

Jacqueline Loh: Gearing up for sustainable growth

Keynote address by Ms Jacqueline Loh, Deputy Managing Director of the Monetary Authority of Singapore, at the Singapore Trustees Association Conference 2014, Singapore, 2 October 2014.

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1. Distinguished guests, ladies and gentlemen, good morning. First off, let me thank you for inviting me to join you at the third Singapore Trustees Association Conference. This Conference brings together industry professionals to discuss trends and challenges facing the trust industry, and how Singapore can stay ahead in this competitive environment.

2. It is believed that the origin of trusts dates back to the 13th century. As crusading English knights sought to protect and preserve their estates during their lengthy absence in battle, they transferred the legal ownership of their estate to a third party, usually a trusted friend, under the agreement that ownership would be transferred back upon their return. Today, some 700 years later, the key hallmark of trusts – the trust structure itself, the beneficiary and the trustee – remain unchanged. The trust structure continues to serve as an important fiduciary arrangement. It has remained relevant and reliable, through ongoing efforts by the industry in adapting and strengthening its capabilities to meet evolving needs as well as industry standards.

3. Your theme this year is therefore instructive. “Singapore: a Dynamic Trust Centre”. The Oxford Dictionary defines “dynamic” to be characterised by constant change, activity or progress. This morning, I would like to share with you some observations of the changes that we must act on, in order to be a truly “Dynamic Trust Centre”.

Growth drivers are strong

4. Let me say a few words on the outlook. Prospects are bright, with strong growth in Asia-Pacific wealth and greater traction in the use of trusts. While trust services have had a long history in developed economies, such as US and Europe, the trust industry in most of Asia is still at a relatively nascent stage.

5. On the demand side, we expect to see further interest, as Asia attracts more investment inflows, and the number of High Net Worth Individuals in Asia continues to grow. According to the Boston Consulting Group, Asia-Pacific wealth is expected to expand around 11% per annum until 2017. Wealthy families in Asia are increasingly attuned to use of trust structures to facilitate estate planning, succession planning, and to safeguard assets. Philanthropy is also gaining traction in the region, and according to a study by UBS and INSEAD, there is a rising trend towards the use of charitable trusts for philanthropic initiatives.

6. On the supply side, Singapore’s trust industry has expanded steadily, and the ecosystem is evolving alongside the wealth management sector. Since the introduction of mandatory licensing of trust companies in 2006 by MAS, we have 53 Licensed Trust Companies operating here. Many private banks have also broadened their capabilities to the area of trusts. Beyond the financial sector, law and accounting firms have also expanded their expertise to provide trust-related services to support this growing industry.

“Myths” versus reality

7. Notwithstanding the important and legitimate roles of trusts, the trust services industry has come under increased scrutiny for the confidentiality it provides. There is a misconception at times that trusts are mostly being used to conceal one’s identity or beneficial ownership for tax evasion or other illicit purposes. Indeed, if left unregulated, trust structures can be vulnerable to being abused by criminals. The Financial Action Taskforce (“FATF”), an inter-

governmental body that sets the global standard for measures to combat money laundering, terrorist financing, and the financing of proliferation, has identified specific typologies to illustrate common activities related to money laundering. In one such example, criminals could set up trusts to receive stolen assets, and then separate themselves from the assets by creating multiple layers. Singapore's regulatory framework deters and prevents such criminal abuse.

8. With the growing use of trusts, it is critical that we have in place regulatory frameworks that can support its development and help to ensure international confidence in the trust industry. Singapore maintains one of the most modern and robust frameworks for the regulation of trust companies – we are one of the first financial centres to have introduced mandatory licensing for trust companies, under the Trust Companies Act (“TCA”). Trust companies regulated under the TCA have to comply with the MAS Notice on Prevention of Money Laundering and Countering the Financing of Terrorism (“AML/CFT”). Amongst other obligations, the MAS Notice requires them to identify and verify the identity of trust relevant parties, perform ongoing transactions monitoring and file suspicious transaction reports. MAS' AML/CFT requirements for licensed trust companies are consistent with FATF standards. Trust companies must collect and make available information to law enforcement authorities when required to do so.

9. The benefits of having a comprehensive, well-structured trust can only be effectively achieved if it is properly administered by the trustee. Similarly, a strong regulatory framework needs to be complemented with an effective supervisory regime. Following the revisions to the MAS Notice on AML/CFT, issued on 2 December 2009, MAS conducted a thematic inspection of licensed trust companies to assess their compliance with the revised Notice on AML/CFT. In June last year, the MAS issued a circular on our inspection findings. I am glad that most trust companies have in place appropriate policies and procedures to combat money laundering. However, MAS highlighted that implementation can strengthen further with a more consistent application of these policies and procedures across the industry. I will also stress that adequate and timely record keeping forms an important part of the entire process.

Global standards: transparency of Beneficial Ownership (“BO”) and tax transparency

10. Singapore supports the international effort in combating money laundering, terrorist financing and other abuses of the financial system. As part of this effort, two key global standards are relevant to the trust industry – (i) transparency of beneficial ownership, and (ii) tax transparency through Automatic Exchange of Information (“AEOI”) between tax jurisdictions. These rules, when applied appropriately and consistently across all jurisdictions, can help to more effectively combat money laundering and other serious financial crimes including on tax. This in turn, will safeguard the integrity of the global financial system, of which the trust industry is a part, and create the conditions for sustainable growth.

Increased focus on transparency of Beneficial Ownership

11. Let me first touch on the increased focus on beneficial ownership.

12. Given the risks of the misuse of corporate vehicles for illicit purposes, there has been increased international focus on transparency of beneficial ownership. Initiatives such as the FATF Anti-Corruption Work Group and the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes (“Global Forum”) are good examples.

13. There is also growing recognition that transparency of beneficial ownership will help to prevent and combat financial crimes. We can thus expect international standards setters such as the FATF to probe deeper in their assessment of how countries promote transparency of beneficial ownership. For example, the revised FATF Recommendations

now include additional elaboration on the manner in which countries can go about enhancing the transparency of trusts. In the case of trust structures, this would include an assessment of whether:

- (i) adequate information on beneficial ownership of the trust is being collected;
- (ii) such information is available to law enforcement authorities; and
- (iii) regulated entities, such as trust companies and banks, are doing their part in complying with the relevant AML/CFT regulations to collect beneficial ownership information.

Singapore's approach to increased transparency on Beneficial Ownership

14. Let me now share with you Singapore's position on increased transparency on beneficial ownership.

15. We believe that increased transparency on beneficial ownership is consistent with continued strong growth in the trust industry. Conversely, Singapore's reputation as a dynamic trust centre could easily be tainted by just one or two incidents where proceeds derived from illicit activities are found to be linked to trust companies or trusts in Singapore because of inadequate due diligence.

16. There are several ways to enhance transparency of beneficial ownership for trusts. Singapore's approach has been to strike a balance between protecting the legitimate need for confidentiality, while ensuring that this protection is not abused for illegitimate purposes. This is consistent with our approach taken with regard to tax crimes. Let me elaborate.

17. Besides the current framework we have put in place for the regulation of trust companies, MAS also regularly reviews our AML/CFT regime. We issued in July 2014 a public consultation on proposed amendments to the MAS Notice on AML/CFT for Financial Institutions. The proposed amendments drew reference from the revised FATF Recommendations and international best practices, so as to take into account latest global developments and incorporate emerging best practices. Some of these amendments relate to enhanced transparency on beneficial ownership information. MAS is currently reviewing the feedback from the private sector and will also be looking at updating the MAS Notice on AML/CFT for licensed trust companies. Continual review of our policies and guidelines, in consultation with industry stakeholders such as yourselves, remain the bedrock of our regulatory approach. It makes sure that Singapore's regulatory regime is in line with international standards, while at the same time taking into account industry feedback to facilitate practical implementation.

Increased momentum towards tax transparency

18. Turning now to tax transparency.

19. To combat cross border tax evasion, the G20 endorsed Article 26 of the OECD Model Tax Convention on Income and Capital to be the global standard for Exchange of Information ("EOI") for tax transparency, in 2009. This provided for bilateral EOI-on-request, where a jurisdiction may request from another jurisdiction information on its tax payer that is foreseeably relevant to its determination of whether the tax payer has evaded taxes.

20. Following that, there has been strong progress towards enhanced tax transparency – most recently, the G20 and OECD advocated the adoption of AEOI as the new global standard for tax transparency (the "AEOI Standard"), and urged all jurisdictions, including all financial centres, to implement the AEOI Standard swiftly. In fact, G20 members last month, endorsed the implementation of AEOI and promised to do so by end-2018. The AEOI Standard requires financial institutions in one jurisdiction, with customers who are tax

resident in another jurisdiction, to automatically provide the tax-relevant customer information on a regular basis, to the customers' home tax authorities.

Singapore's approach to enhanced tax transparency

21. The global trend on enhanced tax transparency is in line with Singapore's commitment to combat cross-border tax offences, in order to protect our integrity and reputation as an international financial centre. We have taken several significant steps to strengthen our EOI framework, such as entering into international agreements and making the relevant legislative amendments to facilitate international cooperation.

22. In May, Singapore joined the G20, EU, OECD member jurisdictions as well as other financial centres in endorsing the OECD's "Declaration on Automatic Exchange of Information In Tax Matters". Endorsing this Declaration demonstrates Singapore's commitment towards enhancing international tax compliance. This Declaration is consistent with our principles for AEOI:

- (i) Firstly, implementation must be done under a robust framework of law so as to maintain confidentiality and legitimate use of information exchanged;
- (ii) Secondly, there must be reciprocity in terms of the scope of information exchanged between jurisdictions; and
- (iii) Thirdly, AEOI must be endorsed and implemented among all financial centres to provide a level playing field.

23. Enhanced tax transparency lifts the veil on structures created for illicit purposes, and will help to deter tax criminals from abusing trust structures. This bodes well for the longer term sustained growth of the trust industry.

The critical role of industry

24. An AML/CFT regime, no matter how robust, cannot in itself fight against ML/TF activities. We need the commitment and active participation of the industry. Promoting a strong AML/CFT culture within the industry, and deepening manpower capabilities are important elements to maintain a robust regime, and allow us to reap the benefits of business growth while managing risks effectively.

25. Industry has primary responsibility to build a good AML/CFT culture and ensure compliance. I am encouraged that the industry has taken active steps to promote robust controls to strengthen its resilience and prepare for increased transparency on beneficial ownership information and enhanced tax transparency. The private banking industry in Singapore introduced a set of industry sound practices last year to provide guidance to private banks on the development and implementation of robust controls to detect and deter the proceeds of tax crimes. As most of you would know, the Singapore Trustees Association has also issued similar guidelines for trust companies. We commend such industry initiatives and look forward to continue working in meaningful partnership with the industry.

26. Competency building is also imperative in raising AML/CFT standards amongst industry professionals. An effective AML/CFT system cannot be solely the responsibility of compliance professionals or experts, but must be an integral part of the firm's culture. Besides the Institute of Banking and Finance ("IBF"), certification providers like the International Compliance Training Academy and the Association of Certified Anti-Money Laundering Specialists ("ACAMS") offer a suite of AML/CFT courses and training programmes. Such courses, where they are accredited by the IBF, are available for funding from the MAS' Financial Sector Development Fund. So I would strongly encourage industry professionals to tap on the many resources and training avenues in order to increase knowledge and awareness of risks.

Conclusion

27. Returning to the history of the origins of trusts. Such arrangements could well have been phased out at that time if the law did not recognise them. When the Crusaders returned, they often faced refusal for the return of their estate. Such disputes had to be brought before the Lord Chancellor, who found in favour of the returning Crusaders, and recognised such claims.

28. Fortunately, trusts today are built on stronger foundations than the changeable favours of Lord Chancellors. The trust industry is based on and built on reliability and professionalism. MAS partners with the industry, and will continue to do so, to further strengthen its reliability and resilience, by building a robust regime that is well-regulated, stable and trusted. This will continue to instil confidence in clients, and in our financial system. And this will keep us on the path of sustainable growth.

29. On this note, I wish all of you an engaging session and fruitful conference. Thank you.