

## Securing the recovery and disgorgement of criminal proceeds in Singapore: Challenges and Innovations

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### A. Introduction

1. Distinguished speakers, ladies and gentlemen, good morning.
2. In 2021, around US\$55.3 billion was lost to scams worldwide.<sup>1</sup> This is a 15.7% increase from the number in 2020, which itself was an eye-watering figure of US\$47.8 billion.<sup>2</sup>
3. Like the rest of the world, Singapore has not been spared. We have seen an acute and worrying upward trend in the number of scam cases and the amount lost to scams. In 2022, there were 31,728 scam reports in Singapore, and S\$660.7 million (approx. US\$485 million) lost to scams. These numbers are at all-time highs, and are also significant increases from the numbers in the preceding years.
4. Against this backdrop, I will speak on two broad areas in my presentation:

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<sup>1</sup> “\$77b lost to scams worldwide in 2021 – up 16% from previous year”, The Straits Times (9 Nov 2022), available online at: <https://www.straitstimes.com/singapore/774-billion-lost-to-scams-worldwide-in-2021-says-global-summit-on-scams> (accessed on 26 July 2023).

<sup>2</sup> *Ibid.*

- (a) First, I will explain some of the challenges faced in prosecuting scams we have faced in Singapore and the difficulties in tracing and recovering criminal proceeds. In this regard, I will speak briefly about one of Singapore's recent innovations in tackling the scourge of scams, namely, the Anti-Scam Command spearheaded by the Singapore Police Force.
  
- (b) Secondly, I will outline some of the legislative tools we use in Singapore to seize and recover proceeds of crime in various situations from pre-conviction to post-conviction.

**B. Challenges in prosecuting scams and difficulties in tracing and recovering criminal proceeds**

- 5. One of our challenges in prosecuting online scams relates to the traditional definition of property. With new technologies, non-traditional assets like cryptocurrencies are increasingly used to launder the benefits of online scams. They are being used to facilitate the concealment and dissipation of criminal proceeds. The traditional definitions of "property" at common law and in many penal statutes do not contemplate modern innovations such as cryptocurrencies and other crypto-assets. There are challenges not only with prosecuting offences involving such modern forms of property, but also with seizing and dealing with such proceeds from crimes.

6. To address these issues, Singapore has updated the definition of property in 2020 to include “virtual currency”, which is defined as a “*digital representation of value in money or money’s worth that can be digitally traded and functions as a medium of exchange, a unit of account or store of value, regardless of whether it is legal tender*”<sup>3</sup>. This broad definition avoids the constraints in the traditional definition of property and facilitates the effective seizure and disgorgement of proceeds of crime.

### **C. The Anti-Scam Command**

7. We are all familiar with the difficulties in seizing and recovering the proceeds of scams which are often swiftly dissipated before law enforcement agencies can get the critical information from financial institutions about the flow of funds and then take the necessary action. Let me share with you the initiatives of Singapore’s Anti-Scam Command in tackling these issues.
8. The Anti-Scam Command was operationalised in March 2022 to integrate and synergise the efforts of the various scam-fighting units of the Singapore Police Force. This strategy of establishing a specialised unit to coordinate nationwide efforts to tackle the escalating problem of scams is also seen in many jurisdictions: for example, Hong Kong’s Anti-Deception Coordination Centre, Malaysia’s National Scam Response Centre, the Australian Cyber Security

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<sup>3</sup> Section 22 of the Penal Code 1871.

Centre, US Elder Fraud Strike Force, China's National Anti-Fraud Centre, and more recently the UK Government's plan to set up a National Fraud Squad to work alongside the Serious Fraud Office<sup>4</sup>. Within Interpol, the Financial Crime and Anti-Corruption Centre coordinates international efforts to combat fraud, scams, money laundering, and corruption through preventive efforts, for example, using Interpol notices to raise awareness of crime trends, training and enforcement efforts, providing analytical insights to member countries, and also assistance in intercepting cross-border payments.

9. The Anti-Scam Command in Singapore partners more than 90 institutions in the fight against scams, including local and foreign banks, fintech companies and cryptocurrency-related service providers in Singapore. By direct communication channels, the Anti-Scam Command and its partners work closely to swiftly freeze and recover the proceeds of scams. This is one of many public and private partnerships that have been increasingly deployed by many countries to combat scams and financial crime. Other examples include Hong Kong's bank to bank sharing platform<sup>5</sup> which they have called Financial Intelligence Evaluation Sharing Tool or "FINEST", and Malaysia's National Scam Response Centre, both of which seek to provide quick responses to tracking and blocking stolen funds, facilitate easier reporting of scams, and assist in effective enforcement actions.

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<sup>4</sup> Fraud Strategy: Stopping Scams and Protecting the Public (2023), presented to Parliament by the Secretary of State for the Home Department. available at [www.gov.uk/official-documents](http://www.gov.uk/official-documents)

<sup>5</sup> HK Bank-to-bank Information Sharing Platform to Launch in June (27 April 2023), available online at [www.regulationasia.com](http://www.regulationasia.com) (last accessed on 16 August 2023)

10. Of particular importance for us in Singapore is the placement of some bank officers at the premises of Anti-Scam Command centre. These bank officers are representatives from six major banks in Singapore. This has enhanced real-time coordination with the Police in investigative efforts, tracing the flow of funds, and freezing bank accounts suspected to be involved in the operations of scammers. Since the co-location, proactive fund flow tracing has led to an improved seizure rate. In 2022, Anti-Scam Command froze more than 16,700 bank accounts and about 27% of the amount lost by victims, amounting to about S\$146.6 million (US\$107.34m), has been recovered. This initiative is in line with similar efforts by law enforcement agencies in China to increase collaboration with the domestic banking industry to combat scams. We understand that Hong Kong is also considering<sup>6</sup> co-locating bank staff with its Anti-Deception Coordination Centre.
  
11. Beyond local collaborations, the Anti-Scam Command works with foreign law enforcement agencies such as the Royal Malaysian Police and Interpol to conduct joint investigations and operations against transnational scams. In 2022, the Singapore Police Force and its foreign counterparts successfully dismantled 13 scam syndicates, including 6 job scam syndicates, 3 China Officials Impersonation scam syndicates, 2 phishing scam syndicates, and 2 internet love

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<sup>6</sup> *ibid*

scam syndicates, leading to the arrest of more than 70 persons who featured in almost 300 cases.

**D. Singapore's legislative tools to deal with benefits of criminal conduct**

12. Legislation will be used by most countries to provide the mechanism which allow law enforcement to act against criminals and their associates who seek to retain the benefit of criminal conduct. I am sure that countries all over the world have the same or similar statutory levers, but allow me to outline some of those we have under Singapore law to seize and disgorge benefits from crime in various situations:

- (a) Seizure: The Police may seize, or prohibit the disposal or dealing of, any property in respect of which an offence is suspected to have been committed.<sup>7</sup> The Police take a pragmatic approach when it comes to preserving and realising the value of seized assets. This often entails working with victims, defendants, and other stakeholders to develop workable arrangements to dispose of seized assets before trial, to preserve the value of assets, and to reduce the need and expense for the upkeep of such assets. This approach has guided the way in which the Police deal

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<sup>7</sup> Section 35(1)(a) of the Criminal Procedure Code 2010.

with seized assets that have fluctuating values such as cryptocurrencies, or that may be fast depreciating such as motor vehicles.

- (b) Disposal of seized property without trial: In certain circumstances, the Court has the power to dispose of seized properties even where no prosecution has been initiated or even if such properties have not yet been produced in criminal proceedings.<sup>8</sup> For example, funds seized from online scams may be ordered by the court to be released to the victims, even where there is no prosecution because the perpetrators are overseas or cannot be identified.
  
- (c) Disposal of seized property during or after trial: The Court also has the power to make orders for the disposal of seized properties produced before a criminal court during or after any trial.<sup>9</sup>
  
- (d) Restraint, charging, and confiscation orders in respect of benefits of criminal conduct: The Court may impose restraint and charging orders<sup>10</sup> to prevent the dissipation of accused persons' benefits from criminal conduct pending confiscation, in a variety of serious offences including corruption and drug trafficking. When making a confiscation order against an accused person who is convicted of a serious offence and who is found to

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<sup>8</sup> Sections 370 to 372 of the Criminal Procedure Code 2010.

<sup>9</sup> Section 364 of the Criminal Procedure Code 2010.

<sup>10</sup> Sections 18 to 21 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992.

have obtained benefits from criminal conduct, the Court may rely on a concealed income analysis to assess the value of the accused persons' benefits from criminal conduct<sup>11</sup> and to determine the amount to be confiscated. The principle behind the concealed income analysis is similar to the recently introduced Unexplained Wealth Orders<sup>12</sup> (UWO) in the UK, Ireland and Australia. An UWO may be made by the court if it is satisfied that there are reasonable grounds for suspecting that a defendant's known sources of lawfully obtained income are not sufficient for the defendant to obtain a property that is the subject of the UWO or that there are reasonable grounds to suspect that the property has been obtained through unlawful conduct<sup>13</sup>.

- (e) Non-conviction-based confiscation orders: In cases involving organised crime, the Court is empowered to make confiscation orders against an accused person without requiring a conviction for the organised crime related offences.<sup>14</sup> The prosecution need only prove on a balance of probabilities that the subject has carried out organised crime activity and the subject has derived benefits from the organised crime activity. To prove that the subject has derived benefits from the organised crime activity, the prosecution can rely on a concealed income analysis. In

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<sup>11</sup> Section 11 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992.

<sup>12</sup> Unexplained Wealth Orders, (Ali Shalchi, 14 April 2022) House of Commons Library

<sup>13</sup> *Ibid* at page 12

<sup>14</sup> Sections 29 and 30 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992; see also section 62 of the Organised Crime Act 2015.



cases involving other serious offences, and the accused person has absconded or died prior to conviction, or even before criminal charges can be brought, the Court can make a confiscation order, if there is a prima facie case that the serious offence can be made out on the evidence.

- (f) Enforcement of foreign confiscation orders: Courts in Singapore may also enforce foreign confiscation orders under the Mutual Assistance in Criminal Matters Act 2000. Under this Act, any foreign country may request Singapore to assist in enforcing foreign confiscation orders or in restraining property pending such confiscation orders being made at a later stage. All that is required is an undertaking of reciprocity. There is no requirement for there to be an existing treaty with Singapore on mutual legal assistance.

13. This broad range of legislative powers provides prosecutors in Singapore with the appropriate tools to effectively seize and recover the benefits of crime, depending on the prevailing circumstances of each case.

## **E. Conclusion**

14. The proliferation of scams globally, while of concern, is but one of the many challenges faced by prosecution agencies around the world. Impeding and disgorging the fruits of such crimes from criminals through innovative methods,

close collaboration with local and international partners, and the appropriate legislative tools, will go a long way in deterring criminals and their syndicates from engaging in criminal activity.

15. It is therefore important that prosecutors and other law enforcement officials from different countries and systems meet, as we do here today, to discuss, better understand, and learn from each other, how we can tackle the challenges we face in the seizure and disgorgement of benefits from criminal conduct.
  
16. Thank you.