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Greater AML vigilance needed by Singapore bankers and fund managers, say officials

Nov 03 2011 Ajay Shamdasani in Hong Kong

More vigilance is required by Singapore's bankers and fund managers regarding money-laundering risks. In a recent speech Ravi Menon, managing director of the Monetary Authority of Singapore (MAS), the city-state's central bank said that the Lion City would consider augmenting its anti-money laundering (AML) and counter-terrorism financing (CTF) regime, and raising penalties for non-compliant banking and financial institutions.

Singapore also plans to pre-emptively toughen tax evasion rules and criminalise laundering the proceeds of tax offences, said Menon last week, at an event organised by the Wealth Management Institute. Doing so would put the city on a par with regional rival Hong Kong, where tax evasion was already a money-laundering offence.

According to Edmund Leow, a tax attorney with law firm Baker & McKenzie Wong & Leow in Singapore, Menon's speech made clear the Singapore government did not want foreign tax evaders to use the city as a safe haven to stash undeclared funds. "Compliance officers and in-house counsel will need to be increasingly vigilant. There are already anti-money laundering rules, which are being implemented," he said.

Leow added that although tax evasion was not a money-laundering offence in Singapore — meaning banks did not have to report when receiving funds representing the proceeds of foreign tax evasion — once the above changes were implemented, banks would need to be cautious by probing whether incoming funds arose from tax evasion. "It means that [banking and financial institutions] will need to question their clients more closely and they cannot ignore these issues anymore," he said.

The policy rationale is aimed at dissuading foreigners from channelling tax-evasion funds into the city-state's financial system. A decision is likely by February 2012 and MAS will conduct public consultations before implementation. This development also comports with the government goal of aligning its regulatory apparatus with new requirements established by the Financial Action Task Force (FATF), the Paris-based organisation that set standards for AML and CTF compliance.

Regional strength

Jay Jhaveri, World-Check's Asia head in Singapore, told Thomson Reuters: "Simply put, greater vigilance is needed by banking and financial institutions and their in-house lawyers and compliance staff, because Singapore is poised to be the finance and asset management hub for Southeast Asia, if not all of Asia. That puts the onus on financial institutions and

rightly so; they cannot just reap the rewards of greater [regional] economic activity and none of the obligations, which includes being cognizant of money-laundering risks."

The Lion City purportedly has the highest proportion of global millionaires and was criticised in a U.S. State Department report this past March as being vulnerable to money laundering.

Menon stressed that violators imperilling Singapore's good name as a financial hub centre would face stiff consequences.

"We will ensure that financial crime does not pay in Singapore and those who jeopardise Singapore's hard-earned reputation as a financial centre of integrity face severe consequences," he said, adding, "Singapore is sending a clear message that it neither wants nor will tolerate these illicit inflows."

Perception could quickly become reality, however. Speaking on condition of anonymity, one Singapore-trained attorney with a U.S. law firm in Hong Kong told Thomson Reuters: "Singapore has in recent years faced reputational challenges for money-laundering issues, which may be unwarranted. The last time I checked, the CIA World Factbook mentioned Singapore as an important Asian centre for money laundering."

The Singaporean asset management industry has grown five-fold since 2001 to $1.2 trillion. But to calm alarmists Menon stressed: "Tales of large inflows of funds from Europe into Singapore are vastly exaggerated."

He added that the city's private banking sector growth was spawned by wealth created from Asia's resilient economic growth. Singapore's economy grew 14.5 percent last year, buoyed by the construction and opening of two new casino resorts, the Marina Bay Sands and Resorts World Sentosa.

Apart from banking and hospitality, the city-state has actively positioned itself as the lead centre for Southeast Asian economic activity in critical areas such as arbitration, maritime facilities and logistics.

According to Baker & McKenzie Wong & Leow's Leow, the country's existing legislation already has penalties for non-compliance with AML rules. These ranged from seven years imprisonment for individuals to S$1 million ($785,507) in fines for companies.

Severe penalties

"Penalties on bankers are pretty severe here," said Jhaveri, noting that if a banker tipped off the subject of a money-laundering investigation, they could face fines of between S$500,000 to S$700,000. "It's true that the fines alone may be less than their bonuses, but that coupled with the fear of incarceration keeps bankers in line," Jhaveri said.

Similarly, Hue Dang, head of the Association of Certified Anti-Money Laundering Specialists (ACAMS) Asia in Hong Kong, pointed out that such increased focus on penalties meant more resources were required for legal and compliance departments.

The Lion City is potentially attractive for money launderers and tax evaders, because foreigners enjoy no taxes on capital gains from investments such as equities and interest earned on bank deposits. Singapore was taken off the Organisation of Economic Co-operation and Development's (OECD) grey list in 2009 and has committed to meeting international standards.

According to Leow, with the global trend towards transparency, many countries around the world are clamping down on tax evaders. "This means increasing scrutiny on taxpayers placing funds offshore, relying on banking secrecy. So to protect its reputation, Singapore has to make clear that it will not be a haven for such undeclared funds," he said.

To that end, Singapore will also raise enforcement resources to deal with suspicious transactions reported by financial institutions. For example, Menon revealed that the Commercial Affairs Department, Singapore's white-collar crime unit, would see manpower doubled at the Suspicious Transaction Reporting Office, and enhanced analytical and reporting systems to keep tabs on suspicious financial transactions, and detect criminal activity and illegal monies.

The central bank had previously conducted on-site inspections at financial institutions to ensure that AML and CTF rules were observed and had warned and reprimanded non-compliant financial institutions in writing, Menon said. A few entities were required to hire external consultants, while in even scarcer cases, MAS had asked for the replacement of senior management.

Menon added that the central bank would also consider boosting its supervisory scrutiny and punishment of institutions that consistently breached regulations. Moreover, MAS will review the Banking Act as cross-border trade evolved.

"MAS is reviewing whether we need to increase our supervisory intensity and is considering if we should make public sanctions against persistently or egregiously errant institutions," he said.

Restating position

But World-Check's Jhaveri did not think Menon's statement heralded that the Lion City would enact new money-laundering legislation, but that rather, his comments were simply a reiteration that Singapore was serious about fighting financial crime.

"There will be no new [AML] legislation, they are just reinforcing existing legislation and statements about that legislation. Singapore is such an important financial hub, so if people hide the proceeds of financial crime, the system will take individuals and institutions to task for not doing their due diligence on the sources of those laundered funds," Jhaveri explained.

Similarly, ACAMS's Dang did not think increased penalties were a reflection of increased money-laundering activities in Singapore, but more of a reflection of general development in regional AML legislative trends. For example, Hong Kong's Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (AMLO) was set to come into

effect next year, and a new AML law was enacted in Indonesia last December, and Thailand's third amendment to its Anti-Money Laundering Act (AMLA) coming in July 2009.

"The force of any AML regulation is its enforcement mechanism, which is reflected in the seriousness of its penalties — both financial and criminal — in cases of violations," Dang said.

Menon's remarks came roughly a month after Singapore Attorney General Sundaresh Menon stated he would seek harsher penalties for white-collar criminals and cooperate more with global agencies to deter tax evasion and money laundering. The city-state was also considering use of deferred prosecution, the attorney general pointed out, referring to a frequently used tactic by U.S. prosecutors whereby defendants agreeing to pay fines, cooperate with investigators or implement reforms within their businesses or organisations, had charges against them dismissed for full compliance.

Money-laundering convictions in Singapore rose to an average of 21 a year from 2008 to 2010. That is in sharp contrast with the four that occurred between 2000 and 2007, according to the FATF. In comparison, Hong Kong had 360 money laundering convictions last year compared to 179 in 2007, more than 100 percent increase in three years.

MAS's Menon concluded that the central bank would continue to work with market participants and was targeting all new entrants in the management industry to obtain the requisite certifications in three years' time.

Jacqueline Chui Ngoh Ong, an MAS spokeswoman, said that the central bank had no further comment because specifics had yet to be finalised.