

# Public prosecutor vs Yak Yew Chee: Statement of facts

## BACKGROUND

1. The accused is Yak Yew Chee, male/57 years old, holding NRIC No. S1314433H (the “Accused”).
2. The Accused was a private banker with BSI Bank Limited (“BSI”) between 2010 and 2016 and held the title of Managing Director. As a private banker, the Accused was the relationship manager to one Low Taek Jho (“Jho Low”) and the latter’s father, Low Hock Peng. Jho Low maintained a number of accounts with BSI, and the said accounts were either opened in his personal name or in the name of entities beneficially owned by him. Two of these accounts are:
  - a. account 6C02395 in the name of Abu Dhabi-Kuwait-Malaysia Investment Corporation (“ADKMIC” and “ADKMIC BSI Account” respectively)
  - b. account 6C02328 in the name of Low Taek Jho (the “LTJ BSI Account”)
3. The Accused was also the relationship manager to other entities which engaged BSI’s services to structure pass-through transactions and to layer substantial sums of monies through the use of intermediary fund management companies between 2011 and 2014 (the “Pass-Through Transactions”). Investigations disclose that Jho Low was involved in and exerted great influence over these Pass-Through Transactions.

Investigations have also determined that there were several phone discussions between Jho Low, the Accused and one Yeo Jiawei in relation to the facilitating of these Pass-Through Transactions. Yeo Jiawei was a BSI employee who was intimately involved in structuring the Pass-Through Transactions. BSI earned substantial amounts of fees from these Pass-Through Transactions and the Accused significantly benefitted from the aforesaid transactions through bonuses paid to him.

## CAD’S INVESTIGATIONS

4. Investigations revealed that on 23 October 2012, bank account 81134378 with BSI Ltd (Lugano) belonging to a British Virgins Island entity named Aabar Investments PJS Limited (the “Aabar BSI Account”) received an inward remittance of US\$790.35 million from 1MDB Energy (Langat) Limited’s bank account with Falcon Private Bank AG.
5. On 23 October 2012, a total sum of US\$435 million was transferred from the Aabar BSI Account to Blackstone Asia Real Estate Partners Limited’s (“BAREPL”) account 01-7-026066-6 with Standard Chartered Bank Singapore (“SCB”): (i) US\$75 million was transferred directly into BAREPL’s SCB account; (ii) US\$75 million (net of fees) was transferred through a pass-through transaction involving Enterprise Emerging Markets Fund; and (iii) US\$285 million (net of fees) was transferred through a pass-through transaction involving Cistenique Investment Fund. These monies were received by BAREPL between 24 and 25 October 2012. Set out below are the relevant bank entries extracted from the October

2012 bank statement of the Aabar BSI Account, and bank documents evidencing the aforesaid transfers are set out in annex “A”.

6. On 29 October 2012, BAREPL transferred in two tranches a total sum of US\$259.8 million to Alsen Chance Holdings Limited’s (“ACHL”) account 13-7-901442-2 with SCB. Subsequently, on 1 November 2012, ACHL transferred US\$200 million to bank account 11116073 with Coutts & Co AG (Zurich) (“Coutts”) in the name of Good Star Limited (the “Good Star Account”). The beneficial owner of both

BAREPL and ACHL on record with SCB is one Tan Kim Loong. The Accused was also Tan Kim Loong’s relationship manager at BSI, and he knew that Tan Kim Loong is a close associate and proxy for Jho Low for many of the latter’s financial arrangements. Set out below are the relevant October 2012 bank entries extracted from the SCB bank statements of BAREPL.

7. Annexed and marked “B” is the SCB ACHL’s bank statement dated 3 November 2012 showing the corresponding receipt of monies from BAREPL and the subsequent transfer of US\$200 million to the Good Star Account.

8. Investigations confirmed that the Good Star Account was opened sometime in June 2009, and Jho Low was recorded as its beneficial owner throughout from the date of account opening to its closure in September 2013. Between 2011 and 2013, there were numerous fund transfers from the Good Star Account to the ADKMIC BSI Account. Jho Low had repeatedly represented to the Accused and BSI during this period that he was the sole beneficial owner of the Good Star Account.

9. On 2 November 2012, Coutts was instructed to transfer US\$153 million from the Good Star Account to the ADKMIC BSI Account. ADKMIC’s sole beneficial owner on record was also Jho Low. In an e-mail dated 2 November 2012, Coutts was told that Good Star Limited and ADKMIC have the same beneficial owner, and the enclosed funds transfer instructions also bore Jho Low’s signature. Enclosed and marked “C” are documents and instructions relating to the Good Star Account and the US\$153 million transfer, which was effected that same day.

10. On or around 5 November 2012, Jho Low gave instructions to BSI to transfer US\$153 million from the ADKMIC BSI Account to Low Hock Peng’s account 6C02423 with BSI. On 7 November 2012, Low Hock Peng transferred US\$150 million back to Jho Low, vide the LTJ BSI Account. On the same day, Jho Low transferred US\$110 million to Selune Ltd’s bank account no. 1812010 with Rothschild Bank AG (Zurich). Enclosed and marked “D” are the relevant BSI bank statements showing the aforesaid remittances, and enclosed and marked “E” is a fund flow diagram tracing the source of the flow of funds to Selune Ltd.

#### **DAC 937397/2016**

11. On 20 November 2012, Jho Low sought the Accused’s assistance for a reference letter addressed to the Chief Executive Officer of Rothschild Trust (Schweiz) AG in connection with queries raised over the earlier transfer of US\$110 million to Selune Ltd on 7 November 2012. Jho Low first sent the Accused an e-mail at 12:21 p.m. enclosing a draft reference letter and asked the Accused to call him to discuss. The Accused then called Jho Low at phone number 964181XX at 12:23 p.m. and spoke with the latter. At 12:34 p.m., Jho Low e-mailed

the Accused with a revised draft reference letter, and told the Accused to “use this V2”. The Accused understood “V2” to mean “Version 2”. Enclosed and marked “F” are the e-mails from Jho Low enclosing the draft letters.

12. The Accused relied on the revised draft provided by Jho Low and proceeded to prepare the reference letter on BSI’s letterhead, which he then signed as the sole signatory on behalf of BSI in his capacity as Managing Director (the “Rothschild Letter” and enclosed and marked “G”). The Accused subsequently e-mailed Jho Low the Rothschild Letter that same day at 12:55 p.m., and also sent a copy of the same to the named addressee.

13. During the material time, the Accused knew that he was not authorised by BSI to make the Rothschild Letter on BSI’s behalf. First, the Accused knew that all letters which deviate from BSI’s standard templates must be cleared by BSI’s Legal Department (“BSI Legal”). The Accused knew that the Rothschild Letter deviated materially from the standard templates, but nonetheless did not clear the draft with BSI Legal.

14. Second, the Accused knew that BSI’s internal regulations require all letters of such nature to be signed by two authorised signatories prior to issuance.

Notwithstanding the aforesaid, the Accused knowingly breached the internal regulations and proceeded to issue the Rothschild Letter with himself as the sole signatory. Further, the Accused knew that the contents of the Rothschild Letter were misleading in a material manner as it gave its intended recipient the false impression that the source of the US\$110 million transferred to Selune Ltd was from Jho Low’s father, Low Hock Peng, when the Accused knew that the source of the moneys originated from Jho Low himself vide Good Star Limited.

15. The Accused nonetheless proceeded to sign the Rothschild Letter notwithstanding his lack of authority and the fact that the said letter was designed to conceal the source of the monies, as he was eager to gain an advantage by pleasing Jho Low, who through his connections, was the Accused’s most important client at BSI.

The Accused was also aware that the intended recipient of the unauthorised Rothschild Letter would likely rely on BSI’s purported endorsement and approval of the contents of the said letter. As a consequence of the Rothschild Letter, Rothschild Trust (Schweiz) AG did not make any further inquiries on the US\$110 million transfer to Selune Ltd with BSI. During the course of investigations, BSI has further confirmed to the CAD that it would not have authorised the issuance of the Rothschild Letter even if the Accused had attempted to clear it with BSI Legal.

16. By signing the Rothschild Letter and making it on behalf of BSI when he knew he had no authority to do so, the Accused did so with intent that fraud may be committed and in particular, to deceive and cause it to be believed by its intended recipient, Stefan Liniger of Rothschild Trust (Schweiz) AG, that the Rothschild Letter was signed by the authority of BSI and the contents therein were approved by BSI, when the Accused knew that it was neither authorised nor approved by BSI. The Accused has thereby committed an offence punishable under Section 465 of the Penal Code.

## **DAC 937398/2016 & DAC 937402/2016**

17. This masking and circular flow of funds from Jho Low (vide the ADKMIC BSI Account) to his father and back to Jho Low was described by an officer from BSI Compliance on 6 November 2012 as “nebulous to say the least and not acceptable in Compliance’s view”. Subsequently, Jho Low declared via e-mail on 7 November 2013 to BSI (enclosed and marked “H”) that he had decided to give to his father wealth which he had generated “as a matter of cultural respect and good fortune that arises from respect”, and his father had decided to accept a token sum and to give the rest back to him. Inexplicably, these pass-through flows were eventually processed after a senior BSI officer commented that “intra family transfers are not always going to be logical”.

18. Upon receipt of the draft letters from Jho Low on 20 November 2012, the Accused knew that the drafts omitted the material fact that the US\$150 million transferred by Low Hock Peng to Jho Low in fact originated from the latter, and that the Rothschild Letter was plainly designed to mislead by giving Rothschild Trust (Schweiz) AG the false impression that the US\$110 million originated from Low Hock Peng and to conceal the source of the monies.

19. The aforesaid, together with the fact that the transactions involved a suspicious circular movement of funds which made no logical sense, resulted in the Accused having reasonable grounds to suspect that:

a. the US\$153 million incoming remittance from the Good Star Account to the ADKMIC BSI Account on 2 November 2012; and

b. the US\$110 million transferred on 7 November 2012 from the LTJ BSI Account to Selune Ltd, both in whole directly represented proceeds of an act which may constitute criminal conduct, which information on which his suspicion was based came to the Accused’s attention in the course of his employment with BSI Bank, namely, a Managing Director of BSI. The Accused failed to disclose the said information to a Suspicious Transaction Reporting Officer, and he has thereby committed two offences punishable under Section 39(1)(a) read with Section 39(2) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A).

## **DAC 937395/2016**

20. On 18 February 2014, Jho Low asked the Accused for a reference letter addressed to BNP Paribas (Suisse) SA pertaining to his net worth. The Accused agreed to the request. A letter was subsequently prepared on BSI’s letterhead and the Accused signed on the letter on behalf of BSI in his capacity as Managing Director. The Accused also asked his subordinate Yvonne Seah (a relationship manager in the Accused’s team) to co-sign the same (the “BNP Paribas Letter” and enclosed and marked as “I”). The latter obliged and sent the signed BNP Paribas Letter to Jho Low via e-mail at 4:37 p.m. that same day.

21. During the material time, the Accused knew that he was not authorised by BSI to make the BNP Paribas Letter on BSI’s behalf. First, the Accused knew that all letters which deviate from BSI’s standard templates must be cleared by BSI Legal. The Accused knew that the BNP Paribas Letter deviated materially from the standard templates, but nonetheless did not clear the draft with BSI Legal.

22. Second, the Accused knew that by this time, BSI's internal regulations required all letters of such nature to be co-signed by both a relationship manager and an officer from Client Administration prior to issuance. Notwithstanding the aforesaid, the Accused knowingly breached the internal regulations and proceeded to issue the BNP Paribas Letter with himself and Yvonne Seah (who were both relationship managers of BSI) as the only signatories.

23. During the course of investigations, BSI has confirmed to the CAD that it would not have authorised the issuance of the BNP Paribas Letter even if the Accused had attempted to clear it with BSI Legal. In particular, BSI would not have authorised the making of a statement to another bank stating that it was satisfied that "the Low Family's cumulative net worth is approximately USD1.63 billion". Investigations revealed that the figure of US\$1.63 billion was provided by Jho Low to BSI, and this information was intended by BSI for its internal use as part of its Know-Your-Client processes.

24. Notwithstanding his lack of authority, the Accused signed on the BNP Paribas Letter as he was eager to gain an advantage by pleasing Jho Low, who through his connections, was the Accused's most important client at BSI. The Accused was also aware that, notwithstanding the standard disclaimer, the intended recipient of the unauthorised BNP Paribas Letter would likely rely on BSI's purported endorsement and approval of the contents of the said letter, to its possible detriment.

25. By signing the BNP Paribas Letter when he knew he had no authority to do so, the Accused did so with intent that fraud may be committed and in particular, to deceive and cause it to be believed by its intended recipient, Olivier Blanchet of BNP Paribas (Suisse) SA, that the BNP Paribas Letter was signed by the authority of BSI and the contents therein were approved by BSI, when the Accused knew that it was neither authorised nor approved by BSI. The Accused has thereby committed an offence punishable under Section 465 of the Penal Code.

ATTORNEY-GENERAL'S CHAMBERS SINGAPORE  
9 November 2016