



Understanding Cross Border Corruption
and Money Laundering
THE 1MDB CHRONICLES EXPOSED

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PART A

1. Introduction

It's a tale which is so fantastic that it will make a Hollywood scriptwriter proud. It has a cast of a king/sultan, princes, a prime minister and his stepson, Arab sheikhdoms, and a deal-making, baby-faced whizz kid who was in his twenties when it all started - the apparent brains behind the deals, who cavorts with actors and other luminaries, has a proclivity for grand parties and yachts, exorbitant tastes, runs philanthropies and is close to the very top echelons of political leadership in Malaysia. The loot is large with assets involved of about RM50 billion.

It's a tale of brazen outright theft and corruption in the tens of billions of ringgit - perhaps the largest in the world - a result of reckless, arrogant audacity because there is no way that it will not eventually come out into the open. For good measure it includes too rather devious means of siphoning off further billions which will never show up in the accounts, even if they are audited, such as bond mispricing and overpayment for assets.

It reflects the blatant cover-up of criminality in a government corporation at all levels of governance in Malaysia with investigating authorities compromised by intimidation, transfers, new appointments, and inexplicable lack of investigation over obviously wrong processes despite tonnes of missing money. Pile on top of that secrecy laws used to suppress information which will throw light on the case and shed some light on the accountability trail.

It involves international transfers of moneys through different money centres, including Singapore, using secretive shell companies in the British Virgin Islands, Cayman Islands, Seychelles and elsewhere, and large international banks such as RBS, Deutsche Bank, Citibank, JP Morgan Chase, Standard Chartered and UBS amongst others through which stolen money was laundered, underlining in bright red the continued complicity of the global financial system in transferring ill-gotten gains by corrupt regimes from the developing world.

That and more is the story of 1Malaysia Development Bhd or 1MDB, Malaysia's self-styled strategic development company set up with RM1 million in capital but eventually becoming mired in RM42-46 billion of debt and a maze of dubious deals which resulted in at least US\$7 billion (RM28 billion) being unaccounted for, and an arbitration claim of US\$6.5 billion (RM26 billion) from an arm of the Abu Dhabi government. At least as much as RM40 billion has been put at risk or lost through dubious means, which include theft, bond mispricing and overpayment for assets amongst others.

The US Department of Justice says in a civil filing that over US\$3.5 billion has been misappropriated, out of which US\$730 million came into Prime Minister Najib Abdul Razak's accounts of which US\$620 million was transferred back to one of the accounts it came from. Most of the misappropriation in the first place went into the accounts of Low Taek Jho or Jho Low, accounting for nearly three quarters of the funds embezzled, going by the figures.

It was seven years ago in 2009 when it all started. Capital market players were puzzled by a RM5 billion bond from a so-called sovereign wealth fund, Terengganu Investment Authority (TIA). TIA will eventually be taken over by the federal government through Minister of Finance Inc and renamed 1MDB. The bond had very attractive terms for investors but was guaranteed by the federal government. Many wanted to get their hands on a portion of the bonds but were not able to. Demand was that good or the bonds were diverted to the favoured few who could flip it for a quick profit.

Earlier in the year, at end-February 2009, TIA, was set up with the aim of ensuring that the economic development of the east coast state of Terengganu was sustainable and the wellbeing of the people safeguarded.

Among those who played key roles were the Sultan of Terengganu, Sultan Mizan Zainal Abidin (who was also King from 2006 to 2011 under Malaysia's system of a monarchy rotated among the Sultans or state rulers every five years), then Menteri Besar or chief minister of Terengganu, Ahmad Said, officials of Goldman Sachs and Low Taek Jho (commonly known as Jho Low), the whizz kid dealmaker, who shot to fame later for a number of reasons not least for his role in 1MDB and his highflying ways. Low is known to be close to Rosmah Mansor, wife of prime minister Najib Abdul Razak and went to school with Rosmah's stepson, Riza Aziz who got US\$238 million from transfers traced back to 1MDB funds.

Originally, TIA, was to be set up with RM11 billion in funds, RM5 billion from a federal government-guaranteed bond issue, and another RM6 billion from state controlled oil major Petroliam Nasional Bhd (Petronas), via the securitisation of oil royalty. The plan was for the fund to be modelled after the Mubadala Development Co, the sovereign wealth fund of Abu Dhabi.

TIA was Malaysia's first state sovereign wealth fund, and initially was slated to set a new, high benchmark on how a state should control its finances.

As soon as the first RM5 billion was raised via the federally guaranteed bond issues the melee started. Both Ahmad Said and the federal government wrestled for control of the funds— while the charter had it that TIA should be run by professionals. By July 2009 the federal government took over 1MDB from Terengganu and put it under the Minister of Finance Incorporated (MoF Inc). Thus, 1MDB came under the direct control of the finance minister, Najib, who was also prime minister. While Najib was not on the main board he chaired the advisory board.

The first sign of impropriety - bond mispricing under TIA - started in 2009 and was picked up in the international financial media because of its very attractive pricing. AmInvestment Bank handled the issue. However, any reporting on 1MDB (the name was changed in September 2009) in the local print media was heavily discouraged, with reporting restricted to the international media mainly on the attractive prices for investors of the bonds.

Much later it would transpire that even the then board of 1MDB was against the bond issue, questioning its excessively attractive rates which priced the bonds too low. But despite board opposition to the RM5 billion bond and a directive that 1MDB does not proceed with the bond, management proceeded with it. What followed was a series of other inexplicable mistakes and surprising lapses of governance, which could have only come about by complicity, resulting in losses by a corporation through mismanagement/criminal activities of billions of ringgit.

The first major series of articles on 1MDB appeared in the KINIBIZ website in Mar 2013, some four years after that landmark bond. The eight-part series focused on matters such as mispricing bonds to the disadvantage of 1MDB, overpaying for energy assets, questionable deals and deviating from its objectives as a strategic development company.

Eventually other news media, both domestically and internationally began to report critically on 1MDB's fund raising and operations. The leak of e-mails to both financial newspapers The Edge and website Sarawak Report opened up a Pandora's box of trails linking Jho Low to 1MDB and highlighting a host of questionable practices. For its coverage, The Edge was suspended for some two months in 2015 under Malaysia's tough media licensing laws. The Wall Street Journal (WSJ) reported on money passing from 1MDB to the accounts of no less than Prime Minister Najib Abdul Razak, involving RM2.6 billion and as much as RM4.2 billion and on missing money going into accounts controlled by Jho Low.

The Public Accounts Committee report on 1MDB provided further evidence but one of the most galvanizing documents in unveiling wrongdoing at 1MDB was the Malaysian Auditor-General's Report. This was classified as a secret under Malaysia's oppressive Official Secrets Act making it illegal for anyone in Malaysia to divulge its contents.

Still both the WSJ and Sarawak Report wrote extensive articles quoting from the report and other classified documents such as those from Malaysia's central bank, Bank Negara Malaysia (BNM), raising questions afresh. Authorities, however failed to explain issues and discrepancies raised in these reports. Authorities' responses focused on finding out who leaked the documents instead of investigating the very serious allegations made. Authorities' response also included transfers of investigating officers.

In more recent news, the US Department of Justice seized over US\$1 billion in assets in the US in July this year saying that it was bought with part of the misappropriated

over US\$3.5 billion- stolen in other words - from 1MDB. It confirmed numerous reports and detailed a trail of money flows - the most comprehensive to date - implicating, in some cases without naming them, the Malaysian prime minister Najib Abdul Razak (unnamed), his stepson Riza Aziz (named), Jho Low (named), officials of 1MDB (unnamed) and others, including key officials of 1MDB's business partners.

This paper is a case study of 1MDB and how the state-owned corporation was misused to raise money for others by improper and questionable financing procedures and the subsequent transfer out of loan proceeds by outright siphoning out of money disguised to look like legitimate payments. The issue of political donations is examined as are the available news on the money trails.

It looks at the reasons for why 1MDB took place, with particular emphasis on the collapse of governance measures and the interference of the executive in what is supposed to be independent investigation and prosecution. It concludes that 1MDB could not have happened without the collusion and complicity of the top leadership.

The paper examines what needs to be done domestically to prevent the recurrence of 1MDB and the changes in the global financial system necessary to stop the subsequent transferring and laundering of money looted from developing countries into the developed countries.

But 1MDB is an ongoing saga and how it will conclude is not at all clear. This tale of massive corruption has shaken the nation to its very core, forced awkward political alliances among those who are afraid to move against the current leadership, a change in the political landscape brought about by the rise in brinkmanship through racial and religious extremism, and considerable uncertainty in every sphere. And it raises questions afresh of international complicity among banks and financial institutions who helped launder all the loot and asked few questions if any.

2. How it was done - a quick overview of the methods used

A number of ways and means were employed to use and divert 1MDB money.

1MDB's business model was flawed right from the very beginning - an edifice built on massive debts which means gross returns on assets employed had to be in the double digits to get meaningful net returns. If for instance we want a net return of 6%, we need a gross return of 13%, assuming cost of funds of 7%. That's pretty difficult to get for about RM50 billion of debt and would need hedge-fund-like operations, returns and risk. But in all probability it was structured as such so that as much as possible could be extracted from the company to eventually benefit just a few. In practice that's what happened.

The business model was to use borrowed money - the initial paid-up capital of the company was a mere RM1 million - to acquire assets and go into joint ventures which help the strategic development of the country and contribute to its economic growth. But none of its investments actually did that.

In the event it ran up debts of RM42-46 billion as at the last available balance sheet date (end- Mar 2014) and this could have gone up to as high as RM50 billion later. A 13% return on that would have meant earnings of a massive RM6.5 billion a year. However, for the years in which it filed annual reports - from 2009 to 2014 - it was only profitable because of revaluation of lands cheaply acquired from the government before.

Here are at least five major things that 1MDB did wrong, some of which we will elaborate on later:

a. Poor funding methods.

This included a series of bond mispricing that most likely resulted in as much nearly RM6 billion, according to our calculations, being siphoned off because of undervaluing bonds and issuing them to others. This is particularly insidious because the loss to 1MDB will not appear in the books. On top of this, 1MDB entered into strange security deposits for loans taken, as much as 40% of some loans or over RM4 billion. The total here works out to about **RM10 billion. This is explained in greater detail later.**

b. Overpayment for assets and questionable purchases.

1MDB overpaid for power assets it bought from local players, eventually selling them to a China company for a loss. The estimated overpayment could reach as much RM3 billion. A deal with a member of the Saudi Arabian royal family saw as much as RM7 billion invested in dubious ventures. Over RM4 billion of this went to Low Taek Jho or Jho Low, transferred to his company Good Star Ltd. And then it granted an option to Abu Dhabi state company Aabar PJS Investments to purchase power assets, an option it extinguished for RM4 billion later, a ridiculously high price. On top of this there are other unspecified for sale assets of some RM13 billion. These total **RM27 billion.**

c. Overpayment to advisers.

This figure could amount to as much **RM2 billion**, mainly to Goldman Sachs.

d. Repeated links to the same people.

1MDB has repeatedly done deals with the same people. These include Abu Dhabi state-linked investment companies International Petroleum Investment Corp (IPIC) and its subsidiary Aabar PJS Investments (Aabar). Much of the money misappropriated from 1MDB of US\$3.5 billion relates to this. In addition to that, the other company is PetroSaudi Holdings (Cayman) Ltd, with which it had a joint venture. Some RM4 billion was siphoned out of the joint venture and into Good Star Ltd, owned by Jho Low as mentioned above. Jho Low advised the setting up of TIA, the predecessor to 1MDB,

and by many accounts, especially leaked e-mails reported in the media, he had a key role to play in 1MDB with much of misappropriated funds going into accounts traced to him as shown by the US Department of Justice (DoJ) filings.

e. Misappropriation of 1MDB funds.

The DOJ civil filings in July seized over US\$1 billion worth of assets - the largest such seizure ever - obtained using money that came from over **US\$3.5 billion (RM14 billion)** misappropriated or stolen from 1MDB. It has provided publicly what is to date the most comprehensive account of money flows from 1MDB. This implicates no less than Malaysian Prime Minister Najib Abdul Razak, his stepson, Riza Aziz, Jho Low, and two former high ranking IPIC and Aabar officials. We will go into some detail to trace the movement of the funds.

After 1MDB sold its power assets at the end of 2015 to a China state-owned company, it's only working assets are land being prepared for development at the Tun Razak Exchange or TRX near the heart of Kuala Lumpur and at the former air force base in Sungai Besi, known as Bandar Tun Razak.

As shown in table below, the major bonds it issued were for about RM32 billion but it has very little assets to show for it. Even if earthworks at the two real estate developments accounted for say RM3 billion, and other expenses of around RM2 billion say, there is some RM28 billion still unaccounted for. The Auditor-General's Report now classified secret, according to various reports, said that as much as **US\$7 billion (about RM28 billion)** is unaccounted for.

This is US\$3 billion over and above the US\$3.5 billion that the US DOJ said was misappropriated from 1MDB but it comes close to the US\$6.5 billion that IPIC is claiming from 1MDB in arbitration proceedings filed in London.

Thus eventually as much as US\$7 billion (RM28 billion) could be the final loss while over US\$3.5 billion (RM14 billion) have already been more or less established as stolen from 1MDB. Also, this is before taking into account losses from bond mispricing of RM6 billion, overpayment for power assets of RM3 billion and overpayment for advisers of RM2 billion, making a grand total of as much as RM39 billion.

3. Mispriced bonds, overpayment for power assets and excessive fees.

a. Mispriced bonds.

In 2009, when 1MDB was still TIA, it set off on its first fund raising exercise. It started off by issuing a 30-year RM5 billion bond with 5.75% coupon rate, payable semi-annually and arranged by AmInvestment Bank Bhd. However, this bond was issued at a 12% discount or 88 sen for every RM1 par value. 1MDB's annual report places the yield for this at a high 6.71%.

The 30-year tenure is unusually long compared to a maximum of 20 years for government securities. When 1MDB (as TIA) issued this 30-year bond, Malaysian government securities were trading at a yield of roughly 4.8% while Cagamas bonds, which do not carry explicit government guarantees, traded at about 5.28% yield.

According to bond analysts, a 25-30 basis point (100 basis points = 1 percentage point) premium to government bonds is acceptable for a bond with explicit government guarantee such as TIA's 30-year bond. If we add another 30 basis points for the extra 10-year tenure, the fair yield for this bond would come to about 5.4%.

However, the effective annual interest rate was 6.71%, considerably more than this fair yield figure. This higher rate can only be achieved by lowering the issue price, meaning the bond was issued too cheaply considering the yield could have been lower around 5.4%.

Calculations using a bond calculator found the mispricing undervalued the RM5 billion bond by about 20%. In other words, whoever got that first bite would have pocketed RM1 billion by buying this bond at the undervalued price and subsequently selling it back to the market at more sensible prices.

Previous KINIBIZ checks found the bond was even traded at a premium of RM1.20 for a RM1 par value bond, a substantial 36% increase over the effective issue price of 88 sen per RM1 par value.

Such bond mispricing represents an upfront siphoning of money by undervaluing the bonds and selling them at market price, the penalty being paid by higher interest rates over the tenure of the bond.

Similar analysis indicates for the other major bonds subsequently issued, all of it arranged by Goldman Sachs, the undervaluation of the bonds in total amounted to RM5.8 billion.

Major 1MDB bonds						
Date	Type	Amount	Tenure	Yield (%)	Mkt yield (est) (%)	Mispricing (RM bil)
May 2009	RM bond	RM5 bil	30 years	6.7	5.4	1.0
May 2012	US\$ bond	US\$1.75 bil	10 years	6.0	3.75	1.2
May 2012	US\$ bond	US\$1.75 bil	10 years	6.0	3.75	1.2
Mar 2013	US\$ bond	US\$3 bil	10 years	6.0	3.75	2.4
Total		RM32.3 bil				RM5.8 bil

Source: Annual reports, KINIBIZ estimates

This mispricing represents an eventual loss to the government as wholly owned 1MDB has to pay higher interest rates for periods ranging from 10-30 years but these do not show up as losses anywhere in the accounts. For those who obtained the bonds cheaply they only had to flip it on the market for quick gains.

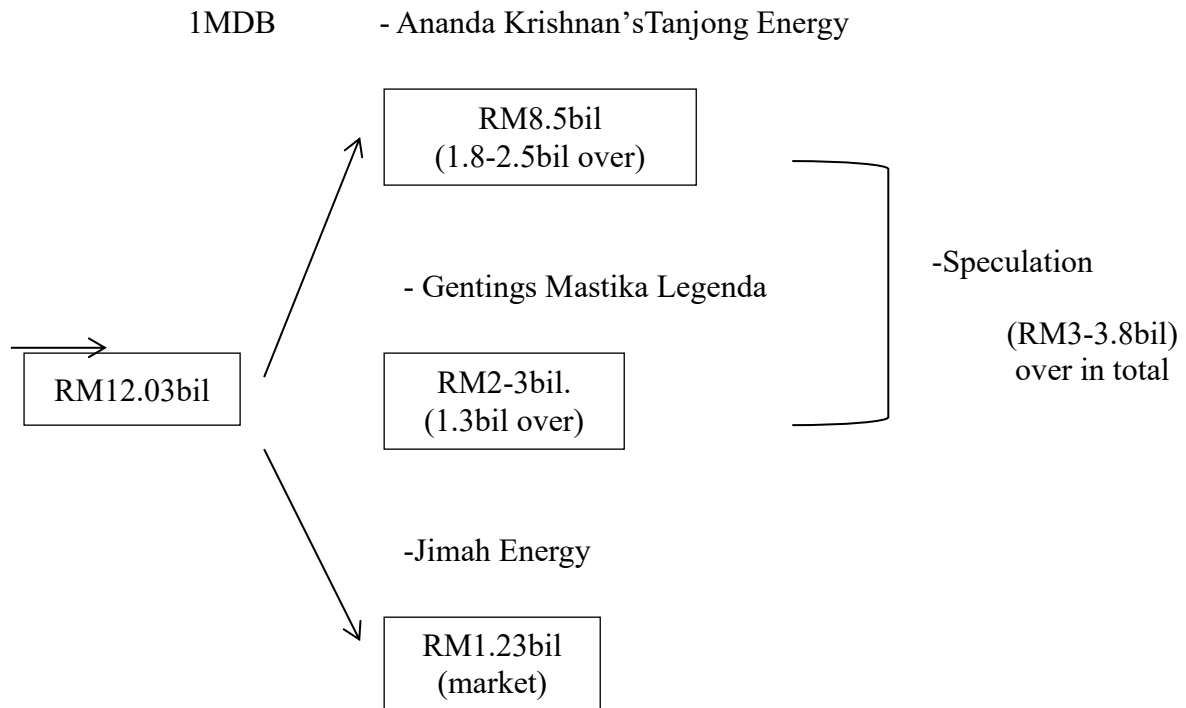
b. Overpayment for power assets.

Most of the power assets were acquired between March 2012 and July 2013. The purchases represented an attempt by 1MDB to get a stream of earning assets. In March 2012, 1MDB acquired Ananda Krishnan's Tanjong Energy Ventures for RM8.5 billion, subsequently renamed Powertek Energy Group. KINIBIZ analysis indicates that overpayment for these assets could have amounted to between RM1.8 billion to RM2.5 billion.

The next power asset purchase was of Genting group's power assets held under Mastika Lagenda for RM2.3 billion, resulting in Genting showing a net gain of a massive RM1.9 billion from the sale. Industry sources estimated an overvaluation of about RM1.3 billion.

About a year after buying Genting's power assets, 1MDB announced the purchase of Jimah Energy Ventures for RM1.23 billion, which analysts felt were made at market value. Thus overvaluation for power assets could have been between **RM3 billion and RM3.8 billion.**

Overpayment for power assets



c. Excessive Fees. Reports put payment of fees to Goldman Sachs, at nearly US\$600 million or about RM2.4 billion. A Bloomberg report in May said: In 2012 and 2013, Goldman Sachs handled three 1MDB bond sales totaling \$6.5 billion that yielded fees, commissions and expenses of US\$593 million, or about 9 percent of the money raised, well above the industry norm. Typically Goldman charges 1-2% for such deals, which means overpayment could be over US\$500 million or about **RM2 billion**.

4. The siphoning out of billions.

Currently the most comprehensive public document available to show siphoning of money out of 1MDB and into various other accounts is a civil filing by the US for the recovery of assets of over US\$1 billion in the US and elsewhere. The filings say that these came from over US\$3.5 billion misappropriated from 1MDB.

According to the DOJ filings, between 2009 and at least until 2013, “multiple individuals, including public officials and their associates, conspired to fraudulently divert billions of dollars from 1MDB through various means, including by defrauding foreign banks and by sending foreign wire communications in furtherance of the scheme, and thereafter, to launder the proceeds of that criminal conduct, including in and through U.S. financial institutions.

“The funds diverted from 1MDB were used for the personal benefit of the co-conspirators and their relatives and associates, including to purchase luxury real estate in the United States, pay gambling expenses at Las Vegas casinos, acquire more than \$200 million in artwork, invest in a major New York real estate development project, and fund the production of major Hollywood films. 1MDB maintained no interest in these assets and saw no returns on these investments.”

The DOJ outlined three main phases of “criminal” conduct. Under “**The Good Star**” **Phase**, fraudulent diversion of funds from 1MDB began around September 2009. “Between 2009 and 2011, under the pretense of investing in a joint venture between 1MDB and PetroSaudi International (“PetroSaudi” or “PSI”), a private Saudi oil extraction company, officials of 1MDB and others arranged for the fraudulent transfer of **US\$1.03 billion** in two tranches from 1MDB to a Swiss bank account held in the name of Good Star Limited.

1MDB officials, including **former CEO Shahrol Azral Ibrahim Helmi, executive director Casey Tang and general counsel Jasmine Loo** (referred to respectively as 1MDB officer 2,1, and 3 in the DOJ filings) caused this diversion of funds by, among other things, providing false information to banks about the ownership of the Good Star account. Contrary to representations made by 1MDB officials, the Good Star account was beneficially owned not by PetroSaudi or the joint venture, but by Jho Low. “Low laundered more than **US\$400 million** of the funds misappropriated from 1MDB through the Good Star Account into the United States, after which these funds were used for the personal gratification of Low and his associates,” the DOJ said.

Under the **Aabar-BVI Phase** in 2012, 1MDB officials and others misappropriated and fraudulently diverted a substantial portion of the proceeds that 1MDB raised through two separate bond offerings arranged and underwritten by Goldman Sachs International of US\$1.75 billion each for a total of US\$3.5 billion. The bonds were guaranteed by both 1MDB and IPIC.

1MDB officials caused a substantial portion of the proceeds – **approximately US\$1.367 billion**, more than forty percent of the total net proceeds raised – to be wire transferred to a Swiss bank account belonging to a British Virgin Islands entity called Aabar Investments PJS Limited (Aabar-BVI).

“Aabar-BVI was created and named to give the impression that it was associated with Aabar Investments PJS (Aabar), a subsidiary of IPIC. In reality, Aabar-BVI has no genuine affiliation with Aabar or IPIC, and the Swiss bank account belonging to Aabar-BVI was used to siphon off proceeds of the 2012 bond sales for the personal benefit of officials at IPIC, Aabar, and 1MDB and their associates,” the DOJ said.

It added that the funds diverted through the Aabar-BVI Swiss Account were transferred to, among other places, **a Singapore bank account controlled by Tan Kim Loong,**

also known as Eric Tan, an associate of Low. “Those funds were thereafter distributed for the personal benefit of various individuals, including officials at 1MDB, IPIC, or Aabar, rather than for the benefit of 1MDB, IPIC, or Aabar.”

The “Tanore” Phase: In 2013, several individuals, including 1MDB officials, diverted more than **US\$1.26 billion** out of a total of \$3 billion in principal that 1MDB raised through a third bond offering arranged by Goldman in March 2013. The proceeds of this bond offering were to be used by 1MDB to fund a joint venture with Aabar known as the Abu Dhabi Malaysia Investment Company (ADMIC). However, beginning days after the bond sale, a significant portion of the proceeds was instead diverted to **a bank account in Singapore held by Tanore Finance Corporation for which Tan was the recorded beneficial owner.**

Although the Tanore Account had no legitimate connection to 1MDB, the then executive director of 1MDB (although not named, it indicates **Casey Tang**) was an authorised signatory. 1MDB funds transferred into the Tanore Account were used for the personal benefit of Low and his associates, including officials at 1MDB, rather than for the benefit of 1MDB or ADMIC.

The filings said that the proceeds of each of these three phases of criminal conduct were “laundered through a complex series of transactions, including through bank accounts in Singapore, Switzerland, Luxembourg, and the United States.

“Numerous assets, including the defendant asset (those the DOJ is claiming for forfeiture under its actions), were acquired with funds unlawfully diverted from 1MDB, or funds traceable thereto. As a result, the defendant asset is subject to forfeiture to the United States pursuant to.....” It goes on to cite the relevant legislation.

The Misappropriation Phases

	Relevant Bond (US\$bil)	Phase	Amount Stolen (US\$ bil)	Bank Account	Beneficiary	When
	1.25 (RM5 bil)	Good Star	1.03	Good Star	Jho Low	2009-11
	3.5 (2 issues)	Aabar-BVI	1.367	Aabar BVI	Aabar BVI	2012
	3.0	Tanore	1.26	Tanore Finance Corp	Eric Tan for Jho Low	2013
Total	7.75		3.657			

Note: Table compiled from US Department of Justice Civil Filings

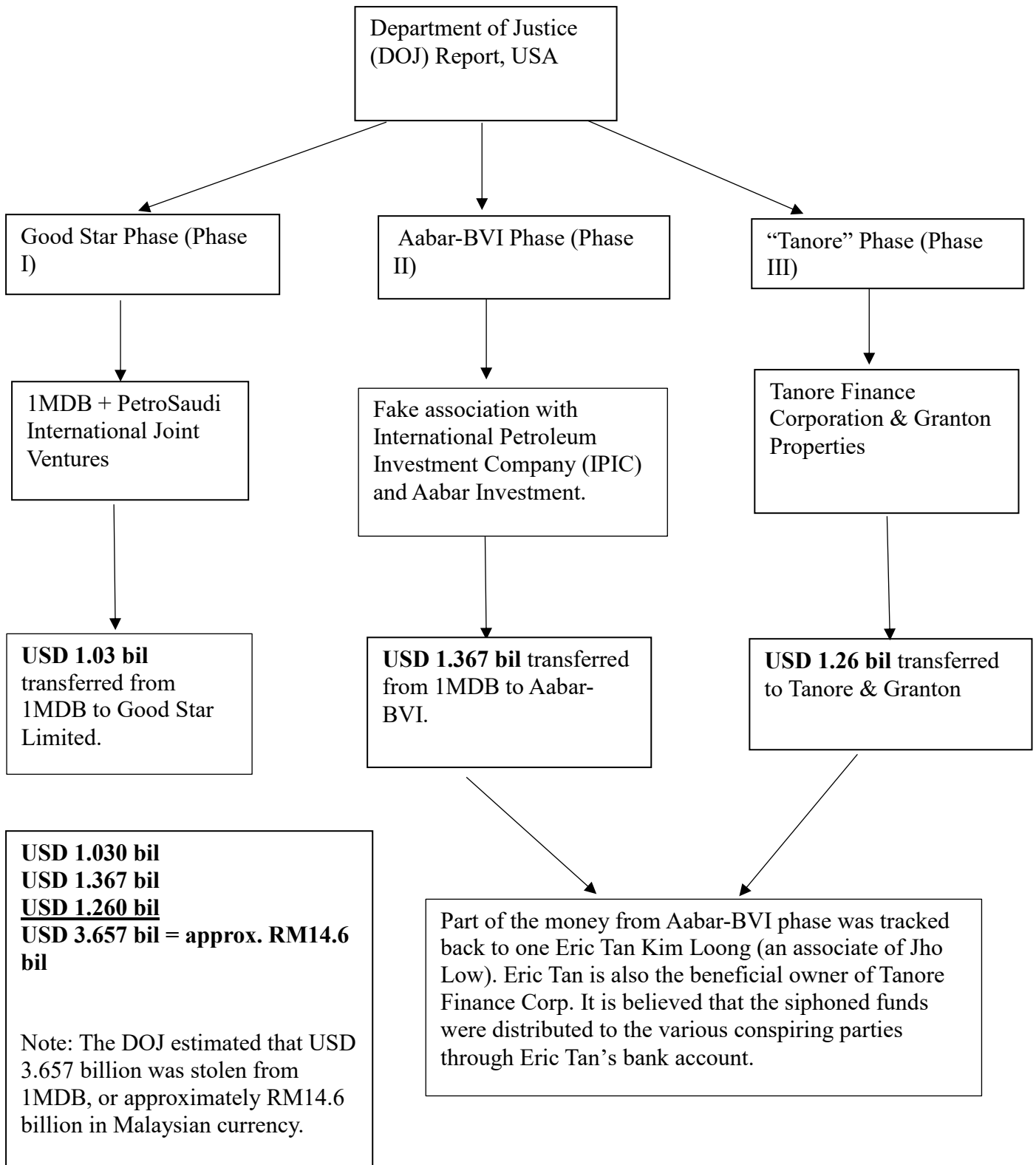
Totaling the three up comes up to US\$3.657 billion stolen from 1MDB and transferred out, or a massive RM14.6 billion at current exchange rates. That effectively means that if 1MDB is unable to recover any of the misappropriated

money, the government bears the costs as 1MDB is wholly owned by the government and the government has issued guarantees for a substantial portion or even all of the borrowings. Desegregating the Aabar-BVI phase for money which eventually went to Jho Low's accounts, our calculations indicate US\$3 billion (over RM12 billion) of the stolen money, or over four fifths of the total of US\$3.657 billion went directly or indirectly into accounts controlled by Jho Low first, implicating him as the main beneficiary of the conspiracy, and virtually confirming him as the mastermind together with the trail of leaked e-mails which tie him to decision-making at 1MDB.

Of the US\$6.5 billion in bonds arranged by Goldman Sachs, US\$3 billion carries a letter of support from the Malaysian government, effectively a guarantee. The remaining US\$3.5 billion, in two equal bond issues of US\$1.75 billion is guaranteed by IPIC which seems to have some sort of back-to-back arrangement with the Malaysian government. It is interesting to note that IPIC is claiming, not just US\$3.5 billion in disputed payments, but US\$6.5 billion under arbitration proceedings.

The DOJ filings then goes on to detail the money transfers.

5. The Money Trails



a. The Good Star Phase (see chart in Appendix 1)

RBS Coutts bank account records indicate that Good Star Limited was formed in the Seychelles on or about May 18, 2009. The sole director of Good Star is listed as Smart Power, of which Jho Low is the sole director. Smart Power's ownership equity in Good Star consists of a single bearer share of company stock. A bearer share is proof that whoever holds the physical share owns the company.

Good Star's address was given as RBS Coutts' Singapore address and an employee of the bank was named as the person to which correspondence should be addressed.

In September 2009, 1MDB agreed to go into joint venture with a company called Petrosaudi International Ltd (PSI) by paying US\$1 billion for a 40% stake in a joint venture, 1MDB PetroSaudi Ltd. PSI's US\$1.5 billion "contribution" was to be via injection of oil and gas assets. Both the DOJ filings and other accounts say that 1MDB transferred **US\$700 million into the Good Star account** although it was not related to the joint venture together with a simultaneous transfer of US\$300 million directly into an account of the JV.

The transfer, done by **Deutsche Bank in Malaysia**, eventually went through although officials at the bank became suspicious over the transactions. Senior 1MDB officials effectively made representations to various parties, including the 1MDB Board, that Good Star was related to the joint venture when it was not.

"The 1MDB-PetroSaudi JV never had an account at RBS Coutts. Rather, as stated above, the 1MDB-PetroSaudi JV maintained an account at **J.P. Morgan**, and that account received only \$300 million of the total \$1 billion that was to be invested in the Joint Venture," the DOJ filings said.

A further US\$330 million was transferred into the same (Good Star) account later between May and October 2011. Although these funds were intended to be transmitted to the 1MDB-PetroSaudi JV under a financing agreement signed by 1MDB and the 1MDB-PetroSaudi JV, the funds were instead transmitted via international wire transfers to the Good Star Account, the filings said. This was done using **Deutsche Bank**, which in turn used **JP Morgan** as correspondent bank, in different tranches. Besides Deutsche Bank, the other originating bank was **AmBank**.

From the Good Star Account owned by Low, US\$24.5 million was transferred to an account at **Riyad Bank** owned by Prince Turki, the seventh son of the late King Abdullah of Saudi Arabia and co-founder of PSI together with PSI CEO Tarek Obaid, the other co-founder. **From the Riyad Bank account US\$20 million was transferred into the account of PM Najib at AmBank.** The Transactions took place in 2011. Najib will receive US\$681 million into this account later via **Tanore Finance**.

Meantime, between June 28, 2011, and September 4, 2013, approximately \$389 million was transferred from the Good Star account to an account at **BSI Bank in Singapore** held in the name of **Abu Dhabi Kuwait Malaysia Investment Corp** (ADKMIC BSI account) of which Low is the beneficial owner. Low claimed to have founded ADKMIC in 2007. The Transfers were done through **JP Morgan** as correspondent bank. The filings claim that the account was then used to acquire assets in the US and elsewhere.

The Good Star account, opened with a just a bearer share to show ownership in Singapore, indicates a lack of questioning and investigation as to where the funds came from, something which is repeated throughout the other transactions.

b. The Aabar-BVI Phase (see chart in Appendix 2)

After US\$1.03 billion had been stolen from 1MDB, the company needed to raise more funds and engaged Goldman Sachs to raise two bonds of US\$1.75 billion each or US\$3.5 billion in total. From these proceeds, **US\$1.367 billion were stolen** and diverted to bank accounts in **Switzerland and Singapore**, according to the DOJ filings.

Almost immediately after receiving the proceeds of each of the 2012 bond issues, 1MDB wire transferred a substantial portion of the proceeds – totaling approximately \$1.367 billion or more than forty percent of the net proceeds raised – to a Swiss bank - **BSI Bank - account belonging to an entity called Aabar Investments PJS Limited, a British Virgin Islands-registered corporation (Aabar-BVI) that bears a similar name to a legitimate subsidiary of IPIC, called Aabar Investments PJS (Aabar).** Correspondent banks were **JP Morgan Chase and Citibank**.

At the time of these transfers, **Khadem Abdulla al-Qubaisi** was the managing director of IPIC and the chairman of Aabar and **Mohamed Ahmed Badawy Al-Husseiny** the CEO of Aabar. Qubaisi and Husseiny were also directors of Aabar-BVI. In their audited financial statements for the year ending on March 31, 2014, 1MDB booked their substantial payments to Aabar-BVI as an asset rather than a payment, describing it as a “refundable deposit . . . held aside as collateral for the guarantee” that IPIC provided for the 2012 bonds.

Following the dismissal of Qubaisi and Husseiny from their positions at IPIC and Aabar in 2015, IPIC and Aabar have recently clarified that Aabar-BVI is not owned by either entity. News reports have said that Qubaisi and Husseiny are under house arrest in Abu Dhabi.

The transfer to Aabar BVI was done via circuitous means using accounts of Bank of New York in London and New York to Falcon Bank Private Ltd, which is wholly owned by Aabar. Husseiny was Falcon Bank’s chairman.

The Swiss bank account belonging to Aabar-BVI at **BSI** was used to siphon part of the proceeds of the two 2012 bond sales for the personal benefit of individuals affiliated with IPIC, Aabar, and 1MDB, as well as their associates.

“It is possible to register an entity with a name that mimics the name of an existing entity, without the need to prove any relationship to the existing entity. This is a common technique to lend the entity in question an appearance of legitimacy. It is also possible to incorporate an entity in the BVI without providing evidence of the entity’s true beneficial ownership and without providing evidence of the relationship between the entity and the shareholder listed in the incorporation records.

“Irrespective of any apparent nominal relationship between Aabar-BVI and Aabar reflected in incorporation records, Aabar-BVI was not a legitimate subsidiary of Aabar or IPIC operating within the bounds of any authority granted by Aabar or IPIC, and the funds transmitted from 1MDB to the Aabar-BVI Swiss Account were not held in that account for the benefit of 1MDB, IPIC, or Aabar.” the DoJ filings said.

Beginning within days of receiving funds from 1MDB, Aabar-BVI transferred a total of approximately **US\$636 million** to the **Singapore** bank account held by **Blackstone Asia RealEstate Partners (Blackstone Account at Standard Chartered Bank)**. The correspondent bank accounts were processed through **Standard Chartered Bank and Citibank** in the US. During this same time period, Aabar-BVI transferred, through multiple overseas investment funds, an additional approximately **US\$465 million** to the Blackstone Account.

The beneficial owner of the Blackstone Account was identified in bank records as Eric Tan Kim Loong (Tan), a Malaysian national and an associate of Low.

Between approximately May and November 2012, shortly after Blackstone’s receipt of funds from the Aabar-BVI Swiss Account, Blackstone transferred **US\$473 million** into a Luxembourg account at **Bank Privee Edmond de Rothschild** beneficially owned by **Qubaisi in the name of Vasco Investment Services SA**. During roughly the same time period, Blackstone transferred **US\$66.6 million** into two different accounts beneficially owned by **Husseiny**.

In October and November 2012, Blackstone transferred US\$30 million to an account belonging to Najib. Finally in December 2012, Blackstone transferred **US\$5 million** to a Swiss account beneficially owned by **Jasmine Loo, who was then 1MDB’s general counsel and executive director of group strategy.**

Shortly after receiving proceeds of the two 2012 bond sales from 1MDB, Aabar-BVI also transferred **US\$238 million** to a **Singapore bank account at BSI Singapore** belonging to **Red Granite Capital, an entity owned by Riza Shahriz bin Abdul Aziz, Najib’s stepson and a friend of Low.**

Among other things, Aziz used these funds to purchase luxury real estate in the United States and the United Kingdom for his personal benefit, and to fund his movie production company, Red Granite Pictures, the DOJ filings said. 1MDB has disclaimed any investment interest in Red Granite Pictures. Aziz claimed in US tax filings that over US\$94 million transferred to Red Granite was a gift from Aabar-BVI.

Red Granite Pictures is a movie production company co-founded by Aziz in 2010, which produced several major motion pictures, including “The Wolf of Wall Street,” “Friends with Kids,” and “Dumb and Dumber.” Red Granite Pictures was incorporated in California on September 30, 2010, as Red Granite Productions and changed its name to Red Granite Pictures on or about June 6, 2011. Red Granite Pictures’ website lists Aziz as CEO, founder, chairman, and producer.

Aabar BVI mimics Aabar, Blackstone mimics private equity fund Blackstone which has assets under management of over US\$100 billion. Much of the money transferred into the Blackstone account was done via intermediate companies to hide the money trail. The DOJ filings set these out in great detail.

c. The Tanore Phase (see chart in Appendix 3)

1MDB issued an additional US\$3 billion worth of bonds, arranged and underwritten by Goldman Sachs in March 2013. The bonds were issued with a letter of support from the Malaysian government, signed by Najib, as good as a guarantee. Also, Malaysia waived its sovereign immunity by submitting to the English courts in connection with disputes arising out of the letter.

Notwithstanding the fact that the stated purpose of these bonds was to generate proceeds to invest in a joint venture with Aabar called Abu Dhabi Malaysia Investment Company (ADMIC), more than \$1.26 billion in proceeds was diverted to a bank account held in the name of **Tanore Finance Corporation at Falcon Bank (US\$825 million)** in Singapore and an account opened under the name of **Granton Property Holdings Limited at Falcon Bank (US\$430 million)**. The Granton account then transferred US\$430 million to Tanore, and a few days later US\$378 million was transferred back to the Granton account. The transactions were done in Mar 2013. As with the Blackstone Account, Tan was the beneficial owner of record for both the Tanore account and the Granton account, although the account had no legitimate affiliation with 1MDB or ADMIC.

Very shortly after the bond offering closed, between approximately March 21, 2013, and March 25, 2013 **US\$681 billion was transferred from the Tanore Account to an account belonging to Malaysian Official 1, who is Najib.** Of this amount, approximately \$620 million was returned to the Tanore Account on or about August 26, 2013.

1MDB funds diverted to the Tanore Account were also used by Low and Tan to purchase artwork for their personal benefit (at least **US\$200 million**) and to purchase an interest in the Park Lane Hotel for the personal benefit of Low.

6. Where 1MDB’s US\$3.657 billion went (see chart in Appendix 4)

The eight listed in the table below were the eventual beneficiaries of the US\$3.657 billion heist from 1MDB.

Incorporating the three phases of theft and going by the beneficial ownership as stated by the DoJ in its filings, we were able to establish that US\$3.657 billion was stolen. Of this, US\$3 billion went into the accounts of entities controlled by Jho Low, US\$238 million to Najib’s stepson Riza Aziz and US\$119 million as residual amount in the Aabar-BVI account.

Tracing the money flows in and out, Jho Low entities had a net US\$2.64 billion after transfers, Qubaisi US\$473 million, Riza Aziz US\$238 million and Najib Razak US\$111 million. However, at the highest, Najib had US\$731 million but this was reduced when he returned US\$620 million to Jho Low. Also, Wall Street Journal figures put total moneys into Najib’s accounts to just over US\$1 billion but this could not be ascertained from the DoJ filings.

Where 1MDB’s US\$3.657 billion went

Name	Amount in Million (US\$)
1. Jho Low	2,640
2. Qubaisi	473
3. Riza Aziz	238
4. Najib Razak	111
5. Hussein	67
6. Jasmine Loo	5
7. Prince Turki	4.5
8. Others	119
Total	3.657 Billion

From the chart in Appendix 4, the main person who moved the funds was Jho Low. On the Aabar side, whose cooperation was required for the Aabar-BVI phase of theft were Qubaisi and Hussein, respectively the chairman and managing director of Aabar. Qubaisi received US\$473 million while Hussein got US\$67 million.

Also, the flow of money establishes a close relationship between Jho Low and Najib Razak, with a total of US\$731 million flowing into Najib's accounts from Jho Low and US\$620 million flowing back. Also Najib's stepson Riza Aziz received US\$268 million directly from Aabar-BVI.

7. How money laundering was facilitated

The DOJ filings detail how money laundering was facilitated by a number of things such as: banks, including large ones, not being vigilant enough; jurisdictions which allow companies to operate without transparency; and shell companies set up in areas with lax regulation amongst others.

a. Many banks, some large, involved

In the **Good Star Phase of misappropriation**, (see previous section) Good Star, which was incorporated in the Seychelles and owned ultimately by Jho Low, opened an account in **RBS Coutts' Singapore branch**. Not only that, the bank's address was used for all correspondence to Good Star, according to the DOJ filings. The filings indicate that eventually over US\$1 billion was transferred into the Good Star account at RBS Coutts. This included US\$700 million from **Deutsche Bank in Malaysia** in Sept/October 2009 despite considerable suspicion by officials involved. Subsequently, between May and October 2011 a further US\$330 million from accounts at **AmBank** and **Deutsche Bank** went to Good Star. The correspondent bank for all the transactions was **JP Morgan Chase** of the US.

From the Good Star account, two transfers were made via **JP Morgan Chase** as correspondent bank to an account of PetroSaudi co-founder (Prince Turki of Saudi Arabia) at **Riyad Bank** for US\$24.5 billion between February and June 2011. Within days of the transfers, through correspondent banks **JP Morgan Chase and Wells Fargo**, US\$20 million from Prince Turki's accounts were transferred to Najib's account at **AmBank**.

According to DOJ filings, Low laundered hundreds of millions from the illegal proceeds into the US. Between October 2009 and Oct 13, 2010, US\$368 million from the Good Star account was sent to law firm **Shearman and Sterling LLP**. Funds from here was used to buy assets. Between June 2011 and Sept 2013, US\$389 million was transferred from the Good Star account to the account of Abu Dhabi Kuwait Malaysia Investment Corp at **BSI Bank in Singapore**. The Monetary Authority of Singapore (MAS) in May this year shut down **BSI Bank Limited** for "serious breaches of anti-money laundering requirements, poor management oversight of the bank's operations, and gross misconduct by some of the bank's staff".

Similarly, during the **Aabar-BVI phase** (see previous section for details), **US\$1.367 billion were stolen** and diverted to bank accounts in **Switzerland and Singapore**,

according to the DOJ filings. From 1MDB, the US\$1.367 billion was transferred to the **Swiss bank account of BSI Bank**. A circuitous route was used involving **Bank of New York in London and New York and Falcon Bank (owned by Abu Dhabi's IPIC, which also owns Aabar)**.

Of the US\$1.367 billion, US\$1.101 billion was transferred into the Blackstone account (see previous section) at **Standard Chartered Bank** in Singapore. A further US\$238 million went into Riza Aziz's account at **BSI Bank Singapore**. The wire transfers were processed through correspondent banks **Standard Chartered Bank and Citibank in the US**.

In the **Tanore Phase of misappropriation** (see previous section) more than \$1.26 billion in proceeds was diverted to a bank account held in the name of Tanore Finance Corporation at **Falcon Bank (US\$835 million)** in Singapore and an account opened under the name of Granton Property Holdings Limited at **Falcon Bank (US\$430 million)** in 2013. Sending parties into the Tanore account included **BSI Bank Singapore (US\$210 million) and ING Bank Netherlands (US\$625 million)**. Funds set up in **Curacao** received the money from 1MDB which were then sent on to the Tanore account.

In March 2013, **US\$681 million** from the Tanore account was transferred into Najib's account at **AmBank**. Of this, **US\$620 million was returned** to the Tanore account in August 2013.

Further, Reuters reported that besides other banks named here, MAS is scrutinising several banks, including **UBS and DBS Group Holdings** to see if they broke anti-money laundering rules in handling transactions linked to 1MDB.

b. Shell companies

International financial centres such as those in **Singapore, British Virgin Islands (BVI), Seychelles, Cayman Islands and Curacao** facilitated the setting up of anonymous shell companies into which billions in funds in total could be transferred with very little if any questioning. In some cases, companies were set up in different locations with identical names to companies in other places, as with Aabar PJS Investments in Abu Dhabi and in BVI.

Large sums of money were also transferred into various companies' accounts in Singapore, including Seychelles-incorporated Good Star, whose ownership was ultimately through a bearer share. Good Star received more than US\$1 billion in funds into its Singapore account which did not belong to it.

In fact, all of the US\$3.657 billion stolen from 1MDB was laundered through accounts in Singapore with various banks. This should raise serious concerns about the level of

vigilance of these banks in stopping the laundering of stolen money and Singapore's supervision levels.

c. Money Laundering and International Neglect

It is a matter of great surprise that big international banks continue to play a huge supporting role in laundering stolen money and money obtained through illegal operations despite heavy fines by regulatory authorities previously. If this laundering of money by international banks and global financial institutions is stopped, then it will be impossible to launder large sums of money stolen by politicians and their proxies in the Third World into the developed world.

That it is not being done is indication that for various reasons there is insufficient will on the part of the developed world to properly legislate and control money laundering. Despite the massive fines paid by some of the largest financial institutions for money laundering, hardly anyone has been charged criminally with money laundering and jailed. So long as that does not happen, global financial institutions will continue to help launder money because they get lots of money for very little effort - basically closing their eyes.

The series of money laundering actions involving money stolen from 1MDB cover big-name banks such as **Citibank, JP Morgan Chase, Standard Chartered, UBS, DBS Group, Deutsche Bank, RBS Coutts and Wells Fargo besides smaller banks** mentioned earlier and involve some big-name international financial centres such as the **United States, Switzerland and Singapore.**

These reflect an abject failure of controls on international money laundering despite the fact that the **Financial Action Task Force (FATF)**, an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction has been in existence since 1989.

The FATF says its recommendations are recognised as the global anti-money laundering and counter-terrorist financing standard. Malaysia is an observer member country of the FATF and a member of the Asia-Pacific Group (APG), a regional grouping of FATF overseeing countries' compliance with FATF Recommendations.

Some of the requirements in the FATF Recommendations include the following:

- Countries should ensure that financial institution secrecy laws do not inhibit implementation of the FATF Recommendations.
- Financial institutions should be prohibited from keeping anonymous accounts or accounts in obviously fictitious names.

- Financial institutions should be required to undertake customer due diligence (CDD) measures when establishing business relations, carrying out transactions of over 15,000 Euros, wire transfers, and there is suspicion of money laundering and the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.
- The CDD measures to be taken includes: (a) Identifying the customer and verifying that customer's identity using reliable, independent source documents, data or information; (b) Identifying the beneficial owner, and taking reasonable measures to verify the identity of the beneficial owner, such that the financial institution is satisfied that it knows who the beneficial owner is; (c) Understanding and, as appropriate, obtaining information on the purpose and intended nature of the business relationship; (d) Conducting ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer.

The FATF recommends further measures in addition to CDD for correspondent banking which includes being satisfied that the respondent bank has done CDD on the customers concerned. Other measures include additional checking for "politically exposed persons", for wire transfers, provisions for compulsorily reporting suspicious transactions, immunity from lawsuits for disclosing financial information etc.

That 1MDB money was so blatantly laundered through the global financial system via the participation of many big name banks and international business centres reflects continuing neglect of money laundering on a global scale. If the measures recommended by FATF had been followed, 1MDB money could not have been laundered.

8. Some of the assets purchased

The filings go into detail of how stolen money was used to purchase US assets which includes:

a. The L'Ermitage Property: Low purchased this luxury hotel in Beverly Hills, California in 2010 for **US\$44.8 million**, from the US\$700 million wire transfer from 1MDB.

b. Hillcrest Property 1: Low bought this property located in Beverly Hills, California first with funds from Good Star but later funds from the BVI-Aaabar phase were used to transfer the property to Aziz. Value is **US\$17.5 million**.

c. Park Laurel Condominium: Low bought this property located in New York for **US\$24 million**. Subsequently, an entity controlled by Aziz bought this for **US\$35.5 million**.

d. Bombardier Jet: Low bought the Bombardier Global 5000 aircraft for **US\$35.3 million** using funds traceable to the US\$700 million transferred to the Good Star Account.

e. Time Warner Penthouse: This property in Columbus Circle New York was bought from money traceable to the US\$1.03 billion which moved into Low's Good Star account from 1MDB. The purchase price was **US\$30 million**.

f. Oriole Mansion: Low bought the property located in Beverly Hills for **US\$39 million** with funds traceable to the Good Star account.

g. Greene Condominium: Low bought this New York condominium for **US\$13.8 million**.

h. EMI Assets: Low used **US\$106.7 million** from the Good Star account to buy a substantial stake in EMI Publishing Group North America Holdings, the world's third largest music publishing company by revenue.

i. Tens of millions of dollars to Red Granite Pictures: Low distributed this money to Red Granite, owned by Aziz, to fund the production of the movie "The Wolf of Wall Street."

j. Nearly US\$100 million for paintings by Van Gogh and Monet.

k. Some US\$85 million in gambling debts in Las Vegas.

The DOJ filings list out in detail how the funds were transferred for all these purchases and more, including other assets not listed here acquired by Low, Aziz and Qubaisi from the US\$3.5 billion misappropriated from 1MDB from the three phases.

It also outlined the relevant Malaysian and UAE laws as foreign laws which are bases for forfeiture. "Misappropriating public funds by a public official is a criminal offense under Malaysian law, as enumerated by the Penal Code of Malaysia, including but not limited to sections 403 (dishonest misappropriation of property), 405 (criminal breach of trust), 409 (criminal breach of trust by public servant or agent), 166 (Public servant disobeying a direction of the law, with intent to cause injury to any person (including a company)), 415 (cheating), 418 (cheating with knowledge that wrongful loss may be thereby caused to a person whose interest the offender is bound to protect), and 420 (cheating and dishonestly inducing delivery of property); and the Malaysian Anti-Corruption Act 2009, including sections 16, 17, and 23.

"Bank fraud is a criminal offense under Malaysian law, as enumerated by the Penal Code of Malaysia, including but not limited to section 415 (cheating), 418 cheating

with knowledge that wrongful loss may be thereby caused to a person whose interest the offender is bound to protect), and 420 (cheating and dishonestly inducing delivery of property).

“Misappropriating public funds by a public official is a criminal offense under U.A.E. law, as enumerated in Federal Law No. (3) of 1987 on Issuance of the Penal Code, including but not limited to Articles 224, 225, 227, 228, 229, and 399.”

9. Concluding Remarks

1. **Over US\$3.5 billion – US\$3.657 billion was stolen. Money unaccounted for is as much as US\$7 billion.** From the DOJ filings it is clear that US\$3.657 billion was stolen from 1MDB. The DOJ can trace only US\$1 billion which means there is a remaining US\$2.5 billion left. But money unaccounted for could be as high as US\$7 billion (reports quoting Auditor-General’s report on 1MDB, while IPIC is suing 1MDB for US\$6.5 billion).
2. **Beneficiaries from the US\$3.657 billion heist include Jho Low, Najib, Najib’s step son Riza, and IPIC/Aabar officials Qubaisi and Husseiny.** There is substantial evidence to indicate these were the beneficiaries of the theft.
3. **Evidence of collusion.** Jho Low, who is very close to Najib’s family, emerges as the mastermind and there is collusion with key officials at 1MDB, especially Shahrol Helmi, once CEO of 1MDB, former executive director Casey Tang and general counsel Jasmine Loo. They misled the 1MDB board and in some instances directly disobeyed board instructions. Also, such a crime could not be perpetrated without the knowledge of prime minister Najib who under Section 117 of 1MDB’s memorandum and articles of association had to be informed of all major matters at 1MDB. Najib was also finance minister, and therefore the highest officer of Minister of Finance Inc which owned all of 1MDB. He was also chairman of the advisory board.
4. **Cover-up and suppression of information.** It is clear that the current management and board of 1MDB continues to cover up and suppress information, a position which is increasingly untenable given the weight of evidence to indicate wrongdoing at 1MDB. Despite money missing from 1MDB, no police report has been made by 1MDB officials to enable extensive police investigations. The former Attorney General was removed under mysterious circumstances when he was said to be in press reports ready to press charges against the prime minister. The head of the Malaysian Anti-Corruption Commission has been changed as well as various officials attached to it. The former deputy prime minister was dismissed and subsequently expelled from

UMNO. repressive legislation such as the Official Secrets Act have been used to suppress evidence from surfacing. There have been probes into leaks, designed to intimidate and threaten MACC and Bank Negara Malaysia officials with being probed by the police. There was a murder of a key official in the Attorney General's office with some alleging that it may be connected with investigations into 1MDB. And despite the latest round of revelations, the government and its agencies blindly reiterate that all is well.

5. **1MDB would not have happened if....** basic principles of corporate and government governance had been adhered to and if a system of checks of balances had been set in place. In the event, 1MDB was blatantly exempted from all the control procedures introduced for government-linked companies (GLCs), especially those introduced by the Putrajaya Committee on GLC high performance, spearheaded by Khazanah Nasional. It was not only completely exempted, nothing was done to take corrective measures despite repeated signs of abuse. Until today, billions of ringgit are being put at risk by the refusal to launch investigations. Although some board members tried to instruct management not to go into some deals, these orders were disobeyed and not all directors played their role in trying to stop the misdeeds at 1MDB
6. **1MDB is a deliberate scheme to steal billions from Malaysia.** At the end of the day, all evidence points to 1MDB being deliberately set up and manipulated to make tens of billions of ringgit (money lost one way or another can amount to as much as RM40 billion or more) with complicity from the very top. If there was no such complicity, 1MDB's losses would not have happened. It is the largest such theft in the world and is a shameless and audacious transfer of bond proceeds out of 1MDB and into the hands of criminal conspirators on top of other misdeeds earlier such as bond mispricing and overpayment for assets.
7. **The global financial system allowed the crime to take place.** The crime could not have taken place without the global financial system through international banks allowing the movement of stolen funds, hence facilitating money-laundering exercises. It is no secret that big banks have engaged in such exercises for a long time. While no individuals are generally charged for offences, big banks routinely pay billions of US dollars in settlement for money-laundering offences.
8. **Big bank names in five countries at least involved.** Money was moved through big names which included amongst others Citibank, JP Morgan Chase, Standard Chartered and UBS. Others mentioned include BSI Bank and some smaller private banks in Europe. Countries into which funds moved in and out include Singapore, the US, Switzerland, Luxembourg and Malaysia.

9. **Singapore figured very highly as a place from which money laundering occurred.** All the money misappropriated moved in at some stage to bank accounts in Singapore. The Good Star account, the Blackstone account (into which the Aabar-BVI misappropriation was transferred), and the Tanore Finance account were all in Singapore and money was disbursed elsewhere from these accounts. In fact Jho Low's ownership record for Good Star was a mere bearer share - anyone holding that share will be the owner of the account which had over US\$1 billion in funds! Not just in Singapore but among a lot of the banks and jurisdictions, very few questions were asked about funds moving in and out.

10. **Shell companies in tax havens, multiple accounts and lawyers used.** Shell companies in multiple tax havens such as Cayman Islands, British Virgin Islands and Seychelles - used by those who want to hide their identities - were conduits for the movement of funds in some cases. Multiple accounts were used and lawyers colluded in the transfer of monies into their accounts for purchases of assets.

At the end of the day 1MDB represents unprecedented levels of domestic corruption for Malaysia, demonstrated through the stolen billions. Widespread international complicity was also detected, as large amounts of funds were transferred across international borders with complete impunity. It was nothing less than organised crime perpetrated by a conspiracy of people. It also represented a classic cover up and suppression of information by direct interference in the operations of enforcement and policing agencies, stopping them from acting against crimes by changing those in charge and intimidating others into submission. This makes Malaysia yet another developing country where the political leadership conspired with crooks to steal billions from the country.

As the plans unfolded, international conspiracies were required to launder the money across borders and this was more than willingly done by banks in different countries with the help of lawyers and other professionals.

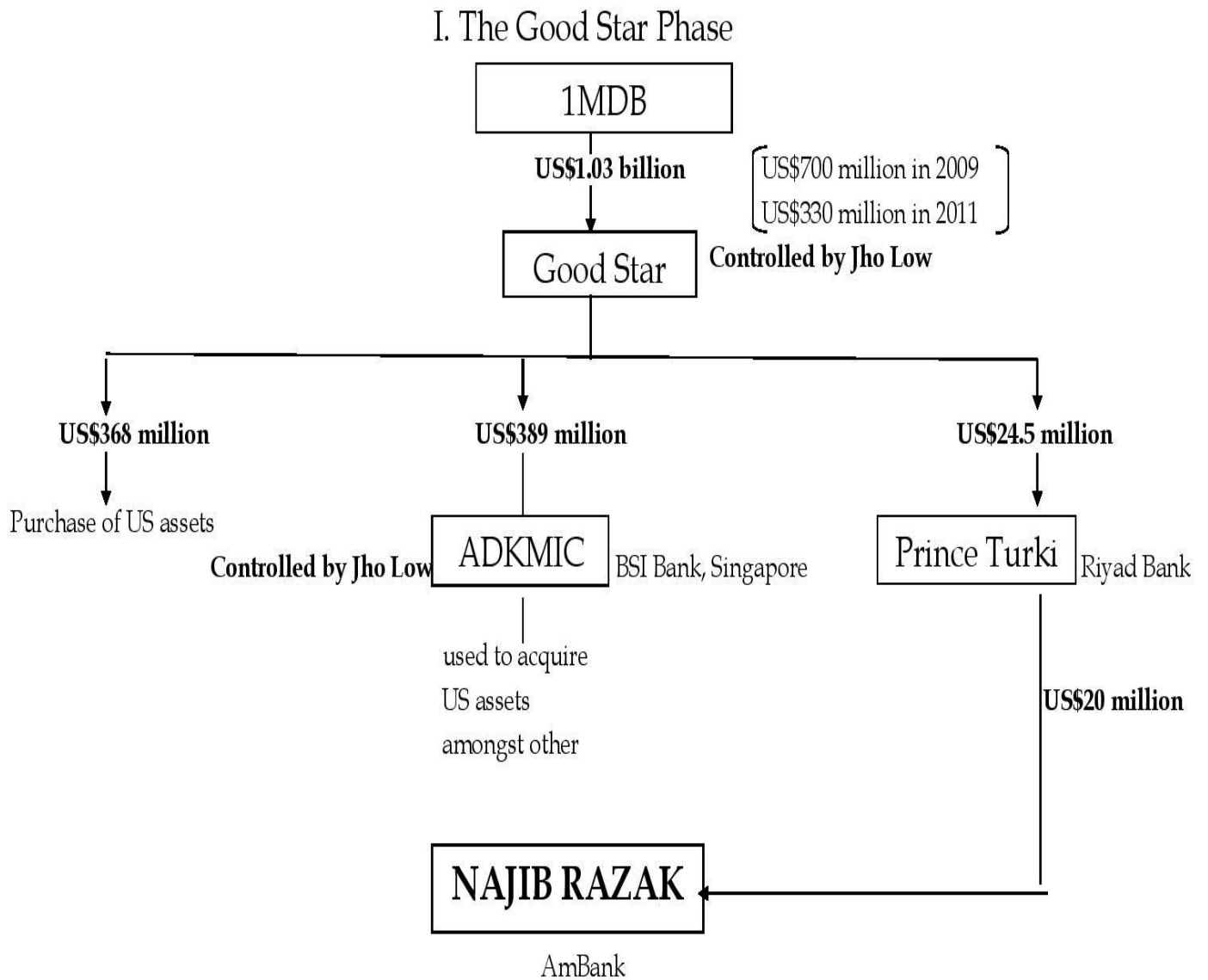
To bring a change in the way Malaysia handles the theft of billions from 1MDB, nothing less than a change in leadership is required because it has been shown that the prime minister himself is involved and a beneficiary of the looting that took place at 1MDB. How that can happen is beyond the scope of this paper but if that does not happen, Malaysia will have to rely on external organisations such as the DOJ and others to bring justice.

Malaysia has adequate laws to charge those involved for these crimes. But complicity between those entrusted to enforce the laws and pressures from police and political leadership reinforced each other to prevent the rule of law from taking its course.

If and when a leadership change takes place, then there is a lot of self-examination that Malaysia has to do and make changes. The collapse of governance, the implicit and unbridled condoning of corruption from the top layers of political leadership and agencies entrusted with the enforcement of law and order are factors that have to be deeply considered. The need to respect and institutionalise separation of powers and independence of the executive, legislature and judiciary has to be looked at anew and measures imposed.

At the international level, if money laundering, especially of ill-gotten gains from developing countries such as Malaysia, is to be stopped in its tracks, banks and others who accept funds from overseas must be required to do much better due diligence. Individuals have to be held to account and punished for money laundering crimes instead of merely fining banks. Jurisdictions which allow shady transactions should be outlawed or ostracised.

Appendix 1
1. The Good Star Phase



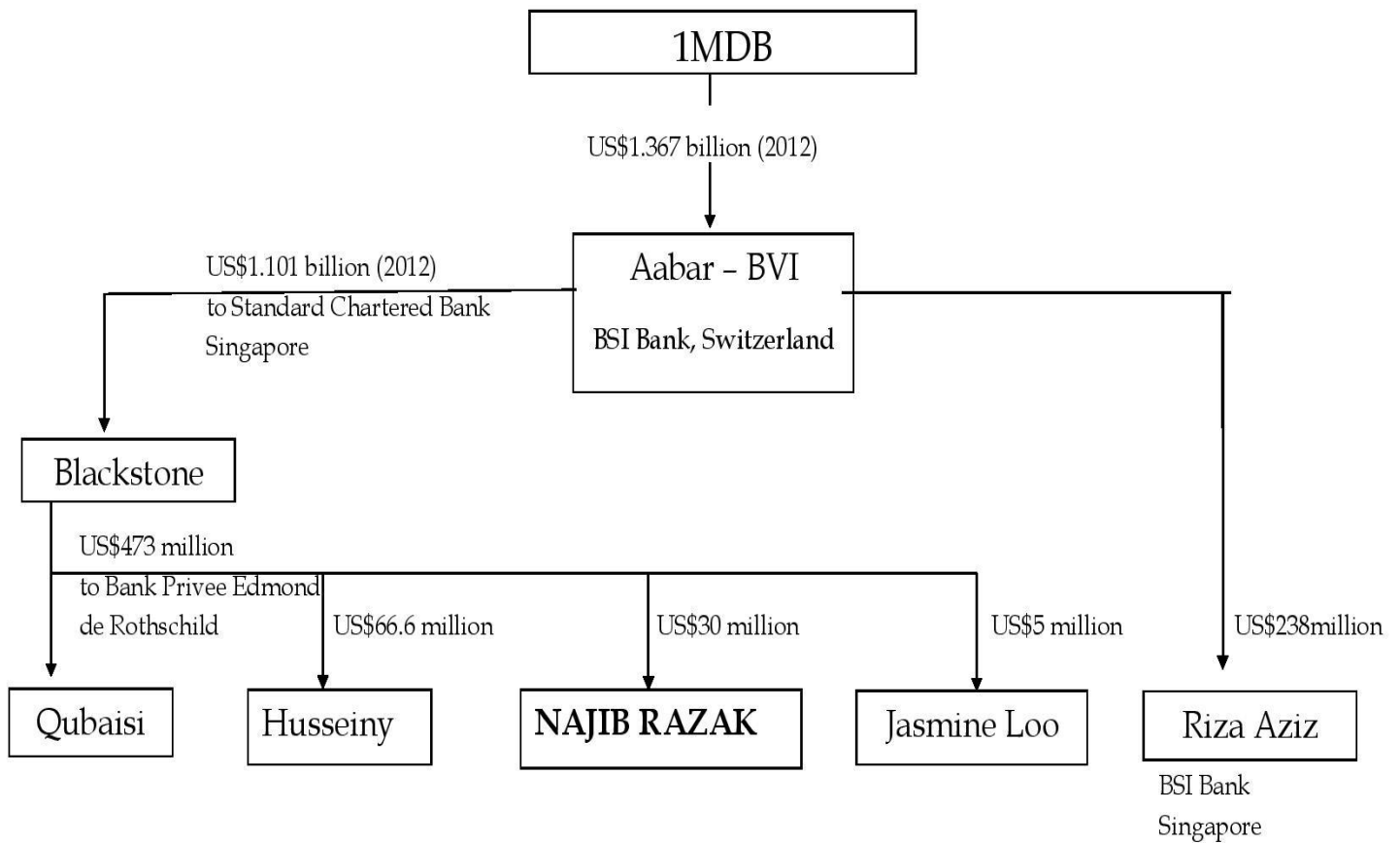
Notes : 1. Good Star and ADKMIC are controlled by Jho Low
 2. Prince Turki is from Saudi Arabia.

Source : P. Gunasegaram - Based on US Department of Justice filings

Appendix 2.

11. The Aabar-BVI Phase

II. The Aabar – BVI Phase (2012)

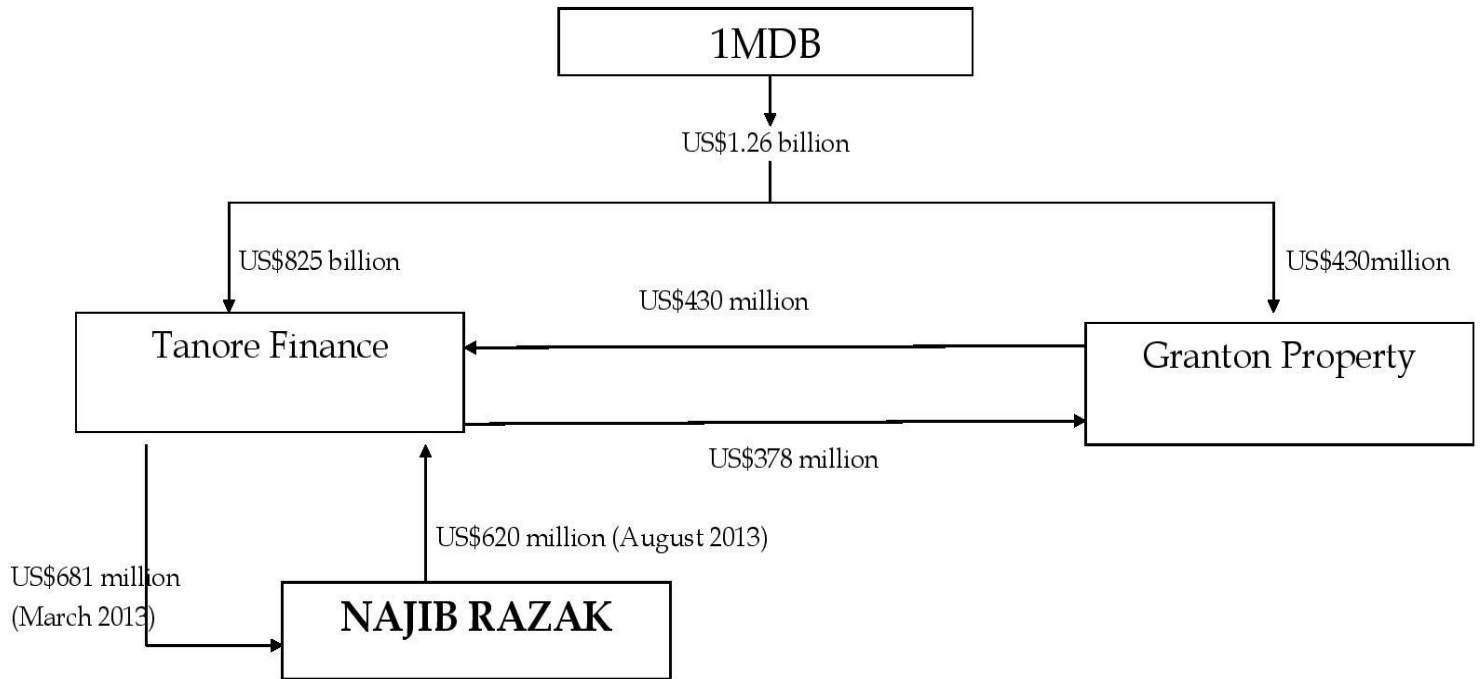


- Notes** : 1. Blackstone is Blackstone Asia Real Estate Partners and is controlled by Jho Low
 2. Qubaisi and Husseiny were Aabar officials at the time as named in the text.

Source : P. Gunasegaram - Based on US Department of Justice filings

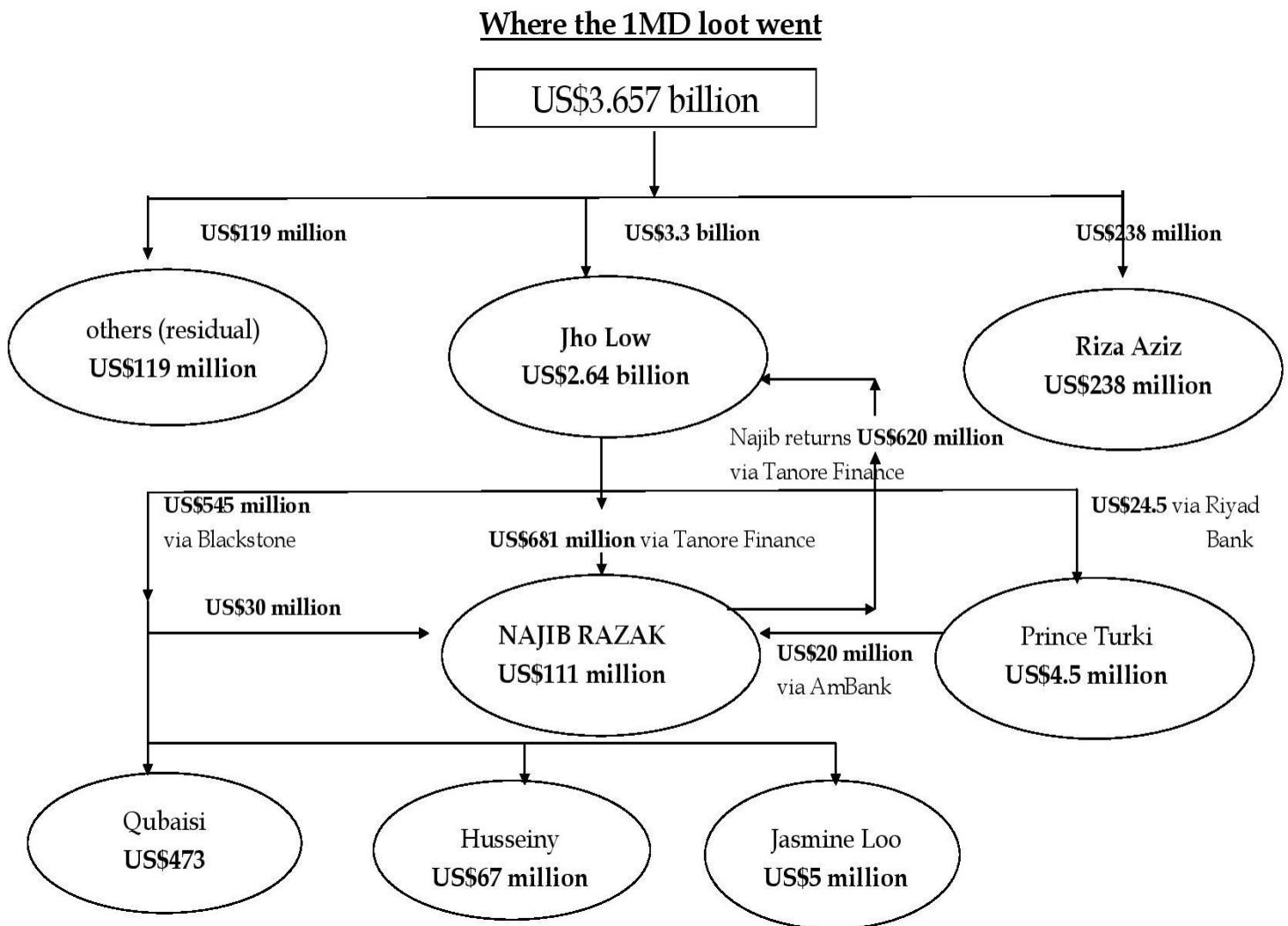
Appendix 3.
111. The Tanore Phase

III. The Tanore Phase (2013)



Notes : Both Tanore Finance and Granton Property are controlled by Jho Low
Source : P. Gunasegaram - Based on US Department of Justice filings

Appendix 4. Where the 1MDB loot went



Source: P. Gunasegaram - Based on US Department of Justice filings. Note: Figures within ellipses are net after transfers.

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PART B

Money Laundering and Financial Losses from 1MDB Activities: How did it happen?

Introduction

There are significant regulations which when implemented together could have constrained the activities of 1MDB. At the same time, absolute implementation of these regulations is constrained by 3 factors:

- That regulated entities observe the regulations imposed and provide accurate information;
- Transactions are cross-border, but laws and regulations are domestic; and
- Although Malaysia has regulations which meet international standards of best practices, full implementation of these regulations by competent authorities is constrained by the most important provision of the law, namely that only the Attorney General (AG) can decide on prosecutions.

This last factor is the main constraint impacting effectiveness of implementing domestic laws by competent agencies, including BNM, MACC, etc. The AG is the legal advisor and the final authority to approve prosecutions following investigations and recommendations by investigating authorities. While this approach overcomes the conflict that investigating agencies should also not be the ones to prosecute, the powers given to the AG also place his office in conflict. The AG is both the legal advisor to the government and its official, as well as the only authority to decide on prosecutions. In cases involving wrongdoings by officials of the government, the AG is placed in a highly conflicted position. This is evidenced by the disproportionately low record of prosecutions, not only on money laundering involving Politically Exposed Persons (PEPs) but also other cases of financial improprieties by high ranking public sector officials, against the high numbers of investigations by competent authorities.

At the international level, while countries are required to observe international principles of detecting and preventing money laundering and financing of terrorism, prosecutions can only be undertaken by domestic courts under domestic regulations. In addition, while there are international obligations on mutual legal assistance, there are no cross-jurisdiction application of AML/CFT laws. The fact that illicit money transfers are generally cross-border and facilitated by international banks, outreach by domestic competent authorities to prevent such cross border transactions is very difficult.

Nevertheless, the international community is active in efforts to assist countries to recover illicit money transfers through various initiatives such as the Stolen Assets Recovery (StAR) initiative by the WB, and the Working Group on Corruption set up by the G20. The Financial Action Task Force (FATF) continues to strengthen its principles on AML and CFT as well as strengthen its assessment methodologies, while supporting the WB and the IMF in providing training and support to countries to strengthen their domestic regulations and bank supervision on AML/CFT transactions. In its 2012 enhancement of the AML principles, FATF also ruled that it would be working more

with Civil Society Organisations in the fight against money laundering, especially of corruption proceeds.

The Malaysian Domestic Regulatory Regime on Cross Border Transactions

Malaysia, like many other emerging economies has liberalised foreign exchange regulations to facilitate cross-border transactions to reduce the cost of doing business, enable payments abroad for education and travel as well as attract foreign purchases of Malaysian assets. Greater ease of convertibility of Ringgit Malaysia (RM) is also to raise confidence in use of RM for international cross-border transactions, thereby increasing confidence in RM as a convertible currency with the exchange rate determined by market forces based on supply and demand in the domestic foreign exchange markets. Under this more liberal regime, foreign exchange transactions are subjected to regulations primarily for purposes of monitoring cross border flows for balance of payments purposes as well as prudential management of capital flows. The other aspects of regulations which also included inflows and outflows of foreign exchange have been imposed to detect, prevent and sanction financial flows associated with the laundering of illicit monies, as required by international bodies.

Regulations on capital flows are imposed by Bank Negara Malaysia as empowered by the Central Bank of Malaysia Act 2009 (CBM Act), and the Financial Services Act 2012.¹ Regulations on money laundering (and financing of terrorism) are administered as empowered by the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLATPUA).

As such, 1MDB cross-border financial transactions were subjected to regulations under these Acts at different phases of 1MDB financial activities. From the capital flows perspectives, 1MDB cross-border transactions will be known to authorities from the required approval requirements, as well as from the monitoring of Malaysia's cross-border transactions with the rest of the world for purposes of compiling its national balance of payments. These same cross border transactions, where relevant, would also be subjected to regulations under AMLATPUA at different times during the course of payments or receipt of funds into the banking system. It is clearer to analyse the regulations that 1MDB and the banks facilitating 1MDB transactions had to observe from the perspective of capital inflows and outflows and regulations on money laundering.

(i) Foreign Exchange Administration Rules and Reporting Requirements

Cross-border financial transactions by 1MDB that would be subject to the foreign exchange administration approval requirements (FEA Rules) are on the following:

- (a) Foreign currency borrowing, including borrowings through issuance of bonds in foreign currencies;
- (b) Issuance of financial guarantees; and
- (c) Investments in foreign currency assets.

In addition, cross-border movement of funds and purposes of payments and receipts of these funds associated with 1MDB activities would be reported by banks to BNM under

¹ The CBM Act incorporated provisions of the Exchange Control Act 1953 under the CBM Act 2009.

the cash balance of payments system.² (Box 1 below).

Box 1: Regulations Affecting 1MDB Cross Border Foreign Exchange Transactions

Foreign Exchange Transactions requiring BNM approval would cover foreign currency borrowings by 1MDB, and investments abroad by 1MDB. Issuances of financial guarantees to 1MDB, foreign borrowings, including bond issuances, require registration with BNM for amounts exceeding RM 50 million or equivalent.

In addition, 1MDB can be called upon to provide reports or data on its foreign exchange activities. Banks in fulfilling reporting of foreign exchange transactions requirements will also cover foreign exchange transactions by 1MDB. However, such transactions are compiled in aggregate by purpose of transaction under the balance of payments accounts.

(i) Foreign currency borrowing

A resident entity is allowed to obtain only up to RM100 million equivalent in aggregate of foreign currency (FC) borrowing from non-residents. Prior approval of Bank Negara Malaysia (BNM) is required to obtain foreign currency borrowings exceeding RM100 million equivalent in aggregate, including issuance of foreign currency bonds.

Upon granting approval for the FC borrowing, the borrower would be required to report to BNM quarterly on the status of FC borrowing, including outstanding amount, interest/dividend payments and repayment amount.

(ii) Issuance of financial guarantees

A resident is allowed to issue any amount of financial guarantee to secure ringgit or foreign currency borrowing of another resident. Nevertheless, issuance of financial guarantees exceeding RM50 million or its equivalent in aggregate will need to be registered with BNM within seven (7) business days after the issuance of such financial guarantees.

The Federal Government is free to provide financial guarantee to secure the ringgit borrowing of a resident entity, including bond issuance, as well as approved foreign currency borrowing. It, however, is required to register such financial guarantees if the aggregate amount exceeds RM50 million.

(iii) Investment in foreign currency assets

A resident entity of Malaysia is free to invest in any amount of foreign currency assets if the entity does not have any domestic ringgit borrowing. The investment could be funded through conversion of ringgit into foreign currency or foreign currency funds, including arising from permissible foreign currency borrowing.

A resident entity with domestic ringgit borrowing is still allowed to invest in foreign currency assets up to RM50 million in aggregate per calendar year using foreign currency fund converted from ringgit funds. Consideration for approval of the FC

² The system is known now as: International Transaction Information System, ITIS).

borrowing by a resident will include the use of funds, e.g., proposed investments in foreign currency assets.

Upon approval, the resident entity would be required to report to BNM, on a quarterly basis, the status of approved investments.

(ii) Reporting requirements on inflow and outflow of funds

For purposes of monitoring flows of funds under overall surveillance of financial stability, BNM has the power under ECA/CBM Act to require any persons to obtain, compile or submit any data, information or documents relating to the record of international accounts. Accordingly, BNM has imposed the requirements for banks to report to BNM individual inflow or outflow amounting to RM200,000 or more in ringgit or foreign currency equivalent, on a monthly basis. These include all approved foreign borrowings and investments in foreign currency assets. The information to be provided includes name of remitter, recipient, purpose of payment/receipt, amount and date of transaction.

1MDB was set up as a sovereign wealth fund and later became a Minister of Finance Incorporated (MOF Inc.). Even as a legal entity under the jurisdiction and monitoring by the Ministry of Finance, 1MDB is required to observe all regulations related to its foreign exchange transactions which are applicable to all residents of Malaysia, including the Federal Government, state governments and entities set by them.

1MDB was initially funded by the federally guaranteed RM bond issue of RM5 billion. 1MDB Bond issuance in RM does not require BNM approval. Issuances by the private sector require SC approval. While federal government bond issuances do not require SC approval, it has not been made explicit as to whether 1MDB as a MOF Inc. entity is classified as a Federal Government entity.

However, bond proceeds or RM funds from any other source, require BNM approval if they were to be invested abroad:

- a. The proceeds from the RM5 billion initial bond issuance, would require BNM approval before they can be invested abroad.
- Similarly, conversion of the RM bond proceeds for overseas investment will need BNM approval.
- 1MDB investment abroad of any other funds, including funds from other sources than the bond issuance, in excess of RM50million would also require BNM approval since 1MDB has a domestic borrowing following the RM bond issuance. (see Box 1 above).

Other 1MDB foreign exchange transactions which would trigger approval/reporting under BNM foreign exchange rules include:

- b. BNM approval for overseas investments in joint ventures with PetroSaudi (2009 and 2011) through 2 transfers totaling US\$1.03 million to Swiss bank account held by Good Star Limited;
- c. BNM approval for 2 US\$ bond issuances of US\$1.75 billion each arranged by Goldman Sachs (2012);
- d. Registration by 1MDB with BNM for the guarantees for the above bond issuances;
- e. BNM approval for the transfer of US\$1.367 million of the proceeds of the bond issuance in b. above to Aabar Investments PJS Limited (Swiss bank account in British Virgin Islands.³
- f. BNM approval for 3rd US\$ bond issuance by 1MDB for US\$3 billion managed by Goldman Sachs (March 2013);
- g. Approval for investment abroad of the proceeds of this bond proceed, in a joint venture with the Abu Dhabi Malaysia Investment Company (ADMIC). The subsequent investment of US\$1.26 billion of the bond proceeds from e. above in Tanore Finance Corporation in Singapore;

NOTE: In case that the US\$ bond issuances were approved by BNM and the proceeds were retained outside Malaysia (with BNM approval), BNM would only know the gross movement of funds through quarterly reports on overseas borrowing and investment which had to be submitted by 1MDB.

(iii) Reports Under Anti-Money Laundering Regulations

There are international standards on anti-money laundering (and terrorism financing) set by the Financial Action Task Force (FATF) seen as the standard setter on AML/CFT regimes (and combating weapons of mass destruction, WMD). FATF sets the principles on standards and WB and IMF assist FATF in developing and designing the methodologies as well as undertaking assessments of countries' compliance against these standards. The FATF standard on AML/CFT based on the 40 AML Principles and 15 CFT Principles is now one of the 12 standards which countries are assessed in terms of compliance, to measure the quality and resilience of their financial sector under the IMF-WB Financial Sector Stability Programs (FSAP). The AML/CFT standards require countries to establish laws and regulations which meet the principles set in the standards. Measurement of compliance and effectiveness of compliance in terms of results based on selected indicators, are also determined during the assessments. Assessment results are published.

Malaysia, as a member of the FATF(since February 2016) and APG (the Asian Pacific Group, the regional body of FATF in Asia for many years now), is obligated to be assessed under the FATF Principles and its methodology. Further, as required to be assessed on its financial sector development and stability under the FSAP, the assessment under FATF rules has to be undertaken under the FSAP program. Malaysia has been assessed for its AML/CFT compliance twice in 2007 and again in 2012. Published results show that Malaysia has complied with international FATF

³ In event, approval was not sought, the bank in Malaysia undertaking the transfer would report the transaction under the monthly reports to BNM and required 1MDB to seek BNM approval. Another scenario is that the funds transfer did not pass through the domestic banks and hence, not recorded in the monthly reports. This would be the case if the bond proceeds were never brought into Malaysia but kept abroad and BNM was not informed.

rules at a high level of compliance.

This means that laws, regulations, processes and practices in Malaysia meet these high standards imposed by FATF. The fact that Malaysia is only one of four developing countries admitted as members of the FATF Club implies that the country is well regarded as a model of adherence to high standards on its AML/CFT regime.

The main pillars of the legal framework on anti-money laundering (the focus of this section) are embodied in the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities act 2001 (AMLATPUA) and the Standard on AML/CFT- Banking and Deposit Taking Institutions (Sector 1) [BNM/RH/STD 028-1] issued by BNM. The law and regulations on money laundering are comprehensive and extensive. The Box 2 below highlights the key areas of the legislation.

Box 2: Key Areas in the Malaysian Anti-Money Laundering laws and Regulations

Part A of the Standard (BNM/RH/STD 028-1) provides the overview of the AML/CFT regime in Malaysia which includes the setting up of the National Coordination Committee to Counter Money Laundering (NCC).

The following are some of the key features relating to the **obligations of the reporting institutions** as stipulated in the above-mentioned Standard:

- (a) **Paragraph 10 of Part A** covers definition and interpretation of key terms and expression, including definition for “beneficiary owner”, “beneficiary accounts”, “customer due diligence (CDD)”, “politically exposed persons (PEPs)” and “wire transfer”.
- (b) **Paragraph 13 of Part B**, amongst others, discusses obligations of reporting institutions in conducting CDD (when CDD is required and what is required), enhanced CDD in the case of PEPs, on-going due-diligence and how to apply CDD requirement on existing customers.
- (c) **Paragraph 14 of Part B** sets out the reporting institution’s obligations which are applicable to PEPs and foreign PEPs;
- (d) **Paragraph 24 of Part B** covers effect of the failure to satisfactorily complete CDD;
- (e) **Paragraph 28 of Part B** is important to comprehend the obligations of the BOD and Senior Management of a reporting institution in implementing an effective AML/CFT Compliance Programme to combat money laundering and terrorism financing in Malaysia; and
- (f) Obligation of reporting institutions to submit reports, especially the Suspicious Transaction Report (STR), is set out in **paragraph 29 of Part B**. This obligation is consistent with **section 13 and**

14 of AMLATPUA. Examples of transactions that may trigger suspicion can be found in Appendix 1 of BNM/RH/STD 028-1.

Section 20 of AMLATPUA provides the safe harbour for reporting institutions to submit STR or Cash Transaction Report (CTR) without offending the secrecy obligation under the Financial Services Act 2013 and Islamic Financial Services Act 2013 respectively, whereas, section 24 protects persons submitting STR and/or CTR to the competent authority.

The Minister of Finance, may by an order published in the *Gazette*, appoint a person to be the competent authority (pursuant to **section 7 of the AMLATPUA**) and such person shall have all the functions conferred on the competent authority by AMLATPUA.

Section 8 of AMLATPUA, *inter alia*, deals with the functions of the **competent authority**:-

- (a) **receiving and analysing information and reports** from any persons, including reports issued by reporting institutions (in the like of STR and CTR); and
- (b) **send** any report received under (a) above or any information derived from such reports to an **law enforcement agency (LEA)** if it is satisfied or **has reason to believe or suspect** that a **transaction involves proceeds of an unlawful activities** or a **serious offence** is being, has been or is about to be committed.

It is incumbent upon all reporting institutions to submit **STR (regardless of the amount)** of the transaction in question so long as the reporting institutions have **reason to suspect** that the transaction involves proceeds of an unlawful activity or a serious offence is being, has been or is about to be committed) and **CTR** (transaction exceeding an amount specified by BNM).

Whenever a reporting institution submits an **STR** (which is expected of the reporting institution) on or relating to a transaction conducted or about to be conducted a customer, it does not in any way suggest that the customer had committed money laundering offence under AMLATPUA or a serious offence under any written law. It merely means the reporting institution concerned has a suspicion.

It is the **competent authority's function** to review the STR (and/or CTR) and, where appropriate, to share such reports or information derived from such reports, with the relevant LEA to enable them to conduct due diligence (prior to that LEA investigating a money laundering and/or a predicate offence, as the case may be).

In view of the reporting institutions' critical roles in combating money laundering and terrorism financing, there is a need to ensure that all reporting institutions comply strictly with the AML/CFT legal and regulatory framework in Malaysia. Putting in place **proper governance** at all levels within a reporting institution (from as low as the bank tellers to the Senior Management and the board of directors) as a "**check and balance**" mechanism would be of paramount importance to ensure the effective implementation of the AML/CFT regime in

Malaysia.

The same governance applies to the **competent authority** (sharing of reports and information), the **LEAs** (investigating any money laundering and/or terrorism financing activities) and the **Attorney-General's Chamber** (tasked with the constitutional power to charge and prosecute any person who has committed any offence in Malaysia including money laundering and/or terrorism financing offences)

The **FATF Mutual Evaluation Report on Malaysia** (September 2015) would be a good reference point to further understand Malaysia's effectiveness in combating money laundering and terrorism financing.

The AML regulations would be triggered in the many cases of funds transfers in Singapore, UK, US, Switzerland etc. In the Malaysian financial system, most visibly, the AML regulations would be triggered during the transfer of US\$681 million from the Tanore account to an account belonging to the PM in Ambank, between March 23 and 25, 2013.

There has been no official report on the investigations by BNM, the MACC and the AGC that has been made public. Nevertheless, it is useful to understand the processes by which the regulations are administered and actions duly taken by responsible and competent authorities under the AML laws:

- Under AML regulations, the suspicious transactions report (STR) would be submitted when dealing with a suspicious transaction or immediately before an account is closed (being the final transaction which is suspicious in nature). Reporting institutions, in this case the banks, are required to monitor every account (especially the PEPs' accounts) on an on-going basis. As such, when a suspicion arises, the reporting institution is required to submit the suspicious transaction report.
- Since time is of the essence (for financial intelligence gathering purposes), reporting institutions must submit the STRs to the FIU as soon as reasonably practicable. In this regard, the AML/CFT Compliance Officer of a reporting institution is given the authority (mandate) to decide on whether or not an STR ought to be submitted to the FIU. He is not required to obtain approval of the CEO of the bank or the Board prior to submitting an STR. However, he could inform his CEO and/or the Board of such submission. The key word here is "to inform" them and not "obtain their approval". This is to ensure there is no undue influence (over the decision on submission of STR) or obstruction of duty (for submitting an STR), whether directly or indirectly.
- As part of the due diligence on PEPs, the receiving bank would ask the original bank to provide reasons for the transfer of funds into the PEP's account, including supporting documents, such as agreements or invoices.
- It should be noted that FIU is not a law enforcement agency. FIU is a competent authority under the AML law which is mandated to receiving STR and CTR, as well as any other supporting information, analysing such reports and

information and sharing the financial intelligence (based on STR, CTR and other information) with relevant law enforcement agencies (such as PDRM, MACC and Inland Revenue Board). As such, FIU is not the responsible authority to carry out any investigation on a serious offence under the law.

- Following the financial intelligence shared by FIU, the relevant law enforcement agency would initiate or conduct its own due diligence before a formal investigation is launched. Based on the outcome of their respective due diligence, the law enforcement agencies may or may not open an Investigation Paper (IP). The IP will be the beginning of an investigation process. The length of time to complete an investigation depends on the nature and the complexity of the case being investigated. Once an IP has been opened, it can only be closed by the AG. Law enforcement agencies cannot on their own close any IP without the AG's approval. This governance serves as a "check and balance" mechanism.
- Subject to Article 50, Section 44 of the AMLATPUA provides that where a law enforcement agency having the power to enforce the law under which a serious offence is committed, has reasonable grounds to suspect that a money laundering offence under section 4(1) of the AMLATPUA or terrorism financing offence has been, is being or is about to be committed by any person, it may issue an order freezing any property of that person or any terrorist property, as the case may be, wherever the property may be, or in his possession, under his control or due to any source to him.
- For seizure of a movable property in a financial institution, section 50(1) provides that the Public Prosecutor who is satisfied with the information given to him by an investigating officer, by order direct a financial institution not to part with, deal in or otherwise dispose of such property or any part of it until the order is revoked or varied. Therefore, a freezing order for any money in a banking account can only be issued by a Public Prosecutor.

Actions Taken by Bank Negara Malaysia

In June 2015, BNM released a press statement that they have commenced investigations on 1MDB pertaining the cross-border movement of funds exceeding RM50 million. By October 2015 BNM had revoked the initial permissions granted by them and had ordered 1MDB to repatriate the USD1.83 billion to Malaysia. In the press statement by Bank Negara Malaysia on the 9th of October 2015, it was clearly said that 1MDB had supplied inaccurate information during its application to remit money overseas. This had violated the Exchange Control Act 153 (ECA).

The excerpt of the statement is as below:

*The Attorney General's decision with respect to the investigations on 1Malaysia Development Berhad (1MDB) relates to **Bank Negara Malaysia's recommendation to initiate criminal prosecution against 1MDB for breaches under the Exchange Control Act 1953 (ECA).***

The Bank at all times expects full and accurate disclosure of information by applicants

in considering any application under the ECA. On its part, the Bank concluded that permissions required under the ECA for 1MDB's investments abroad were obtained based on inaccurate or without complete disclosure of material information relevant to the Bank's assessment of 1MDB's applications.

Bank Negara Malaysia announced that it has received consent of the AG and has issued a letter of administrative compound to 1MDB for failure to fully comply with directions issued under the Financial Services Act 2013. This includes requirement for 1MDB to repatriate monies remitted abroad following the revocations of the three permissions granted by Bank Negara Malaysia to 1MDB in 2009, 2010 and 2011. 1MDB has also failed to submit evidence and documentation specified by the Bank to justify its inability to fully comply with the repatriation order. 1MDB has been given until 30 May 2016 to pay the compound. The payment of the compound would then mark the conclusion of the investigation by Bank Negara Malaysia on 1MDB's contraventions to the rules and regulations of the Central Bank. The amount of the compound was never disclosed.

What Is Next?

The 1MDB case is a demonstration of failure of domestic regulations as well as the inadequacy of current international standards in preventing corruption to take place. It is not that domestic regulations are not adequate, but rather the processes in decision-making that are conflicting which have led to the failure of domestic regulations to achieve their objectives. Better governance in the decision-making process is needed for domestic regulations which already meet international standards, to be able to deliver the expected outcomes.

While it is acknowledged that international standards fulfil benefits of incentivising countries to observe certain standards of best practices, it is domestic regulations that matter most, for which FATF rules can only impact but cannot enforce. Nevertheless, the 1MDB course of events provides the unique case study that international rules can play a more effective role in influencing better governance to enable prosecution of money laundering crimes in countries. This is the weakest link in ensuring compliance with FATF rules which can indeed support clean government.

Another visible flaw in the assessment of AML/CFT obligations by FATF is that countries can still achieve favourable rating by assessors against the FATF standards while massive corruption and laundering of its proceeds is going on. Malaysia was undergoing FATF assessments of its compliance obligations as a FATF member in 2012 (a less rigorous assessment in conjunction with the Financial Sector Assessment Program) and a scheduled assessment in 2013 under the second round of assessment. The 1MDB case had already been highlighted by the media as early as 2012/13. It is wasteful resources to impose significant compliance obligations on assessments against global standards when countries are able to attain favourable ratings in the midst of large corruption activities taking place and large amounts of corruption proceeds being laundered at the same time.

The international standards have been more effective in influencing cooperation across borders and among regulatory authorities as seen in cases of prosecution of individuals associated with 1MDB activities in Singapore and freezing of assets in the US,

Switzerland and Singapore. It appears that international standards have been more effective to attempt to bring those flouting the laws to justice after the crimes have been committed, but are ineffective in preventing the laundering of proceeds of corruption to take place to deter corruption.

Further, significant weakness in the World Bank work on recoveries of stolen assets undermines World Bank ability to use its capacity effectively to recover stolen assets at the early stage rather than decades later when the new administration in a country makes a request. These developments have prompted questions as to whether FATF and the World Bank have not used their influence to sanction cases of on-going money laundering activities by their members as in the case of 1MDB. (FATF imposed sanctions on Iran, a non-FATF member).

On the domestic front, the 1MDB case (and many other smaller corruption cases involving public sector officials) has prompted strong case of reforms of Malaysian regulations as well as reforms on better governance in key public sector institutions as well as in the Attorney General's Office. The key flaw in the Malaysian domestic regulations is that decisions on prosecutions rest on one office, the office of the Attorney General. Only the AG can decide to prosecute a case. This system works well in the past, but has failed this time. Hence, notwithstanding intensive work by the Central Bank and the MACC, nothing can be achieved when the AG's office will not decide on prosecution despite all evidence and recommendations by the competent authorities. This means that even if BNM and MACC were to further improve their systems, the situation cannot change if the Attorney General alone can ignore work of authorities and do the needful. Malaysia is then experiencing a breakdown of law and order despite laws are in place and officials in competent authorities have performed their duties diligently in accordance with procedures which are benchmarked against best practices.

There are significant lessons from 1MDB which are the basis for dire need for reforms on both the domestic and international fronts. Further more detailed work is required to build on these recommendations and design best approaches for effective implementation.

The following is recommended:

Domestic Regulations and Processes

1. BNM and other investigative agencies should be able to release reports on 1MDB as part of check and balance in the system. Transparency principles can be effective in promoting early corrective pressures.
2. The main barrier to prosecuting offences must be removed. In the case of 1MDB, the conflict presented by the powers of the AG as legal advisor to the government as well as the final arbiter in decision to prosecute cases involving public sector officials, must be removed. The removal of the conflict in the powers of the AG requires amendments to Article 145 of the Constitution. It is proposed that in the interim until the Constitution can be amended, administrative procedures be adopted which can provide a check and balance on the prosecutorial powers of the AG. Such administrative arrangements can take the form of setting up the Office of Public Prosecution, to avoid conflict in

prosecution decisions involving senior public sector officials. In order to expedite the setting up of this office without amending the Constitution, the Office is headed by the Chief Public Prosecutor. A panel of advisers which will recommend cases for prosecution to the AG will support the Chief Public Prosecutor. All reports by the panel will be made transparent as well as the report by the AG. In the longer-term, a more permanent solution through amendments to Article 145 of the Constitution is recommended.

3. A parliamentary select committee should be established within Parliament for high-level monitoring of the government institutions responsible for enforcing the regulations on money transactions involving corruption and other illegal activities, as another avenue to establish a check and balance system. All regulatory institutions should be required to submit reports of their investigations to the select parliamentary committee to facilitate the parliamentary debate and comments by those called to testify and give their professional views before the committee. The Report by the Select Parliamentary Committee should be made public. Over the longer-term, the committee's deliberations should be open to the public through direct telecast.
4. BNM and agencies in studying the typologies of the 1MDB case should tighten domestic regulations and processes. A better tracking and check and balance system is needed to sanction money deposits and outflows from accounts of PEPs maintained with banks in Malaysia. In particular, a system within BNM is needed to prevent self-censuring of due diligence on accounts of PEPs, especially of senior ministers.

International Standards and Oversight Bodies

5. BNM and relevant agencies work together with World Bank and the Corruption Working Group in the G20 and other agencies for greater penalties for international banks which facilitate transfers of proceeds of corruption. Penalties should exceed income generated by banks from such transactions.
6. Civil Society Organisations to work with FATF and the Corruption Working Group in G20 to ensure all involved in the use of corruption proceeds in other jurisdictions will be charged in their respective courts. Civil Society can share information with FATF and World Bank to facilitate FATF and other international bodies to penalize countries supporting flows of corruption proceeds in their financial systems. This sanction should not await results of assessments under AML/CFT. In this work, it is necessary that both FATF and World Bank are seen as even handed in their treatment of all FATF members as well as members of FATF Style Regional Bodies. In fact, FATF needs to impose even higher standards on FATF members within the principles of lead by example.
7. FATF develop the case study from the 1MDB case and this should form the basis for improvements in its oversight of compliance with international standards. Greater emphasis should be given in the FATF standards and its assessment methodologies on implementation of laws and regulations and on effective prosecutions.