

Press release

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Falcon sanctioned for 1MDB breaches

Falcon Private Bank Ltd. has seriously breached money laundering regulations by failing to carry out adequate background checks into transactions and business relationships associated with Malaysian sovereign wealth fund 1MDB which were booked in Switzerland, Singapore and Hong Kong. The Swiss Financial Market Supervisory Authority FINMA has ordered the disgorgement of illegally generated profits amounting to CHF 2.5 million and banned the bank from entering into business relationships with foreign politically exposed persons for a period of three years. Furthermore, the bank would have its licence withdrawn in the event of a further breach. FINMA has launched enforcement proceedings against two of the bank's former executives.

FINMA launched enforcement proceedings against Falcon Private Bank Ltd. (Falcon) at the beginning of 2016 based on evidence that Swiss money laundering regulations had been breached. The breaches in question relate to business relationships and transactions in the context of the alleged corruption scandal surrounding the Malaysian sovereign wealth fund 1MDB. An investigating agent appointed by FINMA analysed the transactions, internal processes and the bank's control organisation.

Falcon breached anti-money laundering due diligence requirements

FINMA concluded its enforcement proceedings against Falcon at the beginning of October 2016. In the period under investigation between 2012 and the summer of 2015, FINMA identified serious shortcomings in Falcon's anti-money laundering activities and in risk management. Assets amounting to approximately USD 3.8 billion were transferred to accounts at Falcon and associated with the 1MDB Group during that period. These funds were generally moved on quickly. The business relationships and transactions booked in Switzerland and at Falcon's Singapore and Hong Kong branches were unusual and involved a high level of risk for the bank both through their nature and the amounts transacted. Although management's attention was drawn to these matters, it repeatedly failed to properly investigate the business relationships, specifically those with politically exposed persons (PEPs), and high-risk transactions; it also failed to adequately analyse or

monitor the risks involved. In doing so, Falcon was in serious breach of its duty to ensure proper business conduct.

Falcon failed to adequately check transactions and business relationships

The bank had a number of business relationships with domiciliary companies within the 1MDB Group and executed transactions amounting to approximately USD 2.5 billion via the accounts of two of these offshore companies. The bank failed to adequately check the background and risk profile of these complex transactions in sufficient depth. It did not sufficiently query or assess the plausibility of the proffered documents and information about the supposed financing of energy projects, nor did it question the commercial background of the USD 1.3 billion which was immediately transferred from one account to another (pass-through transactions).

Falcon also had a client relationship with a young Malaysian businessman with links to individuals in Malaysian government circles. The bank did not verify how this individual had been able to acquire assets of USD 135 million in an extremely short period of time or why a total of USD 1.2 billion was transferred to his accounts at a later date – a transaction which was clearly at variance with the information he had provided when opening the account. Falcon also failed to adequately investigate the commercial background to pass-through transactions amounting to USD 681 million and the repayment six months later of USD 620 million via these accounts despite conflicting evidence. In this context, an internal Falcon email states: *"We started this six months ago and now we have to go through with it – somehow"*.

Internal warnings were ignored

A number of bank employees expressed serious concerns to their managers about the relationship with the Malaysian businessman because of numerous suspicious factors and key questions remaining unanswered. One internal email relating to the transfer of USD 1.2 billion states: *"We can't find any reason/motivation/statement why this transaction has to pass through FPB [Falcon] and not from [Bank X] directly to the respective parties [...]"*. Nevertheless, these internal warnings were not followed up satisfactorily.

Although the bank's decision-makers were aware of these internal concerns, they decided to carry out the transactions. The focus was always on trying to process the transactions on time. One senior manager warned the Singapore branch carrying out the transactions: *"Head Office is watching you"*.

Members of the board of directors initiated the business relationships

Two representatives of the bank's owners who were on the board of directors initiated business relationships with the 1MDB Group and with individuals from their immediate circle. The managers responsible for these relationships therefore attached great significance to them and were concerned to ensure that they operated smoothly. According to their own statements, they assumed that the two board members represented the will of the bank's owners as far as these relationships were concerned. Both board members pursued their own illegitimate purposes. Neither of them is any longer on the bank's board of directors. FINMA has no evidence that other members of Falcon's board were implicated in these matters or that this behaviour was widespread at the bank.

Falcon could have its licence withdrawn in the event of a recurrence

In addition to implementing measures to underpin the bank's compliance and corporate governance functions, FINMA has also taken the following steps:

- FINMA has ordered the disgorgement of CHF 2.5 million in illegally generated profits.
- The bank is prohibited from entering into new business relationships with foreign politically exposed persons (PEPs) for a period of three years. FINMA can lift this ban earlier once the bank has an adequate control environment in place.
- The bank has been informed that it would lose its licence if there is any repetition of the offence.
- The bank must strengthen the board of directors' independence.
- FINMA has launched enforcement proceedings against two of the bank's former executive office holders.

The bank has overhauled the composition of its board of directors and executive board. In addition, the group's new management team has already implemented a range of corrective measures.

Successful cooperation with authorities in Switzerland and abroad

The transactions outlined above were executed between banks from a number of countries and across several continents and financial centres. FINMA was therefore in regular contact with other authorities, in particular the Office of the Attorney General in Switzerland and the Monetary Authority of Singapore (MAS).

FINMA CEO Mark Branson points out: "The issues surrounding 1MDB form one of the largest cases of suspected corruption in recent times. The global financial system has been blatantly misused. Suspect financial flows in the

billions have been shifted through banks of multiple nationalities and financial centers on three continents, and warning signals ignored. Where Swiss banks or their foreign operations have played an unacceptable role, they will be sanctioned. It is equally important for the future health of the financial system that through close international cooperation all relevant parties are brought to justice.”

FINMA prioritises prevention of money laundering

FINMA has conducted investigations at a number of Swiss banks in the context of the 1MDB case and launched proceedings against five other banks in addition to Falcon. FINMA concluded its proceedings against the BSI bank in relation to 1MDB in May 2016.

FINMA attaches great importance to the prevention of money laundering and in recent years has issued on average more than ten enforcement rulings related to money laundering with corresponding sanctions. The measures imposed by FINMA have involved the dissolution of a bank, withdrawal of a fiduciary company's licence and ordering the disgorgement of illegally generated profits. FINMA has also enforced changes to governance structures or substantially restricted new business activities. In the past five years, FINMA has also issued six industry bans to bank managers owing to breaches of anti-money laundering due diligence requirements and initiated enforcement proceedings against six other executive office holders at banks, four of which are linked with the 1MDB case.