML/CFT best practices via regular industry townhalls with trust companies. The sessions include sharing on key AML/CFT weaknesses noted by MAS and case studies. MAS also uses these townhalls to clarify its supervisory expectations on managing ML/TF risks relevant to the trust companies' sector.

<sup>56</sup> Accessible at <https://www.mas.gov.sg/regulation/guidance/guidance-to-cmi-on-enhancing-amlcft-frameworks-and-control>

- (c) The trust industry associations, the Singapore Trustees Association (STA) and the Society of Trust and Estate Planning, have been active in strengthening AML/CFT standards by setting out relevant industry guidance. For instance, an industry-led working group led by STA was established to share ML typologies relating to the trust industry and best practices to mitigate the associated ML risks posed by complex trust structures, and their work led to the publication of the Industry Best Practices Paper in 2022.

6.2.22 Based on its sector characteristics and AML/CFT controls, the ML vulnerability posed by express trusts managed by trust companies is assessed to be **Medium-High**; while the TF vulnerability is assessed to be **Low**.

### ***Risk Assessment***

6.2.23 Overall, in consideration of trust companies' medium high exposure to ML threats, and medium high ML vulnerabilities, as well as the strength of the controls in place, express trusts where the trustee is a trust company are assessed to pose **Medium-High** ML risk. This is also consistent with Singapore's ML NRA findings of the ML risks posed by trust companies. In contrast, the TF threat and vulnerabilities posed by trust companies are low, and express trusts where the trustee is a trust company are hence assessed to pose a **Low** TF risk.

6.2.24 In line with the medium high ML risk of express trusts where trustee is a trust company, MAS will continue its thematic focus and surveillance on trust companies. Through the use of surveillance and analytical tools, MAS will proactively identify trust companies with potential control deficiencies for swifter follow-up. Common issues and best practices identified from MAS' supervision will continue to be shared with industry. This iterative process aims to reinforce trust companies' risk awareness and risk detection, to guide them to better enhance their AML/CFT controls.

## **6.3 Foreign Legal Arrangements with Links in Singapore**

6.3.1 Foreign legal arrangements with links in Singapore are assessed to pose **Medium-High** ML and **Medium-Low** TF risks.

### ***Background***

6.3.2 Foreign legal arrangements that have links with Singapore may also pose ML/TF risks. This includes situations where the trust owns a Singapore-incorporated company, or has assets in Singapore even though the legal arrangement itself is set-up/constituted overseas.

### ***Exposure to ML/TF threat areas***

6.3.3 As mentioned at Part V above, bad actors may use legal arrangements as part of complex structures, and place the layers across multiple jurisdictions to conceal control and beneficial ownership, and frustrate law enforcement efforts. Foreign trusts are therefore a common typology more attractive for ML/TF in view of the following:

- (a) Funds are removed from Singapore's robust AML/CFT regime (including beneficial ownership requirements); and

(b) Evidence and relevant basic and beneficial ownership information may be put out of reach of the investigatory powers of local LEAs, thus hindering efforts to trace, investigate and prosecute those who misuse the trust for illicit purposes.

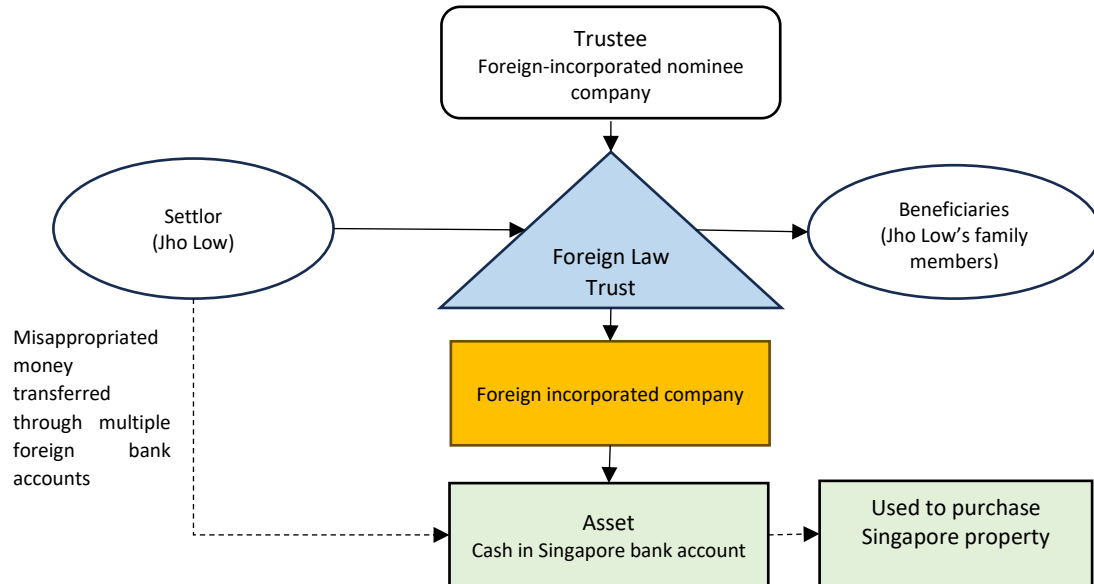
6.3.4 This is exacerbated by the fact that Singapore is an international financial centre, and business and trading hub, which criminals may find attractive for laundering illicit proceeds. The ML threat posed by such foreign legal arrangements is thus assessed to be **Medium-High**.

6.3.5 Singapore LEAs have observed two ML cases involving foreign legal arrangements linked with Singapore assets purchased with the proceeds of crime. See **Case Studies 6 and 7** below.

**Case Study 6: 1MDB case involving foreign trusts and foreign companies with Singapore corporate bank accounts containing funds appropriated from 1MDB, and used to purchase Singapore properties**

Low Taek Jho (Jho Low) and his associates were alleged to have misappropriated more than US\$6.5 billion from 1Malaysia Development Berhad (1MDB), a Sovereign Wealth Fund based in Malaysia, and its subsidiaries. The criminal proceeds were believed to be used for the personal benefit of Jho Low and his associates, laundered through various bank accounts in Singapore and four other countries. In particular, at least US\$4 billion were allegedly laundered via multiple bank accounts maintained by at least 6 different banks in Singapore. The actual beneficial owners of these funds were obscured through the use of corporate and/or trust structures across four jurisdictions.

The diagram below shows the simplified version of one of the complex structures:



CAD served production orders on the Singapore banks, as well as some of the overseas bank accounts where the banking relationship was managed from the Singapore office. The banks provided information about the beneficial owners of the bank accounts, including the beneficiaries of the trust, as they were obliged to collect and hold such information as part of their CDD obligations. The banks also provided CAD with other information such as the names of the trust, residence of the trustee and the assets held under trust.



Singapore property was also purchased using funds in the Singapore bank accounts that were held by foreign-incorporated companies. CAD was able to uncover the beneficial owner of the companies as the Singapore banks held that information.

Using the information derived from the banks, CAD found that the beneficial owners of most of the trust structures were Jho Low or his family members.

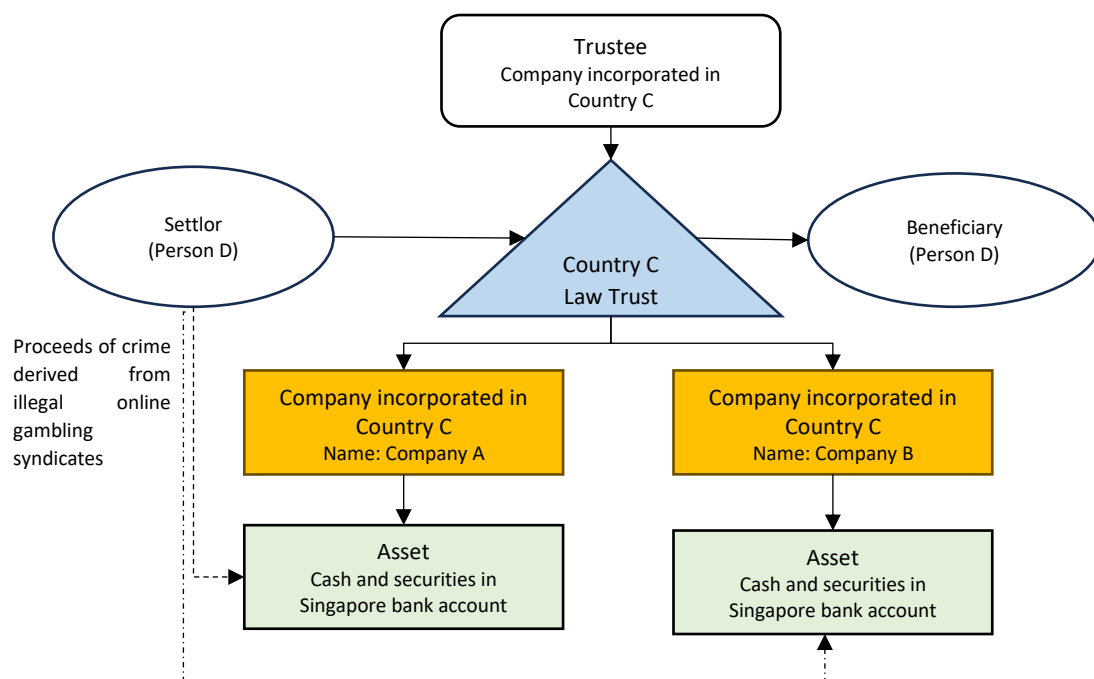
The banks cooperated with CAD in the course of investigations and produced voluminous information to CAD. Production orders were complied with within the stipulated timelines.

Singapore has seized bank accounts and curtailed the dealings of properties belonging to various individuals. As of May 2024, the Singapore Court has ordered the return of about S\$103 million of seized monies to Malaysia.

To date, five individuals have been convicted of offences arising from CAD's investigations. Investigations against the other offenders, which include the beneficial owners who were in receipt of the tainted assets (including Jho Low and his associates), as well as conspirators who may have assisted in the laundering of proceeds, are still ongoing.

In addition, MAS has investigated and taken firm actions against FIs which failed to meet MAS' AML/CFT requirements. MAS revoked the licenses of 2 banks (BSI Bank Limited and Falcon Private Bank Ltd, Singapore Branch), and imposed financial penalties totaling S\$32.8 million on 11 FIs. MAS also reviewed the conduct of officers of the FIs involved in this case and issued prohibition orders (POs) against 11 individuals.<sup>57</sup> These POs prohibit the individuals from performing regulated activities and acting as directors or substantial shareholders in the financial sector, for a period ranging from three years to lifetime bans, taking into consideration their involvement in the case and severity of this misconduct.

**Case Study 7: Foreign law trust holding assets in Singapore corporate bank accounts**



<sup>57</sup> Please refer to MAS' website for more information on action taken by MAS.

In 2022, the CAD commenced investigations into large transfers of funds into the Singapore bank accounts of two companies incorporated in Country C, Company A and Company B, which were suspected to be proceeds of crime derived from online gambling platforms managed by a foreign syndicate.

CAD served production orders on the Singapore banks, who provided information on the beneficial owner, details of incorporation and ownership of the companies A and B, as well as the relevant nominee and trust agreements. The banks cooperated with CAD to produce voluminous information, which CAD had requested for.

Through this, CAD was able to trace the trust structure and established that the settlor and beneficiary of the trust was Person D, a foreign national. Singapore seized more than S\$256 million worth of funds and securities in Company A and Company B's bank and securities accounts. Investigations are still ongoing.

- 6.3.6 Singapore LEAs have not observed any TF cases involving foreign legal arrangements with links to Singapore. Nonetheless, international typologies have indicated that foreign legal arrangements (including charitable trusts) can potentially be abused for TF. Hence, the TF threat posed by such foreign trusts is assessed to be **Medium-Low**.

### ***Vulnerability and risk assessment***

#### Sector characteristics & AML / CFT Controls

- 6.3.7 For the reasons at paragraph 6.3.3 above, foreign legal arrangements with links to Singapore are assessed to generally be more vulnerable to ML/TF. These vulnerabilities will be further increased where:
- (a) the foreign trusts are set up in higher-risk locations (e.g. those on FATF's "blacklist") or in countries with active terrorist activities; or
  - (b) such foreign trusts are created as part of a complex structure, oftentimes interspersed with layer(s) of companies.
- 6.3.8 A key characteristic of foreign legal arrangements is that they tend to be wholly constituted overseas – with the assistance of **foreign** trust service providers, based on overseas laws, and with trustees which are foreign incorporated companies. These vulnerabilities are thus aggravated given that they are not under the supervision of a sectoral supervisor in Singapore; and do not have to comply with the transparency obligations under the TA.
- 6.3.9 Instead, the only contact with Singapore (as also evidenced from the facts of Case Studies 6 and 7 above), will generally only be the assets held in Singapore. It is therefore evident that the vulnerabilities posed by foreign legal arrangements are closely aligned with those faced by our FIs and DNFBPs, through which transactions are undertaken. In that light, we highlight that it had been assessed in the ML NRA and TF NRA that:

- (a) Banks<sup>58</sup> pose high ML risk and medium-high TF risk; and
- (b) The licensed trust companies, corporate service providers<sup>59</sup> and real estate sector poses medium-high ML risk and low TF risk; and
- (c) Lawyers, who may deal with or provide advisory work in relation to trusts, pose medium-low ML risk and low TF risk.

6.3.10 Consistent with Singapore’s multi-prong strategy towards AML/CFT, and as noted in section VIII below, the FIs and DNFBPs are also bound by strict CDD obligations. Further, LEAs in Singapore also have broad powers to obtain basic and beneficial ownership information from the said FIs and DNFBPs, for any investigations into potential offences. These seeks to alleviate some of the potential ML/TF risks posed by such foreign legal arrangements.

6.3.11 In view of the above, the ML vulnerabilities posed by foreign legal arrangements are assessed to be **Medium-High**; and the TF vulnerabilities assessed to be **Medium-Low**.

#### ***Risk assessment***

6.3.12 Overall, in consideration of the ML/TF threats, vulnerabilities and the strength of the controls through the various FIs and DNFBPs, foreign legal arrangements are assessed to:

- (a) Pose **Medium-High** ML risk; and
- (b) Pose **Medium-Low** TF risk.

#### **6.4 Registered Business Trusts**

6.4.1 Registered business trusts are assessed to pose **Low** ML and TF risks.

#### ***Background***

6.4.2 Other than for wealth management and succession planning, trusts can also be used for commercial and investment purposes. One such type of trust is the business trust<sup>60</sup>, which is a hybrid business vehicle bearing features of a company and a trust. Like any operating company, the business trust can hold a wide range of assets. But unlike a company, a business trust is not a separate legal entity. It is created by a trust deed under which the trustee-manager has legal ownership of the trust assets and manages the assets for the benefit of the

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<sup>58</sup> Banks are the main intermediary through which transactions are made. As was pointed out in the World Bank’s report, the Puppet Masters (2011) at p. 97 that “*The provision by financial institutions of services that may be used for receiving, holding, or conveying the illicit proceeds of corruption is a critical part of the laundering process. Almost all of the cases reviewed involved bank-held assets: The laundering of proceeds of corruption is virtually impossible without making use of the services provided by banks.*”

<sup>59</sup> Foreigners would need to engage the services of a CSP to incorporate a company. Please refer to the Legal Persons Risk Assessment 2024 for more details.

<sup>60</sup> See the definition of “business trust” in s 2 of the BTA

beneficiaries of the trust (i.e. the unitholders-investors)<sup>61</sup>. Further, unlike companies which are restricted from paying dividends out of accounting profits, registered business trusts can pay dividends out of its cash flows. Hence, the business trust structure is particularly suited for businesses with high initial capital expenditure, that are in a state of stable growth generating a regular cash flow, such as infrastructure and utilities businesses. The upfront high initial capital expenditure of a business trust also makes it less appealing as a vehicle for money laundering.

- 6.4.3 Business trusts in Singapore can be registered or unregistered. Unregistered business trusts are not regulated under the BTA – they are subject to the Trustees Act instead.
- 6.4.4 In contrast, the registered business trust regime was introduced by the BTA. Business trusts must be registered under the BTA before they can offer their units to the public<sup>62</sup>.
- 6.4.5 In addition, Business trusts constituted outside Singapore may seek to be recognised by MAS in order to offer their units to the public<sup>63</sup>.
- 6.4.6 As of 31 Dec 2023, there were 17 registered business trusts in Singapore, of which 14 were listed on the Singapore securities exchange and the remaining 3 were unlisted. There are no recognised business trusts.

#### ***Key exposure to ML/TF threat areas***

- 6.4.7 Insofar as business trusts operate like a business enterprise, they may be susceptible to threats like trade-based money laundering. Nonetheless, international typologies suggest that there are no evident cases of abuse internationally. Singapore LEAs have also not observed misuse of business trusts in Singapore thus far. Hence, the ML and TF threat posed by business trusts is assessed to be **Low**.

#### ***Vulnerability Assessment***

##### Sector Characteristics

- 6.4.8 The size of the registered business trust sector is very modest, and subject to stringent oversight by MAS.
- 6.4.9 Further, business trusts typically transact with other regulated FIs and DNFbps, such as banks, financial advisors, accountants, lawyers, and developers. There are therefore additional layers of AML/CFT monitoring and gatekeeping.

##### AML/CFT controls within the sector

- 6.4.10 The trustee-manager of a business trust is a key beneficial owner: it is the legal owner of the trust asset, and manages the business on a day-to-day basis. MAS maintains a register of

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<sup>61</sup> Second Reading of the Business Trust Bill 2004, 1 Sept 2004, [https://sprs.parl.gov.sg/search/#/topic?reportid=029\\_20040901\\_S0003\\_T0002](https://sprs.parl.gov.sg/search/#/topic?reportid=029_20040901_S0003_T0002)

<sup>62</sup> Section 239C of the SFA; and sections 3-4 of the BTA.

<sup>63</sup> Section 239C of the SFA; section 239D of the SFA

registered business trusts, which amongst others, contain the particulars of the trustee-manager<sup>64</sup>.

6.4.11 The trustee-manager of a registered business trust must be a company incorporated in Singapore<sup>65</sup>, and must not carry on any business other than the management and operation of the registered business trust. In addition, the trustee-manager is subject to the following:

- (a) As a locally-incorporated company, the trustee-manager is subject to transparency requirements similar to all other companies, such as the requirement to keep registers of registrable controllers, nominee directors and nominee shareholders.
- (b) The trustee-manager also has statutory duties under the BTA, including duties to keep accounting records for at least 5 years from the end of each financial year<sup>66</sup>, lay accounts before the unitholders<sup>67</sup>, establish an independent audit committee<sup>68</sup>, and maintain and make available for inspection a register of unitholders<sup>69</sup>.
- (c) Directors of trustee managers are required to provide declarations on conflicts of interest and the trustee-manager has to keep a register of the interests of these directors<sup>70</sup>.

6.4.12 For business trusts that are listed, Part 7 of the SFA imposes obligations on persons who have interests in a listed business trust or a trustee-manager to disclose to the trustee-manager their interests in (a) the listed business trust's units or (b) the shares of the trustee-manager, if certain thresholds are met. Trustee-managers also have powers under the SFA to require registered unitholders to disclose the identities of beneficial owners. For business trusts that are not listed, to further enhance transparency and corporate governance, so as to mitigate the risks of the business trust being used for illicit purposes (including ML/FT risks), the BTA was amended in 2022 to require that trustee-managers of *unlisted* registered business trusts obtain and maintain information on their controllers (i.e., the beneficial owners) and to provide such information to MAS and other public agencies upon request. The amendments align the transparency requirements of unlisted registered business trusts with the requirements imposed on unlisted companies<sup>71</sup>.

6.4.13 MAS regulates registered business trusts. Based on its supervision and surveillance of the sector, MAS has not observed key weaknesses in AML/CFT controls undertaken by the sector.

6.4.14 Taking into account the sector characteristics and AML/CFT controls, business trusts are assessed to have **Low** vulnerability to ML and TF.

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<sup>64</sup> Section 5 of the BTA, read with Regulation 8 and the Second Schedule of the Business Trusts Regulations states the particulars of the trustee-manager to be recorded includes its name, contact details, and particulars of directors and substantial shareholders etc. Any changes to the information should also be reported to MAS within 14 days.

<sup>65</sup> Section 6(1) read with section 2 of the BTA.

<sup>66</sup> Section 75 of the BTA

<sup>67</sup> Section 76 of the BTA

<sup>68</sup> Section 15 of the BTA, read with Reg 13 of the Business Trusts Regulations

<sup>69</sup> Section 69 of the BTA.

<sup>70</sup> Sections 12 and 13 of the BTA.

<sup>71</sup> Business Trusts (Amendment) Act 2022.

## **Risk Assessment**

6.4.15 Overall, in consideration of the ML threats posed to the sector, its vulnerabilities as well as the strength of the controls, registered business trusts are assessed to pose **Low** ML/TF risk.

## **6.5 Collective Investment Schemes (CIS), including Real Estate Investment Trusts (REITs)**

6.5.1 CIS (including REITs) are assessed to pose **Low** ML and TF risk.

### **Background**

6.5.2 Trusts can be used as a vehicle for CIS in Singapore. A CIS is an arrangement of any property where (i) the participants have no day-to-day control over the management of the property, (ii) the property is managed as a whole by or on behalf of a manager and/or the participant's contributions, and the profits or income out of which payments are to be made to the participant are pooled, and (iii) the purpose or effect of the arrangement is to enable the participants to participate in or receive profits or income arising from the property<sup>72</sup>. The CIS must be authorised (if constituted in Singapore) or recognised by MAS (if constituted outside Singapore) before their units can be offered to retail investors.<sup>73</sup>

6.5.3 REITs are a type of CIS, that are constituted as unit trusts and are intended specifically to invest in income-producing real estate and real estate related assets specified by the MAS in the Code on Collective Investment Schemes (CIS Code). REITs are subject to investment guidelines under the CIS Code. They must also be listed on an approved stock exchange (e.g. the Singapore stock exchange)<sup>74</sup>.

6.5.4 Under the SFA, a CIS (including a REIT) that is constituted as a unit trust must appoint a licenced fund management company to manage the assets of the CIS. In addition, there must also be an approved trustee that acts as the independent oversight entity<sup>75</sup> that safekeeps the assets of the CIS and ensures that the fund management company manages the assets of CIS in accordance with the trust deed, as well as all applicable legal and regulatory requirements.

6.5.5 The CIS sector has expanded over the years. As of 31 December 2023, there were 1,590 CIS, of which 312 were authorised CIS and 1,278 were recognised CIS. The 312 authorised CIS are each required to be administered by an approved trustee (of which there are currently 16 MAS-approved trustees). The number of REITs (which are themselves authorised CISes) have remained stable, with 40 REITs as of 31 December 2023<sup>76</sup>.

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<sup>72</sup> Section 2(1) of the SFA.

<sup>73</sup> Section 285 of the SFA; The authorisation requirement does not apply to certain offers of units in a CIS, such as small offers, private placements, offers targeted at institutional investors and accredited investors.

<sup>74</sup> Section 2(1) of the SFA

<sup>75</sup> Unlike a Business Trust which operates a business, the functions of a manager and a trustee can be distinctly segregated in a CIS structure where the manager solely manages the assets and trustee solely performs the oversight function.

<sup>76</sup> Figures include stapled trusts where the units of a REIT are stapled to the units of a BT, for the purposes of listing and trading on the Singapore Exchange. The units are stapled together such that the units cannot be issued, transferred, traded or otherwise dealt with separately.

### **Key exposure to ML/TF threats**

6.5.6 Though not a common typology, literature shows that in some rare instances, investment-related trusts can be misused for ML<sup>77</sup>. However, LEAs in Singapore have not encountered any instance in which CIS or REITs have been misused for ML or TF purposes in Singapore. The ML and TF threat posed by CIS and REITs is hence assessed to be **Low**.

### **Vulnerability Assessment**

#### Sector characteristics

6.5.7 CIS and REITs are assessed to be less vulnerable to ML because:

- (a) They have a specific business model and are managed by regulated fund management companies that would be tied to the business model, and are subject to fit and proper as well as AML/CFT requirements. As such, there are additional AML/CFT monitoring and gatekeeping by MAS-regulated FIs; and
- (b) They are subject to strict transparency and regulatory requirements (for example the requirement to issue a prospectus in compliance with the SFA).

#### AML/CFT controls

6.5.8 There are two key entities in a CIS structure (i.e. a fund management company and an approved trustee). The manager of authorised CIS and REITs must be licensed by MAS and be subject to AML/CFT requirements stated in MAS Notice SFA 04-N02 to Capital Markets Intermediaries on Prevention of Money Laundering and Countering the Financing of Terrorism (MAS Notice SFA 04-N02) and the accompanying guidelines.

6.5.9 The trustees of authorised CIS and REITs must be approved by MAS<sup>78</sup>. These approved trustees must be public companies<sup>79</sup>. Amongst others, they are subject to the following duties:

- (a) Approved trustees have to comply with the AML/CFT requirements stated in MAS Notice SFA13-N01 on the Prevention of Money Laundering and Countering the Financing of Terrorism (MAS Notice SFA13-N01), and the accompanying guidelines. This includes requirements to conduct CDD, maintain records and report suspicious transactions. They are also required to conduct ECDD when any customer is of higher risk, such as a PEP, and to establish their SoW and SoF via appropriate and reasonable means.
- (b) Approved trustees also have statutory duties under the SFA, including to cause the annual accounts of the CIS or REIT to be audited<sup>80</sup>, and maintain and make available for inspection, a register of unitholders in the scheme<sup>81</sup>.

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<sup>77</sup> Case Study 85 at Pg 158 of the FATF Egmont Group, Concealment of Beneficial Ownership (2018)

<sup>78</sup> Sections 286(2)(b), 286(2A)(b) and 289 of the SFA.

<sup>79</sup> Section 289(1) of the SFA

<sup>80</sup> Section 291 of the SFA, read with Reg 8(2)(b)(ii) of the Securities and Futures (Offers of Investments) (Collective Investment Schemes) Regulations (SFR)

<sup>81</sup> Section 291 of the SFA, read with Reg 7(1)(e) and (f) of the Securities and Futures (Offers of Investments) (Collective Investment Schemes) Regulations (SFR)

- 6.5.10 In relation to recognised CIS which are subject to the fund requirements in their home jurisdictions, MAS would only recognise a CIS if the laws and practices of the CIS jurisdiction afford to investors in Singapore protection **equivalent** to that provided by authorised schemes in Singapore. This includes having a manager that is licensed or regulated in its principal place of business and appointing an approved trustee-equivalent entity in the CIS' home jurisdiction that is subject to AML/CFT requirements that are equivalent to those that are applicable to an approved trustee in Singapore.
- 6.5.11 Based on its supervision and surveillance of the sector, MAS has not observed key weaknesses in the AML/CFT controls undertaken by the sector. Further, as part of MAS' efforts to raise the industry's risk awareness and standards, MAS also published several guidance papers that are relevant to managers of the authorised CIS and REITs and their approved trustees – including the following documents: (i) “Guidance to Capital Markets Intermediaries on Enhancing AML/CFT Frameworks and Controls” in January 2019; and (ii) “Enhancing Robustness of Enterprise-Wide Risk Assessment on Money Laundering and Terrorism Financing” in August 2020. In addition, MAS regularly engages with the industry via townhall sessions where they would share key AML/CFT observations relevant to the industry via specific case studies. Please refer to section 7.8 on Fund Management Companies of the ML NRA for more details.
- 6.5.12 Based on its sector characteristics and AML/CFT controls, the ML/TF vulnerability posed by CIS (including REITs) is assessed to be **Low**.

### ***Risk Assessment***

- 6.5.13 Overall, in consideration of the ML/TF threats posed to the sector, its vulnerabilities as well as the strength of the controls, CIS (including REITs) are assessed to pose a **Low** ML/TF risk. MAS will continue to conduct risk-targeted supervision on the sector, and will continue to share its findings, including common weaknesses and best practices, with the sector to better guide them in strengthening the implementation of their AML/CFT controls.

## **6.6 Securities Depository**

- 6.6.1 The securities depository is assessed to pose **Low** ML and TF risk.

### ***Background***

- 6.6.2 The Singapore Exchange operates the Central Depository (Pte) Limited (CDP). All persons wishing to engage in trading activities in a securities market operated by the Singapore Exchange need to have an account at CDP and a trading account with a broker-dealer. The CDP acts as a bare trustee (or custodian) for all securities deposited with it.

### ***Key exposure to ML/TF threat areas***

- 6.6.3 Singapore LEAs have not encountered any instance in which the CDP had been misused for ML purposes in Singapore. Further, while international typologies have noted that funds and assets could potentially be laundered through the securities market, it was also noted that they typically take place through various intermediaries, which are all subject to AML/CFT



requirements. There is also no known instance of the CDP being misused for TF purpose. Hence, the ML/TF threat to the CDP is **Low**.

### ***Vulnerability assessment***

#### Sector characteristics

6.6.4 Given the size of the sector, and its role in custodising all securities traded on the Singapore Exchange, the CDP is exposed to very limited ML/TF vulnerabilities, as it does not directly engage in trading with customers. Such trades are conducted through other FIs such as broker-dealers and banks, which are also regulated by the MAS for AML/CFT purposes. CDP also does not engage in direct funds transactions with customers involving their trades as these are handled by banks.

#### AML/CFT controls within the sector

6.6.5 Notwithstanding, the CDP is subject to AML/CFT requirements under MAS Notice SFA 03AA-N01 to the Depository on the Prevention of Money Laundering and Countering the Financing of Terrorism. This imposes AML/CFT requirements on the CDP and includes requirements to perform CDD (where all persons with CDP accounts are clearly identified and verified by CDP during onboarding), conduct ongoing monitoring of its business relations with customers, keep proper records and to file STRs.

6.6.6 Based on its supervision and surveillance of the sector, MAS has not observed critical weaknesses in the AML/CFT controls undertaken by the sector.

6.6.7 As such, taking into account the sector characteristics and AML/CFT controls, the securities depository is assessed to have **Low** vulnerability to ML and TF.

### ***Risk Assessment***

6.6.8 Overall, in consideration of the ML/TF threats posed to the sector, its vulnerabilities as well as the strength of controls in place within the sector, it is assessed to pose **Low** ML/TF risk. MAS will continue to subject the CDP to both on-site inspections and off-site supervision to ensure its compliance with its AML/CFT requirements.

### **6.7 Express trusts covered by Part 7 of the Trustees Act and Trustees (Transparency and Effective Control) Regulations 2017 (i.e. Residual Trusts)**

6.7.1 Residual trusts are assessed to pose **Low** ML and TF risk.

### ***Background***

6.7.2 Other than the trusts listed above (i.e. express trusts where the trustee is a LTC or PTC, business trust, CIS (including REITs), securities depository), most other trusts are required to comply with the AML/CFT obligations in Part 7 of the TA and the Trustees Regs.

- 6.7.3 Prior to 2017, although trustees were required under common law to collect information about the trust, there were no AML/CFT-specific obligations imposed by Singapore legislation. After Singapore's 4<sup>th</sup> round FATF Mutual Evaluation (ME), Part 7 of the TA and the Trustees Regs were promulgated in 2017 to specifically comply with FATF Recommendation 25 at that time.
- 6.7.4 Part 7 of the TA and the Trustees Regs apply to express trusts which are<sup>82</sup>:
- (a) Governed by Singapore law;
  - (b) Administered in Singapore<sup>83</sup>; or
  - (c) Where any of the trustees are resident in Singapore<sup>84</sup>.
- 6.7.5 However, Part 7 of the TA and the Trustee Regs do not apply to a trust in respect of which the trustee is a LTC, PTC, a licensed bank or merchant bank, a holder of a capital markets services licence, and an approved trustee of a CIS; nor do they apply to certain government agencies, such as the Public Trustee and the Central Provident Fund Board<sup>85</sup>. It also does not apply to registered business trusts<sup>86</sup>. For simplicity, we will be referring to trusts to which Part 7 of the TA and the Trustees Regs apply as "residual trusts".
- 6.7.6 Importantly, the trustee of a residual trust cannot be carrying on, or holding himself out as carrying on a trust business, as such trustees have to apply for a licence and be a LTC (or set up a PTC for a single family). Trustees of residual trusts will therefore generally be non-professionals without the technical expertise that, say, an LTC would have. Therefore, residual trusts tend to be simple trusts.
- 6.7.7 For the avoidance of doubt, while solicitors may be approached to act as trustees in other jurisdictions, a solicitor in Singapore who wishes to do so would be carrying on a trust business, and would have to either have to be licensed as a LTC, or fall within an exemption in Reg 4(1)(b) of the Trust Companies (Exemption) Regulations. One of the requirements of the exemption is that the solicitor must inform the MAS that he is acting as a trustee of an express trust. As at the date of publication of this LARA, there are no law firms or solicitors who hold a LTC licence or who have informed MAS that they are acting as a trustee of an express trust. In any case, lawyers are also subject to AML/CFT requirements under the Legal Profession (Prevention of Money Laundering and Financing of Terrorism) Rules 2015<sup>87</sup> and the Law Society's Practice Direction 3.2.1 on the Prevention of Money Laundering and Financing of Terrorism<sup>88</sup>.

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<sup>82</sup> Section 84 of the TA

<sup>83</sup> A trust is "administered in Singapore" if "the control and management of the trust is exercised in Singapore (section 84(3)(a) of the TA).

<sup>84</sup> A trustee is "resident in Singapore" if (i) the trustee, being an individual, is ordinarily resident in Singapore; or (ii) the trustee is incorporated, formed or established in Singapore (section 84(3)(b) of the TA).

<sup>85</sup> First Schedule of the Trustees Regs

<sup>86</sup> Section 94 of the BTA.

<sup>87</sup> See in particular rule 10 of the Legal Profession (Prevention of Money Laundering and Financing of Terrorism) Rules 2015, which apply when legal practitioners act as trustees.

<sup>88</sup> See in particular para 3.11 for the CDD measures for legal practitioners who act as trustees.

6.7.8 While residual trusts can be created by a written trust deed, they can also be created orally or even by the settlor's actions without any formalities. Research suggests that residual trusts are generally used for a variety of purposes, including managing simple personal affairs of private individuals, established as an incidental or ancillary part of business or to benefit employees. The following types of trusts are examples of trusts that may be administered by trustees who come within scope of Part 7 of the TA and the Trustees Regs:

- (a) **Trust for family or domestic situations** – A common example would be a settlor putting assets into a trust for his minor child or incapacitated family member. The trustee is typically a family member, a close family friend or even the settlor himself.
- (b) **Testamentary trust** – This is a trust that takes effect only on the settlor-testator's death, and is declared by the settlor-testator in his will or codicil. The trustee is typically a family member or close family friend.
- (c) **Trust established as an incidental or ancillary part of business** – Examples of such trusts include when a business segregates funds in a separate bank account with the intention to hold those funds on behalf of someone to safeguard those monies<sup>89</sup>, or when a businessman owns a domain name or intellectual property for his business before the business vehicle (e.g. a company) is established<sup>90</sup>.
- (d) **Trust established by certain professionals to hold client assets** – Certain professionals may hold assets on behalf of their client(s), to be released on the satisfaction of a contingent or condition. A common example in Singapore are solicitors, who are statutorily required to open a separate bank account called a "client account" to hold their client's money<sup>91</sup>, and a "conveyancing account" if they are holding monies for their client who are part of a conveyancing transaction<sup>92</sup>. In such cases, there would also be professional rules surrounding the use of these accounts.
- (e) **Trust to benefit employees** – Trusts have been set up to hold assets to benefit employees<sup>93</sup>, or to establish a pension fund for employees. Further, one situation where the former sort of trusts may be set up in Singapore is when a business establishes an Employee Share Option (ESOP) scheme, which gives an employee the right to purchase shares in a company at a specific pre-determined price or after specific dates (e.g. when the employee has worked with the company for a certain period). Such ESOP schemes can be structured with a trust, amongst other vehicles.

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<sup>89</sup> In *Re Kayford* [1975] 1 WLR 279, a company was receiving pre-payments from customers before the company delivered the goods. The company was concerned that they were facing insolvency, and on taking advice, opened a separate bank account named "Customer Trust Deposit Account" where they deposited the customers' pre-payments. The company subsequently became insolvent. The English Court held that a trust had been created over the funds for the benefit of the customers, and did not form part of the company's assets to be distributed amongst the creditors.

<sup>90</sup> E.g. *TWG Tea Company Pte Ltd v Murjani Manoj Mohan* [2019] SGHC 117

<sup>91</sup> Legal Profession (Solicitors' Accounts) Rules

<sup>92</sup> Conveyancing and Law of Property (Conveyancing) Rules 2011

<sup>93</sup> E.g. *Re Denley's Trust Deed* [1969] 1 Ch 373

6.7.9 The above findings are also supported by a survey which MinLaw conducted of FIs and DNFBPs in Singapore in 2024. Out of the close to 2,400 responses, only 88 respondents said that they enter into a business relationship or come into contact with residual trusts in the course of their work, with the most common type of trusts being those created for the benefit of family members; as well as testamentary trusts. The majority of respondents also do not consider it likely that express trusts are used for ML/TF

#### **Key exposure to ML/TF threat areas**

6.7.10 Although Singapore LEAs have come across Singapore real estate properties held on trust in their investigations, the circumstances indicate that the trusts were not to further a ML or TF purpose, but rather to circumvent rules restricting the ownership of real estate property by foreigners under the Residential Property Act 1976 (RPA). In such cases, a foreigner who did not obtain approval to purchase restricted residential property in Singapore appointed as his/her nominee a Singapore citizen or an approved purchaser to purchase the property and hold it on trust for the foreigner's benefit (see **Case Study 8** below).

***Case Study 8: Property purchased under trust to circumvent the rules in the Residential Property Act***

Person A, a foreign national had authorised two Singaporeans and a Singapore-registered company to purchase three restricted residential properties in Singapore. The three nominees held the properties on trust for Person A.

Person A was charged for offences under Section 23(1)(b) of the RPA while the Singaporean trustees were charged for offences under section 23(1)(a) of the RPA. **There was no evidence suggesting that the underlying funds used to purchase the properties arose from proceeds of crime.**

6.7.11 Apart from the above, Singapore LEAs have not encountered any instance where residual trusts are being used for ML or TF purposes. This is also not a known international typology. Residual trusts are typically simple trusts (see paragraphs 6.7.12 – 6.7.13 below), and as noted at paragraph 5.1.7 above, trusts are rarely used in isolation to hold assets and obscure beneficial ownership, but are generally part of a wider scheme<sup>94</sup>. The ML or TF threat posed by residual trusts is assessed to be **Low**.

#### **Vulnerability assessment**

##### Sector characteristics

6.7.12 Because residual trusts are administered by trustees who are not providing trust business and would normally have no technical expertise, residual trusts are typically simple trusts. As they are unlikely to form part of a complex structure and are typically straightforward, the identity of the beneficial owner is usually readily discoverable. This limitation is even more acute when the trust is established without a written trust deed (i.e. is an oral trust or created by the

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<sup>94</sup> FATF Egmont Group, *Concealment of Beneficial Ownership* (2018) at [77];

settlor's actions) – such informal trusts, whilst difficult to track and identify, are typically not sophisticated enough to be part of complex structures. Residual trusts are hence ill-suited for ML.

6.7.13 When there is a written trust deed, the settlor is likely to engage a lawyer or some other professionals to help draft the trust deed, and transfer the assets into trust. In the course of managing the trust asset, the trustee will also have to transact with other regulated FIs and DNFBPs such as banks. There are therefore additional layers of AML/CFT monitoring and gatekeeping in such situations.

#### AML/CFT controls within the sector

6.7.14 Although the threat and vulnerability of residual trusts being misused is comparatively lower than that of express trusts administered by trust companies, Singapore nonetheless recognises that there is a potential to abuse residual trusts, and hence adopts a multi-pronged approach to mitigating such abuse.

6.7.15 First, residual trustees are legally required to comply with AML/CFT requirements that are in line with FATF Recommendation 25. The Trustees Regs oblige trustees to:

- (a) Obtain and verify information of relevant trust parties (i.e. all settlors, trustees, protectors, beneficiaries, and persons who have any power over the disposition of the trust)<sup>95</sup>;
- (b) Obtain and verify information about the effective controllers of relevant trust parties<sup>96</sup>;
- (c) Obtain information about persons appointed or engaged as a service supplier to the relevant trust (i.e. an agent of, or a service provider to, the relevant trust including any investment adviser or manager, accountant or tax adviser)<sup>97</sup>;
- (d) Update information in (a) – (c) in a timely manner and maintain records for at least 5 years after the trustee ceases to be a trustee of the relevant trust<sup>98</sup>;
- (e) Inform certain “specified persons” that they are acting for a relevant trust before forming a business relationship or entering a transaction of more than S\$20,000 (whether the transaction is carried out in a single operation or in multiple linked operations) with that “specified person”<sup>99</sup>. “Specified person” is defined at Regulation 8(5) of the Trustees Regs, and includes financial institutions, licensed estate agents, and lawyers; and
- (f) Keep accounting records for at least 5 years after the end of the calendar year which the transaction is completed<sup>100</sup>.

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<sup>95</sup> Reg 4 of the Trustees Regs

<sup>96</sup> Reg 5 of the Trustees Regs

<sup>97</sup> Reg 6 of the Trustees Regs

<sup>98</sup> Reg 7 of the Trustees Regs

<sup>99</sup> Reg 8 of the Trustees Regs

<sup>100</sup> Reg 9 of the Trustees Regs

- 6.7.16 As noted at paragraph 6.7.9 above, MinLaw had in August 2024 issued a questionnaire to FIs and DNFBPs who come into contact with trusts. The questionnaire had amongst other things, asked if the residual trustees that FIs and DNFBPs come into contact with were able to provide them with BO information. A vast majority of the 88 FIs and DNFBPs who come into contact with residual trusts reported that trustees typically informed them that there were acting for a trust; and were also able to provide them with the identities of the beneficial owners of the trusts to enable them to carry out their CDD obligations. The results indicate that residual trustees do comply with the requirements to obtain and hold beneficial ownership information in the TA and Trustees Regs.
- 6.7.17 FATF Recommendation 25 was revised in 2023. Pursuant thereto, Singapore will be amending Part 7 of the TA as well as the Trustees Regs to be in line with the latest international standards. The amendments include expanding the categories of relevant trust parties to include a class of beneficiaries, objects of a power, and persons who have control over the trust.
- 6.7.18 Second, there are effective, proportionate and dissuasive sanctions. Failure to comply with the AML/CFT obligations in Part 7 of the TA and the Trustees Regs is a criminal offence. When first promulgated in 2017, contravention of an obligation in the Trustees Reg was an offence punishable with a fine not exceeding S\$1,000. As part of the upcoming amendments to the TA, the maximum fine will be increased to S\$25,000 per contravention, in line with the maximum fine for similar AML/CFT breaches for companies and company officers, trustee-managers of business trusts, and accounting firms. The Bill also introduced a power of composition not exceeding one-half of the maximum fine (i.e. S\$12,500).
- 6.7.19 Third, to monitor compliance with the abovementioned AML/CFT obligations, a whistleblowing mechanism has been set up where members of the public are encouraged to report breaches of the AML/CFT obligations in the TA and Trustees Regs to the Ministry of Law (MinLaw)<sup>101</sup>. Government sectoral supervisors have also circulated a note to FIs and DNFBPs in August 2024 encouraging them to use this whistleblowing mechanism.
- 6.7.20 Fourth, efforts have also been taken to raise awareness and educate trustees of residual trusts about their AML/CFT obligations. Amongst other things, the Ministry of Law's website contains general information on the types of legal arrangements in Singapore, as well as information on trustees' AML/CFT obligations, and how to report a breach of those obligations.<sup>102</sup> The note circulated to FIs and DNFBPs in August 2024 also encourages them to inform residual trustees they come into contact with of their AML/CFT obligations.
- 6.7.21 Based on its sector characteristics and AML/CFT controls, the ML/TF vulnerability posed by residual trusts is assessed to be **Low**.

### ***Risk assessment***

- 6.7.22 Overall, in consideration of the ML/TF threats posed to the sector, its vulnerabilities as well as the strength of the controls, residual trusts are assessed to pose a **Low** ML/TF risk. The

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<sup>101</sup> See <https://www.mlaw.gov.sg/trusts/trusts-and-trust-like-arrangements-in-singapore/>

<sup>102</sup> See <https://www.mlaw.gov.sg/trusts/trusts-and-trust-like-arrangements-in-singapore/>

Government will continue raising awareness about the residual trustees' AML/CFT obligations, and remain vigilant for instances of misuse.

## 6.8 Charitable Purpose Trusts

6.8.1 Charitable purpose trusts are assessed to pose **Low** ML risk; and **Medium-Low** TF risk.

### **Background**

6.8.2 Under the common law, trusts must have certainty of objects (i.e. ascertained beneficiaries or an ascertainable class of beneficiaries). One exception to the rule is the charitable purpose trust. Such a trust must:

- (a) Have a *charitable purpose*<sup>103</sup>;
- (b) Promote a *public* benefit; and
- (c) Be *wholly and exclusively* charitable.

6.8.3 All charitable purpose trusts not excepted from registration must apply to be registered with the COC<sup>104</sup>. As of 31 Dec 2023, there were 114 registered charitable purpose trusts in Singapore (out of 2,397 registered charities).

### **Exposure to ML/TF threat areas**

6.8.4 LEAs have not encountered any instance in which charitable purpose trusts have been abused for ML purposes in Singapore. The ML threat posed by charitable purpose trusts are thus assessed to be **Low**.

6.8.5 In relation to TF, as explained in Singapore's TF NRA, international and regional typologies have shown that terrorist financiers are known to use non-profit organisations (NPOs) to raise, move, and use funds.

6.8.6 However, Singapore's NPO sector is largely domestically orientated. In particular, registered charities are required by legislation to conduct activities that are wholly or substantially beneficial to the community in Singapore<sup>105</sup>. Only three out of ten charities in Singapore engage in some form of overseas work, make donations and/or provide funding or services to

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<sup>103</sup> Charitable purpose includes: (i) the relief of poverty; (ii) the advancement of education; (iii) the advancement of religion; and (iv) other purposes beneficial to the community, such as the advancement of health; the advancement of citizenship or community development; the advancement of arts, heritage or science; the advancement of environment protection or improvement; the relief of those in need by reason of youth, age, ill-health or disability, financial hardship or other disadvantages; and the advancement of animal welfare (*Singapore Parliamentary Debates, Official Report* (23 January 2007) vol 82 at col 1173 (Dr Vivian Balakrishnan).

<sup>104</sup> See section 7 of the Charities Act 1994. "Charity" is defined under section 2 as "*any institution, corporate or not, which is established for charitable purposes and is subject to the control of the General Division of the High Court in exercise of the jurisdiction of the General Division of the High Court with respect to charities*".

<sup>105</sup> Reg 3(1)(c) of the Charities (Registration of Charities) Regulations

beneficiaries outside Singapore<sup>106</sup>. These activities comprise less than 2% of the total expenditure of charities from 2020 to 2022. An even smaller proportion of charities within this group conduct these activities in higher-risk jurisdictions and/or near conflict zones outside of Singapore. More specific to charitable purpose trusts, only six of them disclosed that they have made overseas expenditure in FY 2022. One of these six was deregistered in January 2023. Of the remaining five, only one disclosed overseas expenditure in FATF “Black and Grey” list of jurisdictions<sup>107</sup>.

- 6.8.7 Thus far, there has been no indication of foreign funding flowing into Singapore via our local NPO sector, which would include charities established as charitable purpose trusts, to support domestic terrorism-related activities, nor funds raised by local charitable purpose trusts being moved to fund terrorism-related activities abroad. Nevertheless, the Singapore authorities are aware of the possibility that funds raised in Singapore for charitable purposes, particularly for humanitarian relief use in or near conflict and other crisis zones, could be diverted for TF purposes. The TF threat posed by charitable purpose trusts is hence assessed to be **Medium Low**.

### ***Vulnerability Assessment***

#### Sector characteristics

- 6.8.8 Charitable purpose trusts do not have beneficiaries. While a person may receive a benefit from a charitable purpose trust, such a person is not vested with beneficial interest in the trust property, and therefore has no standing to enforce the charitable purpose trust. That said, however, criminals are less likely to set up a charitable purpose trust than a normal express trust for ML purposes, in view of the stringent AML/CFT controls below.

#### AML/CFT controls

- 6.8.9 As a starting point, all charities (including charitable purpose trusts) must be registered with the COC, unless they are specifically excepted. They are also subject to COC’s supervision in relation to the controls under the Charities Act 1994 (Charities Act), which helps to address ML/TF risks. Some of the additional safeguards are set out below:
- (a) It is the duty of the governing board members of any charity (typically the trustees of the trust) to apply for it to be registered within 3 months after its establishment<sup>108</sup>. Such applications must be accompanied with a copy of the governing instruments, which would ordinarily provide details as to the trust’s ownership and the charitable purposes which it is established for, as well as any other documents or information which the COC may require for the purpose of the application<sup>109</sup>. The COC also requires applicants to submit the proposed charity’s activity and fund disbursement

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<sup>106</sup> Based on a survey conducted by the COC in 2024, as part of Singapore’s Vulnerability Assessment for the NPO sector and the disclosure of overseas expenditure made by charities in the financial years ended 2020 – 2022.

<sup>107</sup> We note, however, that such disclosures do not have to be made by Non-Institute of Public Character charities with gross income and total expenditure not exceeding \$500,000; or which are self-funded grant-makers.

<sup>108</sup> Section 7(8)(a) of the Charities Act

<sup>109</sup> Section 7 of the Charities Act.



plan. These seek to ensure that the charity is not a “front organisation” and that its purposes are legitimate and for the public benefit. Concomitantly, these requirements also reduce the confidentiality of the trust (which is one of the reasons for its attractiveness as a vehicle for ML).

- (b) The COC maintains a register of charities (including deregistered charities) which is accessible by the public<sup>110</sup>. This ensures transparency and enables the public to differentiate between legitimate and false charities.
- (c) The charity must have a minimum of three governing board members, at least two of whom must be Singapore citizens or permanent residents<sup>111</sup>. All individuals who are convicted of any offence involving (i) dishonesty (including fraud, corruption, bribery and deception) or (ii) terrorism, terrorism financing or money laundering, are disqualified from acting as a governing board member or key officer of any charity, or any entity that is a governing board member or member of a charity, or acting as a trustee for any charity.
- (d) Charities are also required to have policies and plans to ensure proper control and management of the charity<sup>112</sup>, including policies to protect themselves from ML/TF risks.
- (e) All charities are under a duty to keep proper accounting records to show and explain all of the charity’s transactions and to prepare annual reports of its activities, thus further ensuring that all funds are properly accounted for and used for legitimate purposes. These annual reports are publicly accessible<sup>113</sup>.
- (f) The COC may from time-to-time institute inquiries with regard to charities<sup>114</sup>. Where it is satisfied that there has been misconduct or mismanagement in the administration of the charity, and that it is necessary or desirable to act for the purpose of protecting the property of the charity or securing a proper application for the purposes of the charity of that property or of property coming to the charity, the COC may, with the consent of the Attorney-General, take certain actions which may include (i) ordering the suspension or removal of any trustee, governing board member, officer or employee of the charity responsible for or privy to the misconduct or mismanagement or has by his or her conduct contributed to it or facilitated it; and/or (ii) establishing a scheme of administration for the charity etc<sup>115</sup>. Further, the Attorney-General also has standing to institute suits / proceedings against the trustees of a charitable purpose trust to enforce against any alleged breach of trust, including breaches of the trustee’s duties and obligations<sup>116</sup>.

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<sup>110</sup> See the Charities Portal which may be accessed at [www.charities.gov.sg](http://www.charities.gov.sg).

<sup>111</sup> Regulation 3(1)(c) of the Charities (Registration of Charities) Regulations

<sup>112</sup> Regulations 4(3)(e) of the Charities (Registration of Charities) Regulations

<sup>113</sup> Sections 11 to 15 of the Charities Act.

<sup>114</sup> Section 10 of the Charities Act

<sup>115</sup> Section 23 of the Charities Act.

<sup>116</sup> Section 9 of the Government Proceedings Act 1956.

- (g) All fund-raising appeals conducted by charities in Singapore for charitable, benevolent or philanthropic purposes are also strictly regulated by the COC under the Charities (Fund-raising Appeals for Local and Foreign Charitable Purposes) Regulations 2012. Amongst others, charities are required to ensure that information provided is accurate and not misleading; and that proper accounting records relating to the fund-raising appeal are kept, maintained and to a certain extent, disclosed in their financial statements. Additionally, a permit is also required should any person wishes to conduct or participate in any fund-raising appeal for any foreign charitable purpose. These serve as safeguards to ensure that all donations received are properly accounted for and used for legitimate activities.

6.8.10 The COC also provides AML/CFT guidance to charities. This includes:

- (a) Publishing a guide on “Protecting Your Charity against Money Laundering and Terrorist Financing” in May 2015. Amongst other things the guide provides a list of red flags which indicate ML and TF risks.
- (b) Launching a Terrorist Financing Risk Mitigation Toolkit for Charities in February 2023. This toolkit guides charities in identifying, assessing and mitigating the risk of TF abuse in a systematic manner.

6.8.11 In addition, the COC conducts periodic targeted outreach to charities since 2013, to raise awareness and educate charities of the risk of abuse for TF and recommended mitigating measures to safeguard themselves against such risk of abuse. Charities are also reminded of the legal obligation under TSOFA to provide information on property and financial transactions with a nexus to terrorists or TF to the police by lodging STRs. However, charitable purpose trusts are unlikely to be part of the subset of higher risk charities, i.e. religious charities that conduct and support overseas activities and charitable causes (e.g. mission works, church planting), and charities that facilitate humanitarian and disaster relief works in high-risk jurisdictions and/or near conflict zones. Therefore, they have not been subject to this periodic targeted outreach.

6.8.12 As a result of the regular engagement sessions, a 2024 survey conducted by the Ministry of Culture, Community and Youth’s (MCCY) Charity Unit (CU) indicates a higher level of awareness of the risk of TF abuse among charities since the last vulnerability assessment conducted in 2018. Findings indicate that most charities have some measures to safeguard their organisation against TF abuse, including the conduct of due diligence measures on their stakeholders (e.g. governing board members, key officers, trustees, employees, volunteers, beneficiaries and partners), transaction via regulated financial channels, and monitoring mechanisms to ensure that funds disbursed are used for the intended charitable purposes. That said, the level of TF risk understanding still varies, with larger charities being able to demonstrate a better understanding of emerging TF risks and experience in risk management.

6.8.13 Further, and in any case, all trustees also have to comply with strict transparency requirements in line with FATF’s standards. LTC-trustees must comply with MAS Notice TCA-N03 and are subject to MAS’ supervisory oversight (see paragraphs 6.2.15 – 6.2.19 above), while other trustees must comply with Part 7 of the TA and Trustees Regs as explained in section 6.7 above.

6.8.14 Based on its sector characteristics, known international typologies and AML/CFT controls, the ML/TF vulnerability posed by charitable purpose trusts is assessed to be **Medium-Low**.

### **Risk assessment**

6.8.15 Overall, in consideration of the ML/TF threats, vulnerabilities and the strength of the controls, charitable purpose trusts are assessed to pose a **Low** ML risk; and a **Medium-Low** TF risk<sup>117</sup>.

## **6.9 Wakafs**

6.9.1 Singapore *wakafs* are assessed to pose **Low** ML risk, and **Medium-Low** TF risk.

### **Background**

6.9.2 Apart from express trusts, *wakafs* are the other type of legal arrangement that can be set up in Singapore. A *wakaf* consists of a donor (the *wakif*), who by declaration (*sighah*) donates his assets (*mauquf*) to Allah. The declaration can be verbal or written.

6.9.3 *Wakafs* are governed by the Administration of Muslim Law Act 1966 (AMLA). Legal ownership of all *wakaf* assets automatically vests in Majlis Ugama Islam Singapore (MUIS) (i.e. the Islamic Religious Council of Singapore), a statutory board in Singapore<sup>118</sup>. MUIS is also statutorily required to administer all *wakafs* in Singapore<sup>119</sup>. In line with these requirements, all *wakafs* in Singapore must be registered with MUIS<sup>120</sup>.

6.9.4 Given MUIS's role in respect of *wakafs*, the Singapore courts have held that MUIS is the trustee-equivalent for *wakafs*<sup>121</sup>.

6.9.5 *Wakafs* are managed by *mutawallis*<sup>122</sup>. Of the 92 *wakafs* in Singapore (as of August 2024), MUIS acts as the *mutawalli* for 64 *wakafs* (or roughly two-thirds of all *wakafs*) in Singapore. The remaining 28 *wakafs* (or roughly one-third of all *wakafs*) are managed by private *mutawallis*. Private *mutawallis* may be removed by MUIS at any time<sup>123</sup>.

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<sup>117</sup> Further details about the TF risk posed by NPOs can be found at Pg 20 – 25 of the TF NRA.

<sup>118</sup> Section 59 of AMLA

<sup>119</sup> Section 58(2) of AMLA

<sup>120</sup> Section 64 of AMLA

<sup>121</sup> *Mohamed Shariff Valibhoy and others v Arif Valibhoy* [2016] SGHC 11 at [69] ("*Valibhoy v Valibhoy*").

<sup>122</sup> Historically, "trustees" were appointed to manage *wakafs*. The AMLA reflects this in its use of the term "trustee" (see, for e.g., section 58 of AMLA). Such "trustees" are however *not* trustees in the common law sense (*LS Investment Pte Ltd v Majlis Ugama Islam Singapura* [1998] SGCA 55 at [36] ("*LS Investment*"). "Trustees" are essentially *mutawallis* appointed under the instrument creating the *wakaf*. This can be contrasted to "*mutawallis*" who are individuals appointed by MUIS to manage the *wakaf* (*Valibhoy v Valibhoy* at [76]). As noted, MUIS is the trustee-equivalent for all *wakafs* in Singapore *Valibhoy v Valibhoy* at [69]. MUIS is empowered to remove "trustees" if it appears to MUIS that, among others, the *wakaf* has been mismanaged, or it would be to the advantage of the *wakaf* to appoint a *mutawalli* (section 58(6) of the AMLA). MUIS no longer appoints new "trustees". Instead, a *mutawalli* (either MUIS itself, or a private *mutawalli*) will be appointed.

<sup>123</sup> Section 58(8) of AMLA.

- 6.9.6 While the income generated from the *wakaf* asset (e.g. rental income or interest from fixed deposits) can be disbursed to the persons or purposes specified in the *wakaf* instrument, the capital (i.e. the original *wakaf* asset) must be kept intact. There are two broad categories of beneficiaries who the *mutawallis* make disbursements to, namely (i) members of the donor's family or (ii) to religious or charitable institutions such as mosques, madrasahs (i.e. religious Islamic schools), and other Muslim organisations and charities.
- 6.9.7 The role of a mutawalli is to:
- (a) Manage the *wakaf* assets, which in Singapore, largely fall within two asset classes – cash and real property<sup>124</sup>. In total, these assets were worth S\$1.3 billion as of 31 December 2023.
  - (b) Apply income generated by the *wakaf* asset according to the *wakaf* instrument.

### **Key exposure to ML/TF threat areas**

- 6.9.8 *Wakafs* are a Muslim law legal arrangement, and are not as prevalent as other legal arrangements. An understanding of Muslim law is necessary to set up a *wakaf*, which may not be available to most bad actors seeking to launder funds. Further, with one exception, *wakafs* hold only cash or real property<sup>125</sup>. None of the *wakafs* are part of complex structures. LEAs have not encountered any instance in which Singapore *wakafs* have been abused for ML. The ML threat posed by *wakafs* is therefore **Low**.
- 6.9.9 LEAs also have not encountered any instance in which Singapore *wakafs* have been abused for TF purposes. There has been no indication of disbursements from *wakafs* being used to fund terrorism-related activities abroad.
- 6.9.10 Nonetheless, Singapore recognizes that our proximity to jurisdictions with active terrorist threats and activities make us vulnerable to cross-border movement of funds for TF. Within the region, pro-ISIS groups and JI have reportedly raised funds through supporters working in Muslim charities and *dakwah* centres, though not necessarily with the knowledge or approval of the organisations involved. We also note that regionally and internationally, some NPOs have taken to fundraising on online platforms to support TF causes, including for humanitarian causes and Hamas following the outbreak of the Israel-Hamas conflict in October 2023. While Singapore *wakafs* (save for the Government-established WMS) cannot engage in fundraising, there is a possibility for disbursements from the *wakafs* to unknowingly be made to TF causes. The TF threat posed by *wakafs* is hence assessed to be **Medium-Low**.

### **Vulnerability Assessment**

#### Sector characteristics

- 6.9.11 In addition to the small number of Singapore *wakafs*, it is unlikely for a Singapore *wakaf* to be set up for the purpose of facilitating ML or TF.

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<sup>124</sup> One wakaf holds shares.

<sup>125</sup> The lone exception is permitted to hold shares in a Singapore-listed company.

- (a) First, MUIS, a government statutory board, is the administrator of all *wakafs* and has the sole discretion to decide which *mutawallis* to appoint<sup>126</sup>.
- (b) Second, the dedication of assets to a *wakaf* is eternal and irreversible – it is not possible to transfer a *wakaf* asset out of the *wakaf*. The donor cannot ask for ownership of the asset to be returned to him and he also cannot influence the disbursements of funds (whether through a letter of wishes or otherwise). This defeats the purpose of bad actors hiding any beneficial interests.
- (c) Further, only the income generated by the *wakaf* asset can be disbursed. This makes it an unattractive ML or TF vehicle for criminals.

6.9.12 Despite the very low probability of a Singapore *wakaf* being established for ML/TF purposes, it is conceivable that monies disbursed are unknowingly applied to TF causes. In 2023, more than S\$8 million of *wakaf*-generated income was disbursed to beneficiaries, including mosques, madrasahs, and other Muslim organisations and charities. Out of these, about 55% of the beneficiaries are local while 45% of the beneficiaries are foreign. The foreign beneficiaries include individuals or Muslim organisations in India (over 70%), Yemen (about 10%), Saudi Arabia (about 10%), Iraq (about 2%) and Indonesia (about 2%). The safeguards in place to manage the ML/TF risks of distributions of these *wakaf*-generated income to overseas beneficiaries are set out in the section below.

#### AML/CFT controls within the sector

6.9.13 *Wakafs* are subject to strict regulatory oversight and controls by MUIS.

- (a) As mentioned, under the AMLA, MUIS is the legal owner and administrator of all *wakafs* in Singapore. MUIS is the trustee-equivalent for *wakafs*.
- (b) All *wakafs* must be registered with MUIS, which maintains a register of *wakafs*<sup>127</sup>. For the purposes of registration, MUIS will collect information such as: (i) a description of the *wakaf* properties sufficient for the identification of the properties, (ii) the gross annual income from the *wakaf* properties, (iii) full particulars, including the contact details of the *mutawalli* (where MUIS appoints a *mutawalli*), and (iv) a list of the beneficiaries (or class of beneficiaries) (*muquf'alaih*) and objects of the *wakaf*.
- (c) MUIS can appoint individual *mutawallis* to manage the *wakaf* asset. In practice, MUIS is the *mutawalli* for two-thirds of the *wakafs*, and has only appointed individual *mutawallis* for one-third of the *wakafs*.
  - (i) By default, MUIS will be the *mutawalli* of a *wakaf* unless there are reasons for a private *mutawalli* to be better able to carry out the objectives of the *wakaf* (e.g. where one of the purposes of the *wakaf* is to benefit the settlor's

<sup>126</sup> Section 58(2) and (4) of AMLA; see also *Valibhoy v Valibhoy* at [58] & [65]

<sup>127</sup> Section 64 of the AMLA. The register of *wakafs* maintained by MUIS may be inspected by any person upon payment of \$16 for every inspection (rule 3(1) of the Administration of Muslim Law (Wakaf and Nazar Am) Rules).

descendants, MUIS may appoint one of the descendants to be the *mutawalli* as that person would be better able to track down the family of the *wakaf* (settlor-equivalent)).

- (ii) Private *mutawallis* are screened and must be approved by MUIS before they are appointed<sup>128</sup>. Each appointment lasts for 3 years, which can be renewed if necessary.
  - (iii) *Mutawallis* have to comply with the AMLA, and the Administration of Muslim Law (Wakaf and Nazar Am) Rules (Wakaf Rules). Amongst other things, *mutawallis* are required to keep proper accounts and records “of all receipts, expenditure and investment of moneys” belong to the *wakaf*<sup>129</sup>, and are required to prepare audited financial statements after the close of each financial year<sup>130</sup>. Failing which, he may be fined and/or imprisoned<sup>131</sup>.
  - (iv) Private *mutawallis* also have to abide by the terms and conditions set out by MUIS in their letter of appointment. The terms include duties to safeguard the *wakaf* properties, and to keep regular and proper records including of the transactions that they undertake, and the specific beneficiaries who they make disbursements to.
  - (v) MUIS has the power to remove a private *mutawalli* at any time<sup>132</sup>. In particular, it can appoint and/or remove a *mutawalli* where it appears to MUIS that the *wakaf* has been mismanaged, the *mutawalli* has failed to comply with the Wakaf Rules or terms and conditions imposed by MUIS, or it would be to the advantage of the *wakaf* to appoint another *mutawalli*<sup>133</sup>.
- (d) In respect of *wakaf*-generated income:
- (i) MUIS and the individual *mutawallis* take steps to verify the identities of the beneficiaries. Where the beneficiaries are local, they will be asked to produce their national identifier number. When beneficiaries are foreigners, MUIS and the individual *mutawallis* are required to obtain identifying and verification information to the best extent possible (e.g. checking that they are registered charities, mosques or madrasahs overseas). However, it is noted that verification is not always possible, especially in countries where there is no national identification document. MUIS also separately checks to make sure that the disbursements are in line with the *wakaf*'s specified objects.
  - (ii) For the two-thirds of the *wakafs* where MUIS is the *mutawalli*, the beneficiaries and amount to be disbursed are subject to internal review before they are finally approved.

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<sup>128</sup> Section 58(40) of AMLA

<sup>129</sup> Rule 1B of the Muslim Law (Wakaf and Nazar Am) Rules

<sup>130</sup> Second Schedule of AMLA.

<sup>131</sup> Section 64(11) of AMLA.

<sup>132</sup> Section 58(8) of AMLA.

<sup>133</sup> Section 58(9) of AMLA

- (e) The financial accounts of the *wakafs* also have to be audited and then submitted to MUIS at the end of each financial year<sup>134</sup>.

6.9.14 MUIS monitors complaints made against individual *mutawallis*. It has not observed any key weaknesses in the AML/CFT controls undertaken by individual *mutawallis*.

6.9.15 MUIS has frequent engagement sessions with the private *mutawallis*, and amongst other things, has helped to ensure that they are aware of ML/TF risks and able to put in place procedures to identify and report suspicious transactions. During MUIS's last engagement session with *mutawallis* in November 2023, MUIS informed them of the need to obtain and maintain adequate, accurate and up to date records and information on each beneficiary and class of beneficiaries. MUIS also reminded *mutawallis* to cooperate with regulators and/or authorities to provide necessary information relating to the *wakaf* should there be any investigation.

6.9.16 Based on its sector characteristics, known international typologies and AML/CFT controls, the ML and TF vulnerability posed by *wakafs* is assessed to be **Low** and **Medium-Low** respectively.

### ***Risk Assessment***

6.9.17 Overall, in consideration of the ML/TF threats, vulnerabilities and the strength of the controls, *wakafs* are assessed to pose **Low** ML risk and **Medium-Low** TF risk. MUIS will continue to remain vigilant and continue to engage the individual *mutawallis* to raise awareness of ML and TF risk.

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<sup>134</sup> First and Second Schedule of AMLA

## VII. PROFESSIONAL INTERMEDIARIES

7.1.1 As the studies have found, compared to setting up a legal person, setting up a legal arrangement is relatively complicated and requires professional support, particularly when there is a need for legal certainty or when complex structures are involved (see paragraph 5.2.4 above). In addition, legal arrangements generally do not carry out physical cash transactions, and would have to transact with other regulated FIs and DNFBPs to manage and administer the assets in the legal arrangement. These make FIs and DNFBPs:

- (a) Important gatekeepers in the detection and prevention of AML/CFT; and
- (b) Valuable sources of information for LEAs conducting investigations, especially when the trustee is not resident in Singapore but the trust asset is in Singapore. To date, CAD has not faced any difficulties obtaining relevant information from banks and other FIs in a timely manner, for the purposes of their investigations. Please refer to Case Studies 6 and 7 at paragraph 6.3.5 above.

7.1.2 As noted, Singapore has put in place AML/CFT requirements for FIs and DNFBPs to identify and verify the beneficial owners of their customers who are legal arrangements, understand the nature of the business relationship, establish the SoW and SOF as necessary, and keep records of the transactions with the legal arrangements. The common FIs and DNFBPs that come into contact with legal arrangements, and the legal arrangement-specific CDD legal requirement are summarised in **Table 6** below. Further details can be found in the ML NRA.

**Table 6: FIs and DNFBPs that commonly come into contact with legal arrangements**

S/N	FIs or DNFBPs that commonly encounter legal arrangements	Regulator	Service provided by the FI or DNFBP	Legal Arrangement specific CDD requirement
1.	LTCs	MAS	Other than acting as a trustee for an express trust, LTCs may also be approached by foreign trusts for advice on procuring or managing Singapore assets.	Paragraph 6.6 – 6.7 of MAS Notice TCA-N03
2.	Banks	MAS	Legal arrangements may open bank accounts.	Paragraph 6.9 and 6.14 (b) of MAS Notice 626
3.	Other financial institutions	MAS	Examples of services that FIs other than banks may provide include investment and asset management.	Paragraph 6.9 and 6.14(b) of SFA04-N02
4.	Law Practice Entities & Lawyers	MinLaw and Law Society	<p>Law practices and lawyers are commonly approached to help structure and draw up the trust instrument.</p> <p>Law practices and lawyers will also be engaged for conveyancing, when a settlor wishes to purchase a property and put it in trust, or the trustee decides to sell or otherwise transfer a real property.</p>	Rule 8 of the Legal Profession (Prevention of Money Laundering and Financing of Terrorism) Rules 2015



S/N	FIs or DNFBPs that commonly encounter legal arrangements	Regulator	Service provided by the FI or DNFBP	Legal Arrangement specific CDD requirement
5.	Accounting Practices & Accountants	ACRA	Accounting practices and accountants may be engaged to provide public accounting services to the trust (such as the audit and reporting on financial statements).	Rules 6(2), 7(3) and 7(5) of the Accountants (Prevention of Money Laundering And Financing of Terrorism) Rules 2023
6.	Corporate Service Providers (CSP)	ACRA	Trustees (especially a foreign trustee) may engage a CSP to incorporate companies in Singapore or provide other corporate services.	Section 17 Corporate Service Providers Act 2024 and further prescriptions in Subsidiary Legislation
7.	Estate Agents & Real Estate Salespersons	CEA	Estate agents and real estate salespersons may be engaged when a settlor wishes to purchase a property and put it in trust, or the trustee decides to sell a property.	Regulation 5 of the Estate Agents (Prevention of Money Laundering and Financing of Terrorism) Regulations 2021
8.	Developers	URA	Developers will be engaged when a settlor decides to purchase a new property directly from the developer, and put it under trust.	Rule 6 of the Housing Developers (Anti-Money Laundering and Terrorism Financing) Rules 2023  Rule 6 of the Sale of Commercial Properties (Anti-Money Laundering and Terrorism Financing) Rules 2023

7.1.3 Sectoral supervisors continue to supervise the FIs and DNFBPs for compliance with their CDD obligations, and impose effective, dissuasive and proportionate sanctions in the event of a breach.

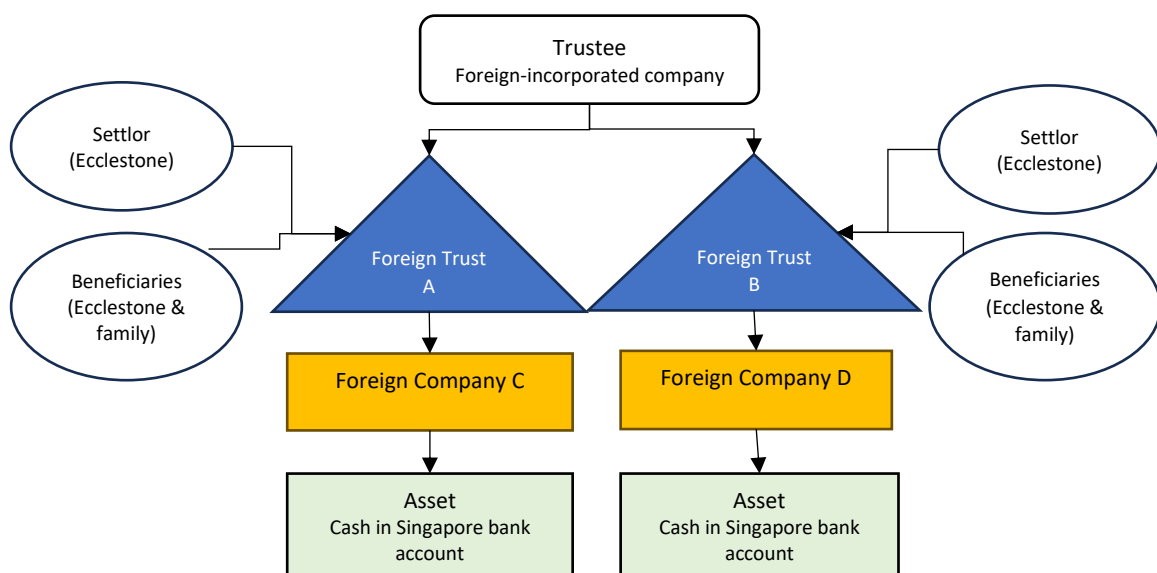
## VIII. INTERNATIONAL COOPERATION

8.1.1 Singapore authorities are able to, and have rendered and requested assistance in criminal matters to and from foreign jurisdictions, by way of formal requests for assistance made pursuant to the Mutual Assistance in Criminal Matters Act 2000 (MACMA), and informal requests for assistance through FIU and LEA channels.

- (a) **Formal Cooperation:** Singapore is able to render mutual legal assistance on the basis of reciprocity under the MACMA. The MACMA covers a wide range of assistance, including search and seizure, the taking of evidence, and the production of information. The MACMA applies to “drug dealing offences” and “serious offences”, which includes a wide range of specified offences, as well as any offence punishable with 4 years’ imprisonment or more. Under the MACMA, Singapore is able to obtain and share beneficial ownership information of legal arrangements if the requirements under MACMA are met.
- (b) **Informal Cooperation:** The CDSA was amended in 2018 to better support the sharing of financial intelligence, including intelligence relating to beneficial ownership information, with financial intelligence units of overseas jurisdictions. This allowed Singapore to exchange financial intelligence with more than 150 financial intelligence units of overseas jurisdictions which are members of Egmont Group<sup>135</sup>. Singapore LEAs are also able to exchange information on beneficial ownership with their foreign counterparts through informal LEA channels, including through INTERPOL.

8.1.2 More details may be found in section 4.5 of the ML NRA.

### **Case Study 9: Singapore’s assistance in securing the conviction and penalties against Bernie Ecclestone**



<sup>135</sup> Previously, Singapore could only exchange intelligence pursuant to bilateral arrangements with other countries – a number which totals to around 50.

Singapore was a crucial partner in the conviction of Bernie Ecclestone (Ecclestone) in the UK courts on tax-related charges on 12 October 2023, and the recovery of assets involved in the criminal activity.

The UK tax authority, His Majesty's Revenue and Customs (HMRC), had launched a lengthy, complex and worldwide investigation into the tax affairs of Ecclestone more than a decade ago, after it was discovered that he had failed to declare a trust which held assets of more than GBP416 million.

During interviews with UK HRMC investigators in 2015, Ecclestone claimed that he was not the settlor or beneficiary of any offshore trusts. However, information proactively shared by Singapore authorities with UK authorities through the FIU and LEA channels provided crucial support to the UK HRMC's investigations by proving these claims to be untrue. In particular, Singapore authorities shared that Ecclestone was the beneficial owner of two foreign trusts which maintained bank accounts in Singapore with substantial sums.

The close cooperation between CAD, STRO and the relevant UK authorities is testament to Singapore's commitment to international cooperation, to achieve effective outcomes in the common fight against transnational crime.

Ecclestone was eventually sentenced to 17 months in prison, suspended<sup>136</sup> for two years in London, and has made a payment of more than GBP650 million in relation to his tax affairs, covering tax penalties and civil penalties.

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<sup>136</sup> Under the UK's sentencing regime, suspended sentences are custodial sentences where the offender does not have to go to prison provided, they commit no further offences and comply with any requirements imposed.

## **IX. CONCLUSION**

- 9.1.1 Singapore is an international financial centre and leading wealth management hub. Although both the international and local experience have shown that legal arrangements are not as widely misused for ML and TF as compared to legal persons, Singapore nonetheless remains vigilant to the ML and TF threats and evolving landscape, the vulnerabilities of legal arrangements that bad actors may exploit, and the risk that legal arrangements may pose.
- 9.1.2 Singapore will continue to enhance our AML/CFT framework, adopt a risk-based approach and pay close attention and supervise sectors and legal arrangements that pose higher ML/TF risk. Singapore will also continue to partner industry, maintain close working relationships with relevant local and foreign law enforcement, intelligence, regulatory and supervisory counterparts to address risk concerns and continue to take relevant appropriate steps to make it hard for criminals looking to misuse legal arrangements through Singapore.
- 9.1.3 The process of risk assessment is a dynamic one, and Singapore will continue to monitor the risks posed by legal arrangements on an ongoing basis, to ensure that our risk understanding and risk mitigation measures remain up to date and effective.