

## **Where in the 1MDB scandal is Falcon Bank?**

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KINIGUIDE | First it was BSI Bank. Then came Falcon Private Bank.

One after another, Swiss prosecutors are putting banks under scrutiny over the 1MDB scandal.

On Wednesday Oct 12, the Swiss attorney-general's office (OAG) announced that it was initiating [criminal proceedings](#) against Falcon, after doing the same with BSI on May 23.

The Singaporeans had also acted, with the Monetary Authority of Singapore (MAS) ordering Falcon to close its Singapore unit and pay a S\$4.3 million (US\$3.11 million) fine.

In this instalment of KiniGuide, we take a look at Falcon and how it got into so much trouble.

### **What is Falcon Private Bank?**

Falcon Private Bank is a bank providing financial services to high net-worth individuals, and it is headquartered in Zurich, Switzerland.

According to its website, it was established as Ueberseebank in 1965, but was renamed AIG Private Bank in 1998 when it was owned by the American International Group (AIG).

The bank was bought over the Abu Dhabi sovereign wealth fund International Petroleum Investment Company (IPIC) in 2009, and was subsequently renamed Falcon Private Bank.

Besides Singapore and Zurich, the bank also has offices in Abu Dhabi, Dubai, and London.

It is not to be confused with a Texas-based bank of a similar name, which is unrelated to Falcon International Bank.

### **What exactly are the Swiss investigating?**

The Swiss Office of the Attorney-General (OAG) had been investigating the 1MDB scandal since Aug 14 last year, starting with two unnamed 1MDB officials.

According to an Oct 5 press release this year, "The criminal proceedings being conducted by the OAG focus primarily on misappropriation from the 1MDB sovereign fund of monies intended for investment in the Petrosaudi, Tanjung/Genting and Admic (Abu Dhabi Malaysia Investment Company) projects, as well as the misappropriation of investments in the SRC sovereign fund in the area of natural resources."

Meanwhile, the Swiss Financial Market Supervisory Authority (Finma) are investigating a total of six banks over the scandal, including Falcon, for potential breaches in financial and anti-money laundering regulations in Switzerland in relations to the 1MDB scandal.

### **How did Falcon Bank get involved?**

According to Finma, Falcon had several business relationships with a number of 1MDB subsidiaries, and executed US\$2.5 billion on behalf of two of these companies. All told, a total of **US\$3.8 billion** in assets associated to 1MDB had been moved through Falcon.

Finma also made mention of a 'young Malaysian businessman' who is supposedly a client of the bank and has links to individuals in Malaysian government circles. The person was not named in the press release, but his government ties would have qualified him as a 'politically exposed person' (PEP) and should have been subjected to extra scrutiny by the bank.

### **Where did things go wrong for Falcon?**

According to Finma, the bank had failed to conduct adequate background and risk profile checks on the transactions involving the 1MDB companies.

"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 US\$1.3 billion which was immediately transferred from one account to another (pass-through transactions)," it said.

As for the businessman, the regulator said, "The bank did not verify how this individual had been able to acquire assets of US\$135 million in an extremely short period of time or why a total of US\$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."

Meanwhile, among others, MAS said Falcon's head office had failed to guard against conflicts of interest involving its **then board chairperson** Mohamed Ahmed Badawy Al-Husseiny (*left*).

MAS said Badawy misled the Falcon's Singapore unit into processing unusually large transactions despite multiple red flags.

Badawy is also the CEO of the Abu Dhabi-based Aabar Investments PJS (Aabar) from 2010 to 2015, and a director of the similarly named but supposedly unaffiliated Aabar Investments PJS Ltd (Aabar-BVI) based in the British Virgin Islands.

As a result of these findings, Finma has ordered Falcon to disgorge CHF2.5 million (US\$2.53 million) in illegally generated profits, and banned the bank from entering into business relationships with foreign 'politically exposed persons' for three years. Any further violations would result in the revocation of Falcon's banking licence.

MAS meanwhile imposed a S\$4.3 million (US\$3.11 million) fine on Falcon, and ordered the

bank to close its Singapore unit.

### **How does the OAG come into the picture?**

The OAG enforces a separate set of laws compared to Finma.

In particular, it is investigating Falcon under Article 102 paragraph 2 of the Swiss Criminal Code, but based on findings of Finma's investigation.

“(The law) allows the prosecution of a legal entity that is suspected of not taking all the reasonable organisational measures that are required to prevent natural persons from committing offences, in particular money laundering or corruption offences,” it said in a press release on Wednesday.

The provision stipulates a fine of up to CHF5 million (US\$5.7 million) upon conviction.

### **Why did all these sound familiar?**

According to the US Department of Justice's (DOJ) court filings, the supposed misappropriation from 1MDB had occurred [in three phases](#). Falcon was alleged to be involved in the latter two, dubbed the 'Aabar-BVI phase' and the 'Tanore phase'.

The DOJ alleged that in 2012, 1MDB Energy had remitted US\$1.367 billion from its Falcon account to Aabar-BVI's BSI bank account under the guise of being a 'security deposit' for Aabar.

The money came from two separate bond issuances by 1MDB, which totalled US\$3.5 billion. It bonds were co-guaranteed by Aabar's parent company, IPIC.

IPIC and Aabar denies having any ties with Aabar-BVI, which is the intended recipient of the US\$1.367, but 1MDB and the Malaysian government claimed that it has proof to show otherwise.

The matter is now at the heart of a dispute being heard before the [London Court of International Arbitration](#).

From Aabar-BVI, according to the DOJ, the money was allegedly distributed for the personal benefit of various individuals, including officials at 1MDB, IPIC or Aabar, the document reads.

Among them includes a certain 'Malaysian Official 1' (MO1), who supposedly received US\$30 million during this phase.

In 2013, during the Tanore phase, US\$1.26 billion was allegedly siphoned out of a 1MDB US\$3 billion bond issuance through a certain 'Tanore Finance Corporation' bank account in Falcon's Singapore unit, and another Falcon account held under the name of Granton Property Holdings Limited.

The money was originally intended for a 1MDB-Aabar joint venture called Admic.

Again, the money was supposedly used for the benefit of unrelated individuals, including US\$681 million that went to MO1's personal bank account in Malaysia.

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