IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2026] SGHC 183

Magistrate's Appeal No 9012 of 2025/01

Between

Mohamed Erzan Taib Zohri

… *Appellant*

And

Public Prosecutor

… *Respondent*

Magistrate's Appeal No 9024 of 2025/01

Between

Jai Ganesh s/o Chandra Mogan

… *Appellant*

And

Public Prosecutor

… *Respondent*

Magistrate's Appeal No 9041 of 2025/01

Between

Seyfqan Nazeer Caffoor

… *Appellant*

And

Public Prosecutor

… *Respondent*

Magistrate's Appeal No 9049 of 2025/01

Between

Syahmi Hamzah bin Mohamed Saddiq

… *Appellant*

And

Public Prosecutor

… *Respondent*

Magistrate's Appeal No 9069 of 2025/01

Between

Public Prosecutor

… *Appellant*

And

JDT

… *Respondent*

Magistrate's Appeal No 9082 of 2025/01

Between

Lee Jun Fa

… *Appellant*

And

Public Prosecutor

... *Respondent*

Magistrate's Appeal No 9101 of 2025/01

Between

Vivien Poh Hui Xuan

... *Appellant*

And

Public Prosecutor

... *Respondent*

JUDGMENT

[Criminal Procedure and Sentencing — Sentencing — Appeals]
[Criminal Procedure and Sentencing — Sentencing — Young offenders]

TABLE OF CONTENTS

Mohamed Erzan Taib Zohri
v
Public Prosecutor and other appeals

[2026] SGHC 183

General Division of the High Court — Magistrate's Appeals Nos 9012, 9024, 9041, 9049, 9069, 9082 and 9101 of 2025/01
Sundaresh Menon CJ, Ang Cheng Hock JCA and Hoo Sheau Peng J
26 May 2026

10 September 2026 Judgment reserved.

Ang Cheng Hock JCA (delivering the judgment of the court):

Introduction

1 The sharp rise in scam cases in Singapore in recent years has prompted the introduction of a range of legislative measures directed at combatting this growing problem. Among these are amendments to the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 (2020 Rev Ed) ("CDSA") and the Computer Misuse Act 1993 (2020 Rev Ed) ("CMA") enacted in 2023 ("2023 Amendments"), which introduced provisions specifically criminalising the relinquishment of bank accounts and the disclosure of Singpass credentials by money mules to scammers.

2 Money mules play a critical role in the scam syndicate ecosystem by relinquishing their bank accounts for use by scammers to receive and transfer criminal proceeds. Some syndicates also recruit Singpass holders to hand over

their credentials so that multiple bank accounts can be opened in their names for the same purpose. By relinquishing or facilitating the creation of these accounts, often in exchange for monetary gain, money mules enable scam syndicates to layer criminal proceeds through multiple accounts before moving the funds out of Singapore. Larger sums are broken up into smaller amounts so as not to trigger any automated alerts that the account holders are moving large sums through their accounts. This frustrates efforts to detect and prevent scams. The 2023 Amendments were directed precisely at this conduct, targeting money mules at the source with the aim of disrupting the scam syndicates' mode of operation.

3 It is against this backdrop that the present seven Magistrate's Appeals ("Appeals") fall to be considered. These are HC/MA 9012/2025/01 ("MA 9012"), HC/MA 9024/2025/01 ("MA 9024"), HC/MA 9041/2025/01 ("MA 9041"), HC/MA 9049/2025/01 ("MA 9049"), HC/MA 9069/2025/01 ("MA 9069"), HC/MA 9082/2025/01 ("MA 9082") and HC/MA 9101/2025/01 ("MA 9101"). In the main, the offenders were convicted of various scams-related offences under the CMA and CDSA, which involved the opening of bank accounts and handing over of electronic banking details to persons who used these accounts in the perpetration of scams on members of the public. In one case, the offender handed over his Singpass credentials which allowed several bank accounts to be opened in his name, which were then subsequently used in connection with the laundering of scam proceeds. In six of these Appeals, the offender in question was below the age of 21 when the relevant scams-related offences were committed. Six of the seven offenders were sentenced to either reformative training ("RT") or imprisonment, while a combination of community-based sentences ("CBS") was imposed on the remaining offender. The six offenders now appeal on the ground that their

sentences are manifestly excessive, while the Prosecution appeals in the remaining case on the ground that the CBS imposed are manifestly inadequate.

4 The present Appeals present an opportunity for this court to set out the appropriate sentencing approach for young offenders who commit scams-related offences, and to set out an appropriate sentencing framework for offences involving the relinquishment of bank accounts to scammers under s 55A(1)(*a*) read with s 55A(1)(*b*)(ii) and punishable under s 55A(5) of the CDSA ("s 55A(1) CDSA Bank Account Relinquishment Offence").

Background

The previous regime

5 Prior to the 2023 Amendments, the conduct of relinquishing bank accounts or disclosing Singpass credentials was typically prosecuted under more general provisions. For offences committed prior to 8 February 2024 (*ie*, before the 2023 Amendments came into effect), the Prosecution adopted the following *general* approach, which we will refer to in this judgment as the previous regime.

6 For offences involving bank account relinquishment, the offences were prosecuted under s 3(1) (read with s 12(1)) of the CMA. Where the offender had opened a *new* bank account for the purpose of relinquishing it (as opposed to relinquishing a *pre-existing* account), an additional charge under s 417 of the Penal Code 1871 (2020 Rev Ed) ("PC") would also be brought for deceiving the bank into believing that the offender intended to be the sole operator of the account, when in fact the offender had no such intention and had opened the account for the purpose of relinquishing it to a third party. Sections 3(1) and 12(1) of the CMA provide:

> **Unauthorised access to computer material**
>
> **3.**—(1) Subject to subsection (2), any person who knowingly causes a computer to perform any function for the purpose of securing access without authority to any program or data held in any computer shall be guilty of an offence and shall be liable on conviction —
>
> (*a*) to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 2 years or to both; and
>
> (*b*) in the case of a second or subsequent conviction, to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 3 years or to both.
>
> …
>
> **Abetments and attempts punishable as offences**
>
> **12.**—(1) Any person who abets the commission of or who attempts to commit or does any act preparatory to or in furtherance of the commission of any offence under this Act shall be guilty of that offence and shall be liable on conviction to the punishment provided for the offence.

7 Section 417 of the PC provides:

> **Punishment for cheating**
>
> **417.** Whoever cheats shall be punished with imprisonment for a term which may extend to 3 years, or with fine, or with both.

8 For offences involving the disclosure of Singpass credentials, the offences were prosecuted under s 8(1) of the CMA. Section 8 of the CMA provides:

> **Unauthorised disclosure of access code**
>
> **8.**—(1) Any person who, knowingly and without authority, discloses any password, access code or any other means of gaining access to any program or data held in any computer shall be guilty of an offence if the person did so —
>
> (*a*) for any wrongful gain;
>
> (*b*) for any unlawful purpose; or

> (*c*) knowing that it is likely to cause wrongful loss to any person.
>
> (2) Any person guilty of an offence under subsection (1) shall be liable on conviction —
>
> (*a*) to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 3 years or to both; and
>
> (*b*) in the case of a second or subsequent conviction, to a fine not exceeding $20,000 or to imprisonment for a term not exceeding 5 years or to both.

9 For clarity, when we refer to:

(a) offences under s 3(1) (read with s 12(1)) of the CMA, we mean the offences of bank account relinquishment as prosecuted under the previous regime;

(b) offences under s 417 of the PC, we mean the offence of deceiving a bank into opening a new bank account for the purpose of relinquishment as prosecuted under the previous regime; and

(c) offences under s 8(1) of the CMA, we mean the offences of unlawful disclosure of Singpass credentials as prosecuted under the previous regime.

10 While these provisions are broadly worded and capable of applying to a variety of conduct beyond the specific acts described above, references to these provisions in this judgment are confined to those specific acts relating to the facilitation of the dissipation of scam proceeds, and nothing else. These will be referred to collectively as the "legacy offences".

The new regime

11 The previous regime provisions dealt with *general* offences involving unauthorised computer access, cheating and the unauthorised disclosure of access codes such as passwords. They were not targeted specifically at the relinquishment of bank accounts or disclosure of Singpass credentials. At the second reading of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) (Amendment) Bill (Bill No 12/2023) and Computer Misuse (Amendment) Bill (Bill No 13/2023), the then-Second Minister for Home Affairs, Mrs Josephine Teo ("Second Minister Teo"), explained as follows (Singapore Parl Debates; Vol 95, Sitting No 102; [8 May 2023] (Josephine Teo, Second Minister for Home Affairs)) ("*2023 Parl Debates*"):

> Sir, we must do everything we can to prevent scams from harming Singaporeans. *This includes recognising the limitations of current laws, which make it difficult to take the money mules to task. It requires the Prosecution to prove that the money mule had knowledge or reasonable grounds to believe that the monies transacted through his bank account are linked to criminal activity.* As a result of these difficulties, of the 19,000 money mules investigated by Police from 2020 to 2022, fewer than 250 money mules were eventually prosecuted. Out of 19,000, fewer than 250 ended up being prosecuted.
>
> … Similarly, *it has been challenging to prove the wrongful intention of those who give up their Singpass credentials under existing laws like the Computer Misuse Act.*
>
> Clearly, there is a gap that has allowed money mules to continue abetting scammers at little cost to themselves. Why should they be deterred if they can evade prosecution by simply claiming ignorance?
>
> [emphasis added]

12 The 2023 Amendments were introduced to address these deficiencies and the escalating threat posed by the prevalence of scams. As part of the amendments, the relinquishment of bank accounts and disclosure of Singpass credentials were specifically criminalised with the introduction of new

provisions in the CDSA and CMA. For the purposes of these appeals, three of these new provisions are relevant.

13 First, s 55A of the CDSA introduced a new offence of assisting another person to retain benefits from criminal conduct. Section 55A provides, in relevant part:

> **Assisting another to retain benefits of drug dealing or benefits from criminal conduct in certain circumstances, etc.**
>
> **55A.**—(1) Any person (*A*) —
>
> (*a*) who enters into, or is otherwise concerned in, an arrangement under which —
>
> (i) the retention or control by or on behalf of another person (*B*) of *B*'s, or any other person's, benefits of drug dealing or benefits from criminal conduct is facilitated (whether by concealment, removal from jurisdiction, transfer to nominees or otherwise);
>
> (ii) funds that are placed at another person's (*B*) disposal are secured, directly or indirectly, by *B*'s, or any other person's, benefits of drug dealing or benefits from criminal conduct; or
>
> (iii) property is acquired for another person's (*B*) benefit, by way of investment or otherwise, using *B*'s, or any other person's, benefits of drug dealing or benefits from criminal conduct; and
>
> (*b*) who does so in any of the following circumstances:
>
> …
>
> (ii) under the arrangement mentioned in paragraph (*a*) —
>
> (A) *A* enables *B* or any other person to access, operate or control a payment account which *A* is able to access, operate or control; and
>
> (B) at the time *A* enters into or becomes concerned with the arrangement, *A* fails to take reasonable steps to ascertain the purpose of *B* or that other person being

> able to access, operate or control the payment account mentioned in sub-paragraph (A);
>
> …
>
> shall be guilty of an offence.
>
> …
>
> (5) Any individual who commits an offence under subsection (1) or (2) shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 3 years or to both.

14 This new section specifically criminalises the act of the account holder handing over control of a bank account to another person and the subsequent use of that account to facilitate the laundering of the proceeds of crime. As can be seen, the maximum imprisonment term for bank account relinquishment offences has been increased from two years' imprisonment (in respect of a first conviction under s 3(1)(*a*) (read with s 12(1)) of the CMA) under the previous regime to three years' imprisonment.

15 Next, s 8A of the CMA was introduced to address the conduct of individuals who disclose *their* Singpass credentials to other persons in certain circumstances, and such credentials are then used to facilitate criminal activities. At the same time, s 8B of the CMA was introduced to criminalise acts of obtaining, retaining or dealing in *another* person's Singpass credentials (*2023 Parl Debates*). We set out the key portions of these provisions as currently in force:

> **Disclosure of password, access code, etc., in relation to national digital identity service**
>
> **8A.**—(1) Any user of the national digital identity service —
>
> (*a*) who discloses any password or access code of the user in relation to the national digital identity service, or provides any other means of securing access in the identity of the user to any

program or data held in any computer by way of the national digital identity service; and

(*b*) who does so knowing, or having reasonable grounds to believe, that the purpose of the disclosure or provision is for any person to commit, or to facilitate the commission by any person of, any offence under any written law,

shall be guilty of an offence and, subject to subsection (5), shall be liable on conviction to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 3 years or to both.

…

(5) Where an individual is convicted of an offence under subsection (1), the individual shall, in addition to the punishment under that subsection, be liable to caning of not more than 12 strokes —

(*a*) if the individual knew that the purpose of the disclosure or provision was for any person to commit, or to facilitate the commission by any person of, any scam offence; or

(*b*) if —

(i) it is proved, to the satisfaction of the court, that the password, access code, or means of securing access, was used to commit, or to facilitate the commission of, a scam offence; and

(ii) the individual is not able to prove, to the satisfaction of the court, that he or she had, at any time, taken reasonable steps to ensure that the password, access code or means of securing access, would not be used to commit, or to facilitate the commission of, a scam offence.

Supplying, etc., credential of another person

8B.—(1) A person shall be guilty of an offence if the person —

(*a*) obtains or retains any credential of another person in relation to the national digital identity service; or

(*b*) supplies, offers to supply, transmits or makes available, by any means, any credential of another person in relation to the national digital identity service.

> (2) It is not an offence under subsection (1)(*a*) if the person obtained or retained the credential of the other person for a purpose that is not any of the following purposes:
>
> > (*a*) for use in committing, or in facilitating the commission of, any offence under any written law;
> >
> > (*b*) for the supply or transmission of, or making available, by any means, the credential to be used in committing, or in facilitating the commission of, any offence under any written law.
>
> (3) It is not an offence under subsection (1)(*b*) if —
>
> > (*a*) the person did the act for a purpose other than for the credential of the other person to be used in committing, or in facilitating the commission of, any offence under any written law; and
> >
> > (*b*) the person did not know or have reason to believe that the credential of the other person will be or is likely to be used to commit, or facilitate the commission of, any offence under any written law.
>
> …
>
> (5) Subject to subsections (5A) and (5B), a person who is guilty of an offence under subsection (1) shall be liable on conviction —
>
> > (*a*) to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 3 years or to both; and
> >
> > (*b*) in the case of a second or subsequent conviction, to a fine not exceeding $20,000 or to imprisonment for a term not exceeding 5 years or to both.

16 In effect, the 2023 Amendments recalibrated the threshold for liability and enhanced the punishment for certain scams-related offences. It is no longer necessary to prove actual knowledge on the part of the offender; speaking generally, it would typically suffice to establish that the offender failed to take reasonable steps to ascertain the purpose for which his bank account was being relinquished, or that he had reasonable grounds to believe that the purpose of

disclosing his Singpass credentials was for the commission of an offence. The prescribed penalties were also enhanced to better reflect the severity of such conduct and to serve as a more meaningful deterrent (*2023 Parl Debates*). For completeness, pursuant to the 2023 Amendments, the prescribed punishment for s 8B CMA offences was the same as that for s 8A CMA offences.

17 The 2023 Amendments came into force on 8 February 2024.

18 On 21 August 2024, the Sentencing Advisory Panel ("SAP") published the Guidelines for Scams-Related Offences ("Guidelines"). By way of context, the SAP was established in June 2022 to formulate sentencing guidelines with the aim of promoting greater consistency and transparency in sentencing, and to increase public awareness of the sentences that may be imposed by the court and the factors that are relevant to sentencing decisions. In particular, the Guidelines set out a sentencing approach for scams-related offences which also applies to young offenders, as well as sentencing frameworks for various scams-related offences, including those under s 55A(1) of the CDSA and ss 8A(1) and 8B(1) of the CMA.

19 For clarity, when we refer to:

(a) offences under s 55A(1) of the CDSA, we mean the offences of relinquishing one's bank account to another without taking reasonable steps to ascertain the purpose of that person being able to access, operate or control the account;

(b) offences under s 8A(1) of the CMA, we mean the offences of disclosing one's Singpass credentials with the knowledge, or having reasonable grounds to believe, that the purpose of the disclosure was for the commission of an offence; and

(c) offences under s 8B(1) of the CMA, we mean the offences of disclosing another person's Singpass credentials with the knowledge, or having reason to believe, that the credentials will be or is likely to be used for the commission of an offence.

20 These are referred to collectively as offences under the new regime.

Broad issues raised in the Appeals

21 The Appeals raise several broad issues pertaining to the appropriateness of the sentencing approaches set out in the Guidelines, particularly in relation to young offenders. In our view, three key issues arise.

22 The first issue is whether the courts should, in cases involving scams-related offences committed by young offenders, adopt the sentencing approach set out in paragraph 7(c) of the Guidelines ("Issue 1").

23 Paragraph 7(c) of the Guidelines suggests that, in cases involving young offenders, the sentence to be imposed should usually be RT or imprisonment, even if the offender would otherwise be suitable for CBS or probation. Paragraph 7 of the Guidelines reads:

> 7. It is recommended that custodial sentences be the norm for scams-related offences. This is so even for those offences where a fine is a sentencing option. The reasons are as follows.
>
> (a) Scams-related offences are prevalent and increasing. They are typically committed after some deliberation and involve an organised criminal group. These are aggravating factors which – in themselves – warrant the imposition of custodial sentences for the purpose of deterrence.
>
> (b) The sentences for scams-related offences must be punitive enough and commensurate with the

> harm suffered by the victims of scams-related offences. If successful, the scams will result in the victims suffering financial losses. Such losses can be devastating if, e.g., it involves the loss of retirement savings, or monies which could have been channelled to other pressing needs. This loss can also lead to significant psychological harm. The harm caused by scams can also extend beyond the scammed victims and their families. For instance, if the scam involves the personation of an officer from a public or a financial institution and the transfer of funds to an account belonging to the offender, public trust in such institutions and the use of electronic transactions can be eroded.
>
> *(c)* *Following from the above, fines, probation and community sentences are generally not appropriate. Imprisonment or reformative training, whichever is more appropriate, should be considered given the need for deterrence and the public interest in suppressing scams. This applies to all offenders (even if below the age of 21) except juvenile offenders dealt with in the Youth Court.*
>
> [emphasis added]

24 The second issue concerns whether the sentencing framework set out in the Guidelines for s 55A(1) CDSA Bank Account Relinquishment Offences ("SAP's s 55A(1) CDSA Sentencing Framework"), which we set out in more detail below (at [69]–[76]), is an appropriate one for the courts to adopt ("Issue 2").

25 The third issue is whether the sentencing approach applicable to offences involving the relinquishment of bank accounts and the disclosure of Singpass credentials prosecuted under the new regime should equally apply to offences involving the same type of criminal conduct prosecuted under the previous regime, which we have referred to as "legacy offences" ("Issue 3").

26 Given that these issues are novel, a Young Independent Counsel ("YIC"), Ms Iris Ng, was appointed to assist the court. Both the YIC and the parties to the appeal were asked to address the following questions:

(a) Question 1: Does paragraph 7(c) of the Guidelines provide an appropriate approach for sentencing young offenders below the age of 21 for scams-related offences? If not, what would an appropriate sentencing approach be?

(b) Question 2: When might it be appropriate to impose probation or CBS on a young offender who commits a scams-related offence?

(c) Question 3: Should the same sentencing approach apply to legacy offences if the nature of the offending conduct is similar to the offending conduct involved in a scams-related offence under the new regime?

(d) Question 4: Is the SAP's s 55A(1) CDSA Sentencing Framework appropriate? If not, what would an appropriate sentencing framework be?

(e) Question 5: Can the SAP's s 55A(1) CDSA Sentencing Framework be adapted to apply to legacy offences if the nature of the offending conduct is similar?

27 Questions 1 and 2 pertain to the sentencing approach to be adopted in respect of young offenders (Issue 1), Question 4 pertains to the appropriateness of the SAP's s 55A(1) CDSA Sentencing Framework (Issue 2), and Questions 3 and 5 pertain to the application of existing sentencing approaches to legacy offences (Issue 3).

28 We turn now to the parties' respective submissions on the aforesaid issues, and our determination of these issues.

Issue 1: The appropriate sentencing approach for young offenders

29 Issue 1 is concerned with whether the courts should adopt the approach set out in paragraph 7(c) of the Guidelines when sentencing young offenders for scams-related offences, namely, that a custodial sentence or RT is the *default*, with CBS or probation reserved for exceptional circumstances (see [23] above). In other words, should probation and CBS be presumptively excluded as sentencing options in scams-related cases involving young offenders?

30 We begin by setting out the prevailing approach for sentencing young offenders as set out in *Public Prosecutor v Mohammad Al-Ansari bin Basri* [2008] 1 SLR(R) 449 ("*Al-Ansari*"), followed in *Public Prosecutor v Koh Wen Jie Boaz* [2016] 1 SLR 334 ("*Boaz*") and explained in *Public Prosecutor v ASR* [2019] 1 SLR 941 ("*ASR*") ("*Al-Ansari/Boaz* framework").

31 In *Boaz*, Sundaresh Menon CJ held that a court sentencing a young offender must approach the inquiry in two distinct but related stages (*Boaz* at [28]). At the first stage, the court must identify and prioritise the primary sentencing considerations appropriate to the young offender in question having regard to all the circumstances. The primary sentencing consideration for young offenders will generally, or presumptively, be rehabilitation (*Boaz* at [29]). However, the focus on rehabilitation can be diminished or even eclipsed by considerations such as deterrence or retribution where the circumstances warrant (*Boaz* at [30]). At the second stage, the court selects the appropriate sentence that would best meet the sentencing considerations and the priority that had been determined at the first stage.

32 Quite rightly, the parties are in agreement that the *Al-Ansari/Boaz* framework remains applicable in determining the appropriate sentence for young offenders in scams-related offences; accordingly, a relevant consideration is whether paragraph 7(c) of the Guidelines is consistent with the *Al-Ansari/Boaz* framework.

The parties' positions

(1) YIC's case

33 The YIC submits that the sentencing approach in paragraph 7(c) of the Guidelines is appropriate to give effect to the deterrent purpose intended by Parliament. The YIC further submits that the Guidelines can be reconciled with the *Al-Ansari/Boaz* framework for sentencing young offenders:

(a) Where deterrence is the dominant sentencing consideration for a young offender, imprisonment is appropriate. However, rehabilitation should not be presumptively displaced as the dominant sentencing consideration since, whilst deterrence is relevant for scams-related offences, these offences span a range of culpability.

(b) Where rehabilitation is the dominant sentencing consideration for a young offender, the choice should ordinarily be between RT and a short detention order ("SDO") (with other CBS where appropriate), as deterrence remains relevant given the seriousness of the offending conduct:

(i) The threshold question is whether SDOs are legally available. The option should remain available so long as Parliament has not prohibited the imposition of CBS for the offence in question.

(ii) Assuming both RT and SDO are available options, the choice depends on whether extended rehabilitation in a structured environment is needed given the severity and pattern of offending.

(c) Probation should only be ordered exceptionally where specific deterrence is irrelevant or less relevant, such as where mental disability has a causal link to offending or in circumstances of coercion or exploitation.

34 In essence, the YIC submits that the approach suggested in the Guidelines is generally appropriate, with one qualification: that SDOs should be recognised as an appropriate sentencing option alongside RT and imprisonment. This is because imprisonment is unsuitable for young offenders where rehabilitation remains the dominant sentencing consideration. Further, RT is not always suitable as offenders may not require structured institutional intervention for the following reasons: (a) the offences may be committed negligently/unthinkingly or involve lower-level conduct in the scam hierarchy; (b) physical incapacitation is less relevant given the nature of scam offending; and (c) the compulsory minimum RT duration may be disproportionate given the range of culpability in scams-related offences. Thus, SDOs, combined with other CBS, complement RT by: (a) serving as a wake-up call responsive to young offenders' failure to consider consequences, carrying punitive and deterrent elements; (b) dispelling impressions that offenders cause no harm by sensitising them through community work; and (c) allowing courts to deliver the appropriate mix of rehabilitation and deterrence.

(2) Prosecution's case

35 Mr Hui Choon Kuen, the Third Chief Prosecutor, made submissions for the Prosecution on this issue. He contends that the Guidelines provide an appropriate approach for sentencing young offenders and cohere with the *Al-Ansari/Boaz* framework.

36 At the first stage of the framework, the Prosecution acknowledges that rehabilitation *largely* remains the dominant sentencing consideration for young offenders in scams-related cases. That said, the Prosecution contends that deterrence must be incorporated into the sentence given the seriousness of scams-related offences. Accordingly, at the second stage of the framework, the Prosecution submits that RT would *generally* be an appropriate sentencing option, as it strikes the right balance between rehabilitation and deterrence. While acknowledging that individual young offenders may commit scams-related offences with varying degrees of culpability, the Prosecution submits that the court's sentencing approach cannot be limited to considering the specific circumstances of each offender's conduct and the need for specific deterrence as general deterrence requires the court to consider the wider ramifications and systemic harms caused by such offences. Departing from the YIC's position, the Prosecution further contends that SDOs are generally unsuitable because the maximum two-week detention period is insufficient to achieve the significant measure of deterrence required.

37 Finally, the Prosecution contends that probation is similarly unsuitable as a general option, given that it lacks any meaningful deterrent component. Probation or CBS should therefore only be imposed in exceptional cases where the interest in rehabilitation is *unusually* high. These may include cases where the young offender is 16 years or below at the time of the offence with no

previous brushes with the law, or where the young offender suffers from a mental disorder which has a contributory link to the offence.

(3) PDO's case

38 The Public Defender's Office ("PDO") acts for the appellants in MA 9012, MA 9024, MA 9049 and MA 9069. The Chief Public Defender, Mr Wong Kok Weng ("Mr Wong"), appeared in these proceedings and made submissions on the three broad issues raised in these appeals. We refer to his submissions on these broad issues as the PDO's submissions, as the other PDO officers representing the individual appellants aligned themselves with his submissions in their respective individual appeals.

39 Turning back to the present issue, namely, how the Guidelines should be regarded and interpreted by the courts in sentencing young offenders in scams-related offences, the PDO submits that the Guidelines should not be read to presumptively exclude probation and CBS in all scams-related cases involving young offenders. Instead, they should guide courts to give weight to deterrence whilst considering all other relevant factors. A blanket prohibition against probation and CBS would overturn established jurisprudence on sentencing young offenders and fail to account for the vast spectrum of culpability, circumstances and rehabilitative needs among young offenders in scams-related cases.

40 Following the *Al-Ansari/Boaz* framework*,* the PDO contends that the Guidelines have not displaced rehabilitation as the dominant sentencing consideration at the first stage. Where rehabilitation remains the dominant sentencing consideration at the first stage, the full suite of rehabilitative options (including probation and CBS) should remain available at the second stage. The choice among those options should be determined by a holistic and fact-

sensitive assessment of each case, taking into account, among other things, the pre-sentencing reports on the young offender's character as well as his rehabilitative potential and needs.

41 In this regard, the PDO argues that properly calibrated probation orders and CBS can achieve the ends of both deterrence and rehabilitation, and RT should not be seen as the only viable option. Probation and CBS are appropriate where young offenders have minimal intervention needs that do not warrant RT's rigorous environment. Where culpability is high despite minimal intervention needs, SDOs may be suitable. On the other hand, RT should be reserved for young offenders requiring a "rigorous and structured environment" for rehabilitation.

(4) Other defence counsel

42 Counsel for the remaining accused persons aligned themselves with the PDO's case.

Our decision

43 As the Court of Appeal observed in *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 ("*Iskandar bin Jinan*") at [3], sentencing guidelines suggested by the SAP are not binding on the court but are intended to offer some assistance in the sentencing process. As such, the court's mandate in sentencing is to calibrate the appropriate sentence having regard to all relevant considerations, including but not limited to the guidelines (*Iskandar bin Jinan* at [6]).

44 In our view, paragraph 7(c) of the Guidelines may be interpreted as being both consistent and inconsistent with the *Al-Ansari/Boaz* framework. This

is reflected in the different readings of paragraph 7(c) and its import adopted by the YIC, Prosecution and PDO. We explain.

45 The Guidelines could be said to align with the *Al-Ansari/Boaz* framework in so far as they simply emphasise deterrence as a relevant sentencing consideration. At the first stage, where deterrence is the primary sentencing consideration, imprisonment is warranted. Where rehabilitation is the primary consideration instead, the default option would be RT, which is an option that is rehabilitative in nature, although it also incorporates a strong measure of deterrence. However, the Guidelines could also be read as departing from the *Al-Ansari/Boaz* framework in so far as it seeks to constrain judicial discretion at the second stage. Under the established framework, the second stage requires a fact-sensitive assessment of the most suitable option based on multiple factors, including the offender's capacity for reform and risk of reoffending, as determined through a review of the probation and RT reports (see [48] below). In so far as the Guidelines universally ascribe greater weight to deterrence in *all* scams-related cases involving young offenders and seek to suggest that a custodial sentence or RT should be the *default*, the Guidelines undermine this individualised, fact-sensitive approach that is central to the *Al-Ansari/Boaz* framework.

46 Having regard to the considerations above, we do not agree that, in scams-related cases involving young offenders, where rehabilitation is determined to be the primary sentencing consideration at the first stage of the *Al-Ansari/Boaz* framework, RT or SDOs should be the default sentence at the second stage as suggested by the Prosecution or the YIC. Instead, we agree with the PDO that the Guidelines should be interpreted as highlighting the seriousness of scams-related offences and the weight to be accorded to general deterrence as a sentencing principle. But, they should not be read as creating a

default position, as this would depart from the fact-sensitive and holistic approach of the *Al-Ansari/Boaz* framework.

47 In our judgment, a default approach assuming a custodial sentence or RT save in exceptional cases is too blunt, bearing in mind the courts' longstanding recognition of young offenders' lack of maturity, the prospects of a long and productive life ahead of them, and the importance of securing their rehabilitation wherever possible. This is evident from the guidance in *A Karthik v Public Prosecutor* [2018] 5 SLR 1289 ("*A Karthik*") at [37] that the presumptive primacy of rehabilitation in relation to youthful offenders rests on two rationales. The first is the *retrospective* rationale, which justifies rehabilitation on account of the young offender's youthful folly and inexperience. The second is the *prospective* rationale, which justifies rehabilitation on the grounds of a young offender's greater receptiveness to a rehabilitative sentencing regime, the broader benefit to society from the young offender's rehabilitation, and the disproportionate hardship that a young offender typically suffers from punitive sentencing options as compared to an adult (see also *Public Prosecutor v Lim Cheng Ji Alvin* [2017] 5 SLR 671 at [6]). With respect to the retrospective rationale in particular, it must be recognised that, as a *general* principle, young offenders have reduced culpability because: (a) they have less capacity to assess and appreciate the harmful consequences of their actions; and (b) they have had fewer opportunities to develop impulse control and resist peer pressure to offend (*A Karthik* at [41(a)]; see also *Public Prosecutor v Mok Ping Wuen Maurice* [1998] 3 SLR(R) 439 at [21]). As noted by the YIC, in cases involving scams-related offences, many young offenders are lured by the prospect of easy money without considering the longer-term consequences, particularly as they often cannot appreciate the harm they are causing.

48 As such, courts have always recognised that sentencing young offenders involves a delicate balancing exercise. In determining the balance to be struck between the dominant consideration of rehabilitation and the need for deterrence, the assessment depends on a range of factors including: (a) the seriousness of the offence; (b) the culpability of the offender; (c) the existence of antecedents; (d) the nature of rehabilitation best suited for the offender; (e) the availability of familial support in the rehabilitative efforts; and (f) any other special reasons or need for rehabilitation (*Al-Ansari* at [67], affirmed in *Ahmad Syafiq bin Azmi v Public Prosecutor* [2018] 5 SLR 837 ("*Ahmad Syafiq*") at [25]). In determining the young offender's capacity for rehabilitation and the appropriate sentence, the following considerations are relevant: (a) the strength of familial support and the degree of supervision provided by the offender's family for his rehabilitation; (b) the frequency and intensity of the offender's criminal activities; (c) the genuineness of remorse demonstrated by the offender; and (d) the presence of risk factors such as negative peer influences or bad habits (*Praveen s/o Krishnan v Public Prosecutor* [2018] 3 SLR 1300 ("*Praveen*") at [30], affirming *Leon Russel Francis v Public Prosecutor* [2014] 4 SLR 651 at [15]).

49 While the Prosecution accepts that rehabilitation generally remains the dominant sentencing consideration for young offenders who have committed scams-related offences, it maintains that RT would generally be the appropriate sentence given the need for general deterrence. This is so notwithstanding the Prosecution's recognition that scams-related offences may be committed with "varying degrees of premeditation". The Prosecution's position is that the court's sentencing approach "cannot be limited only to considering the specific circumstances of each offender's conduct and the considerations of specific deterrence". We disagree with this approach for the following reasons.

50 First, scams-related offences can be committed in multifarious ways which result in clear differences in the culpability of offenders. This was noted by the YIC and PDO. Indeed, the legislative scheme for offences involving the relinquishment of bank accounts under the CDSA establishes four distinct culpability levels (*ie,* without taking reasonable steps, negligently, rashly, and knowing or having reasonable grounds to believe) with escalating penalties. In introducing the amendments to the CDSA, Second Minister Teo noted that the offences of rash and negligent money laundering would "allow a money laundering offence to be made out against an individual at a *lower level of culpability,* compared with the current laws" [emphasis added] (*2023 Parl Debates*).

51 In fact, the Guidelines *themselves* acknowledge different levels of culpability through the identification of various offence-specific and offender-specific aggravating factors (see paragraphs 13–15 of the Guidelines). The Guidelines also prescribe double the starting sentence for s 8B(1) offences compared to s 8A(1) offences under the CMA, recognising that an offender who discloses another person's Singpass credentials has greater culpability than one who discloses his own (see paragraph 35 of the Guidelines).

52 This gradated approach is further evident in Parliament's decision to impose mandatory caning for scammers and members or recruiters of scam syndicates, whilst providing only discretionary caning for those who facilitate scams, such as money mules who relinquish SIM cards, Singpass credentials, and bank accounts. The then-Senior Minister of State for Home Affairs, Ms Sim Ann ("Senior Minister of State Sim"), explained the specific circumstances in which discretionary caning would apply (Singapore Parl Debates; Vol 96, Sitting No 9; [4 November 2025] (Sim Ann, Senior Minister of State for Home Affairs) ("*2025 Parl Debates*")):

> For upstream enablers such as Singpass credentials and SIM cards, discretionary caning will broadly apply to two categories of cases.
>
> The first category is where the offender intended or knew, depending on the offence, that the enabler would be used to commit or facilitate the commission of a scam.
>
> The second category covers cases where the enabler is actually used to commit or facilitate the commission of a scam, even if the offender did not intend or know this. For the second category of offenders, discretionary caning will apply if the offender fails to prove that he or she had taken reasonable steps to ensure that the enabler would not be used to commit or to facilitate the commission of a scam.
>
> For downstream enablers such as payment accounts, discretionary caning will apply if the criminal proceeds laundered involve benefits from a scam and the offender had failed to take reasonable steps to ensure that the account is not used to launder scam proceeds.

53 When asked whether caning should be made mandatory for scam mules as well, Senior Minister of State Sim further explained (*2025 Parl Debates*): "Notwithstanding the need to deter scam mules, MHA recognises the need to be calibrated in our approach. In reality, scam mules have a range of culpability. Therefore, we have proposed for caning to be discretionary to allow the Courts to decide if the facts of the case warrant the application of caning."

54 What is significant from the foregoing is that the approach taken by the Prosecution ignores the possible differences in culpability among young offenders which may have a bearing on the appropriate sentence. To take a simple example, a young offender who commits a scams-related offence for the first time because he or she misjudged the situation is clearly different from another who is recalcitrant and has a few similar antecedents. Yet, according to the Prosecution, the default position is that a custodial sentence or RT must be ordered. If so, the debate on the sentence for the first offender would be confined to the appropriate length of incarceration or intensity of RT rather than whether

the sentence is suitable, appropriate and proportionate at all. Such an approach would be wrong as a matter of principle.

55 Second, different rehabilitative sentencing options may be appropriate for different young offenders. Although one young offender may have committed a more serious scams-related offence than another, an option such as probation may be a more suitable rehabilitative option for him than RT. This may depend on a variety of factors, such as the supportiveness of his social environment, the strength of his family ties, and his record and receptivity to guidance at school. Conversely, a young offender who committed a less serious scams-related offence may present with more entrenched risk factors that diminish his rehabilitative prospects. This comparison illustrates that the severity of the offence and the offender's rehabilitative potential are distinct considerations that do not necessarily move in tandem. To disregard these differences in rehabilitative potential in favour of an approach that emphasises general deterrence above all other relevant factors would be inconsistent with the sentencing philosophy for young offenders, which requires that the court look beyond the nature of the offence and consider carefully the attributes and circumstances of the individual before it.

56 Third, we find it unprincipled that young offenders in scams-related cases should presumptively face imprisonment or RT, when young offenders in other serious cases, including those involving property offences or personal harm, may be considered for CBS and/or probation. For instance, in *A Karthik*, the 17-year-old offender who pleaded guilty to two counts of abetting, by conspiracy, the cheating of two motor insurance companies was sentenced to probation. Similarly, in *Praveen*, the 17-year-old offender who pleaded guilty to one charge of consumption of a specified drug and another charge of possession of a controlled drug for the purpose of trafficking, with a further

possession charge taken into consideration, was also sentenced to probation. Further, in *Public Prosecutor v Abdul Qayyum bin Abdul Razak* [2020] SGHC 57, the 20-year-old offender pleaded guilty to a charge of unlawful assembly in committing a group attack against a victim, who sustained a cut below his eye, and was sentenced to CBS comprising a day reporting order ("DRO"), a community service order ("CSO") and an SDO. Relatedly, in *Ahmad Syafiq*, the 20-year-old offender who pleaded guilty to one charge of rioting, with one other charge of rioting and one charge of being a member of an unlawful society taken into consideration, was sentenced to probation. In all these cases, notwithstanding the seriousness of the offences and the need to give weight to general deterrence or retribution, the court arrived at the appropriate sentence for the young offender based on a consideration of all the facts and circumstances.

57 Lastly, we do not agree with the YIC's position that the choice of sentence for young offenders who have committed scams-related offences should typically lie between a SDO or RT. While we accept that deterrence is an important consideration, the appropriate sentence for young offenders that furthers the main sentencing consideration of rehabilitation still depends very much on the particular circumstances of the offender and the offence in each case.

58 In this regard, we agree with Mr Wong that the appropriate way to account for deterrence – which is a key consideration for these offences – is to treat it as *one* relevant consideration alongside all other relevant considerations (see [48] above). As he rightly pointed out, any other approach would overlook the very significant range of differences among young offenders.

59 Where a court, having considered all relevant factors including pre-sentencing reports and the particular circumstances of the young offender, concludes that the structured and more intensive intervention characteristic of RT is not warranted (*Fahd Siddiqui v Public Prosecutor* [2024] SGHC 66 ("*Fahd Siddiqui*") at [17]), it should *actively* consider CBS and probation as available sentencing options. Since Parliament has already drawn the line by way of s 337 of the Criminal Procedure Code 2010 (2020 Rev Ed) ("CPC") to filter out offences which are not eligible for CBS, it cannot be said that all scams-related offences are so serious that CBS should not be available by default. If this were the case, Parliament would have increased the prescribed punishments to exclude the possibility of CBS as a sentencing option for all scams-related offences. Where it is Parliament's intention to take away certain sentencing options in relation to a particular offence, then this intention must be made clear (*Nur Azilah bte Ithnin v Public Prosecutor* [2010] 4 SLR 731 at [20]). The fact that the maximum punishment for some scams-related offences do not trigger the disqualification of CBS as a sentencing option indicates that they are not so serious that CBS should not be available or considered (*Keeping Mark John v Public Prosecutor* [2017] 5 SLR 627 at [28]). Further, we agree with the sentiments of See Kee Oon J (as he then was) in *Public Prosecutor v Teo Chang Heng* [2018] 3 SLR 1163 where disapproval was expressed at the proposition that general deterrence dictated that an imprisonment term must be imposed, trumping any CBS (at [15]). Accordingly, we disagree with the Prosecution's argument that CBS, including SDOs, and probation "cannot provide the significant measure of deterrence required for offences that Parliament has recognised as among the most serious criminal threats facing Singapore". It is trite that both probation and CBS contain punitive elements, albeit to different extents, and cannot be regarded as "soft options".

60 While RT is a rehabilitative option (see *Boaz* at [36], citing *Al-Ansari* at [47]), it remains more structured and rigid than other rehabilitative options, as it removes the young offender from his home and schooling or working environment for either six months or 12 months. It is therefore more onerous for the young offender. In fact, the minimum duration of RT can even be longer than a typical term of imprisonment for the same offence. Although the stakeholders may understand that this is so for a reason, namely, to enable the rehabilitative effects to take hold, it is often difficult for a young offender to appreciate this fact. The court's approach to sentencing should not be seen as unfair, and in circumstances where there is no evident need for interventionist approaches, we should not default to RT or incarceration. We reiterate that an approach which suggests that there is a default position of RT for young offenders will tend to obscure the differences in the culpabilities and rehabilitative potential of the offenders.

61 Ultimately, we caution that the options of RT, CBS and probation should not be viewed as points along a continuum (see *Public Prosecutor v Ong Jack Hong* [2016] 5 SLR 166 ("*Ong Jack Hong*") at [12]–[13]). The overarching question in the analysis is, as we mentioned at the hearing, what the appropriate *type* of sentence should be, and whether such a sentence is called for in the circumstances. The inquiry does not simply begin with the length or severity of the sentence.

62 We summarise below the sentencing approach the court should take in sentencing young offenders who commit scams-related offences.

63 <u>Preliminarily</u>, it must be determined whether the offender is a young offender. This is especially crucial in cases where the offender committed the offence whilst at or below the age of 21 but is above that age by the time of

sentencing. In determining whether it is appropriate to treat the offender as a young offender such that the presumption of rehabilitation applies, the court should consider all the facts of the case, including the following relevant factors: (a) the offender's age at each of these two points in time; (b) the length of the delay between the commission of the offence and sentencing; and (c) the available evidence of the trajectory of the offender's rehabilitative progress in the intervening period (*A Karthik* at [58]).

64 At the <u>first stage</u>, the court must identify and prioritise the primary sentencing considerations (*Boaz* at [28]). There is a presumption that rehabilitation is the primary sentencing consideration for young offenders (*Boaz* at [29]). However, rehabilitation may be diminished or displaced by considerations such as deterrence or even retribution where: (a) the offence is serious; (b) the harm caused is severe; and (c) the offender is hardened and recalcitrant (*Boaz* at [30]; see also *ASR* at [101] and *See Li Quan Mendel v Public Prosecutor* [2020] 2 SLR 630 ("*Mendel*") at [12] where the Court of Appeal explained that the court should consider the factor of whether conditions existed to make rehabilitative sentencing options viable at the second stage and not the first stage). As all parties have submitted, and with which we agree, the commission of a scams-related offence is generally not in itself sufficient to displace rehabilitation as the primary sentencing consideration for young offenders.

65 At the <u>second stage</u>, the court should choose the appropriate sentencing option in light of the answer at the first stage. Where rehabilitation is displaced by deterrence as the primary sentencing consideration at the first stage, the sentence imposed would ordinarily be imprisonment. However, where rehabilitation is the primary consideration at the first stage, a suite of rehabilitative options remains available for the court to choose from – each

vindicating one or more principles of sentencing to varying degrees and extents, with an overarching emphasis on the rehabilitation of the young offender. While it bears emphasis that the court should take a fact-sensitive approach in determining the appropriate sentencing option, we set out below several factors which may guide the court in selecting the appropriate option:

(a) First, the offender's eligibility for the various sentencing options:

(i) **Eligibility requirements for CBS:** A young offender may be ineligible for CBS if one of the disqualifiers set out under s 337 of the CPC applies. One such disqualifier is where the offence which the young offender is charged with is punishable with a term of imprisonment which exceeds three years. Accordingly, CBS may not be available for young offenders charged with certain offences under the CDSA.

(ii) **Eligibility requirements for RT**: A young offender may be ineligible for RT if he or she does not meet the following requirements under s 305 of the CPC: (a) above the age of 16 but below the age of 21 on the day of conviction; and (b) above the age of 14 but below the age of 16 on the day of conviction and, before this conviction, been dealt with by a court in connection with another offence, and had for that offence been ordered to be sent to a juvenile rehabilitation centre.

(b) Second, RT should be ordered where there is a stronger need for a measure of (specific) deterrence (see *Mendel* at [13]). This might include young offenders who committed the offence knowingly or repeatedly. Consequently, RT may not be suitable for those who commit offences negligently or unthinkingly, as there is no need to physically remove such young offenders from the community to prevent further harm. Additionally, RT is suitable for offenders who require a rigorous and structured environment to rehabilitate and reform due to the presence of risk factors. The court may exercise its discretion to impose a minimum detention period of either six months (Level 1) or 12 months (Level 2), having regard to the offender's rehabilitative needs and the need to prevent reoffending (see s 305(6) of the CPC).

(c) Third, probation and CBS should be ordered where there is minimal need for intervention. We emphasise that there can be different forms and combinations of probation and CBS which all vary in *intensity* and can accordingly be tailored to the facts and circumstances of the offence and the offender. For instance:

(i) CBS could entail one or more community orders under Part 17 of the CPC, which comprise a mandatory treatment order ("MTO"), DRO, community work order ("CWO"), CSO, and SDO. A combination of CBS allows courts to tailor interventions through targeted programmes, counselling or community service. Further, the risk of re-sentencing for any breach of CBS provides ongoing deterrence. In particular, SDOs may be ordered where the culpability of the young offender or the harm caused is high despite minimal needs for intervention. In *Kalaiarasi d/o Marimuthu Innasimuthu v Public Prosecutor* [2012] 2 SLR 774 at [37], it was recognised that SDOs are a "short sharp shock" in the form of a taste of what incarceration would entail, in the hope that it would bring young offenders to their senses.

(ii) Probation with additional conditions (such as electronic monitoring, regular reporting, curfews and residential requirements) may be ordered where a young offender does not require removal from his home and educational or work environment but would benefit from a degree of structured oversight to support his rehabilitation. This may be particularly relevant where the young offender has committed the offence out of youthful folly or ignorance. In *Praveen*, the High Court recognised that probation with the additional condition of hostel residence served both rehabilitative and deterrent functions by removing the young offender from an undesirable social environment and integrating him into society by allowing him to participate in daily activities without having the blemish of a permanent record (at [34]). Further, probation can fulfil the consideration of specific deterrence as there is a risk of being re-sentenced for breach of conditions under probation.

66 In assessing the suitability of the above sentencing options, the court should generally call for a pre-sentencing report before imposing the sentence and should not embark on an assessment of the young offender's suitability for probation, CBS or RT without the benefit of such a report (*A Karthik* at [20]). However, the court may decline to do so where the basic criteria for probation, CBS and/or RT are not met, or where such options should be altogether excluded as a viable or realistic sentencing option (*A Karthik* at [21]). In line with the analysis above, the court should not decline to call a probation or CBS suitability report for a young offender at the pre-sentencing stage, *solely* on the basis that the commission of a scams-related offence is, *in itself*, so serious as to rule out the viability of probation or CBS altogether such that only RT may be considered.

67 Having considered the appropriate sentencing approach for young offenders, we now turn to Issue 2 which is the appropriateness of the SAP's s 55A(1) CDSA Sentencing Framework.

Issue 2: The appropriate sentencing framework for s 55A(1) CDSA Bank Account Relinquishment Offences

The sentencing framework prescribed by the Guidelines

68 As is clear from s 55A(5) of the CDSA (see [13] above), a person who commits an offence under s 55A(1) of the CDSA shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding three years or to both. We outline the sentencing framework prescribed by the Guidelines before considering the parties' submissions on the same.

69 Paragraph 8(a) of the Guidelines describes a s 55A(1) CDSA Bank Account Relinquishment Offence as follows:

> Offender enters into, or is otherwise concerned in, an arrangement by handing over control of his bank account to *B without taking reasonable steps* to ascertain *B*'s purpose of accessing, operating, or controlling the account. [emphasis in original]

70 Paragraph 9 of the Guidelines outlines a three-step sentencing framework to be adopted for an archetypal bank account relinquishment offence under the CDSA:

> (a) Step 1: Identify the appropriate starting sentence with reference to the relevant CDSA offence.
>
> (b) Step 2: Adjust the starting sentence based on offence-specific and offender-specific factors, which distinguish the specific case from the archetypal case.
>
> (c) Step 3: Consider the use of a disgorgement fine in addition to imprisonment.

71 The Guidelines provide the following guidance in respect of each step.

72 Step 1: The Guidelines (at paragraph 10) peg the starting sentences to an archetypal case with the following characteristics:

> (a) An offender who hands over control of an existing bank account to another person [as opposed to opening a *new* bank account for the purpose of handing it over to another person],
>
> (b) The offender does so with the mental element as stated in the relevant CDSA provision,
>
> (c) He hands over control of the bank account without any intention to derive a gain from his act, and
>
> (d) The bank account is later used to receive and transfer funds which are benefits from crime.

73 For such an archetypal case charged under s 55A(1) of the CDSA, the Guidelines (at paragraph 11) recommend the starting sentence for a first-time offender convicted after trial be six months' imprisonment. The Guidelines derive this starting sentence based on the following considerations (at paragraph 12):

> (a) Custodial sentences of significant durations are necessary given that scams-related offences are of serious concern and there is a need to deter such offences.
>
> (b) The starting sentence should not be excessive when compared to the applicable maximum prescribed punishment.
>
> (c) There should be relative proportionality in the starting sentences between the *different* offences.

74 Step 2: Certain *offence-specific* aggravating factors have been identified by the Guidelines (at paragraph 13). The table below provides a non-exhaustive list, along with the corresponding uplifts in sentence where the same has been indicated by the Guidelines.

Offence-specific factor	Uplift
Opened a *new* bank account to be handed over (as opposed to handing over an *existing* account)	Guidelines, Illustration 1 (s 55A(1) CDSA Bank Account Relinquishment Offence): 3 months' imprisonment for (a) opening new account, *and* (b) being motivated by gain
Handed over *more than one* bank account	
Abuse of position or breach of trust (*eg*, company director relinquishes company's bank account)	
Motivated by gain (even if gain not received)	Guidelines, Illustration 1 (s 55A(1) CDSA Bank Account Relinquishment Offence): 3 months' imprisonment for (a) opening new account, *and* (b) being motivated by gain
Offended despite being previously informed that bank account had been misused	
Significant funds ($100,000 or more) received or transferred out of the offender's bank account (includes full amount received or transferred out of the offender's bank account, and not just the amount traceable to scam proceeds)	At least 25% of the starting sentence, commensurate with the quantum of funds involved.
Vulnerable persons (a) Offender knew that vulnerable persons were specifically targeted	(a) At least 50% of the starting sentence

(b) Vulnerable persons were affected (even if not specifically targeted, and even if the offender did not know that vulnerable persons would be affected)	(b) At least 25% of the starting sentence

75 *Offender-specific* factors should also be taken into account, such as (at paragraph 15): (a) charges taken into consideration for the purposes of sentencing ("TIC charges"); (b) relevant antecedents; (c) presence or lack of remorse; (d) restitution; and (e) cooperation with the authorities. Where the offender pleads guilty, the court may grant a reduction in sentence based on the SAP's Guidelines on Reduction in Sentences for Guilty Pleas ("PG Guidelines") (at paragraph 17).

76 <u>Step 3</u>: The Guidelines prescribe that where the offender has received a financial gain from his offence, the court should consider imposing a disgorgement fine in addition to the sentence otherwise imposed (at paragraph 18).

77 We turn to summarise the parties' arguments on this issue before deciding whether this court should adopt the SAP's s 55A(1) CDSA Sentencing Framework. This entails considering, first, whether a benchmark sentencing approach should be adopted, and second, if so, whether any modifications should be made to the approach set out in the Guidelines.

The parties' cases

(1) YIC's case

78 The YIC submits that the benchmark approach adopted in the SAP's s 55A(1) CDSA Sentencing Framework is appropriate because: (a) s 55A(1)

CDSA Bank Account Relinquishment Offences overwhelmingly manifest in a particular way; (b) the range of sentencing considerations tends to be circumscribed; and (c) the offence is a strict-liability one. However, the YIC notes that it would be helpful to validate the archetypal case as set out in the Guidelines empirically.

79 The YIC also submits that other types of sentencing frameworks are not suitable. These include the "multiple starting points" approach, the "sentencing matrix" approach, or the approach in *Logachev Vladislav v Public Prosecutor* [2018] 4 SLR 609 (*ie*, the "sentencing bands" approach).

(2) Prosecution's case

80 The Prosecution submits that it is appropriate for the courts to adopt or endorse a sentencing framework for s 55A(1) CDSA Bank Account Relinquishment Offences because: (a) there is a "pipeline" of pending prosecutions; (b) such offences are not committed in diverse scenarios but rather overwhelmingly manifest in a particular way; and (c) there is no danger of prematurely ossifying the law.

81 In particular, endorsing the SAP's s 55A(1) CDSA Sentencing Framework is appropriate because it has helped resolve uncertainty, and has been applied in numerous cases without obvious issues. It achieves all the goals of a good sentencing framework: (a) it is instructive without being prescriptive; (b) it is communicative and encourages transparency in reasoning; (c) it delivers consistent outcomes; and (d) it creates a coherent picture of sentencing for a particular offence, respecting the statutory context by taking into account the whole range of penalties prescribed.

82 The Prosecution similarly submits that other approaches to sentencing frameworks are unsuitable for s 55A(1) CDSA Bank Account Relinquishment Offences. These include the "multiple starting points" approach, the "sentencing matrix" approach, and the "sentencing bands" approach.

(3) PDO's case

83 The PDO submits that the SAP's s 55A(1) CDSA Sentencing Framework is appropriate for s 55A(1) CDSA Bank Account Relinquishment Offences.

84 The PDO submits that the benchmark approach is appropriate as the s 55A(1) CDSA Bank Account Relinquishment Offence targets a narrow scope of offences with limited factual variability. This is also supported by the strict liability nature of the offence.

(4) Other defence counsel

85 Counsel for the remaining accused persons aligned themselves with the PDO's case.

Our decision

86 In our view, it is appropriate to set out a benchmark sentence for s 55A(1) CDSA Bank Account Relinquishment Offences. As noted by all the parties, the benchmark approach is suitable because the offence is narrowly scoped and "overwhelmingly manifest[s] in a particular way" (*Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449 (*"Terence Ng*") at [32]). The relinquishment of a bank account is a common manifestation of a specific type of offending conduct under s 55A(1) of the CDSA. Moreover, Parliament has created a statutory scheme that contains different offences with different *mens*

rea requirements and thus captures different levels of culpability (see *Galvez Mary Joe Blanco v Public Prosecutor* [2026] 3 SLR 1427 ("*Galvez*") at [45]). Differences in the accused person's culpability will generally be reflected in the particular offence the accused person is charged with. It is thus appropriate to set out benchmark sentences for different bank account relinquishment offences bearing different levels of culpability.

87 The benchmark approach calls for the identification of an archetypal case (or multiple archetypal cases), which should be defined with some specificity so as to provide guidance as to what falls within the scope of the classic situation, and what exceptional circumstances justify departure from the typical sentence (*Terence Ng* at [31]). The archetypal case is, by definition, the particular variant or manner of offending in which the offence typically manifests, and which is therefore singled out for special attention (*Terence Ng* at [32]).

88 In our judgment, the "archetypal" case envisaged by the Guidelines (see [72] above) is not such a case. This is because the offence overwhelmingly manifests as one committed *for gain*. This is reflected in the series of seven appeals heard before us, all of which involved accused persons who acted for gain. It is also reflected in the series of ten cases involving s 55A(1) CDSA Bank Account Relinquishment Offences, for which written grounds had been issued, that the Prosecution helpfully compiled. All offenders in those cases were similarly motivated by gain. This is also to be expected in future cases, since it is natural that individuals would typically relinquish their bank accounts only when provided with an inducement to do so. Thus, as the Prosecution rightly suggests, what the Guidelines at paragraph 10 identifies as the "archetypal case" may be better described as the "baseline case". The true archetypal case is similar to the baseline case, except that the offender is motivated by gain

(whether or not such a gain actually materialises). The benchmark sentence of six months' imprisonment for a first-time offender convicted after trial should be applied to this archetypal case, and not the kind of case suggested by the Guidelines.

89 The benchmark sentence may be adjusted depending on the aggravating and mitigating factors present in a particular case. Many of these factors are well-established. The Guidelines at paragraphs 13–14 have outlined a non-exhaustive list of offence-specific aggravating factors. We find these factors to be generally relevant, although we leave the precise quantum of the uplift for each aggravating factor to be decided in an appropriate case where such an issue is live before us.

90 In relation to the quantum of funds involved, this court observed recently in *Galvez* at [58] that the receipt or transfer of significant funds (the Guidelines use $100,000 as a benchmark) warrants an uplift in sentence. This is so because it is generally foreseeable that a bank account that is relinquished would be used to receive or transfer criminal proceeds, such that it is justified to consider the amount of funds that flowed through the bank account as an aggravating factor. In principle, only funds representing the proceeds of criminal conduct are relevant. If the person obtaining control of the account had used it to transfer their own moneys for personal expenses or other innocent reasons, the transfer of such funds would not constitute the laundering of criminal proceeds that the relinquishing party can be said to have facilitated. However, as noted in footnote 8 to paragraph 13(f) of the Guidelines, the court *may* consider the full amount received or transferred out of the offender's bank account (and not just the amounts traceable to reports about scams) unless the offender is able to satisfy the court that any of the receipts or transfers were made for innocent reasons. This is because it may be clear from the circumstances, such as the

nature, timing and amount of the transfers, that they are made for the purpose of laundering criminal proceeds, notwithstanding that some of those proceeds cannot be traced to an identifiable scam victim. In such cases, it would be unrealistic for the court to ignore the total amount received or transferred out of the offender's bank account, unless it is shown that certain transfers were made for innocent reasons such that they should be disregarded. Additionally, we highlight that the court must pay close attention to the factual circumstances of each case to determine whether the amount of funds that flowed through the bank account was indeed foreseeable. For instance, we explain at [194] below that, on the facts of one of the cases on appeal before us, it was not foreseeable that the relinquishment of a first bank account would lead to a second bank account being opened, and therefore the amount of money flowing through the second bank account should not be considered as one of the aggravating factors in that case.

91 Likewise, in respect of the vulnerability of the victims involved, while this would generally be relevant in assessing the level of harm caused (see *Public Prosecutor v Tan Shay Howe* [2026] 3 SLR 1304 at [50] and [52]), its relevance to the culpability of the offender depends on how foreseeable it was that vulnerable victims would be affected. There is a significant difference between an offender who knew or had reason to believe that vulnerable victims were or would be targeted, and one who does not, a difference recognised by this court in *Galvez* at [56]. In the case of a young offender, the court should also bear in mind that a young person, who lacks full maturity and is less worldly-wise, may not fully appreciate that scammers are likely to use his bank account or Singpass credentials to specifically target vulnerable victims, such as the elderly, a likelihood which an adult offender must normally be taken to know. Needless to say, in assessing culpability, the court will be sensitive to whether the offender specifically targeted or abused the trust of any of the

victims (*Huang Ying-Chun v Public Prosecutor* [2019] 3 SLR 606 at [122]). As mentioned, elderly persons are presumptively treated as vulnerable to scams, being generally less able to recover from the pecuniary loss they have suffered (*Tan Shay Howe* at [51]; *Galvez* at [54]), although they are of course neither universally nor exclusively the type of persons who may be vulnerable victims.

92 We also add the following caveat: the fact that the offender was *motivated* by gain (as opposed to obtaining such a gain) should not be regarded as an aggravating factor. Rather, as explained above at [88], this is part of the archetypal case. In almost all cases, there is some element of gain or attempt to obtain some benefit which induces the offender to commit the offence. Treating this as an aggravating factor would result in an uplift in the vast majority of cases, when the benchmark sentence should in fact be applicable.

93 Having considered the appropriate sentencing framework for s 55A(1) CDSA Bank Account Relinquishment Offences, we turn to the appropriate sentencing framework for legacy offences.

Issue 3: The appropriate sentencing framework for legacy offences

The parties' cases

(1) YIC's case

94 The YIC submits that the Guidelines can be adapted to apply to legacy offences under s 3(1) (read with s 12(1)) of the CMA, s 417 of the PC, and s 8(1) of the CMA. The benchmark approach is equally appropriate for the legacy offences. However, the starting sentence in the Guidelines should not simply apply to legacy offences but must be calibrated specifically for each offence.

95 For s 417 PC and s 3(1) CMA offences (*ie*, legacy offences dealing with bank account relinquishment), the YIC submits that the starting sentence should *not* be derived by applying a downward calibration from the starting sentences in the Guidelines, given that the legacy offences address different facets of criminality and are situated in a different legislative context. Considered afresh, and having regard to the precedents, the starting sentence for first-time offenders convicted after trial under these provisions should be three to four months' imprisonment.

96 For s 8(1) CMA offences (*ie*, legacy offences dealing with the disclosure of Singpass credentials), the YIC submits that the indicative starting sentence for a first time offender convicted after trial should be seven to eight months' imprisonment, which is higher than the indicative starting sentence of six months' imprisonment for archetypal s 8A(1) CMA offences as prescribed in the Guidelines. This is because an offender convicted under s 8(1) of the CMA would be on the higher end of the range of culpability contemplated under s 8A(1) of the CMA. The former would have *knowingly* disclosed his Singpass credentials without authority for, *inter alia,* any unlawful purpose. The latter merely needs to have had *reasonable grounds to believe* that the disclosure would facilitate the commission of an offence.

97 The YIC also submits that the aggravating and mitigating factors set out in the Guidelines are also generally helpful and can apply to legacy offences, save where a putative aggravating factor is already a constituent element of a legacy offence, *eg*, the opening of a bank account for the purposes of a legacy offence under s 417 of the PC.

(2) Prosecution's case

98 The Prosecution submits that the Guidelines can be adapted to previous regime offences because: (a) the mischief targeted by offences under both the previous regime and the new regime is the same; (b) both sets of offences involve substantially similar patterns of offending conduct; (c) the legislative history demonstrates Parliament's intent to address enforcement gaps and not to create fundamentally different approaches to sentencing; and (d) the practical administration of justice calls for a consistent sentencing approach for substantially similar conduct that is prosecuted under the previous and new regimes. The Prosecution agrees with the YIC that the benchmark approach is appropriate for offences under the previous regime.

99 Contrary to the YIC's view, the Prosecution submits that the starting sentences for the legacy offences can be derived by extrapolating from the starting sentences for new regime offences set out in the Guidelines, given that the offences under both regimes target the same mischief. In conducting this extrapolation, the Prosecution agrees that a downward calibration of the indicative starting sentences is warranted to account for the differences in prescribed maximum punishments between the new and previous regimes.

100 For s 417 PC and s 3(1) CMA offences, the Prosecution submits that a starting sentence of four months' imprisonment is appropriate, representing a downward calibration from six months' imprisonment for s 55A(1) CDSA Bank Account Relinquishment Offences.

101 For s 8(1) CMA offences, the Prosecution submits that a starting sentence of four months' imprisonment is appropriate. This is primarily to strike an appropriate balance between recognising the increased seriousness of such

offences and avoiding retrospective harshness from a dramatic increase from the sentences imposed prior to the release of the Guidelines.

(3) PDO's case

102 The PDO agrees that the Guidelines can be adapted to legacy offences, in particular to s 3(1) CMA offences, because the offences target the same mischief. The PDO submits that the YIC's conceptual distinctions between the offences under s 3(1) of the CMA and offences under s 55A(1) of the CDSA do not reflect the practical reality, which is that these offences involve an identical factual matrix.

103 The PDO submits that the appropriate starting sentence for an archetypal s 3(1) CMA offence should be three to four months' imprisonment. This is based on a comprehensive review of the precedents. Steps 2 and 3 of the SAP's sentencing framework for bank account relinquishment offences can be adapted to legacy offences, *ie*, the same offence-specific and offender-specific factors can be applied, and the court can then consider whether to impose a disgorgement fine.

104 The PDO did not make specific submissions on the appropriate starting sentences for the s 417 PC and s 8(1) CMA offences.

(4) Other defence counsel

105 Counsel for the remaining accused persons aligned themselves with the PDO's case.

Our decision

106 All parties, including the YIC, agree that the sentencing approach that the courts apply for offences under the newly enacted provisions can be adapted to offences prosecuted under the previous regime. We see no reason in principle to disagree with this. The conduct that was the subject of charges under the previous regime is the same as that targeted under the new regime. Both the previous regime offences and new regime offences tackle the same social menace of scams, and its enablement by bank account relinquishment or the disclosure of Singpass credentials. As we explained at [5]–[8] above, such conduct was previously tackled under the previous regime with s 3(1) (read with s 12(1)) and s 8(1) of the CMA and s 417 of the PC because there were no specific provisions targeting the relinquishment of bank accounts or Singpass credentials. Such offending conduct was therefore shoehorned into the legacy provisions. There is no longer any need to do so, as reflected by the new charging positions adopted by the Prosecution. Since the mischief targeted by the previous and new regime offences is the same, and the latter offences are brought under provisions specifically intended to replace the *ad hoc* reliance on the former provisions, the same sentencing philosophy should apply regardless of whether we are dealing with the new offences or the legacy offences.

107 We agree with the YIC and the Prosecution that there is no obstacle in this context to applying the new sentencing framework to past offending conduct. A new sentencing framework ordinarily applies to all offenders who are *sentenced* at the time of and after the promulgation of the framework, regardless of when they had *committed* the offence (*Adri Anton Kalangie v Public Prosecutor* [2018] 2 SLR 557 ("*Adri*") at [46]). An individual cannot be said to have a legitimate expectation, at the time of the commission of the offence, of the sentence that he will receive if he is subsequently convicted of

that offence, save that the sentence must fall within the relevant statutorily-prescribed range (*Adri* at [57]).

108 We turn next to the appropriate benchmark sentences to be imposed in respect of each of the legacy offences.

109 For bank account relinquishment offences under s 3(1) (read with s 12(1)) of the CMA, the parties have converged on the benchmark sentence of three to four months' imprisonment, even if they arrive at this position through different reasoning. We agree with this position, which is in line with the lower statutory maximum of two years' imprisonment under s 3(1)(*a*) of the CMA compared to the maximum of three years' imprisonment under s 55A(5) of the CDSA. It is also broadly in line with the precedents referred to by the parties.

110 Where a bank account is opened specifically for the purpose of relinquishment (as opposed to the relinquishment of a pre-existing account), an offender may additionally be charged under s 417 of the PC for deceiving the bank (see [6] above). For such offences under s 417 of the PC, we agree with the Prosecution and the YIC that a similar benchmark sentence of three to four months' imprisonment should apply. Although the statutory maximum for offences under s 417 of the PC is three years' imprisonment, that provision deals with a wide range of cheating offences. For the particular subset of cheating offences that involve bank account relinquishment offences, it is appropriate to align the benchmark sentence with that under s 3(1) (read with s 12(1)) of the CMA. However, since a charge under s 417 of the PC will generally be brought alongside a charge under s 3(1) (read with s 12(1)) of the CMA, there would generally be an uplift from the benchmark sentence of three to four months' imprisonment, to reflect the fact that the offender both induced the bank to open a bank account for the use of an unauthorised person and relinquished the bank

account to that unauthorised person, which is an offence-specific aggravating factor.

111 Turning to s 8(1) of the CMA, we agree with the Prosecution's submission that a benchmark sentence of four months' imprisonment is appropriate, where an individual, knowingly and without authority, discloses their Singpass credentials to a third party unlawfully (*ie*, for wrongful gain, for an unlawful purpose, or knowing it is likely to cause wrongful loss to any person), and the Singpass credentials are then used to create bank accounts through which criminal proceeds are laundered. This reflects a downward calibration from the starting sentence of six months' imprisonment for s 8A(1) CMA offences recommended by the Guidelines (at paragraph 26). This is similar in proportion to the downward calibration applied for legacy bank account relinquishment offences.

112 We appreciate the YIC's submission that an offender under a s 8(1) CMA offence could be said to be of a higher culpability than that contemplated under s 8A(1) of the CMA, in that s 8(1) of the CMA criminalises the *knowing* and unauthorised disclosure of Singpass credentials for wrongful gain, for an unlawful purpose, or knowing that it is likely to cause wrongful loss to any person, whereas s 8A(1) of the CMA criminalises the disclosure of Singpass credentials as long as the offender has *reasonable grounds to believe* that the purpose is to facilitate the commission of an offence. The YIC's submission is that a higher sentence of seven to eight months' imprisonment should thus apply under s 8(1) of the CMA.

113 In our judgment, however, it would not be appropriate to treat the offence of disclosing Singpass credentials to a third party, which is prosecuted under s 8(1) of the CMA for conduct governed by the previous regime, as a

more serious version of the offence concerning the same type of conduct now prosecuted under s 8A(1) of the CMA. The two offences carry the same statutory maximum punishment of three years' imprisonment or a fine up to $10,000 or both (at least in so far as a first conviction under s 8(1) of the CMA is concerned). It was not Parliament's intention, when creating the offences under ss 8A(1) and 8B(1) of the CMA, that the same type of conduct, *ie*, disclosing of Singpass credentials to a third party, prosecuted under the previous regime under s 8(1) of the CMA should be *now* be punished more severely, so as to attract a correspondingly higher benchmark sentence. The Prosecution has also not sought to peg the benchmark sentence for such offences prosecuted under s 8(1) of the CMA at a higher level than those prosecuted under the new regime under s 8A(1) of the CMA. Taking a step back, our view is that the Prosecution's suggested benchmarks result in a more coherent sentencing approach across previous regime offences under s 3(1) (read with s 12(1)) of the CMA, s 417 of the PC and s 8(1) of the CMA, and new regime offences under s 55A(1) of the CDSA and s 8A(1) of the CMA. For the previous regime offences, benchmark sentences of three to four months' imprisonment would generally apply. For the new regime offences, benchmark sentences of six months' imprisonment would generally apply. As coherency in sentencing is what the courts should strive for, we agree with the approach suggested by the Prosecution.

114 As explained above at [106], the same underlying sentencing approach should be applied to previous and new regime offences. Thus, for instance, the benchmark sentences for legacy offences apply to the archetypal case, in which an offender relinquishes his bank account or Singpass credentials for gain. The fact that the offender was motivated by gain (as distinct from receiving an actual gain) is therefore not a separate aggravating factor to be taken into account for the previous regime offences as well.

115 For completeness, we add that, where the offender is a young offender, the sentencing approach outlined above under Issue 1 is applicable whether the young offender was convicted under the previous regime or the new regime.

Our decision on the Appeals

116 We turn now to address the individual Appeals. While four different District Judges dealt with these cases at first instance, in discussing the individual Appeals, we refer to each of them simply as the "DJ".

MA 9012: Mohamed Erzan Taib Zohri v PP

117 The appellant in MA 9012, Mohamed Erzan Taib Zohri ("Erzan"), is a 25-year-old who works in sales and marketing and is married with a one-year-old son. Between the ages of 20 and 22, he committed a total of eight offences. At the age of 24, he pleaded guilty to three charges, one of which was scams-related, with the remaining five charges taken into consideration for the purposes of sentencing.

Background

118 On 13 February 2021, when Erzan was 20 years old, he confronted one Abby Daniel Muhammad Farhan ("Farhan") after finding out that Farhan had sexual intercourse with his then-girlfriend. Erzan delivered 11 punches to Farhan's face and body and kicked his body twice. This forms the subject matter of a charge of use of criminal force. Further, on the same day, he was found in possession of two identity cards other than his own without lawful authority or reasonable excuse. This forms the subject matter of two charges of possessing identity cards other than his own.

119 A month later, Erzan deceived his 74-year-old adoptive mother into handing over her mobile phone. In fact, he did this on three occasions – on 14 March 2021, 25 March 2021 and 26 March 2021 – and on each occasion he dishonestly transferred $1,000 from her bank account to his own account without her consent and knowledge. This forms the subject matter of three theft charges.

120 Subsequently, on 23 June 2021, while Erzan was still 20 years old, he was contacted by one "Jason" on Telegram, who offered him cash to open bank accounts for an alleged investment scheme. Erzan agreed to open a United Overseas Bank Ltd ("UOB") account in exchange for $1,000, without bothering to probe further into the alleged investment scheme. On 24 June 2021, he opened the account and conveyed the account details, internet banking login details, ATM card details, and a one-time password ("OTP") for the account to Jason. The account was subsequently used by Jason and other unknown individuals to receive and transfer criminal proceeds totalling $34,560 from six scam victims. Erzan never received the promised $1,000 payment. This forms the subject matter of the scams-related charge.

121 Finally, between 16 November and 23 December 2022, when Erzan was 22 years old, he deceived various merchants on no fewer than 99 occasions into believing that he was authorised to use his adoptive mother's credit card, purchasing items totalling $3,653.51. This forms the subject matter of the amalgamated cheating charge.

122 Subsequently, Erzan pleaded guilty to the following three charges:

(a) one charge for relinquishing a bank account, under s 3(1) (read with s 10(1)) of the Computer Misuse Act (Cap 50A, 2007 Rev Ed) ("CMA (2007 Rev Ed)");

(b) one charge for theft of $1,000 from his adoptive mother, under s 379 of the Penal Code (Cap 224, 2008 Rev Ed) ("PC (2008 Rev Ed)");

(c) one charge for use of criminal force by punching Farhan's face and body 11 times and kicking his body twice, under s 352 of the PC (2008 Rev Ed).

123 Five other charges were taken into consideration. These included:

(a) one amalgamated cheating charge where he deceived various merchants on no fewer than 99 occasions into believing that he was authorised to use his adoptive mother's credit card, thereby inducing them to accept the credit card as valid payment for various items totalling $3,653.51 and to deliver the items to him, under s 420 of the PC and amalgamated under s 124(4) of the CPC;

(b) two charges for theft of $1,000 from his adoptive mother, under s 379 of the PC (2008 Rev Ed); and

(c) two charges for possessing identity cards other than his own without lawful authority or reasonable excuse, under s 13(2)(*b*) of the National Registration Act (Cap 201, 1992 Rev Ed).

124 The DJ treated Erzan as an adult offender and sentenced him to 14 weeks' imprisonment for the scams-related offence, and a fine of $1,500 (in default, one week's imprisonment) for each of the remaining two offences.

Decision below

125 The DJ declined to treat Erzan as a young offender, noting that he was 22 years old when he committed the final offence (*ie*, the amalgamated cheating charge), and that the offences had escalated in seriousness over a relatively short period of time. The DJ thus held that rehabilitation had to give way to deterrence, and that a custodial sentence should be imposed.

126 Regarding the scams-related offence, the DJ accepted the Prosecution's submission and applied the sentencing philosophy from the Guidelines, calibrating the sentence downwards to account for the lower maximum punishment under s 3(1) of the CMA (2007 Rev Ed) compared to s 55A(1) CDSA Bank Account Relinquishment Offences, while applying an uplift for the offence-specific aggravating factors of opening a new bank account and being motivated by gain. The DJ then applied a 30% reduction for his guilty plea, and a further two-week reduction to account for his youthful folly.

127 In relation to the theft and criminal force offences, the DJ found that the custodial thresholds had not been crossed and imposed fines instead. The DJ also found that it was not unambiguously clear that Erzan was unable to pay the fines and therefore declined to impose imprisonment in lieu of the fines.

Arguments on appeal

128 Erzan's defence counsel, Mr Ashwin Ganapathy from the PDO, argues that the DJ erred in failing to treat Erzan as a young offender for the following reasons:

(a) Erzan committed the offences in the proceeded charges when he was under 21 years of age and the retrospective rationale plainly applies.

(b) Since the commission of said offences, about two years and four months had passed before he was finally convicted. Erzan's rehabilitative progress in this substantial passage of time ought to be considered and any sentence imposed should not undermine Erzan's progress in the community.

(c) The weight attributed to the amalgamated cheating charge, which is a TIC charge, should not be to such an extent that it changes the complexion of the case. To treat Erzan as an adult offender based primarily on this charge would effectively amount to convicting him on it, which exceeds the proper scope and effect of TIC charges.

129 Second, the defence argues that the DJ had erred in failing to impose an order for CBS. The presumption of rehabilitation as the dominant sentencing consideration is not displaced due to the severity of the scams-related offence as suggested in the Guidelines. The defence argues that Erzan has demonstrated remarkable potential for rehabilitation and had already begun his transformation over the years to become a responsible father and husband with gainful employment. Though the defence accepts that a degree of deterrence is warranted for scams-related offences, it submits that this could be adequately met with a combination of CBS in the form of SDO and CSO and/or DRO. This would recognise Erzan's strong rehabilitative prospects in the community while also ensuring an element of deterrence such that he is adequately punished for his actions.

130 In the alternative, the defence argues that the DJ's sentence of 14 weeks' imprisonment for the scams-related offence is manifestly excessive in light of existing precedents. Instead, the defence argues that a sentence of eight weeks' imprisonment is sufficient. For the avoidance of doubt, the defence is not

appealing against the imposition of fines for the theft and criminal force offences.

131 On appeal, the Prosecution makes the following arguments: First, given that Erzan was between 20 and 22 years old when he committed all eight offences and was 24 years old by the time he pleaded guilty, the DJ was correct to find that Erzan was not a young offender. In this regard, the Prosecution argues that Erzan's pattern of offending revealed a concerning escalation in seriousness over time where he continued offending even after he turned 22 years old.

132 Second, the DJ was correct to consider that CBS were not appropriate because of the need for deterrence for Erzan's scams-related offence. The DJ's reliance on the sentencing philosophy in the Guidelines when considering the need for deterrence was entirely unobjectionable, as they apply equally to the legacy offences. Further, the circumstances did not point to an unusually high interest in rehabilitation. If anything, the fact that Erzan continued to offend at 22 years old made it clear that deterrence was necessary.

133 Third, Erzan's alternative argument that the DJ's sentence of 14 weeks' imprisonment for the scams-related offence is manifestly excessive is without merit. The DJ had already accounted for his guilty plea (through a 30% reduction) and youthful folly (through a two-week reduction), and the sentence appropriately reflected the aggravating factors of the TIC charges and his motivation by gain. Further, there is no legal basis to calibrate the sentence down to account for his rehabilitative progress and the delay in proceedings. In fact, in the proceedings below, Erzan's previous counsel accepted in the alternative that the Guidelines could apply with a downwards calibration and suggested that a sentence of three months' imprisonment would be appropriate.

Given this, a sentence of 14 weeks' imprisonment cannot in any way be said to be manifestly excessive.

Our decision

134 We dismiss the appeal in MA 9012. We agree with the DJ that Erzan should be treated as an adult offender, notwithstanding the fact that he had committed the offences for the proceeded charges when he was below the age of 21. In this regard, we refer to the case of *A Karthik* where a similar issue arose.

135 In *A Karthik*, the offender was 17 years old when he committed the offences and 22 years old when he pleaded guilty. The issue in contention was whether he should be treated as a young offender. The High Court held that for offenders who were at or below the age of 21 at the time of the offence but above that age by the time of sentencing, the prospective rationale for rehabilitation would not apply as strongly, if at all, while the retrospective rationale would remain relevant (*A Karthik* at [45]; see [47] above). The appropriate approach was to examine all the facts, including the offender's age at the time of the offence and at sentencing, the length of the intervening delay, and the evidence of the offender's rehabilitative progress in that period, before determining whether it was appropriate to treat the offender as a young offender such that rehabilitation was presumptively the key sentencing consideration (*A Karthik* at [58]; see [63] above).

136 On the facts, the High Court found it appropriate to treat the offender as a young offender for four reasons. First, while the prospective rationale did not apply strongly given that he was already 22 years old at sentencing, the retrospective rationale remained relevant as he was only 17 years old at the time of the offences. Second, being older at the time of sentencing, he might have

become mature enough to appreciate the significance of a rehabilitative sanction. Third, the substantial delay between the commission of the offences and sentencing afforded the court an opportunity to assess his rehabilitative progress, and the evidence indicated that he was making a concerted effort to reform with the support of his family. Fourth, he was only slightly above the threshold age of 21 at the time of sentencing (*A Karthik* at [47]–[58]).

137 Applying the guidance in *A Karthik* at [58], we do not consider Erzan to be a young offender. First, Erzan was between 20 and 22 years of age at the time of committing the offences and was 24 years old at the time of sentencing. The prospective rationale for rehabilitation therefore plainly does not apply.

138 Second, as regards the retrospective rationale, Erzan could not be said to have been particularly youthful when he committed the offences. He was 20 years of age at the time of his earliest offences and he continued offending when he became an adult. More significantly, Erzan's offending conduct did not reflect an isolated incident of youthful folly. Notwithstanding that he had already committed seven offences by the age of 20, he went on to commit the far more serious amalgamated cheating offence at the age of 22. That charge, which involved 99 separate acts of credit card fraud against his own adoptive mother over a period of five weeks, demonstrates a clear escalation in his offending conduct well past the threshold age of 21.

139 In this regard, we do not accept the defence's submission that the amalgamated cheating charge should not be taken into account in assessing whether Erzan ought to be treated as a young offender for the purposes of sentencing because it was a TIC charge and all the proceeded charges were committed when he was below 21 years of age. The defence argues that a TIC

charge operates only to aggravate the sentence for a proceeded charge and cannot be used to alter the character of the case.

140 We disagree. The court is entitled to have regard to the full circumstances concerning a TIC charge in passing sentence, including for the purpose of determining whether the offender ought to be treated as a young offender. This must be so given that a TIC charge is often taken into account by the court as a relevant factor (mostly, as an aggravating one) in determining the appropriate sentence. This means that the court can consider the conduct underlying a TIC charge when assessing the appropriateness of an offender's sentence (*Teo Seng Tiong v Public Prosecutor* [2021] 2 SLR 642 at [94], referring to *Re Salwant Singh s/o Amer Singh* [2019] 5 SLR 1037 at [48]–[49]). In our view, it is important to consider Erzan's entire pattern of offending in determining whether he should be treated as a young offender. We also do not accept the defence's attempt to minimise the seriousness of the amalgamated cheating charge on the basis that the harm caused was low as restitution had been made. The amalgamated cheating charge involved 99 separate acts of fraud, and the fact of restitution does not materially diminish the gravity of the conduct or the escalating pattern said conduct clearly shows. Indeed, viewed as a whole, Erzan's conduct reveals a disturbing escalation in offending into adulthood.

141 We also do not consider the delay between the commission of the offences and sentencing (*ie*, approximately two years) to be substantial. This stands in stark contrast to the five-year delay in *A Karthik*. That said, we acknowledge that there is evidence that Erzan has made a concerted effort to turn his life around. In this regard, he has secured stable employment, been promoted, gotten married, and started a family of his own. However, we agree with the DJ that this "cannot turn back the clock" or change the "nature of the

offences". In our view, evidence of rehabilitative progress would be most relevant where the factors (set out above at [63]) point in different directions or yield an ambiguous result. Where, however, those factors clearly indicate that the offender should not be treated as a young offender, evidence of rehabilitative progress would carry limited weight.

142 Treating Erzan as an adult offender, rehabilitation is no longer the presumptive primary sentencing consideration. Given the seriousness of his scams-related offence, deterrence takes precedence and a custodial sentence is justified. In this regard, we find no reason to disturb the DJ's sentence with respect to the scams-related offence:

(a) The indicative starting sentence would be three to four months' imprisonment, which already accounts for a downward calibration due to the lower statutory maximum punishment under the previous regime (see [109] above).

(b) There are aggravating factors, namely the TIC charges and the opening of a new bank account. We note, for the reasons set out at [92] above, that motivation by gain is not an aggravating factor above and beyond the archetypal case. In our judgment, the aggravating factors that *do* apply warrant an uplift, bringing the sentence to five months' imprisonment.

(c) A reduction of 30% is applied on account of the guilty plea, bringing the sentence down to approximately three and a half months' imprisonment.

(d) A further reduction of two weeks is applied on account of Erzan's youthful folly at the time of the offences, bringing the sentence down to approximately three months' imprisonment.

143 In view of the above, the DJ's imposition of 14 weeks' imprisonment cannot be said to be so manifestly excessive as to warrant appellate intervention. We do not place significant weight on the precedents cited by the defence. Apart from being distinguishable on the facts, in particular that the present case involves numerous TIC charges that are particularly aggravating in nature, those cases were also decided without the benefit of the sentencing framework set out above. We also note that, before the DJ, the previous defence counsel for Erzan had sought an imprisonment term of 12 weeks, and this lends further support to our decision that the sentence imposed is not manifestly excessive.

144 Finally, as the defence is not appealing against the fines imposed by the DJ for the remaining charges, we do not disturb those sentences.

145 In the circumstances, we dismiss the appeal in MA 9012.

MA 9024: Jai Ganesh s/o Chandra Mogan v PP

146 The appellant in MA 9024, Jai Ganesh s/o Chandra Mogan ("Jai Ganesh"), is 21 years of age. He completed his national service with commendable recommendations and is currently self-funding his university education while supporting himself and his family through work as a food delivery rider. Between the ages of 16 and 18, he committed a total of six offences. At the age of 20, he pleaded guilty to three charges, two of which were scams-related, with the remaining three charges taken into consideration for the purposes of sentencing.

Background

147 In late 2020, Jai Ganesh began engaging in illegal online gambling. By July 2021, he had accrued a large debt of $10,000 which he was unable to repay. Sometime in or before July 2021, when he was 16 years old, an unknown person identifying himself as "Ah Long" contacted him to demand repayment. When Jai Ganesh indicated he could not repay, Ah Long proposed that he relinquish control of his bank accounts in exchange for a monthly offset against his accumulated debt. Accordingly, in July 2021, Jai Ganesh opened a UOB bank account and relinquished control of it to Ah Long by handing over the account details, internet banking credentials and debit cards. Later, sometime in or before October 2021, Jai Ganesh similarly relinquished an Oversea-Chinese Banking Corporation Ltd ("OCBC") bank account to Ah Long. In total, more than $12m flowed through these two bank accounts. In May 2022, he was issued a 24-month conditional warning for these scams-related offences.

148 Subsequently, on 23 June 2022 and 5 July 2022, when he was 17 years old, Jai Ganesh reoffended by committing two theft offences by stealing cigarettes and food items. In December 2022, he was issued a 12-month conditional warning for these offences.

149 Finally, on 16 May 2023, when he was 18 years old, he reoffended by committing another theft offence by stealing three bottles of liquor.

150 Jai Ganesh pleaded guilty to the following three charges:

(a) one charge of dishonestly inducing UOB to open a bank account in his name, under s 417 (read with s 109) of the PC (2008 Rev Ed);

(b) one charge of relinquishing his bank account, under s 3(1) (read with s 10(1)) of the CMA (2007 Rev Ed); and

(c) one charge of theft, under s 380 of the PC.

151 Both the charges set out in (a) and (b) above relate to the same incident in July 2021 (see [147] above) when Jai Ganesh opened a UOB bank account and handed over his internet banking credentials to Ah Long.

152 The following charges were taken into consideration for the purposes of sentencing:

(a) two charges of theft under s 380 of the PC; and

(b) one charge of relinquishing his bank account, under s 3(1) (read with s 10(1)) of the CMA (2007 Rev Ed). This charge related to the incident in or before October 2021 (see [147] above), where Jai Ganesh relinquished an OCBC bank account to Ah Long.

153 The DJ called for pre-sentencing reports which revealed that Jai Ganesh was suitable for both probation and RT.

(1) RT report dated 31 December 2024

154 Level 1 RT was recommended. Jai Ganesh presented with minimal intervention needs, particularly in the areas of past risk-taking behaviour, negative peer influence, and poor decision-making. However, these concerns had ceased following his last offence in May 2023. Since then, he had led a pro-social lifestyle, keeping himself meaningfully engaged through work, family, positive peers, and sports, with no further offending.

155 The key findings of the report were as follows. Jai Ganesh enjoyed a close and supportive relationship with his parents, who had reconnected three years prior to the report after a 13-year separation, with his father serving as a key source of guidance. Although his academic motivation was low, he demonstrated strong commitment to employment. His national service stint had instilled discipline and direction, with his performance assessed as "very good"; he was commended for his tenacity, positive attitude, and collaborative relationships with peers and superiors; and he intended to sign on as a regular serviceman under the Singapore Armed Forces study scheme. He attributed the cheating offence to negative peer influence but had since disassociated from those friends and cultivated a more positive social circle. He expressed genuine remorse and did not seek to justify his actions.

(2) Probation report dated 8 January 2025

156 The probation report found Jai Ganesh suitable for 18 months of split probation (three months intensive, 15 months supervised), subject to the following conditions: a time restriction from 10pm to 6am, 80 hours of community service, random blood testing, and a bond to be entered into by his parents.

157 The report assessed his risk of reoffending as low relative to other male offenders on probation orders. That said, several risk factors were identified. His reoffending despite prior warnings reflected a pro-criminal attitude, disregard for the law, and poor consequential thinking. His poor conduct in secondary school and lack of responsiveness to school authorities suggested weak discipline and a poor sense of responsibility. Association with negative peers had exposed him to unhealthy habits and risky situations, while his premature withdrawal from school left him with large amounts of unstructured

time. Prior incidents of running away and aggressive behaviour pointed to poor emotional regulation and a flight risk. His parents, though concerned, had been unable to guide him effectively, and their lax supervision had contributed to his unrestrained lifestyle.

158 The report also identified several protective factors. Jai Ganesh had steered clear of further offending since August 2023, demonstrating his capacity for pro-social behaviour when motivated. His good conduct during national service and adherence to the trial time restriction imposed by his probation officer since December 2024 reflected his ability to abide by rules. His cessation of aggressive behaviour since 2021 suggested growing self-awareness and a willingness to change. Finally, his improved receptivity to his parents since January 2024, coupled with their commitment to strengthening their supervision of him, were identified as strengths that could be harnessed to support his rehabilitation in the community.

Decision below

159 The DJ accepted that rehabilitation was a dominant consideration. However, given the gravity of the offences and his pattern of reoffending despite warnings, the DJ reasoned that a strong measure of general and specific deterrence was necessitated. The DJ noted the significant harm caused by handing over bank accounts, citing the Guidelines to emphasise the need for punitive sentences commensurate with the harm suffered by scam victims. Consequently, the DJ determined that RT was the appropriate sentence as it would better meet the twin objectives of rehabilitation and deterrence compared to probation. The DJ found that probation would not be adequately deterrent given the aggravating factors, including the opening of new and multiple bank accounts, the significant funds that had flowed through the bank accounts and

Jai Ganesh's motivation for gain. The DJ held that CBS were not an option under s 337(1)(*i*) of the CPC given that Jai Ganesh's charge under s 380 of the PC carried a maximum imprisonment term of seven years. Accordingly, the DJ sentenced him to Level 1 RT.

Arguments on appeal

160 Jai Ganesh's defence counsel, Mr Muhammad Taufiq bin Suraidi from the PDO, submits that the sentence is manifestly excessive. The DJ erred by failing to place sufficient weight on Jai Ganesh's strong rehabilitative prospects as reflected in the pre-sentencing reports, while according excessive weight to deterrence as suggested in the Guidelines. The defence further submits that the DJ failed to give adequate weight to the mitigating factors arising from Jai Ganesh's youth and personal circumstances – in particular, the coercive circumstances in which he found himself when approached by loan sharks at the age of 15, his unstable family environment, and his vulnerability to negative peer influence, having been taunted by friends for being unable to afford certain items, which led him to commit the theft offences. The DJ also placed undue emphasis on the aggravating factors. In all the circumstances, the defence submits that the DJ ought to have imposed probation on the terms recommended in the probation report.

161 The Prosecution contends that the DJ was entirely cognisant of the fact that Jai Ganesh was a young offender and that rehabilitation was a dominant sentencing consideration. However, the DJ rightly considered that there was also a need for a strong measure of general and specific deterrence given the gravity of the offences and his pattern of reoffending. In light of this need for a strong measure of general and specific deterrence, RT is the appropriate sentencing option which strikes the right balance between rehabilitation and

deterrence. Probation is not suitable as it ought to be imposed in cases where the interest in rehabilitation is unusually high, which is not satisfied in the present case given his past conduct and response to previous interventions. CBS are also not suitable given [159] above.

Our decision

162 We allow the appeal in MA 9024. Preliminarily, we are satisfied that the DJ gave due regard to both rehabilitation and deterrence, and it cannot be said that the DJ "effectively subordinated" rehabilitation to deterrence. We note, in this regard, that RT is only available as a sentencing option where rehabilitation is accorded primacy at the first stage of the *Al-Ansari/Boaz* framework, and given meaningful weight at the second stage. The very fact that the DJ considered and imposed RT is itself indicative of the centrality of rehabilitation in his sentencing analysis.

163 However, we disagree with the DJ that RT is the most appropriate rehabilitative option, having regard to Jai Ganesh's rehabilitative progress over the past three years since he committed his last offence in May 2023. The question is whether, taking into account all the facts and circumstances, including his rehabilitative progress over the past few years, Jai Ganesh still requires the institutionalised structure of RT.

164 As we observed at the hearing, while we accept that RT might have been necessary at an earlier point in time, we are minded to consider the passage of time and Jai Ganesh's rehabilitative efforts since his last offence in reassessing whether that necessity remained. In this regard, we draw guidance from the following passage in *A Karthik* at [55]:

> 55 As I see it, in both *Joshua Ang* and *ASR*, the court was *not* relying on the delay in prosecution as a basis for

> imposing a more lenient sentence on the offender as a matter of fairness to the offender (which is the approach set out at [49(a)] above); ***rather, the court was using the opportunity presented by that delay to assess how the offender had progressed in his rehabilitation between the time of the offences concerned and the time of sentencing so as to determine the most appropriate sentence to impose*** (which is the approach set out at [49(b)] above). …
>
> [emphasis in original in italics; emphasis added in bold italics]

165 We acknowledge that the above passage was made in the context of determining whether rehabilitation could remain the primary sentencing consideration where an offender had committed an offence below the age of 21 but was sentenced after turning 21. Nonetheless, we are of the view that, where the question is which rehabilitative option is most appropriate, the court may similarly take into account efforts made during the period between the last offence and the time of sentencing. We would add that this is not a case involving undue delay in prosecution. Rather, the court takes into account the rehabilitative efforts of the young offender during this passage of time as part of a holistic effort to assess the offender's circumstances and determine the most appropriate rehabilitative option. In this regard, we agree with the following observations of VK Rajah JA in *Chan Kum Hong Randy v Public Prosecutor* [2008] 2 SLR(R) 1019 (at [27]–[29]):

> 27 *The lapse of time between the commission of an offence and the imposition of an unjustifiably delayed subsequent sentence takes on particular significance when the rehabilitative goal of punishment appears to have been met.* This proposition finds considerable support in, *inter alia,* Australia, as illustrated by the following cases.
>
> 28 In *Duncan v R* (1983) 47 ALR 746, the Court of Criminal Appeal of the Supreme Court of Western Australia held (at 749) that:
>
>> [W]here, prior to sentence, there has been a lengthy process of rehabilitation and the evidence does not indicate a need to protect society from the [offender], the punitive and deterrent aspects of the sentencing process

> should not be allowed to prevail so as to possibly destroy the results of that rehabilitation.

… Similar observations were articulated in *The Queen v Lyndon Cockerell* [2001] VSCA 239 (*per* Chernov JA at [10]), as follows:

> … [W]here there has been a relatively lengthy process of rehabilitation since the offending, being a process in which the community has a vested interest, the sentence should not jeopardise the continued development of this process but should be tailored to ensure as much as possible that the offender has the opportunity to complete the process of rehabilitation.

29 In cases involving an inordinate delay between the commission of an offence and the ultimate disposition of that offence via the criminal justice process, the element of rehabilitation underway during the interim cannot be lightly dismissed or cursorily overlooked. *If the rehabilitation of the offender has progressed positively since his commission of the offence and there appears to be a real prospect that he may, with time, be fully rehabilitated, this is a vital factor that must be given due weight and properly reflected in the sentence which is ultimately imposed on him.* Indeed, in appropriate cases, this might warrant a sentence that might otherwise be viewed as 'a quite undue degree of leniency' (*per* Street CJ in *R v Todd* [[1982] 2 NSWLR 517] at 520).

[emphasis in original omitted; emphasis added in italics]

166 Applying these principles to the present case, we are satisfied that Jai Ganesh has undergone a genuine and substantial transformation since his last offence over three years ago. He has performed well in national service, which appears to have instilled in him discipline and structure. He has reunited with his family, and in particular his father, contributing to a more stable family dynamic. He has enrolled in university on a self-funded basis and is employed as a food delivery rider to support himself and his family. In our judgment, he no longer requires the intensive and structured institutional environment that RT provides.

167 That being said, we do not accept the defence's submission at the hearing that RT would derail Jai Ganesh's rehabilitative progress. The defence

noted that RT would require him to take a leave of absence from his studies, and that upon release he would need to rebuild his finances in order to fund the remaining terms of his university education. The defence further argues that this would inevitably slow his rehabilitative journey and reintegration into the community. In this regard, we are mindful of the observations of Menon CJ in *Ong Jack Hong* at [19]:

> 19 As to the progress made by the Respondent as noted by the probation officer and his superiors in the army where he is now serving his national service, this is to be commended. But in the final analysis, it is in *his* interest that he continues to strive for improvement. *The argument that the progress that an offender has achieved would be undone if he were to be sentenced to reformative training is not helpful.* The focus and purpose of reformative training is to reform and rehabilitate an offender within a rigorous and structured environment. *Further, if the progress that an offender has achieved can be so easily undone or undermined by a sentence of reformative training, this raises the concern that such progress is unduly fragile and is perhaps not reflective of real change but is born of a desire to avoid a more onerous sentence* (see my observations at [64] of *Boaz Koh* ([2] *supra*) where I cautioned against being influenced by an offender's efforts at rehabilitation which might be geared towards seeking to persuade the court to impose a lighter sentence).
>
> [emphasis added]

168 Our reasoning here is not that RT would undo or disrupt the rehabilitative progress Jai Ganesh had made, as to reason in such a way would invite the concern that such progress was unduly fragile and perhaps not reflective of genuine change. Rather, we rely on that very progress in coming to the view that he no longer requires the structured institutional environment of RT. In our judgment, the necessity of specific deterrence could instead be achieved through an 18-month probation order with appropriate conditions, a breach of which would expose him to resentencing.

169 In the circumstances, we allow the appeal in MA 9024 and substitute the DJ's sentence of RT with 18 months of split probation (three months intensive, 15 months supervised), subject to the following conditions: a time restriction from 10pm to 6am, 80 hours of community service, random blood testing, and a bond to be entered into by his parents.

MA 9041: Seyfqan Nazeer Caffoor v PP

170 The appellant in MA 9041, Seyfqan Nazeer Caffoor ("Seyfqan"), is 21 years of age. He is currently serving his national service and intends to apply to the Institute of Technical Education ("ITE") for a Higher National ITE Certificate (NITEC) programme upon his completion. At the age of 18, he committed two scams-related offences. He subsequently pleaded guilty to one charge at the age of 20, with the remaining charge taken into consideration for the purposes of sentencing.

Background

171 Sometime from May to June 2023, Seyfqan received a message on Telegram from one "Jack" offering to "buy" a bank account from him for $800. He agreed as he needed money to rent a motorcycle for his food delivery job. Seyfqan opened a Commerce International Merchant Bankers ("CIMB") bank account and provided its login details, including the username, password, and an OTP, to Jack, but did not receive the $800 promised.

172 Subsequently, unknown persons used their access to the first CIMB bank account to open a second CIMB account, although it is not clear how this was done. A total of $36,462.42 flowed through the first CIMB bank account, of which $28,060 were scam proceeds. A total of $199,552.40 flowed through the

second CIMB bank account, all of which was transferred into the account by a 66-year-old male Singaporean as a result of a scam.

173 Seyfqan pleaded guilty to one charge under s 3(1)(*a*) (read with s 12) of the CMA for relinquishing his bank account to an unauthorised person and consented to one charge under s 417 (read with s 109) of the PC for deceiving CIMB being taken into consideration for the purposes of sentencing.

174 The DJ called for both probation and RT reports, and Seyfqan was found suitable for both.

(1) RT report dated 4 March 2025

175 The RT report found that Seyfqan presented with minimal needs requiring intervention. However, he would benefit from support in managing negative peer influences, addressing his family's financial difficulties, and pursuing further education or vocational training to improve his employability.

176 The report also made the following findings. He shared a close relationship with his family members but was not forthcoming about his offences. He had irregular attendance but good conduct in school, and worked part-time on weekends to help support himself and his family. It was his friends who had shared with him the opportunity to sell bank accounts, but he was more amenable to the influence of his family (as compared to that of his friends) over the past year. Significantly, he did not present with attitudes supportive of crime.

177 Seyfqan was recommended to undergo Level 1 intensity of rehabilitation.

(2) Probation report dated 5 March 2025

178 The probation report assessed Seyfqan to be suitable for probation and recommended 15 months of supervised probation, with a time restriction from 10pm to 6am, 60 hours of community service, and Seyfqan's mother and stepfather to be bonded. The probation report found that Seyfqan's risk of re-offending was low compared to other male offenders on probation orders.

179 His risk factors included his need for instant gratification and poor consequential thinking, irregular attendance at school, and inclination towards risk-taking behaviour and poor regard for the law as suggested by his experimentation with electronic vaporisers. His protective factors included his history of employment and efforts to achieve financial independence, which demonstrated some pro-social pursuits and responsibility. His generally adequate conduct at school suggested an ability to abide by rules and lack of deep-seated delinquency. Also significant was his parents' commitment to supervise him and their positive relationships with him.

Decision below

180 The DJ found that rehabilitation remained the dominant sentencing consideration given Seyfqan's youth, lack of antecedents and plea of guilt. Nevertheless, the DJ reasoned that RT was the more appropriate sentence as there was a need for a measure of deterrence, while still giving effect to rehabilitation as the dominant sentencing principle.

181 In this regard, the DJ considered that the offence was serious and the harm caused was severe. In particular, the scam proceeds of $199,552.40 that passed through the second CIMB account was a significant amount from a

single victim. Further, Seyfqan's culpability was also not low. He was motivated by personal financial gain and had opened a new bank account.

182 Finally, the DJ considered the sentencing approach in the Guidelines to be relevant, such that probation would generally not be appropriate for scams-related offences. The DJ concluded that the facts and circumstances of Seyfqan's case were not so exceptional as to warrant probation. Accordingly, the DJ sentenced him to Level 1 RT.

Arguments on appeal

183 Seyfqan's defence counsel, Mr Tito Shane Isaac, submits that the DJ erred in ordering RT instead of probation. Alternatively, the defence submits that the court should exercise its discretion to consider CBS.

184 In support of this, the defence raises three main arguments. First, the DJ erred in finding that Seyfqan's culpability was not low. Seyfqan had not surrendered control of his bank account entirely, but rather only in a one-off occasion through the provision of his username, password and an OTP. His actions were limited to a single, isolated act, without any continued participation, control or benefit.

185 Second, the DJ erred in finding that the harm caused was severe, which was premised on the inclusion of the $199,552.40 that flowed through the second CIMB account. The defence contends that the scam proceeds flowing through the second account cannot be attributed to Seyfqan, as he did not know and could not have reasonably expected that a second CIMB account would be opened or that such activities would be conducted through it. Accordingly, the defence argues that only the scam proceeds flowing through the first CIMB

account amounting to $28,060 should have been taken into account in assessing the severity of the harm caused.

186 Third, the DJ erred in applying the Guidelines to the charges. The defence submits that the Guidelines apply to a specific list of offences, of which the present offences (under s 3(1) (read with s 12) of the CMA and s 417 (read with s 109) of the PC) do not form part. The present offences are distinct from, less serious than, and carry lower punishments than the other offences falling under the Guidelines. In particular, the mental element for the present offence is less serious than the s 8A(1) CMA offence covered by the Guidelines. Even if the Guidelines apply to offences under s 3(1) (read with s 12(1)) CMA, any reliance on them ought to be calibrated downwards.

187 The Prosecution, on the other hand, submits that the DJ did not err in considering the Guidelines. The sentencing philosophy underlying the Guidelines applies equally to legacy offences, which target the same mischief. The DJ had regard to the nature of and circumstances surrounding the offence in finding that there was a need for a measure of deterrence in this case.

188 The Prosecution further argues that the Guidelines were only one consideration in the DJ's overall assessment. The DJ found that deterrence was warranted because the offence was serious, the harm was severe, and Seyfqan's culpability was not low. In particular, the Prosecution submits that the DJ correctly assessed that severe harm resulted from Seyfqan's offending, as his relinquishment of the first CIMB account directly enabled the opening of the second CIMB account. His actions were therefore a proximate cause of both accounts being used for scams-related activities. The Prosecution adds that, even if only the proceeds flowing through the first account were considered, the amount would still be significant.

189 In the circumstances, the Prosecution maintains that the DJ correctly determined that RT was more appropriate than probation, having balanced Seyfqan's capacity for reform against the need for deterrence given the gravity of the offence and the harm caused. The Prosecution further submits that CBS would not be appropriate as the interest in rehabilitation is not unusually high.

Our decision

190 We allow the appeal in MA 9041.

191 As a preliminary point, we find that the DJ did not err in considering the Guidelines, notwithstanding that the present offences do not fall within the list of offences expressly covered by them. As explained at [106] above, the legacy offences and the new offences target the same social menace, and there is a need for coherence in the sentencing approach across both regimes. Accordingly, the fact that s 3(1) (read with s 12(1)) of the CMA and s 417 of the PC are of broader application than s 55A(1) of the CDSA is not a material distinction, as the present offences relate to bank account relinquishment, which is precisely the conduct addressed by the Guidelines. Thus, the sentencing principles set out in the Guidelines, in particular regarding the role of deterrence as a sentencing consideration, may therefore be applied to legacy offences, albeit in a more restrained manner as discussed above. In our judgment, where the DJ erred was in the interpretation and application of the Guidelines.

192 We are of the view that the DJ erred in imposing RT instead of probation. The DJ was correct that rehabilitation remains the dominant sentencing consideration but erred in her assessment that RT was the appropriate option due to the high culpability of the offence and harm caused in the present case.

193 On culpability, we find that Seyfqan's culpability was in fact low. The DJ identified two aggravating factors: that Seyfqan was motivated by financial gain, and that he opened a new account rather than handing over an existing one. As regards the first factor, motivation by gain is a feature of the archetypal case and cannot therefore be treated as an aggravating factor. To hold otherwise would be to render all such offenders as having high culpability. As regards the second factor, we accept that opening a new account is an aggravating factor relative to merely handing over an existing one (see paragraph 13(a) of the Guidelines). However, in the absence of any other significant aggravating factors, we do not consider this sufficient to elevate Seyfqan's culpability to the level of high culpability. The proceeded charge and the TIC charge both related to a *single* incident in which Seyfqan handed over the details of the *one* CIMB account he had opened. This was not the conduct of a sophisticated or repeat offender, but rather a moment of youthful folly. Accordingly, we find that Seyfqan's culpability was low, and that the need for specific deterrence is correspondingly low.

194 As to harm, we disagree with the DJ's characterisation of the harm as severe. While the moneys flowing through the first CIMB account are relevant, the moneys that passed through the second CIMB account could not be attributed to Seyfqan. First, Seyfqan was not involved in the setting up of the second account. Second, it was not explained in the statement of facts how Seyfqan could reasonably foresee that his relinquishment of the first account would lead to a second account being opened. Third, there is no evidence explaining how the second account came to be opened because of some act committed by Seyfqan. Crucially, the statement of facts does not establish that the second account was in Seyfqan's name or that it was created as a direct result of the first. Indeed, the charges for which Seyfqan was convicted related only to the first CIMB account. Considering only the proceeds flowing through that

account – amounting to $28,060 – the harm, while certainly not trivial, does not rise to the level of severe.

195 Turning to the appropriate sentence, we are of the view that probation is more appropriate than RT in all the circumstances of this case. There is no need for specific deterrence here. Seyfqan's conviction arose from a single, isolated incident, and he has no antecedents. He has been assessed to be at low risk of reoffending and to have minimal needs requiring intervention. He has a conducive family environment, with parents who are committed to monitoring and supporting him throughout the probation period. Accordingly, it is our judgment that his needs would be appropriately met with probation.

196 In summary, we allow the appeal in MA 9041 and substitute the DJ's order for RT with probation on the conditions recommended by the probation officer, namely, 15 months of supervised probation with a time restriction from 10pm to 6am, community service of 60 hours, and a bond to be entered into by Seyfqan's mother.

MA 9049: Syahmi Hamzah bin Mohamed Saddiq v PP

197 The appellant in MA 9049, Syahmi Hamzah bin Mohamed Saddiq ("Syahmi"), is a 23-year-old male who is currently a full-time national serviceman. From the ages of 19 to 20, he committed a total of four offences. At the age of 20, he pleaded guilty to two scams-related charges, with the remaining two charges taken into consideration for the purposes of sentencing.

Background

198 In December 2022, when Syahmi was 19 years old, he was contacted on Telegram by one "Brownie", who offered him extra income. Brownie requested

Syahmi's Singpass credentials to open a bank account on his behalf in exchange for payment of $1,600. Syahmi complied, providing his Singpass user ID, password, and two OTPs to Brownie. Brownie subsequently deleted the Telegram chat and Syahmi never received the promised payment. Five bank accounts were opened in Syahmi's name, and a total of $233,502.10 flowed through the accounts, of which $102,168.74 was identified as scam proceeds. This forms the subject matter of the first proceeded charge against Syahmi.

199 Sometime after December 2022, Syahmi opened a MariBank account. In November 2023, when Syahmi was 20 years old, he received a WhatsApp message from an unknown number requesting a coffee machine purportedly ordered on Carousell. Suspecting a scam, he blocked the number. He subsequently received $99 in his MariBank account from that same number and, despite knowing its origin, retained and spent the money rather than returning it. Investigations subsequently revealed that the sum came from a victim of an e-commerce scam on Carousell. This forms the subject matter of the second proceeded charge against Syahmi.

200 Separately, sometime in July 2023, Syahmi opened a DBS Bank Ltd ("DBS") bank account for the purpose of giving an unknown person control over the account. This conduct formed the subject matter of one charge under s 417 (read with s 109) of the PC, and one charge under s 3(1)(*a*) (read with s 12(1)) of the CMA.

201 Syahmi pleaded guilty to the following two charges:

(a) one charge of disclosing his Singpass credentials which led to the opening of five bank accounts, under s 8(1)(*a*) punishable under s 8(2)(*a*) (read with s 12(1)) of the CMA; and

(b) one charge of dishonestly misappropriating a sum of money transferred to his bank account which he knew came from a stranger, under s 403 of the PC.

202 Syahmi also consented to the two charges relating to his opening of a DBS bank account being taken into consideration for the purposes of sentencing.

203 The DJ called for pre-sentencing reports, which revealed that Syahmi was suitable for both probation and RT.

(1) Probation report dated 17 October 2024

204 The probation report found Syahmi suitable for 15 months of supervised probation, subject to the following conditions: a time restriction from 10pm to 6am, 60 hours of community service, and a bond to be entered into by his parents.

205 The report assessed Syahmi's risk of reoffending as low relative to other male offenders on probation orders. That said, several risk factors were identified. His commission of offences highlighted his need for instant gratification, poor consequential thinking and minimisation of the severity of his actions; and his commission of a further offence while undergoing police investigations further indicated his disregard for the law. Prior associations with gangs suggested a lack of peer discernment skills, and a need for peer acceptance, which likely led to his experimentation with risky behaviours. Syahmi's irregular attendance in tertiary education also indicated his lack of discipline and poor regard for rules.

206 The report also identified several protective factors. Syahmi's good conduct in national service suggested his potential for a positive attitude towards pro-social pursuits and his ability to be disciplined when motivated. Further, Syahmi's parents' commitment to supervise him and their positive relationship indicated that they could be depended on should Syahmi be placed on probation.

(2) RT report dated 19 February 2025

207 Level 1 RT was recommended. The RT report found that Syahmi presented with minimal needs requiring intervention, namely in the areas of pro-criminal attitudes and poor consequential thinking, both of which contributed to his offences. However, it was also noted that he had displayed positive improvements and attitudes supportive of a conventional lifestyle following his arrest: he showed good conduct in national service, indicated interest in furthering his education, was more receptive towards parental advice, and also maintained supportive relationships.

208 The key findings of the report are as follows. Syahmi had a rewarding relationship with his family, especially his mother and elder sister, whom he could turn to for emotional support. He was generally receptive to participating in family occasions and caregiving duties for his grandmother. Although he had poor academic achievement and disciplinary issues while in school, he displayed exemplary conduct in national service after enlisting in August 2024. His national service report indicated his performance assessment as "outstanding" and described him as an "exemplary soldier who has displayed outstanding leadership qualities, responsibility, teamwork and discipline". With respect to his peer network at the time of the report, Syahmi's account was that he had a close peer network consisting of his girlfriend and a small group of pro-social friends.

Decision below

209 The DJ held that rehabilitation remained the dominant sentencing consideration given Syahmi's young age. Although Syahmi was assessed to be suitable for both RT and probation, the DJ considered RT to be the appropriate sentence as the nature of the offence under s 8(1)(*a*) of the CMA was serious and the harm caused was severe. She reasoned that RT was the more suitable option where there was a need for both rehabilitation and deterrence. In this regard, she noted that, while the need for specific deterrence was limited, there was a "pressing need for general deterrence".

210 The DJ also relied on the Guidelines, which indicated that probation was not appropriate in such circumstances. Although the DJ recognised Syahmi's rehabilitative potential and strong family support, she considered that these factors were "not exceptional nor sufficient to tilt the balance in favour of a term of probation". Finally, she considered that CBS were unsuitable as an option given the gravity of the offence. Accordingly, the DJ sentenced Syahmi to Level 1 RT.

Arguments on appeal

211 Syahmi's defence counsel, Mr Lum Guo Rong from the PDO, argues that the sentence of RT is manifestly excessive. The DJ failed to consider that the need for specific deterrence was limited because of the mitigating factors present, and Syahmi's strong rehabilitative prospects as evinced by the pre-sentencing reports. Further, the DJ erred in placing too much emphasis on general deterrence by giving excessive weight to the Guidelines.

212 On the other hand, the Prosecution argues that the DJ correctly balanced the considerations of rehabilitation and deterrence. The DJ acknowledged that

rehabilitation remained the dominant sentencing consideration and gave due weight to Syahmi's good rehabilitative prospects and low risk of reoffending. However, the gravity of the offence and the harm caused warranted a measure of deterrence, given that Syahmi's disclosure of his Singpass credentials enabled five bank accounts to be opened through which over $233,000 flowed, including more than $102,000 from 42 victims. CBS were not appropriate as Syahmi's prospects for rehabilitation were not so exceptional as to justify one. The sentence of RT was therefore proportionate.

Our decision

213 We allow the appeal in MA 9049. As we had earlier expressed (at [59]), we disagree with the position that probation should only be imposed in exceptional circumstances. Bearing in mind that the dominant sentencing consideration is rehabilitation, the question before this court is which sentencing option, whether RT, probation, or CBS, is *most appropriate* in the circumstances, in light of Syahmi's rehabilitative prospects and the need for specific deterrence.

214 We disagree with the DJ that RT is the most appropriate rehabilitative option for Syahmi. As we had earlier observed in respect of Jai Ganesh (see [165] above), the court may take into account rehabilitative efforts made during the period between the last offence and the time of sentencing in assessing the most appropriate rehabilitative option. To this end, we note that a period of two and a half years has passed since the commission of Syahmi's last offence in November 2023. We consider that Syahmi's exemplary conduct in national service during this time, coupled with the evidence of Syahmi's strong familial ties and support, suggests that he no longer requires the intensive and structured institutional environment provided by RT.

215 While we accept the Prosecution's submission that a measure of specific deterrence is warranted in Syahmi's case, in view of his repeated offending, as well as the fact that the harm caused by his actions was on the high side given the significant amount of scam proceeds that flowed through the relevant bank accounts, we consider that this need for specific deterrence is adequately met with an order of probation with conditions imposed. We also note that the RT report has recorded *improvements* in Syahmi's attitude, following his arrest:

> Since his arrest, Syahmi displayed positive improvements in some aspects of his life and displayed attitudes supportive of a conventional lifestyle. …

216 In the circumstances, we allow the appeal in MA 9049 and substitute the DJ's sentence of RT with 15 months of supervised probation, subject to the following conditions: a time restriction from 10pm to 6am, 60 hours of community service, and a bond to be entered into by his parents.

MA 9069: PP v JDT

217 The respondent in MA 9069 ("JDT") is 19 years old. At age 16, she committed a total of five offences. At the age of 17, she pleaded guilty to two scams-related charges, with the remaining three charges taken into consideration for the purposes of sentencing.

Background

218 In May 2023, when JDT was 16 years old, she was approached by a school friend over Telegram, who offered her $500 in exchange for handing over her bank accounts. JDT subsequently opened and handed over two bank accounts – a CIMB account on 30 May 2023 and a UOB account on 6 June 2023. However, she never received the promised payment. The UOB account was used to receive scam proceeds of $64,500, while $154.13 was transferred

into the CIMB account by unknown persons. These facts formed the subject of the two proceeded charges, as well as two of the charges taken into consideration for sentencing.

219 On 16 June 2023, JDT opened an OCBC account pursuant to the same arrangement with the same friend. This formed the subject of the third charge taken into consideration for sentencing.

220 JDT pleaded guilty to two charges under s 417 (read with s 109) of the PC and consented to the remaining three charges being taken into consideration for sentencing.

221 The DJ called for various pre-sentencing reports.

(1) RT report dated 20 January 2025

222 Level 1 RT was recommended. JDT presented with minimal needs requiring intervention, but it was found that she would benefit from support in managing negative peer influences, assistance with her family's financial difficulties, and further education or vocational training to improve her employability.

223 The key findings of the RT report were as follows. JDT's family had experienced ongoing financial challenges since her childhood, and her parents were in the process of seeking a divorce. While JDT was distant from her father, she shared a supportive and caring relationship with her mother and was receptive to her mother's advice. JDT had irregular school attendance, but average academic performance. She was also engaged in part-time employment to support herself and to supplement her family income. She had been exposed to peers who exerted negative influence on her during the period when she

committed her offences, but by her account had dissociated from them since June 2023. She had abused drugs in 2021 but abstained from drug consumption since her arrest in April 2021. Her leisure time was mostly occupied with part-time work or helping out at home. JDT did not present with attitudes supportive of crime.

(2) Probation report dated 21 January 2025

224 The probation report found JDT suitable for 21 months of split probation (four months intensive, 17 months supervised), subject to the following conditions: a time restriction from 10pm to 6am, 60 hours of community service, random urine testing, a court-ordered review in six months, and a bond to be entered into by JDT's mother.

225 The report assessed JDT's risk of reoffending as moderate compared to other female offenders. Several risk factors were identified. JDT's involvement in the offences indicated poor consequential thinking skills as well as a readiness to attain her wants through antisocial means. Her continued offending behaviours despite having received intervention for past offences highlighted her blatant disregard for the law and antisocial attitudes. Previous experimentation with various substances, including alcohol and drugs, suggested a tolerant attitude towards substance abuse, which needed to be monitored. Association with negative peers, who endorsed the use of substances and late nights, resulted in her increased exposure to risky situations. Poor attendance in school previously suggested some issues with motivation and poor discipline. JDT's mother was noted to be ineffectual in her supervision, despite her concern.

226 The report also identified a number of protective factors. JDT had steered clear of further re-offending since June 2023. She had also adhered to

trial time restrictions imposed by the probation officer, demonstrating some capacity for self-discipline when closely monitored. JDT had expressed willingness to receive intervention to work on her offending behaviours, and her mother and maternal uncle had expressed commitment and willingness to work with the authority and to exercise close supervision over JDT.

(3) DRO report dated 1 April 2025

227 JDT was assessed to be suitable for a DRO for a recommended period of a minimum of three months, with the conditions that she be monitored by the electronic monitoring system and remain indoors from 10pm to 6am throughout the DRO sentence, and that she engages in counselling interventions at an external agency to address self-harm behaviours, where necessary.

(4) CSO suitability report dated 1 April 2025

228 The CSO report found that JDT could be ordered to perform CSO, and recommended that JDT perform 60 hours of community service within 12 months, on the basis that JDT had indicated that she was physically fit and prepared to undertake community service.

Decision below

229 The DJ sentenced JDT to a DRO for three months, a CSO of 60 hours and a SDO of seven days.

230 The DJ found that both rehabilitation and deterrence were important sentencing considerations. In light of the need to deter scams-related offences, and the existence of several offence-specific aggravating factors (including being motivated by gain, opening two new bank accounts, and causing significant monetary losses to a vulnerable victim), the DJ found that probation

was not an appropriate sentence. That said, the DJ did not consider it necessary for JDT to undergo RT, as she presented "with minimal needs that required intervention", and her culpability and the harm caused by her offences were relatively low.

231 The DJ found that CBS comprising a DRO, CSO and SDO would be a "properly calibrated sentence" that balances the needs of rehabilitation and deterrence: (a) the DRO would provide counselling and interventions to help mitigate JDT's risk of reoffending; (b) the CSO would allow JDT to make amends to the community; and (c) the SDO would provide the necessary deterrent element. The DJ also relied on precedents to demonstrate that CBS with SDO components could meet both rehabilitative and deterrent objectives.

Arguments on appeal

232 The Prosecution argues that a sentence of RT should have been imposed. They contend as follows:

(a) The DJ erred in finding that RT would not be an appropriate sentence, and that CBS combining a DRO, CSO and SDO would sufficiently balance the need for rehabilitation and deterrence on the facts of this case.

(b) The DJ erred in finding that the sentences imposed would meet the ends of general deterrence for scams-related offences and failed to appreciate that the CBS imposed was neither punitive enough nor commensurate with the harm suffered by the victims.

(c) The DJ erred in failing to explain why he departed from the Guidelines, which expressly states that CBS are generally not appropriate for scams-related offences.

(d) The DJ erred in failing to accord any weight to the fact that one of the scam victims was a vulnerable person, being a 68-year-old person working as a security officer, and in finding that the harm caused by JDT's offences was relatively low, despite the total amount of funds involved being $64,654.13.

233 Mr Ryan David Lim from the PDO, who is defence counsel for JDT, argues that the DJ correctly found that RT was not an appropriate sentence, in view of JDT's relatively low culpability and the low level of harm caused by her offences, and her strong rehabilitative prospects. In addition, the CBS imposed by the DJ was carefully calibrated to address rehabilitation, punishment and deterrence. In response to the Prosecution's submissions that the DJ had departed from the Guidelines, the defence argues that the DJ *did* take the Guidelines into account. The defence further argues that the DJ correctly found that the harm caused by JDT's offences was relatively low, and that the DJ *had* taken into account the vulnerability of the scam victim in question as an offence-specific aggravating factor. In any event, the DJ was correct to not allow the harm caused to overshadow other relevant considerations in the present case, such as JDT's culpability and rehabilitative potential.

Our decision

234 We dismiss the Prosecution's appeal in MA 9069.

235 First, we disagree with the Prosecution that the DJ erred in law in holding that RT was inappropriate. The Prosecution argues that the DJ was wrong to read *Fahd Siddiqui* as standing for the proposition that RT is only appropriate where there is a need for reform and rehabilitation within a rigorous and structured environment, and seeks to confine *Fahd Siddiqui* to its facts, arguing that the nature of the offence there was different from scams-related

offences, to which different sentencing considerations apply. The Prosecution also relies on Menon CJ's observations in *Ong Jack Hong* (at [14]) for the proposition that RT should ordinarily be preferred over probation where there is a greater need for deterrence:

> 14 As I have said in *Boaz Koh* ([2] *supra*), reformative training and probation are both rehabilitative sentencing options; the choice between reformative training and probation is governed primarily by whether there is in the circumstances a need for a degree of deterrence *within an overarching focus and emphasis on rehabilitation*. In my judgment, it would therefore be unhelpful to approach the issue of whether reformative training should be imposed in a given case from the vantage point of comparing the circumstances of the case before the court with other cases where reformative training has been imposed, and then submitting that reformative training should not be imposed in the case at hand because the circumstances are less aggravating. *Simply put, reformative training should ordinarily be preferred over probation if the court considers that there is a need for deterrence.*
>
> [emphasis added]

236 In our view, the Prosecution's reliance on the observation in *Ong Jack Hong* is misplaced. RT is often regarded as the more deterrent option precisely because it takes place within a rigorous and structured environment and therefore tends to serve the ends of specific deterrence better than other sentencing options. However, this is not invariably so, particularly where probation is accompanied by stringent conditions over a longer period. Bearing in mind the "overarching focus and emphasis on rehabilitation" (*Ong Jack Hong* at [14]), the relevant question to consider in each case is whether the particular offender requires reform and rehabilitation *within a rigorous and structured environment.* In this case, we are of the view that the DJ was entirely correct in finding that RT was not appropriate, given the RT report's assessment that JDT had minimal intervention needs.

237 Second, we do not agree with the Prosecution that the DJ erred in finding that JDT did not require a structured environment notwithstanding her several prior antecedents. The appropriate approach to sentencing is fact sensitive. In this regard, whilst her caregivers were described as "ineffectual in their supervision", they also "expressed commitment and willingness to work with authority figures and to exercise close supervision over [JDT]". Although JDT has prior antecedents, she has steered clear of further re-offending which suggests that she has the ability to lead a crime-free lifestyle when motivated. She also expressed her willingness to address her offending behaviour. Further, her offending itself only occurred over a relatively short period from May to June 2023, and may be attributed to the naivety of youth, having been induced by a friend's offer of easy money. In the circumstances, we do not agree that she needs an environment akin to RT.

238 Third, we do not agree with the Prosecution that CBS are insufficiently deterrent for scams-related offences. As noted above, suitably tailored CBS can adequately serve the twin ends of deterrence and rehabilitation. In particular, for JDT, who is presently 19 years of age, a SDO of seven days would expose her to the conditions of incarceration and serve as a sufficient deterrent. The CSO, which requires her to complete 60 hours of community service within 12 months, is no small undertaking and will afford her the opportunity to make amends to the community, impressing upon her that her actions carry tangible consequences. The DRO of three months is similarly not insubstantial – she will be subject to electronic monitoring and be required to remain indoors from 10pm to 6am, managing her susceptibility to negative peer influences as well as meaningfully curtailing her freedom and reinforcing the deterrent effect of the overall sentence. The DRO further incorporates counselling interventions to address her self-harm behaviour.

239 Fourth, we do not agree with the Prosecution that the DJ did not pay sufficient attention to the aggravating factors in the case. Quite the contrary, the DJ was mindful of these factors but took into account that the offences were committed due to "her youthful folly and naivete in being induced by her friend's offer of fast cash". It bears repeating that JDT was only 16 years old at the time of committing the offences, and the retrospective rationale applies strongly.

240 In the circumstances, we dismiss the appeal in MA 9069.

MA 9082: Lee Jun Fa v PP

241 The appellant in MA 9082, Lee Jun Fa ("Jun Fa"), is 21 years of age. He is currently on a work-study diploma programme with ITE College West and is bonded to work for SBS Transit Ltd ("SBS Transit") after completing his national service. At the age of 19, he committed a total of three offences, all of which pertained to a single incident. At the age of 20, he pleaded guilty to one charge, with the remaining two charges being taken into consideration for the purposes of sentencing.

Background

242 On 31 May 2024, Jun Fa came across an advertisement by an unknown Telegram user offering $400 for a five-minute piece of work. Jun Fa responded and was told to download the Trust Bank Singapore Ltd ("Trust Bank") application and open a Trust Bank account. He did so and gave the internet-banking login credentials to the Telegram user. Jun Fa did not receive the promised $400.

243 On 2 June 2024, a total of $99,988 flowed into the Trust Bank account and $99,963.81 flowed out of the Trust Bank account, of which $99,978 was traced to scam proceeds arising from a police report by a 37-year-old male Myanmar national.

244 Subsequently, Jun Fa pleaded guilty and was convicted of one charge for a s 55A(1) CDSA Bank Account Relinquishment Offence. Two other charges were taken into consideration: one under s 3(1) (read with s 12) of the CMA, and one under s 417 (read with s 109) of the PC. All these charges pertained to the same incident.

245 The DJ called for both probation and RT reports.

(1) Probation report dated 2 May 2025

246 The probation report assessed Jun Fa to be suitable for 12 months of supervised probation, subject to the following conditions: a time restriction from 10pm to 6am, 60 hours of community service, and a bond to be entered into by his parents.

247 The report assessed Jun Fa's risk of re-offending as low compared to other male offenders on probation orders. His risk factors were identified as greed for quick monetary gain, a lack of vigilance and poor problem-solving contributing to the offence. His protective factors were identified as past reports of good progress in school, constructive engagement and absence of risky behaviours or antecedents, reflecting no deep-seated delinquent traits.

248 Jun Fa was assessed to share a cordial relationship with his parents, brother and grandparents. His parents reported him to be well-behaved. He had very regular attendance and very good conduct at school. He was compliant

with trial time restrictions, and forthcoming and co-operative with the probation officer. Jun Fa's parents hoped he would be placed on probation and were willing to sign the bond and work with the probation officer to engage Jun Fa.

(2) RT report dated 29 April 2025

249 The RT report recommended Level 1 RT. The report described Jun Fa as presenting with minimal needs that required intervention, namely in: (a) strengthening closer bonds with his family; (b) engaging in constructive leisure activities; and (c) antisocial thinking.

250 There were similar assessments as the probation report, including that Jun Fa shared a positive relationship with his parents, he had achieved strong academic results and maintained stable employment, and his social circles consisted mainly of pro-social peers. However, it was also assessed that he did not spend his free time constructively and presented with criminal attitudes by minimising the severity of his offences.

Decision below

251 The DJ accepted that both rehabilitation and deterrence were primary considerations, considering Jun Fa's youth and clean record, but also the gravity of the offences and need to deter scams-related offences.

252 The DJ found several aggravating factors. Jun Fa had opened a new bank account and was motivated by gain. A significant amount of close to $100,000 was transacted through the account. There were two related TIC charges, and no restitution had been made. In terms of mitigating factors, he had no antecedents, had co-operated with the authorities, and entered an early plea of guilt.

253 The DJ applied the recommendations at paragraph 7(c) of the Guidelines. As the DJ found that this was not an exceptional case, he did not find probation and CBS to be appropriate sentences. The DJ determined that RT would provide a middle ground encapsulating the twin principles of rehabilitation and deterrence. Jun Fa was accordingly sentenced to RT at Level 1 intensity.

Arguments on appeal

254 Jun Fa's defence counsel, Mr Terence Hua, submits that Jun Fa should be placed on probation and argues that the DJ placed excessive weight on the Guidelines, which effectively foreclose probation as a sentencing option. The defence contends that Jun Fa was only 19 years of age at the time of the offence, was not part of the scam itself, and never received the promised payment. His youth and lack of antecedents demonstrate good rehabilitative potential, justifying a sentence of probation.

255 The defence further submits that RT is not suitable for Jun Fa as there is no indication that he requires the harsher regime of a structured environment akin to prison, and such an environment has the potential to expose a young offender to unsettling influences. Accordingly, the defence submits that his sentence of RT should be substituted with probation.

256 The Prosecution submits that the DJ correctly considered and applied the Guidelines. The DJ correctly found that there were no exceptional circumstances on the facts which justified probation. The Prosecution submits that the mere fact that Jun Fa was likely to respond positively to probation does not mean that probation is appropriate. The DJ's decision to impose RT instead of probation is appropriate because of the need for deterrence, particularly general deterrence.

Our decision

257 We allow the appeal in MA 9082. The present case is close to the archetypal case, save that a new bank account was created and a significant amount of funds flowed through it. For young offenders with a clean record involved in a one-off incident, such as the present case, it is inappropriate to treat a scams-related offence as being so serious that any alternatives to RT are, in effect, presumptively excluded. In our judgment, the approach taken by the DJ effectively applies a presumption that RT is the appropriate sentence as long as a scams-related offence is involved, unless exceptional circumstances can be shown. This is an incorrect approach, as we have already explained (at [46]–[61] above).

258 In our view, probation is the more appropriate sentencing option, considering all the circumstances of the case.

259 In this regard, we note that the harm caused by Jun Fa's offence is significant, but not especially high. The main aggravating factor is that close to $100,000 in scam proceeds flowed through the account. However, this must be weighed against Jun Fa's relatively low level of culpability. The main culpability enhancing factor is that he opened a new account instead of relinquishing an existing one. Aside from that, there are no significant factors enhancing his culpability.

260 Further, much like Seyfqan's case, Jun Fa's conviction is for a single, isolated incident. The TIC charges are in respect of the same incident. He has no antecedents and has been assessed to be at low risk of reoffending. He has also been assessed to have minimal needs that require intervention, a factor that might otherwise weigh in favour of the structured, rigorous environment of RT. Against this, Jun Fa has been assessed to be suitable for probation. Amongst

other factors, he has a supportive family environment and a pro-social group of friends. We note that although the RT report recommends that Jun Fa is suitable for RT, the areas that it identified for intervention are relatively minimal. Indeed, the fact that an offender is identified as suitable for RT does not, in itself, imply a lack of suitability for other sentencing options such as probation.

261 As we discussed above in relation to Jai Ganesh (at [165]) and Syahmi (at [214]), the court may look at an offender's rehabilitative progress in the time between the commission of his last offence and the time of sentencing in assessing the offender's rehabilitative needs and prospects. We note that Jun Fa is currently on a work-study diploma programme with ITE College West and is bonded to work for SBS Transit. Considered together with the factors at [260] above, we find that Jun Fa does not require the structured institutional environment of RT to achieve rehabilitation.

262 For the foregoing reasons, we allow the appeal in MA 9082 and substitute the DJ's sentence of RT with 12 months of supervised probation, with a time restriction from 10pm to 6am, 60 hours of community service, and a bond to be entered into by his parents.

MA 9101: Vivien Poh Hui Xuan v PP

263 The appellant in MA 9101, Vivien Poh Hui Xuan ("Vivien"), is 29 years of age and has worked in various jobs in the food and beverage industry. Crucially, she is assessed to be of borderline intelligence. At the age of 27, she committed three scams-related offences, subsequently pleading guilty to one charge, with the remaining two taken into consideration for the purposes of sentencing.

Background

264 In March 2024, Vivien met one "Ah Boy" who offered $500 to borrow her UOB account for his cryptocurrency trading. Ah Boy promised Vivien the police would not find out, which caused her to suspect that Ah Boy would use her UOB account for illegal activities. However, as she was in debt and needed money desperately, she ignored her suspicions and handed over the login details for her existing UOB account. During the meeting, Vivien also allowed Ah Boy to create a cryptocurrency account on Coinbase using her Singpass account. She received $500 for handing over her UOB account details.

265 Between 1 and 11 April 2024, a total of approximately $652,000 flowed in and out of the UOB account, of which a sum of $26,000 was traceable to scam proceeds. The UOB account was a fourth layer account for that sum of $26,000 (*ie*, it was the *fourth* account that the sum had passed through). The $26,000 was also part of a sum of $40,000 subsequently transferred out to the Coinbase account created by Ah Boy. The $40,000 was then converted to a cryptocurrency, USDC, and transferred out of the Coinbase account.

266 Subsequently, Vivien pleaded guilty to and was convicted of one charge for a s 55A(1) CDSA Bank Account Relinquishment Offence. Two other charges were taken into consideration. The first was for an offence under s 3(1) (read with s 12) of the CMA, for relinquishing the UOB account. The second was for another s 55A(1) CDSA Bank Account Relinquishment Offence, for enabling the operation of the Coinbase account. All these charges arose from the same incident.

Decision below

267 The DJ held that deterrence, not rehabilitation, was the primary sentencing consideration as Vivien was an adult offender and scams-related offences were sufficiently serious. Accordingly, the DJ reasoned that probation, which is primarily focused on rehabilitation, was not suitable or appropriate. Although probation was not ruled out completely for adult offenders where such offenders displayed an extremely strong propensity for reform (see, *eg*, *Public Prosecutor v Siow Kai Yuan Terence* [2020] 4 SLR 1412), the DJ reasoned that such conditions were not found in Vivien's case. Similarly, while the DJ reasoned that deterrence may be given less weight in cases where the offender has a psychiatric condition (see, *eg*, *Ng So Kuen Connie v Public Prosecutor* [2003] 3 SLR(R) 178), he found that Vivien's mental condition fell far short of the requirement of a causal link between the mental disorder and the offence. Accordingly, the DJ found that an imprisonment term would be appropriate.

268 Applying the Guidelines, the starting point was six months' imprisonment. The DJ imposed an uplift of 1.5 months as Vivien was motivated by gain. Taking into account the significant amount of funds of over $600,000 that moved through the UOB account, the DJ imposed an additional uplift of four months. Applying a slight downward calibration from 11.5 months to 11 months in view of Vivien's borderline intelligence, and according the full 30% reduction for her plea of guilt at the first stage of the PG Guidelines, the DJ sentenced Vivien to seven months and two weeks' imprisonment, with a fine of $500.

Arguments on appeal

269 Vivien's defence counsel, Mr Robert Leslie Gregory, submits that rehabilitation should be the main goal, and deterrence should not be a strong

consideration, due to Vivien's borderline intelligence. The defence submits that the Guidelines do not take into account offenders like Vivien with borderline intelligence and thus, undue weight should not be placed on it. The defence submits that Vivien should be sentenced to probation or CBS. She has the support of her parents and fiancée, has not reoffended in any way and is remorseful for her actions.

270 The Prosecution submits that, as Vivien is an adult offender, deterrence is the primary sentencing principle, unless the offender demonstrates an extremely strong propensity for reform. While Vivien is of borderline intelligence, there was no contributory link to the offence. The DJ's decision not to place weight on Vivien's borderline intelligence was in line with precedent and authority.

271 The Prosecution further submits that the DJ correctly applied the SAP's s 55A(1) CDSA Sentencing Framework. The DJ was correct to consider the quantum of moneys which flowed through Vivien's bank account. Vivien's lack of control over the moneys moving through the account was irrelevant. Vivien only closed the account after it had already been frozen by the police. There was thus no evidence of exceptional co-operation with the authorities.

Our decision

272 We dismiss the appeal in MA 9101, albeit for slightly different reasons than those adopted by the DJ.

273 To begin with, we find that the DJ did not err in finding that deterrence was the dominant sentencing consideration, and not rehabilitation. Vivien is an adult offender. She has not demonstrated an extremely strong propensity for reform that justifies rehabilitation being the primary sentencing consideration.

274 While the defence relies on a psychiatric report showing that Vivien has borderline intelligence, the report also finds that "Vivien did not suffer from any mental conditions at the material time". The report indicates that Vivien has borderline cognitive functioning, poor emotional regulation (being impulsive), difficulties in delaying gratification, and a tendency towards being simple-minded and trusting. However, these are not mental conditions. The report also does not indicate that there is any causal link between any mental condition and the offence. These are relevant considerations in determining the impact of any mental condition on sentencing (*Public Prosecutor v Soo Cheow Wee* [2024] 3 SLR 972 at [55]). Accordingly, we are of the view that the DJ was correct not to accord weight to Vivien's claimed mental condition.

275 We turn to the application of the appropriate sentence to be imposed. As a starting point, the benchmark sentence of six months' imprisonment is applicable in this case (see [88] above). In our view, an uplift of five months to a sentence of 11 months' imprisonment on a claim-trial basis is appropriate, considering the following aggravating factors. Some of these differ from the factors analysed by the DJ, which by themselves may not otherwise have merited such a significant uplift:

(a) Unlike a s 55A(1) CDSA Bank Account Relinquishment Offence *simpliciter*, Vivien *suspected* that the accounts would be used for illegal activities but chose to ignore her suspicions (see [264] above). Thus, Vivien's culpability is significantly higher than in an archetypal case.

(b) Despite suspecting illegality, Vivien relinquished control of multiple accounts. The relinquishment of the Coinbase account is reflected in one of the TIC charges (which, to avoid doubt, we do not count as a separate aggravating factor).

(c) Although motivation by gain is part of the archetypal case and not to be considered as a separate aggravating factor (see [88] above), in this case Vivien *actually* benefited from her offending conduct. She received and spent the $500 that she was promised.

(d) The harm in this case is significant. More than $600,000 flowed through the UOB account; the account was a fourth layer account for the sum of $26,000 which was traced to scam proceeds. This $26,000 was part of a sum of $40,000 which was then transferred from the UOB account to Coinbase account, exchanged for cryptocurrency, and transferred out. It bears repeating that Vivien had already harboured suspicions regarding the opening of her UOB account, and thus it was entirely foreseeable that the Coinbase account could be misused to facilitate the movement of scam proceeds. The risk of dissipation is heightened when those who perpetrate scams convert their scams-related proceeds to cryptocurrency, which is susceptible of being transferred with ease and speed, through digital wallets that may be completely anonymous and untraceable to the owner and can be easily dissipated and hidden (*CLM v CLN* [2022] 5 SLR 273 at [54]). This case illustrates the seriousness of money mule offences and the mischief that Parliament sought to tackle – the layering of accounts to launder and dissipate assets and impede the tracing of such assets (*2023 Parl Debates*). It is not merely the quantum but the extent of concealment and dissipation in the present case that is significant.

276 Applying the full 30% reduction for Vivien's plea of guilt at Stage 1 of the PG Guidelines, the DJ correctly derived a final sentence of seven months and two weeks' imprisonment. The DJ also correctly imposed a $500 fine to disgorge the $500 gained by Vivien.

277 For the foregoing reasons, we dismiss the appeal in MA 9101.

Conclusion

278 In summary, we make the following orders:

(a) We dismiss the appeal in MA 9012.

(b) We allow the appeal in MA 9024, and substitute the order of RT with an order of probation.

(c) We allow the appeal in MA 9041, and substitute the order of RT with an order of probation.

(d) We allow the appeal in MA 9049, and substitute the order of RT with an order of probation.

(e) We dismiss the appeal in MA 9069.

(f) We allow the appeal in MA 9082, and substitute the order of RT with an order of probation.

(g) We dismiss the appeal in MA 9101.

Sundaresh Menon Chief Justice	Ang Cheng Hock Justice of the Court of Appeal

Hoo Sheau Peng
Judge of the High Court

Hui Choon Kuen, Charlene Tay Chia, Shaun Lim and Dhiraj G Chainani (Attorney-General's Chambers) for the respondents in MA 9012, MA 9024, MA 9041, MA 9049, MA 9082 and MA 9101, and the appellant in MA 9069;
Wong Kok Weng, Ryan David Lim, Lum Guo Rong, Vadivalagan PVSS, Muhammad Taufiq bin Suraidi, Ashwin Ganapathy, Edwin Ho Wei, Mohamed Sarhan s/o Mohamed Ikhbar, Daryl Lim and Azeera Ali (Public Defender's Office) for the appellants in MA 9012, MA 9024 and MA 9049, and the respondent in MA 9069;
Tito Shane Isaac and Adrienne Grace Milton (Tito Isaac & Co LLP) for the appellant in MA 9041;
Hua Yew Fai Terence (Rex Legal Law Corporation) for the appellant in MA 9082;
Robert Leslie Gregory (L G Robert) for the appellant in MA 9101;
Ng Li Shan Iris (Helmsman LLC) as Young Independent Counsel.