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The Role of Enforcement in MAS' Oversight of the Financial Sector

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As the integrated regulator and supervisor of the financial industry, MAS strives to foster a sound and reputable financial centre, and to promote financial stability. MAS' enforcement function plays a key role in achieving this objective.

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MAS' enforcement function safeguards the integrity of the financial sector through the early detection of misconduct, effective deterrence, and shaping business and market conduct.

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MAS works closely with our supervisory departments and other law enforcement agencies and stakeholders, including the Commercial Affairs Department ("CAD"), the Attorney-General's Chambers ("AGC") and the Self-Regulatory Organisations ("SROs"), to ensure that breaches of MAS-administered laws and regulations are swiftly detected, thoroughly investigated and effectively addressed.

1 Detection

The first element of MAS' approach to enforcement is the early detection of breaches.

Early detection allows MAS to promptly take the necessary actions to disrupt or remediate the breach, before the breach escalates and results in systemic adverse consequences.

Having multiple channels for gathering intelligence and information helps MAS to detect breaches early. The channels include the following:

a. market surveillance of trading activities
b. intelligence received through the Suspicious Transaction Reporting Office ("STRO");
c. misconduct reporting by financial institutions; and
d. consumer feedback and public complaints.

2 Investigation

MAS carefully considers how to respond to all potential breaches of the law. Formal investigation of a case is taken after careful consideration of a range of factors, which include:

a. the seriousness of the misconduct, including the extent of harm or loss caused by the misconduct;
b. the public interest in pursuing the misconduct; and
c. the availability of evidence required to prove the misconduct.

MAS enforcement officers are gazetted as Commercial Affairs Officers under the Police Force Act and have criminal investigation powers under the Criminal Procedure Code ("CPC") to jointly investigate all offences under the Securities and Futures Act ("SFA") and the Financial Advisers Act ("FAA") with the CAD.

Besides criminal investigation powers, MAS may also exercise statutory investigation powers that are specifically provided under the laws which it administers such as the SFA, FAA, Banking Act and Insurance Act.

3 Enforcement Actions

After investigations are completed, MAS assesses if the evidence is sufficient to take an enforcement action, and if so, the type of enforcement action to take, such as:

CRIMINAL PROSECUTION

MAS refers criminal offences under the SFA, FAA and other MAS-administered laws to the AGC for prosecution in court.

MAS will not hesitate, where appropriate, to seek stiff imprisonment terms or fines for serious offences that have been referred to the AGC for criminal prosecution.

CIVIL PENALTY ACTION

MAS has the power to seek civil penalties for certain offences. The civil penalty regime is designed to complement criminal sanctions and provide an alternative tool to combat market misconduct.

In a civil penalty action, the contravention only needs to be proven on a balance of probabilities, which is a lower threshold than the criminal standard of proving beyond a reasonable doubt.

PROHIBITION ORDERS

In serious cases of misconduct, MAS may issue prohibition orders to bar persons from re-entering the financial industry.

The prohibition order is an effective tool to protect the wider financial industry, by keeping out "bad apples" and deterring others from engaging in similar misconduct. MAS determines the duration of the prohibition order based on the facts and circumstances of each case.

FINANCIAL COMPOSITIONS

MAS may make offers of composition to offenders, under which offenders may pay a financial penalty in lieu of court prosecution for prescribed offences.

MAS considers various factors, including the seriousness of the breach and any remediation by the offender, in determining whether to offer composition and the amount of the composition sum.

In selecting the type of enforcement action to apply, MAS takes into account the full range of facts and circumstances of each case, including the harm caused by the breach, the culpability of the offender, the compliance record of the offender, the degree of cooperation shown, and any other relevant facts. MAS calibrates the enforcement actions taken to fit the nature of the misconduct and the circumstances in each case.

MAS is committed to taking strong action against financial institutions and individuals who have breached laws and regulations under its purview. MAS does not tolerate the abuse of Singapore's financial system for illicit purposes and will not hesitate to take punitive actions in order to maintain Singapore's reputation as a clean and reputable financial centre.

MAS

Monetary Authority of Singapore