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Protection from Scams Bill: What Banks Should Take Note

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LEGAL
UPDATE

In this Update

We highlight key aspects of the Protection from Scams Bill, such as the basis and impact of restriction orders issued by specified police officers, and the potential risks for banks.

OVERVIEW OF THE BILL

On 7 January 2025, Parliament passed the Protection from Scams Bill ("**Bill**"). The upcoming Protection from Scams Act 2024 will empower specified police officers to issue restriction orders ("**Orders**") to banks if the officers have reason to believe that an individual is effecting transfers or withdrawals from their account to benefit a scammer, and that an Order is necessary for the protection of the scam victim.

When an Order is in force, banks are prohibited from allowing transfers or withdrawals of money from any bank account maintained by the scam victim, including any joint account with another party. The banks are also not to grant, or allow a drawdown of, any credit facility to the scam victim. Each Order will last for a maximum of 30 days, and may be extended up to five times if necessary.

The suspension of funds transfer and withdrawal will reduce the potential loss to the scam victim, whilst buying more time for the authorities and family members to persuade the individual that he or she is being scammed.

An Order is meant as a measure of last resort, and it is the government's policy intent to balance between protecting an individual from harm and respecting the individual's autonomy and personal responsibility. Therefore, the Order is temporary and will lapse after a maximum of six months, even if the individual still insists on transferring funds to a possible scammer.

KEYPOINT

The restriction orders proposed by the Protection from Scams Bill will temporarily prohibit banks from allowing transfers or withdrawals of money from any bank account maintained by the scam victim, including any joint account with another party.

POTENTIAL PENALTIES AND IMMUNITY

An Order may be issued to any bank licensed under the Banking Act 1970.

The Bill provides that any bank which contravenes an Order without reasonable excuse shall be guilty of an offence and shall be liable to pay a fine not exceeding S$3,000 (see Clause 6 of the Bill).

The Bill further provides that a bank and its officer, employee or agent would be protected from criminal and civil liability for any act or omission when complying with an Order. This immunity arises only when the act or omission was done with reasonable care and in good faith (see Clause 9 of the Bill).

RESTRICTION ORDERS MAY BE VARIED OR CANCELLED

A specified police officer may vary an Order to allow the individual access to his monies, subject to any limit or terms that the officer may specify. The intent is to allow the scam victim access to a fixed amount of monies for living expenses. Each request to vary the Order will be assessed by the Police on a case-by-case basis and if they think that the request should be allowed, the Police will work with the bank to allow the withdrawal.

The Order may also be cancelled at any time an Order is in force, if the Police finds that the individual is no longer at risk of making money transfers to a scammer.

OTHER RECENT ANTI-SCAM MEASURES

The Bill follows hard on the heels of two Guidelines implemented last December to combat phishing scams. The Guidelines on Shared Responsibility Framework ("**SRF Guidelines**") and the revised E-Payments User Protection Guidelines require certain financial institutions to implement real-time fraud surveillance and real-time notifications for outgoing transactions and high-risk activities, among other things.

In addition, the SRF Guidelines provide that the financial institution would be liable for the losses arising from seemingly authorised transactions if it did not comply with the specified duties.

You may read more about the Guidelines here.

KEYPOINT

Banks should ensure that their terms and conditions governing accounts provide for the express right to not act on a customer's instructions in the event that they are obliged to comply with regulatory or statutory requirements, including restriction orders.

POTENTIAL RISKS FOR BANKS

The Orders which prohibit banks from allowing withdrawals and transactions fetter the banks' mandate to carry out their customers' instructions. Thus, banks should ensure that their terms and conditions governing accounts adequately provide that they need not act on a customer's instructions in the event the banks are obliged to comply with regulatory or statutory requirements, including the Orders.

Separately, it is not clear at this juncture how variations to Orders should be operationally managed by the banks. During the Second Reading of the Bill, the Minister of State for Home Affairs, Ms Sun Xueling ("**Ms Sun**"), stated that if the Police has assessed that the individual should be allowed access to some funds, the Police will work with the banks to arrange for withdrawals. Ms Sun also explained that once an amount has been approved for withdrawal, the amount in question is not subject to further monitoring. However, the devil is in the details.

The Bill is unclear whether the object of the variation is merely to agree on a limit for withdrawal or whether the withdrawal is to be tied to a specific purpose. A blanket withdrawal limit untethered to a legitimate purpose may undermine the statutory intention of protecting the scam victim and other joint account holders from scammers. On the other hand, specifying a purpose for withdrawal may impose significant difficulty on the banks to ensure that such withdrawals are for the specified purpose under the variation. It would therefore be important for banks when engaging with the Police on any variation of the Orders, to ensure that there are clear parameters for withdrawals to be made. For example, the Police may agree that withdrawals are only permitted upon the presentation of certain documents (e.g. invoices for school fees), and for payments to be made directly to the relevant organisation (e.g. to the relevant educational institute), to avoid the risk that monies withdrawn are handed to the scammers.

CONCLUSION

The Singapore government and financial institutions have continuously implemented new measures to counter the onslaught of scams. This Bill presents a practical solution to the real problem of victims refusing to recognise they are being scammed. Quite apart from protecting the scam victim, it also mitigates the impact on the scam victims' family members or friends who may be affected by reason of the scam victims' conduct, for example their drawing down of funds in joint accounts. Whilst the Bill is a commendable step in the right direction, banks should still be sensitive to potential risks, especially when the Orders are varied.

Please click here to access the Protection from Scams Bill.

For questions or comments, please contact:

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