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Lex Mundi Global Anti-Corruption Compliance Guide

Singapore

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Anti-Corruption Compliance

The primary anti-bribery and corruption legislation in Singapore is the *Prevention of Corruption Act 1960* ("**PCA**").

What is the key anti-bribery and corruption legislation in your jurisdiction?

In addition to the **PCA**, the *Penal Code 1871* and the *Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992* (“**CDSA**”) also create specific offenses related to corrupt conduct. Sections 161 to 165 of the Penal Code target corrupt conduct involving Singaporean public officials. The provisions deal in particular with the following scenarios:

- *Section 161* – Public servant taking a gratification, other than legal remuneration, in respect of an official act. A person found guilty of this offense shall be punished with imprisonment for a term which may extend to three years, and/or a fine;
- *Section 162* – Taking gratification in order, by corrupt or illegal means, to influence a public servant. A person found guilty of this offense shall be punished with imprisonment for a term which may extend to three years, and/or a fine;
- *Section 163* – Taking gratification, for the exercise of personal influence with a public servant. A person found guilty of this offense shall be punished with imprisonment for a term which may extend to one year, and/or a fine;
- *Section 164* – Abetment by a public servant of the offenses in *Sections 162* and *163*. A person found guilty of this offense shall be punished with imprisonment for a term which may extend to three years, and/or a fine; and
- *Section 165* – Public servant obtaining a valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant. A person found guilty of this offense shall be punished with imprisonment for a term which may extend to two years, and/or a fine.

The **CDSA** criminalizes any dealing with proceeds from drug trafficking or criminal conduct (which is defined as a serious offense) and/or benefits derived therefrom. Corruption offenses under the **PCA** and the *Penal Code* are included within the list of serious offenses which is found in the *Second Schedule* of the **CDSA**.

Has there been a specific anti-bribery and corruption law enacted in your jurisdiction in the last ten years?

No. However, the **PCA** undergoes amendments from time to time. The last amendment was in December 2021.

Is a bribe payment to domestic government officials prohibited by the legislation?

Yes. The **PCA** criminalizes a situation where a person corruptly gives, promises or offers to any person (whether for the benefit of that person or of another person), any gratification as an inducement to or reward for, (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.

The **PCA** also criminalizes the giving or agreement to give or offer of gratification to any agent as an inducement or reward for doing or forbearing to do, or for having done or forborne to do any act in relation to his principal's affairs or business, or for showing or forbearing to show favor or disfavor to any person in relation to his principal's affairs or business.

Is a bribe payment to foreign government officials prohibited by the legislation?

Yes. The **PCA** criminalizes a situation where a person corruptly gives, promises or offers to any person (whether for the benefit of that person or of another person), any gratification as an inducement to or reward for, (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.

The **PCA** also criminalizes the giving or agreement to give or offer of gratification to any agent as an inducement or reward for doing or forbearing to do, or for having done or forborne to do any act in relation to his principal's affairs or business, or for showing or forbearing to show favor or disfavor to any person in relation to his principal's affairs or business.

Is requesting or accepting a bribe prohibited by the legislation?

Yes. The **PCA** criminalizes a situation where a person corruptly solicits or receives or agrees to receive, for himself or for any other person, any gratification as an inducement to or reward for (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.

The **PCA** also criminalizes accepting or obtaining or agreeing to accept or attempting to obtain, from any person, for himself or for any other person, any gratification as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favor or disfavor to any person in relation to his principal's affairs or business.

“Gratification” can take various forms, including but not limited to: money; any gift, loan, fee, reward, commission, valuable security, property or interest in movable or immovable property, employment, contract, service, favor, advantage; and any offer, undertaking or promise of any of the aforementioned.

There is no minimum value or sum to trigger a violation of the law. In assessing whether an offense of corruption has been committed, the courts will assess a number of factors, in particular, whether there was soliciting, accepting or agreeing to receive gratification in the belief that it is meant as a quid pro quo for conferring a dishonest gain or advantage.

Who is subject to the legislation?

All persons within Singapore’s jurisdiction, whether as principal or agent and including private individuals and public servants.

Furthermore, under the **PCA**, Singapore citizens are liable for offenses committed both outside and within Singapore.

Is there criminal liability for corporate entities who have either paid or accepted a bribe payment?

Yes. The **PCA** criminalizes a situation where a corporate entity corruptly solicits or receives or agrees to receive, for itself or for any other person (including a corporate entity), any gratification as an inducement to or reward for (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.

The **PCA** also criminalizes the accepting or obtaining, or agreeing to accept or attempting to obtain, from any person, for itself or for any other person, any gratification as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his principal’s affairs or business, or for showing or forbearing to show favor or disfavor to any person in relation to his principal’s affairs or business.

What is the penalty for individuals violating the law?

Generally, the penalty for violating the law is a fine not exceeding SGD 100,000 and/or imprisonment for a term not exceeding five years. A recipient of a bribe may also be ordered to forfeit a sum equivalent to the amount of gratification received.

	<p>If the matter or transaction in relation to which the offense was committed was a contract or a proposal for a contract with the Singapore Government or any department thereof or with any public body or a subcontract to execute any work comprised in such a contract, the penalty is increased to a fine not exceeding SGD 100,000, and/or imprisonment for a term not exceeding seven years.</p>
<p>Assuming corporate entities are liable for violating the legislation, what is the penalty for corporate entities violating the law?</p>	<p>The penalty is a fine not exceeding SGD 100,000. As with individuals, a recipient of a bribe may also be ordered to forfeit a sum equivalent to the amount of the gratification received.</p>
<p>Assuming corporate entities are liable for violating the legislation, does having a compliance program designed to prevent bribery constitute a defense?</p>	<p>No, there is no such statutory defense. It may be raised as a point in mitigation during sentencing. Such guidelines would be useful in negotiating with the prosecution as a factor to consider for charging a company on the sentence they would seek.</p>
<p>Assuming corporate entities are liable for violating the anticorruption law, is it possible for a corporate entity to reach a deferred prosecution agreement or leniency agreement with the enforcement authorities?</p>	<p>Yes. Under <i>Part 7A of the Criminal Procedure Code 2010</i>, a corporate entity may enter into a deferred prosecution agreement (“DPA”) with the Public Prosecutor in respect of a corruption offense. The requirements that the DPA may impose on the corporate entity include the payment of a financial penalty, compensation of victim(s), a donation to charity, disgorgement of profits, implementation of a compliance program or making changes to an existing compliance program, the appointment of a person to assess and monitor the entity’s internal controls, cooperation in relevant investigations, and payment of the reasonable costs of the Public Prosecutor in relation to the alleged offense or DPA.</p> <p>The DPA must be approved by the General Division of the Singapore High Court. The General Division of the High Court will consider whether the DPA is in the interests of justice and whether the terms of the DPA are fair, reasonable and proportionate.</p>

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