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Anti-Corruption 2022

Singapore: Law & Practice
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SINGAPORE

Law and Practice

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1. LEGAL FRAMEWORK FOR OFFENCES

1.1 International Conventions

Singapore is a signatory to the United Nations Convention against Corruption (signed on 11 November 2005, ratified on 6 November 2009), and to the United Nations Convention against Transnational Organized Crime (signed on 13 December 2000, ratified on 28 August 2007).

In addition, Singapore has been a member of the Financial Action Task Force (FATF) since 1992, and is one of the founding members of the Asia/Pacific Group on Money Laundering (APG).

Singapore's Corrupt Practices Investigations Bureau (CPIB), the agency responsible for the investigation and prevention of corruption in Singapore, also represents Singapore at various anti-corruption fora such as:

- Asian Development Bank (ABD) – Organisation for Economic Co-operation and Development (OECD) Anti-Corruption Initiative for Asia and Pacific;
- Asia-Pacific Economic Cooperation (APEC) Anti-Corruption and Transparency Experts' Working Group (ACTWG);
- Economic Crime Agencies Network (ECAN);
- G20 Anti-Corruption Working Group (ACWG);
- International Association of Anti-Corruption Authorities (IAACA); and
- South East Asia – Parties Against Corruption (SEA-PAC).

1.2 National Legislation

The primary legislation governing bribery and corruption in Singapore is the Prevention of Corruption Act (Chapter 241) (PCA). The main offences under the PCA are set out in Sections 5 and 6, which apply to both the private and public sector, and prohibit both active and passive bribery.

The Penal Code (Chapter 224) contains further provisions relating to bribery and corruption. This includes offences related to the bribery of domestic "public servants" under Sections 161 to 165 of the Penal Code. In practice, however, the offences under the Penal Code are rarely used for the prosecution of corruption offences. Prosecutors usually rely on the offences under the PCA instead.

The Corruption, Drug Trafficking and other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) (CDSA) is another legislation aimed at combating corruption. The CDSA criminalises the acquisition, possession, use, concealment and/or transfer of the benefits from criminal conduct (such as corruption), and allows for the confiscation of such benefits.

1.3 Guidelines for the Interpretation and Enforcement of National Legislation

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

However, the CPIB has published on its website some answers to frequently asked questions relating to anti-corruption and bribery laws in Singapore: http://www.ifaq.gov.sg/CPIB/apps/Fcd_faqmain.aspx.

In 2017, the CPIB and SPRING (now Enterprise Singapore – a government agency championing enterprise development) also launched the Singapore Standard (SS) ISO 37001 on anti-bribery management systems. This voluntary standard is based on internationally recognised good practices. It provides guidelines to help Singapore companies strengthen their anti-bribery compliance systems and processes and ensure compliance with anti-bribery laws.

Further, also in 2017, CPIB published PACT – its Practical Anti-Corruption Guide for Businesses

in Singapore. PACT provides guidance for business owners on how to develop and implement an anti-corruption system. The elements of an effective corporate compliance programme as stated in PACT include the following:

- setting the tone from the top to promote a corporate culture of compliance;
- implementation of clear, visible and easy to understand anti-corruption policies and a code of conduct;
- guidance on common corruption risk areas including corporate gifts and entertainment, conflicts of interests, and contributions and sponsorship;
- conducting bribery and corruption risk assessments;
- the implementation of effective internal controls;
- the availability of effective reporting and whistle-blower systems; and
- regular monitoring of the compliance system.

1.4 Recent Key Amendments to National Legislation

One of the key amendments to the national legislation was the introduction of the Deferred Prosecution Agreements (DPA) regime in 2018.

A DPA is a voluntary alternative in which a prosecutor agrees to grant amnesty in exchange for a defendant agreeing to fulfil certain requirements and specific conditions, such as, for example, implementing compliance programmes, and/or co-operating in investigations into wrongdoing by individuals.

Under this regime, corporations can potentially enter into DPAs with Singapore's Attorney-General's Chambers in respect of certain corruption and corruption-related offences.

2. CLASSIFICATION AND CONSTITUENT ELEMENTS

2.1 Bribery

Definition of a "Bribe" under the PCA

Bribery is defined very widely under the PCA.

Section 5 of the PCA provides that it is an offence for anyone to:

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

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

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

(i) any person doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed; or

(ii) any member, officer or servant of a public body doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which such public body is concerned […]"

Section 6 of the PCA also provides that it is an offence for an agent to corruptly accept or obtain any gratification in relation to the acts or performance of his principal. For example, this may involve an employee corruptly accepting or obtaining any gratification in relation to the acts of his company.

Further, Sections 11 and 12 of the PCA provide that it is an offence to offer gratification to domestic public officials (such as members of parliament or members of a public body). In turn, a public body is defined as any corporation, board, council, commissioners or other body

which has power to act under and for the purposes of any written law relating to public health or to undertakings or public utility or otherwise to administer money levied or raised by rates or charges in pursuance of any written law.

Hospitality Expenditures, Gifts and Promotional Expenditures

Under the PCA, "gratification" has a very wide definition which includes the following:

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

Hospitality expenditures (travel expenses, meals), gifts and promotional expenditures are therefore likely to fall under this very wide definition of gratification under the PCA. Whether or not the giving or acceptance of such gratification amounts to the offence of bribery will therefore depend on the state of mind of the giver/receiver and the purpose for giving/receiving such gratification.

Facilitation Payments

Facilitation payments may be defined as payments which are made to public officials to speed up an administrative process where the outcome is already pre-determined.

Where such payments are concerned, these are not specifically regulated in Singapore – in particular, there is no exemption or defence applicable to such payments similar to that provided under the United States Foreign Corrupt Practices Act 1977 (FCPA).

However, regard should be had to Section 12 of the PCA. That section prohibits, among others, the giving, solicitation and/or accepting of gratification for a member of a public body's performing or abstaining from performing, or his aid in procuring, expediting, delaying, hindering or preventing the performance of any official act.

Bribery of a Public Official

The primary corruption offences under Sections 5 and 6 of the PCA apply to both the private and public sectors.

However, the law distinguishes between bribery of a public official and private persons in that there is a presumption of corruption in certain cases involving the bribery of public officials. In this regard, Section 8 of the PCA provides as follows:

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

Aside from this, the law also distinguishes between bribery of a public official and private persons in that there are specific offences under the PCA and the Penal Code that relate to the public sector.

In particular, under the PCA, it is an offence to:

- corruptly procure the withdrawal from a government tender (Section 10 of the PCA);
- bribe a member of parliament, or to accept such a bribe as a member of parliament (Section 11 of the PCA); and
- bribe a member of a public body, or to accept such a bribe as a member of a public body (Section 12 of the PCA).

Further, under the Penal Code, the following are offences (amongst others):

- the acceptance by a public servant of a gratification or anything of value as a reward for doing any official act, outside of legal remuneration (Section 161 of the Penal Code);
- the acceptance of a gratification by any person in order to influence or to exercise personal influence over a public servant (Sections 162-63 of the Penal Code); and
- the acceptance by a public servant of a gratification or anything of value without any or adequate consideration (Section 165 of the Penal Code).

In this regard, it should be noted that a "public servant" is defined differently from the definition of a "member of a public body" under the PCA. Whereas the definition of the latter is set out above, the former is defined under Section 21 of the Penal Code as including:

- an officer in the Singapore Armed Forces;
- a judge;
- an officer of a court of justice;
- an assessor assisting a court of justice;
- an arbitrator or other person to whom any cause or matter has been referred for decision;
- an office holder who holds powers to confine other persons;
- an officer of the Singapore government;
- an officer who acts on behalf of the government; or
- a member of the Public Service or Legal Service Commission.

Bribery of Foreign Public Officials

There are no legislative provisions that specifically deal with the potential bribery of foreign public officials.

However, Section 37 of the PCA states that if a Singapore citizen commits an offence under the PCA in any place outside of Singapore, he may be dealt with in respect of that offence as if it had been committed within Singapore. Section 4 of the Penal Code also provides that public servants who commit offences outside of Singapore are deemed to have committed that offence in Singapore.

The sum total of this is that the various prohibitions for corruption-related offences under the PCA and Penal Code can apply to cases involving foreign public officials and, in some cases, even apply where the acts of corruption occur outside of Singapore.

In fact, it should also be noted that the Singapore courts have held that the fact that a corruption offence involves the corruption of foreign public officials is an aggravating factor: see PP v Tan Kok Ming Michael [2019] 5 SLR 926 at [73]-[93].

2.2 Influence-Peddling

As stated at **2.1 Bribery**, the PCA defines gratification very widely and includes "any office, employment or contract", as well as "any other service, favour or advantage of any description

whatsoever, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary or penal nature, whether or not already instituted, and including the exercise or the forbearance from the exercise of any right or any official power or duty".

Therefore, influence-peddling (ie, the use of one's positional or political influence in exchange for undue advantages) is likely to constitute an offence under Sections 5 or 6 of the PCA. Further, influence peddling by citizens of Singapore of foreign public officials is likely to come within Section 12 of the PCA, read with Section 37(1) of the PCA.

Apart from the PCA, Section 161 of the PC provides that it is an offence for a person, being or expecting to be a public servant, to accept or obtain (or agree to accept or obtain) any gratification other than a legal renumeration as a motive or reward for, among others, doing or forbearing to do any official act.

In a similar vein, Section 163 of the PC provides that it is an offence for a person to accept or obtain gratification for exercising personal influence on a public servant to do or forbear to do any official act.

2.3 Financial Record-Keeping

Obligation of Companies in Respect of Record-keeping

Under Section 199(1) of the Companies Act (CA), every company is required to keep accounting and other records "sufficiently explain the transactions and financial position of the company and enable true and fair financial statements and any documents required to be attached thereto to be prepared from time to time".

Such records must be kept for a period of not less than five years from the end of the financial year in which the transactions or operations to which those records relate are completed.

If a company fails to do so, the company and every officer of the company who is in default will be guilty of an offence under Section 199(6) of the CA.

Falsification of Accounts/False Documentation

Section 477A of the PC criminalises the falsification of accounts. The section provides as follows:

"Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, intentionally and with intent to defraud destroys, alters, conceals, mutilates or falsifies any book, electronic record, paper, writing, valuable security or account or a set thereof which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or intentionally and with intent to defraud makes or abets the making of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in any such book, electronic record, paper, writing, valuable security or account or a set thereof, shall be punished with imprisonment for a term which may extend to 10 years, or with fine, or with both."

Aside from this, the PC also sets out various offences relating to documents and electronic records (such as forgery under Section 463 of the PCA and making a false document or false electronic record under Section 464 of the PC). These offences can also potentially apply to situations involving inaccurate corporate books and records.

Dissemination of False Information

As for the dissemination of false information of a harmful thing, Section 268A of the PC crimi-

nalises the communication of information containing a reference to the presence in any place or location or in any conveyance or means of transportation of any thing that is likely to cause hurt or damage to property by any means which the person knows to be false or fabricated.

As for the dissemination of false information online, Singapore recently enacted the Protection from Online Falsehoods and Manipulation Act 2019 (Act No 18 of 2019) (POFMA).

Amongst other things, POFMA criminalises the doing of an act within or outside Singapore in order to communicate in Singapore a statement knowing, or having reason to believe, that the statement is a false statement of fact; and its communication of that statement in Singapore is likely to:

- be prejudicial to the security of Singapore or any part of Singapore;
- be prejudicial to public health, public safety, public tranquillity or public finances;
- be prejudicial to the friendly relations of Singapore with other countries;
- influence the outcome of an election to the office of President, a general election of members of parliament, a by-election of a member of parliament, or a referendum;
- incite feelings of enmity, hatred or ill will between different groups of persons; or
- diminish public confidence in the performance of any duty or function of, or in the exercise of any power by, the government, an organ of state, a statutory board, or a part of the government, an organ of state or a statutory board.

2.4 Public Officials

Under Section 405 of the PC, any person who misappropriates property they are entrusted with will be liable for criminal breach of trust. Where such breach of trust is committed by, inter alia, a public servant, Section 409 of the PC provides for enhanced penalties, namely, imprisonment for life, or imprisonment for a term which may extend to 20 years, and liability to a fine.

There are, however, no specific provisions which relate to the unlawful taking of interest by a public official and/or favouritism by a public official. In such situations, the general provisions under the PCA and PC would potentially apply.

2.5 Intermediaries

Under Section 5 of the PCA, it is an offence for any person to give or receive bribes "by himself [or herself] or by or in conjunction with any other person". This is wide enough to cover situations where a person commits a bribery offence through an intermediary.

Further, under Section 6 of the PCA, it is an offence for an agent to corruptly accept or obtain any gratification in relation to the acts or performance of his or her principal. For example, this may involve an employee corruptly accepting or obtaining any gratification in relation to the acts of his or her company. In addition, Section 6(b) also criminalises the giving or agreement to give any gratification to any agent.

3. SCOPE

3.1 Limitation Period

Under Singapore law, there is no limitation period for enforcing or prosecuting criminal offences.

3.2 Geographical Reach of Applicable Legislation

Section 37 of the PCA provides extraterritorial reach for the provisions of the PCA provided that the offences in question are committed by a citizen of Singapore overseas.

In addition, under Section 4 of the PC, every public servant who, being a citizen or a permanent resident of Singapore, when acting or purporting to act in the course of their employment, commits an act or omission outside Singapore that if committed in Singapore would constitute an offence under the law in force in Singapore, is deemed to have committed that act or omission in Singapore.

3.3 Corporate Liability

Both individuals and corporate entities may be held liable for bribery. The primary bribery offences under Sections 5 and 6 of the PCA apply to all "persons". The term "person" is defined in the Interpretation Act as including "any company or association of body of persons, corporate or unincorporated."

In practice, however, the authorities' enforcement efforts have focused predominantly on individuals, with prosecutions against corporate entities for corruption offences being rare to date.

4. DEFENCES AND EXCEPTIONS

4.1 Defences

There are no statutory defences to bribery under the PCA. The accused will therefore need to rely on negating each element of the charge against them.

Chapter IV of the PC sets out the various general defences available against a criminal charge under the PC. However, these defences are unlikely to be applicable in the vast majority of corruption offences.

4.2 Exceptions

Several of the general defences under Chapter IV of the PC are subject to exceptions (such as the defence of duress). However, as stated at **4.1 Defences**, these defences are unlikely to be applicable in the vast majority of corruption offences.

4.3 De Minimis Exceptions

The general defences in Chapter IV of the PC includes a defence of de minimis. The relevant section is Section 95 of the PC, which states as follows: "Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm."

It is unlikely that this general defence will be applicable to corruption offences as the strict policy approach taken by lawmakers and the CPIB to the implementation and enforcement of corruption offences in Singapore means that any bribe, no matter how small, will not be considered de minimis. There is also some doubt as to whether the defence of de minimis applies to offences outside of the PC.

However, the issue has yet to be argued before the Singapore courts.

4.4 Exempt Sectors/Industries

There are no sectors or industries exempt from bribery and corruption offences under the PCA.

Further, under Section 23 of the PCA, in any civil or criminal proceedings under the PCA, evidence to show that any gratification is customary in the profession, trade, vocation or calling shall not be admissible.

4.5 Safe Harbour or Amnesty Programme

There is no safe harbour or amnesty programme based on the self-reporting of corruption offences.

However, the DPA scheme may allow companies to highlight effective anti-bribery compliance programmes as part of their negotiations on any DPA to be entered into with the AGC. At present, there are no publicly available guidelines on when the AGC will enter into a DPA with a corporate entity.

5. PENALTIES

5.1 Penalties on Conviction

In general, the maximum penalties prescribed under the relevant statutes are as follows:

- Section 5, PCA – a fine not exceeding SGD100,000 or imprisonment not exceeding five years, or both;
- Section 6, PCA – a fine not exceeding SGD100,000 or imprisonment not exceeding five years, or both;
- Section 7, PCA (increase of maximum penalty in cases where the offence related to a contractor a proposal for a contract with the government or any department thereof or with any public body or a subcontract to execute any work comprised in such a contract) – a fine not exceeding SGD100,000 or imprisonment not exceeding seven years, or both;
- Section 11, PCA – a fine not exceeding SGD100,000 or imprisonment not exceeding seven years, or both; and
- Section 12, PCA – a fine not exceeding SGD100,000 or imprisonment not exceeding seven years, or both.

In addition, where the offender has received a bribe, under Section 13 of the PCA, the court may order the person to pay a penalty equivalent to the amount of gratification received, in addition to the penalties stipulated above.

5.2 Guidelines Applicable to the Assessment of Penalties

In PP v Tan Kok Ming Michael [2019] 5 SLR 926, the High Court of Singapore (now the General Division of the High Court of Singapore) held that the main overarching sentencing considerations in corruption cases are deterrence and retribution (at [99]).

Further, in Takaaki Masui v PP [2020] SGHC 265, the High Court also observed that there were four broad categories of corruption under the general offences set out in Sections 5, 6 and 7 of the PCA.

- Category 1 – corruption in the public sector which involves government servants or officers of public bodies. A custodial sentence is the norm for such cases in the light of the strong public interest in stamping out corruption in the public sector.
- Category 2 – corruption in the private sector which engages the public service rationale. For clarity, this refers to the "public interest in preventing a loss of confidence in Singapore's public administration". This sentencing principle is presumed to apply in cases of public sector corruption but has been extended to cases where private agents handle public money, supply public services or are involved in government contracts. This category also includes private sector offences that concern regulatory or oversight roles such a marine surveying. In such cases, a custodial sentence is often the norm.
- Category 3 – corruption in the private sector which does not engage the public service rationale, ie, private sector agents performing purely commercial functions. While there is no norm in favour of non-custodial sentences in such cases, the general trend indicates that where private sector agents performing purely commercial functions are concerned, offences which register a lower level of overall

criminal culpability may be dealt with through the imposition of fines. However, whether or not the custody threshold is breached will depend greatly on the specific nature of corruption.
- Category 4 – corruption cases for which there are established sentencing guidelines. This is an open category that has been included to accommodate any present and future judgments that provide sentencing guidelines tailored to a specific type of fact scenario. At present, the only types of cases falling within this category are: (a) those relating to sports-betting and match-fixing; and (b) cases involving offenders prosecuted under Section 6 read with Section 7 of the PCA.

Nonetheless, these are not immutable or fixed categories. There are no prescribed sentencing formulae, and the issue of sentencing in corruption cases will often turn on the specific facts of each case.

6. COMPLIANCE AND DISCLOSURE

6.1 National Legislation and Duties to Prevent Corruption

There are no statutorily mandated compliance programmes.

However, in 2017, Singapore introduced both the Singapore Standard (SS) ISO 37001 on anti-bribery management systems, and published PACT – the CPIB's Practical Anti-Corruption Guide for Businesses in Singapore (see **1.3 Guidelines for the Interpretation and Enforcement of National Legislation**).

6.2 Disclosure of Violations of Anti-bribery and Anti-corruption Provisions

Under Section 424 of Criminal Procedure Code (CPC), individuals are obliged to report the commission or the intention of any other person to commit certain offences under the PC. These offences include some offences under the PC which relate to the corruption of public servants (ie, offences under Sections 161 to 164 of the PC).

The PCA itself, however, does not criminalise a person's failure to disclose violations of anti-bribery and anti-corruption provisions at the outset. That said, Section 27 of the PCA obliges an individual or company required by the CPIB to give information on any subject of inquiry by the CPIB.

In addition, under Section 39 of the CDSA, individuals and companies may be liable for failing to report a suspicion that any property represents the proceeds of, or was used in connection with, any criminal offence.

6.3 Protection Afforded to Whistle-Blowers

There is currently no specific omnibus legislation to provide protection to whistle-blowers in Singapore.

However, some protection is offered by the PCA – in particular, Section 36 of the PCA renders any complaints under the PCA inadmissible as evidence in any civil or criminal proceedings. Further, no witness is obliged or permitted to disclose the name or address of any informer, or state any matter which might lead to their discovery.

There is growing pressure for the introduction of such specific legislation.

6.4 Incentives for Whistle-Blowers

There are no specific legislative provisions that provide for incentives for whistle-blowers. Nonetheless, if criminal charges are brought against a whistle-blower, the Singapore courts may poten-

tially give mitigating weight to the fact that the whistle-blower voluntarily gave information to the authorities at the outset.

6.5 Location of Relevant Provisions Regarding Whistle-Blowing

See **6.3 Protection Afforded to Whistle-Blowers**.

7. ENFORCEMENT

7.1 Enforcement of Anti-bribery and Anti-corruption Laws

Both criminal and civil enforcement are statutorily provided for under the PCA.

Criminal Enforcement

Offences under the PCA (for example, those set out in Sections 5-7 of the PCA) are punishable by imprisonment, fines or both (see **5.1 Penalties on Conviction**).

Based on statistics released in 2020, the CPIB received approximately 350 to 475 corruption-related complaints each year from 2015 to 2019. These same statistics showed that the CPIB handled between 103 and 132 corruption related investigations per year from 2015-19.

Based on these statistics, cases involving private sector individuals continued to form the majority, or 90%, of all the new cases registered for investigation by the CPIB in 2019. Of these, 10% involved public sector employees rejecting bribes offered by private sector individuals. The proportion of public sector cases remained low, accounting for 10% of all cases registered for investigation in 2019.

Civil Enforcement

As for civil enforcement, pursuant to Section 14 of the PCA, where a bribe has been given by any person to an agent, the agent's principal may recover the value of the bribe as a civil debt. This would allow, for example, a company to seek damages from a former director or employee who paid corrupt payments on account of their dealings on behalf of the company. Any such civil liability would be in addition to any penalty or fine imposed as part of a criminal sentence.

In addition to the civil recovery proceedings permitted by the PCA, other types of civil actions are available. For example, in certain circumstances, it is possible for a company to bring a civil action for conspiracy against its employee(s) who orchestrated and/or participated in the giving/receiving of bribes.

7.2 Enforcement Body

The CPIB is the agency responsible for the investigation and prevention of corruption in Singapore. The Attorney General's Chambers (AGC) is the agency responsible for the prosecution of offences.

7.3 Process of Application for Documentation

Under Section 17 of the PCA, the director or a special investigator of the CPIB may, without the order of the public prosecutor, exercise all or any of the powers in relation to police investigations that are provided for under the CPC. Such powers include the powers of search and seizure as well as the power to examine witnesses.

7.4 Discretion for Mitigation

The Attorney General has the power, exercisable at their direction, to institute, conduct or discontinue any proceedings for any criminal offence. This is provided for in Article 35(8) of the Constitution of the Republic of Singapore and Section 11 of the CPC.

Accordingly, the AGC has unfettered discretion to extend any plea or sentencing offer to the offender concerned. The same would apply

to any plea or sentencing agreement arrived at subsequent to negotiations with the offender or their legal counsel.

There are no published or standard guidelines on the factors that may be taken into account by the AGC in such offers or negotiations.

One of the fairly recent introductions in enforcement is the DPA regime. As stated at **1.4 Recent Key Amendments to National Legislation**, a DPA is a voluntary alternative in which a prosecutor agrees to grant amnesty in exchange for a defendant agreeing to fulfil certain requirements and specific conditions, such as, for example, implementing compliance programmes, and/or co-operating in investigations into wrongdoing by individuals.

For now, there are no publicly available prosecution guidelines on when the AGC will enter into a DPA with a corporate entity, and it remains to be seen how the DPA regime will affect trends in investigations. Nonetheless, this is a new option that the AGC can consider in exercising its prosecutorial discretion.

However, the introduction of DPAs in Singapore may be an indication of an increased focus on corporate entities by the Singapore government. This is since the Singapore Ministry of Law stated that the DPA regime serves two main purposes: (i) to encourage corporate reform to prevent future offending, and (ii) to facilitate investigations into wrongdoing both by the company and by individuals.

7.5 Jurisdictional Reach of the Body/Bodies

The CPIB can investigate offences committed by any person within Singapore. For Singaporean citizens, the CPIB is empowered, by virtue of Section 37 of the PCA, to investigate offences committed outside Singapore.

Where offences committed outside of Singapore are concerned, the CPIB can potentially work together with the relevant jurisdiction to investigate the matter. In this regard, the Mutual Assistance in Criminal Matters Act, Chapter 65A, provides that Singapore may, in some circumstances, request legal assistance from a foreign country. Such assistance includes the taking of evidence, search and seizure, and locating or identifying persons of interest.

7.6 Recent Landmark Investigations or Decisions involving Bribery or Corruption

One of the most noteworthy decisions was the High Court's decision in Takaaki Masui v PP [2020] SGHC 265. That matter concerned one of Singapore's largest private sector corruption cases to date. In that case, the two accused persons were convicted of conspiring to obtain nearly SGD2 million in bribes from a flour distributor.

The High Court's decision was noteworthy not simply because of the magnitude of bribes involved: it was also noteworthy because the High Court laid down a novel sentencing framework for what it termed as "purely private sector corruption". This was the first time that the High Court attempted to lay down any sentencing framework in such a context.

7.7 Level of Sanctions Imposed

The courts determine each case on its unique facts, taking into account a myriad of factors. Amongst other things, the Courts will take into account the offender's level of culpability, as well as the harm caused by the act.

8. REVIEW

8.1 Assessment of the Applicable Enforced Legislation

The CPIB publishes an annual report which, amongst other things, highlights the key developments and trends in Singapore for the previous year in the field of anti-corruption.

In its 2020 annual report, the CPIB determined that the corruption situation in Singapore remained firmly under control. The CPIB revealed that it had received only 239 corruption-related reports in 2020, the lowest number of such reports in five years. Private-sector cases continued to form the majority (86%) of all cases registered for investigation in 2020.

The report also highlighted that public perception of the effectiveness of corruption control efforts in Singapore had improved from 92% in 2018 to 94% in 2020. Internationally, Singapore's anti-corruption efforts continue to be well-regarded, with the Transparency International ranking Singapore third out of 180 countries in its 2020 Corruptions Perceptions Index.

8.2 Likely Changes to the Applicable Legislation of the Enforcement Body

There have not been any recent announcements regarding changes to the relevant legislation or to the CPIB. Nonetheless, it can expected that the CPIB will need to assess its practices and protocols in light of the constantly evolving COVID-19 situation.

The COVID-19 pandemic has given rise to emerging new trends in information gathering arising from, among others, challenges relating to the availability of witnesses during the investigation process. This has required investigators and prosecutors to adopt technology to a greater degree and at an accelerated rate.

Drew & Napier LLC is well-placed to help clients navigate potential pitfalls and handle the full range of proceedings that may arise when businesses globally are increasingly being exposed to governmental and regulatory investigations and enforcement action, resulting in civil, criminal and regulatory risk. The firm is experienced in handling cross-border investigations concerning bribery, fraud, anti-money laundering, whistle-blower complaints, tax and financial services offences. These include conducting internal investigations as well as representing clients in investigations or enforcement proceedings brought by external bodies, including public and law enforcement authorities. In 2020, Drew & Napier united with some of the most influential leading law firms in Southeast Asia to form a network of blue-chip law firms - Drew Network Asia (DNA), which operates as "a firm of firms" with international perspective and strong local expertise. The investigations team is regularly instructed by multinationals and listed companies from a broad range of industries.

AUTHORS

Wendell Wong is a highly respected civil, commercial and criminal lawyer. His civil and commercial practice includes contracts and commercial disputes, shareholder and director disputes, asset recovery, medical negligence, product liability and cross-border arbitration work. His criminal practice focuses on commercial and business crime, fraud, securities, corruption, corporate governance-related offences and investigation work. Wendell regularly engages in regulatory and compliance advisory work including anti-fraud and anti-bribery investigations for multinational and listed companies. Wendell is the chair of the Criminal Practice Committee, Law Society of Singapore and a member of the Criminal Legal Aid Steering Committee, Singapore Academy of Law.

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