



<https://go.gov.sg/charities-aml-cft>

SAFEGUARD YOUR CHARITY!

All charities must understand **Money Laundering (ML) and Terrorist Financing (TF) risks** and have proper governance practices and strong internal controls to safeguard their charities.





**Charities
Lean
Forward**

A WEBINAR SERIES

STRENGTHEN YOUR CHARITIES AGAINST MONEY LAUNDERING AND TERRORIST FINANCING

2 NOVEMBER 2023 | THURSDAY

3.00PM - 5.00PM | ZOOM



JUSTICE FOR ALL

OFFICE OF THE

**COMMISSIONER
OF CHARITIES**

agenda

Opening Address

by Mr Desmond Chin, Commissioner of Charities

Sharing on Anti-Money Laundering, and Suspicious Transaction Reporting

by Ms Ou Shaoting and Mr Lim Jun Yang, SPF

Sharing on Knowing Your Legal Rights as a Charity

by Mr Danny Ong, Managing Director, Setia Law

Panel Discussion

Q&A

SHARING ON LEGAL RIGHTS OF CHARITIES

MR DANNY ONG
MANAGING DIRECTOR
SETIA LAW



2 November 2023

Knowing your legal rights as a Charity

Danny Ong, Managing Director, Setia Law LLC





Singapore

Billion-dollar money laundering case: President's Challenge got S\$350,000 in donations, ComChest received S\$30,000



Cash seized by the police on Aug 15, 2023. (Photos: Singapore Police Force)

SINGAPORE – Charities that accept donations from dubious donors can face significant legal penalties in Singapore, which may involve the freezing of their assets or confiscation of the illegal funds.

THE STRAITS TIMES

SINGAPORE

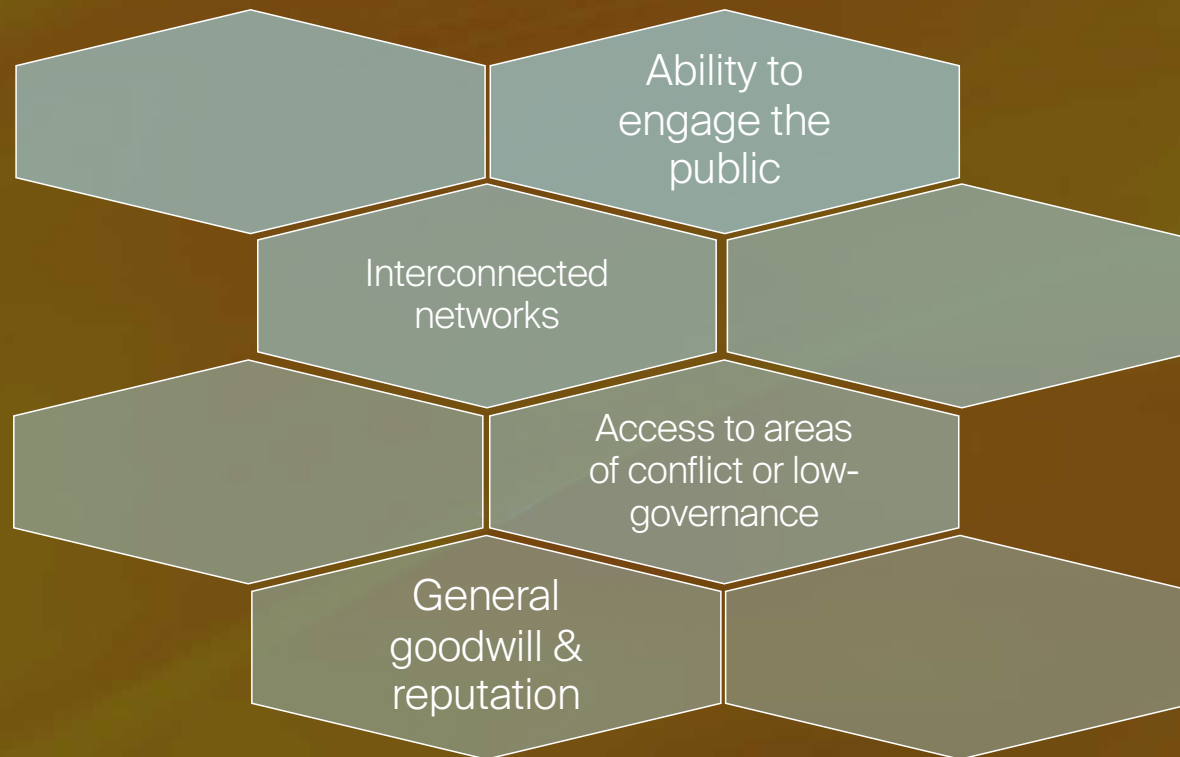
Money laundering case: Some suspects donated six-figure sums to charities



Some of the charities have ringfenced the money, while others lodged police reports and plan to surrender the cash to the police. PHOTOS: (TOP LEFT) THE STRAITS TIMES; (TOP RIGHT) THE STRAITS TIMES; (BOTTOM) THE STRAITS TIMES



Why might a charity be at particular risk?





What framework does
Singapore employ against
money laundering and
terrorism financing?



The AML framework in Singapore

Corruption, Drug Trafficking and other Serious Crimes (Confiscation of Benefits) Act 1992 (CDSA)

Obligation to report:

Duty to disclose knowledge or suspicion

45.-(1) Where a person **knows or has reasonable grounds to suspect** that any property –

- a) in whole or in part, directly or indirectly, represents the proceeds of;
- b) was used in connection with; or
- c) is intended to be used in connection with,

any act which may constitute drug dealing or criminal conduct (as the case may be) and the information or matter on which the knowledge or suspicion is based came to the person's attention **in the course of the person's trade, profession, business or employment**, the person **MUST** disclose the knowledge or suspicion or the information or other matter on which that knowledge or suspicion is based to a Suspicious Transaction Reporting Officer **as soon as is reasonably practicable** after it comes to the person's attention.

What constitutes 'criminal conduct'? – “whether in Singapore or elsewhere, any act constituting a serious offence or a foreign serious offence” (section 2)

Serious offences are in turn listed in the 2nd Schedule to the CDSA



The AML framework in Singapore

Corruption, Drug Trafficking and other Serious Crimes (Confiscation of Benefits) Act 1992 (CDSA)

Obligation not to engage in certain conduct, including:

- **Assisting another to retain benefits from criminal conduct** (section 51)
 - Where a person is part of an arrangement, knowing or having reasonable grounds to believe that the arrangements facilitates the retention or control of another person's benefits from criminal conduct
 - Sanctions:
 - Individuals – up to \$500,000 fine and/or 10 years' imprisonment
 - Entity – up to \$1 million fine or twice the value of the benefits involved, *whichever is higher*
- **Possessing or using property reasonable suspected to be benefits from criminal conduct** (section 55)
 - Where a person possesses or uses any property which may reasonable be suspected of being, in whole or in part, directly or indirectly, any benefits from criminal conduct
 - Sanctions:
 - Individuals – up to \$150,000 fine and/or 3 years' imprisonment
 - Entity – up to \$300,000 fine



The AML framework in Singapore

Corruption, Drug Trafficking and other Serious Crimes (Confiscation of Benefits) Act 1992 (CDSA)

Protective effect of lodging an STR:

- **Protection from criminal liability** (section 46)

“Where a person or an officer, employee or agent of a person, gives information under subsection (1) of section 45 as soon as practicable after having the knowledge mentioned in that subsection, the person or officer, employee or agent of the person is to be **taken, for the purposes of sections 50, 51, 53 and 54, not to have been in possession of that information at any time.**”

- ‘Report or be liable’ approach
- Statutory protection from the listed criminal offences is accorded to STR informants

- **Protection from losses; exemption from disclosure obligations** (section 5(4))

“Where a person discloses any document or information to a Suspicious Transaction Reporting Officer ...

- a) the disclosure is **not to be treated as a breach of any restriction against the disclosure** imposed by law, contract or rules of professional conduct; and
- b) the person **shall not be liable for any loss arising out of the disclosure** or any act or omission in consequence of the disclosure.”



The AML framework in Singapore

Terrorism (Suppression of Financing) Act 2002

Obligation to report:

Information about acts of terrorism financing

10.-(1) Every person in Singapore who has information which the person **knows or believes may be of material assistance** –

- a) in **preventing the commission** by another person of a **terrorism financing offence**; or
- b) in securing the **apprehension, prosecution or conviction** of another person, in Singapore, for an offence involving the commission, preparation or instigation of a terrorism financing offence,

who fails to disclose the information **immediately** to a police officer shall be guilty of an offence.

Sanctions:

- Individual – up to \$50,000 fine and/or 5 years' imprisonment, *or*, **if the information came to the person's attention in the course of his/her trade, profession, business or employment**, up to \$250,000 fine and/or 5 years' imprisonment
- Entity – up to \$1 million fine, *or*, where a terrorism financing offence was committed, twice the value of the property, service or transaction financed,



The AML framework in Singapore

Terrorism (Suppression of Financing) Act 2002

Obligation not to engage in certain conduct, including:

- **Providing property and services for terrorist purposes** (section 4)
 - Directly or indirectly collecting, providing, or making available property, financial or related services
 - Intending, knowing or having reasonable grounds to believe that this is for the purpose of facilitating or carrying out a terrorist act, or for the benefit of anyone facilitating or carrying out a terrorist act, or of any terrorist or terrorist entity
- **Using or possessing property for terrorist purposes** (section 5)
 - Possessing property intending that it be used or knowing or having reasonable grounds to believe that it will be used, directly or indirectly, in whole or in part, for the purpose of facilitating or carrying out a terrorist act
- **Dealing with property of terrorists** (section 6)
 - Dealing, directly or indirectly, in any property which one knows or has reasonable grounds to believe is owned or controlled by or on behalf of any terrorist entity, including funds derived from such property
- **Sanctions:**
 - Individual – up to \$500,000 fine and/or 10 years' imprisonment
 - Entity – up to \$1 million fine and/or twice the value of the property involved, *whichever is higher*



Practical takeaways for operating as a charity



What are some red flags?

01

Mismatch

Is there a mismatch between a donor's name and the payor's name?

E.g., has the donation been made in the name of an individual, but the payment come from a corporate bank account?

03

Unrelated payor

Has payment come in from an individual with no apparent relation to the declared donor?

02

'Smurfing'

Has a large donation been broken down into multiple different, smaller sums of money?

04

Large-sum cash

Has an exceptionally large donation been made via cash?



Practical steps

What can you do?

01

Verify the source of funds

You are entitled to ask for verification to your own satisfaction.

02

Open-source searches

Has there been adverse news against the donor?

03

Verify source of wealth

Does the donation appear incommensurate with the donor's wealth, income or known business activity?

04

File an STR

If there is suspicion or doubt, it does not hurt to file an STR.



STR reporting is confidential.

The information provided by you, and your identity, will not be disclosed.

You will not be liable for any loss arising out of the disclosure or in consequence thereof (section 5(4) of the CDSA).



Information and identity of informers not to be disclosed

CDSA

47.—(1) Except as provided in subsection (3) —

- (a) information disclosed by an informer must not be admitted in evidence in any civil or criminal proceedings; and
- (b) no witness in any civil or criminal proceedings is obliged —
 - (i) to disclose the name and address of any informer; or
 - (ii) to answer any question if the answer thereto would lead, or would tend to lead, to the discovery of the name or address of the informer.

TSOFA

Information and identity of informers not to be disclosed

10A.—(1) Except as provided in subsection (3) —

- (a) no information disclosed by an informer pursuant to section 8, 9 or 10 is to be admitted in evidence in any criminal or civil proceedings; and
- (b) no witness in any criminal or civil proceedings is obliged —
 - (i) to disclose the name and address of any informer; or
 - (ii) to answer any question if the answer would lead, or would tend to lead, to the discovery of the name or address of the informer.



Rights and obligations

What should you do if you are involved in an investigation?



Rights and exposure

When might you be liable and to whom?



Assuming monies received are later found to be the proceeds of crime...





Donations by your charity?

Third party risks; monitoring partners
and vendors for compliance

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Speaker



Mr Danny Ong
Managing Director
Setia Law

Panellist



Mr Dennis Lee
Partner & Industry Lead
RSM Singapore

Panellist



Mr Benjamin Jeyaraj William
Secretary General and CEO
Singapore Red Cross

Moderator



Ms Regana Mydin
Manager, Learning & Development
Rajah & Tann Academy

OVERVIEW



SCENARIO 1

The Lims are owners of a very lucrative online art platform. Known for their high-profile charity donations, the Lims have established a reputation as philanthropic art patrons, contributing generously to various charities and cultural institutions across the country.

Over the years, the couple has been donating large sums of monies to Charity A & Charity B.

Recently, the charities have noticed peculiar patterns in the couple's donations such as donations of assets, raising some concerns amongst the members of the board.

Both Charity A & B are not sure what to do and they do not want to offend the Lims as they have been very generous to them over the years.



SCENARIO 2

Charity C, a modest / small non-profit organisation in Singapore and recent was surprised and grateful when they receive a substantial donation from an anonymous benefactor who insists on contributing only to the form of cryptocurrency and does not wish for a tax-deduction receipt.

The charity, with limited resources and expertise, appreciates the generosity but with the sudden donation of digital assets, raises concerns within the management of the Charity and they are not sure if they should accept the donation.



SCENARIO 3

A multinational corporation, Wingspan Group has been donating regularly to Charity D.

Charity D has been allocating the incoming donations to various outreach programmes & disbursements over the years.

Recently, the Chairman of the Wingspan Group has been called up in relation to money laundering activities.

This immediately triggers concerns about the legitimacy of the past donations.

Charity D is unsure what to do and is now faced with a dilemma as they are not sure if they should keep the donation, return it, or report it.



Q&A



key takeaways





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If your charity needs legal advice, please
email us at AssistNPOs@probono.sg

THANK YOU!