

Press release

Date:
2 February 2017

Embargo:

Contact:
Vinzenz Mathys
Media Spokesman
Phone +41 (0)31 327 19 77
vinzenz.mathys@finma.ch

FINMA sanctions Coutts for 1MDB breaches

Coutts & Co Ltd has seriously breached money laundering regulations by failing to carry out adequate background checks into business relationships and transactions associated with Malaysian sovereign wealth fund 1MDB. The Swiss Financial Market Supervisory Authority FINMA has ordered the bank to disgorge unlawfully generated profits of CHF 6.5 million. FINMA will also consider opening enforcement proceedings against the bank employees responsible.

In January 2017, FINMA concluded enforcement proceedings which had been running since the beginning of 2016 against Coutts & Co Ltd (“Coutts”). The proceedings uncovered serious deficiencies in the bank’s anti-money laundering processes for business relationships and transactions associated with the alleged corruption scandal involving the Malaysian sovereign wealth fund 1MDB. The bank failed to adequately clarify the circumstances surrounding a number of business relationships and unusually large, high-risk transactions. In addition, it did not follow up on relevant internal information and, despite the existence of substantive evidence, failed to report any suspicions to the Swiss authorities until the spring of 2015. Given the inadequacy of the bank’s anti-money laundering controls in this particular case, Coutts was in serious breach of its duty to ensure proper business conduct.

Coutts was involved at an early stage

In 2003, some employees of the Singapore branch of Coutts entered into business relationships with individuals associated with what became known as the sovereign wealth fund 1MDB. Coutts, through its branch in Singapore, was the first Swiss bank to accept assets from these individuals. When the Coutts employees moved to another bank in Singapore in 2009, some of the business relationships were transferred to Coutts Zurich. In total, 1MDB-related assets to the value of USD 2.4 billion were transferred through Coutts accounts in Switzerland.

Dubious reasons for transactions were not clarified

In the summer of 2009, Coutts opened a business relationship in Zurich with a young Malaysian businessman. When the account was opened, information was provided to the effect that USD 10 million would be transferred to it from the account holder's family assets. Instead, in the autumn of 2009, approximately USD 700 million was transferred to the account from the Malaysian sovereign wealth fund 1MDB. The reasons given for this transaction were inconsistent, and some information was changed retrospectively. Moreover, the documents presented in support of the transaction contained obvious mistakes, not least the fact that the identities of the contracting parties were transposed. A member of the bank's Compliance unit noted in an internal email: *"It would be the first time in my career that I would see a case where [in] an agreement over the amount of USD 600 Mio. or so the role of the parties has been confused."* The Legal Services unit even spoke of the risk of a "total fabrication". Nevertheless, the bank failed to clarify the background to the transaction with the necessary diligence.

Subsequently, between late 2009 and early 2013 numerous high-risk transactions with a total value of USD 1.7 billion were processed through the account. For example, more than USD 0.5 billion was transferred to a domiciliary company belonging to the businessman on the basis of intransparent loan agreements. The bank justified these actions on the basis that the same beneficial owner was involved. Coutts took no action to clarify the use of USD 35 million for visits to casinos and the purchase of a range of luxury services (e.g. the chartering of yachts and private aeroplanes).

Although Coutts had serious grounds for suspicion due to the unusual transactions from 2009 onwards, it opened a further business relationship with the Malaysian businessman in the summer of 2012. Contrary to the information provided when the account was opened, USD 380 million was transferred to this account from an offshore company in March 2013. A further USD 300 million followed. Pass-through transactions were then used to transfer most of the funds received to another domiciliary company belonging to the businessman. Despite the obviously suspicious nature of these transactions, the bank failed to look into them seriously and was content to make superficial enquiries.

Internal warnings were ignored

A number of bank employees expressed serious, timely concerns to their managers and the Compliance unit about the business relationship with the Malaysian businessman. Following negative media reports, the individual responsible for providing advisory services to this businessman in Singapore noted: *"I feel very uncomfortable with this guy and the transactions that are going through the account. I think the management has to make a decision"*

whether to keep this relationship.” Although the media reports led to investigations within the bank and an exchange between Coutts Singapore and its Swiss head office at which the clearly erroneous information provided by the client was discussed, those responsible failed to follow up on these clear causes for concern. Instead it was decided to continue with the lucrative business relationships and process the transactions. As early as March 2012 the following was noted in an internal bank meeting about the business relationship with the Malaysian businessman: “[X] is a key client who we are comfortable with the Source of Funds, Source of Income and activity performed on these accounts”. In 2013 and 2014, various compliance bodies within the bank again raised and questioned the business relationship. On each occasion, however, they decided to continue with it.

FINMA orders disgorgement of CHF 6.5 million

In the summer of 2015, Coutts announced that it was ceasing operations requiring a licence in Switzerland. Between the end of 2015 and the beginning of 2016, Coutts transferred a large part of its remaining customer assets to a Geneva-based private bank Union Bancaire Privée (UBP SA). This process is at an advanced stage and is likely to be concluded by the end of this year. Given these circumstances, FINMA has decided not to impose wider-reaching measures in this case. However, in order to restore compliance with the law, FINMA has ordered the disgorgement of CHF 6.5 million in unlawfully generated profits. FINMA is also considering initiating enforcement proceedings against the bank employees responsible.

Cooperation with other authorities

The transactions described above were executed between banks from a variety of countries and across several continents and financial centres. In the course of its investigations, FINMA coordinated its actions with a number of other authorities, specifically with the Monetary Authority of Singapore (MAS), which has already brought its [proceedings against Coutts](#) to a close. Since Coutts belonged to the UK-based Royal Bank of Scotland Group during the period in question, FINMA has also brought the case to the attention of the UK’s Financial Conduct Authority (FCA).

Preventing money laundering remains a priority for FINMA

FINMA has conducted investigations into a number of Swiss banks in relation to the 1MDB case and launched proceedings against five other banks in addition to Coutts. FINMA concluded its proceedings against BSI Bank and Falcon Private Bank AG in May and October 2016 respectively.

The prevention of money laundering is a top high priority for FINMA. In recent years, FINMA has issued an average of more than ten enforcement rulings per year in this area and has taken a range of measures including the

dissolution of a bank, the withdrawal of authorisation from a fiduciary and disgorgement orders. It has also enforced changes to governance structures at supervised institutions and set strict limits on new business activities. In the past five years, FINMA has issued industry bans against six bank managers following serious breaches of due diligence requirements. Last year FINMA launched enforcement proceedings against six further bank office holders, four of them in connection with the 1MDB case.