

JUDICIAL AND LEGISLATIVE DEVELOPMENTS IN THE LAW OF FRAUD IN CRIMINAL LAW

[2026] SAL Prac 18

This article examines fraud across Singapore’s criminal law through three key areas of analysis. First, it traces the historical development of “fraudulently” in the Penal Code, exploring several key judicial decisions that culminated in the 2019 reforms to the definition of “fraudulently”. Second, it briefly highlights the new s 424A fraud offence. Third, it examines judicial approaches to fraud in non-Penal Code legislation, focusing on *Sun Weiyeh v Public Prosecutor* [2025] 5 SLR 372, which is a recent case that gave guidance on fraud in sector-specific legislation.

Peter **KOY**¹

*LLB (National University of Singapore), LLM (King’s College London),
Advocate and Solicitor (Singapore).*

Eric **HU**

*LLB (National University of Singapore), LLM (Boston University),
Advocate and Solicitor (Singapore).*

Joel **FUN**

*LLB, BBM (Singapore Management University)
Advocate and Solicitor (Singapore).*

I. Introduction

1 Fraud is a term that spans various areas of law, civil and criminal alike. Given that it can arise and needs determination in a wide range of conduct and contexts, it is little wonder that the concept of “fraud” is rarely defined exhaustively. The Court of Appeal had, *eg*, in the case of *United Overseas Bank Ltd v Bebe*

1 The opinions expressed in this article are entirely the authors’ own and do not reflect the views of their employers.

*bte Mohammad*² (“Bebe”), observed that “fraud” in the context of the Land Titles Act³ could not be defined because of its varied forms and methods.⁴ This presents a challenge when one has to deal with fraud in different statutory regimes.

2 In certain contexts, fraud has been more narrowly circumscribed. An example in the civil context is the fraud exception to the autonomy principle for letters of credit. Fraud was found to have been made out where a false representation had been made knowingly, or without belief in its truth, which included the beneficiary being careless in the sense of being indifferent to the truth.⁵ “Fraud” bears a similar meaning under the tort of deceit, following the principles established in *Derry v Peek*⁶ (“Derry”).

3 In the criminal context, fraud has been circumscribed not only through judicial pronouncements but also legislative developments. Most significantly, the 2019 amendments⁷ to the 2008 revised edition of the Penal Code⁸ (“PC 2008”) introduced reforms that provided greater definitional clarity to fraud and its related concepts, marking a watershed moment in Singapore’s approach to criminal fraud.

4 Among the various reforms introduced, there are two most significant ones in relation to “fraud”. The first is an amendment to the term “fraudulently” in s 25 of the Penal Code 1871⁹ (“Penal Code”) as follows:

2 [2006] 4 SLR(R) 884.

3 Cap 157, 1994 Rev Ed.

4 *United Overseas Bank Ltd v Bebe bte Mohammad* [2006] 4 SLR(R) 884 at [29], citing John Baalman, *The Singapore Torrens System: Being a Commentary on the Land Titles Ordinance, 1956 of the State of Singapore* (Government of the State of Singapore, 1961) at pp 83–84, which in turn cited *Stuart v Kingston* (1923) 32 CLR 309 at 359.

5 *Winson Oil Trading Pte Ltd v Oversea-Chinese Banking Corp Ltd* [2024] 1 SLR 1054 at [61].

6 (1889) 14 App Cas 337 at 374.

7 Criminal Law Reform Act 2019 (Act 15 of 2019).

8 Cap 224, 2008 Rev Ed.

9 2020 Rev Ed.

Fraudulently

25. A person (A) is said to do an act fraudulently if A does that act with intent to deceive another person (B) and by means of such deception, that an advantage should accrue to A or another person or detriment should befall B or another person (other than A), regardless of whether such advantage or detriment is temporary or permanent.

Explanation 1.—Where the advantage or the detriment A intended by means of the act done is so slight that no reasonable person of ordinary sense or temper would complain of it, the act is not done fraudulently.

Explanation 2.—It is sufficient in any charge for an offence under this Code involving doing an act fraudulently to allege a general intent to act fraudulently without naming any particular person intended to be deceived.

5 Unlike other provisions that define words or expressions in the Penal Code, s 6A of the Code expressly excludes the definitions of “dishonestly” and “fraudulently” from applying to offences in any other written law. In other words, the definition of “fraudulently” as reproduced in the foregoing paragraph only applies to the Penal Code.

6 Second, the reforms introduced a new fraud offence. In keeping with major common law jurisdictions reforming their fraud-related offences to “focus on the intent of the accused person rather than the effects of a deception on the victim”,¹⁰ s 424A¹¹ of the Penal Code was introduced. It provides as follows:

Fraud by false representation, non-disclosure or abuse of position not connected with contracts for goods or services

424A.—(1) A person shall be guilty of an offence if he, fraudulently or dishonestly —

- (a) makes a false representation;
- (b) fails to disclose to another person information which he is under a legal duty to disclose; or

10 Penal Code Review Committee, *Penal Code Review Committee Report* (August 2018) (“PCRC Report”) at p 41.

11 For completeness, s 424B of the Penal Code 1871 (2020 Rev Ed) was also introduced, which is a similar offence to s 424A of the Penal Code 1871 (2020 Rev Ed) but applies to contracts for the supply of goods or services.

(c) abuses, whether by act or omission, a position which he occupies in which he is expected to safeguard, or not to act against, the financial interests of another person.

7 Against this backdrop, this article examines how the concept of “fraud” operates across Singapore’s criminal law landscape. The rest of this article proceeds in three parts:

(a) paras 8 to 21 briefly trace the historical development of the definition of “fraudulently” in the Penal Code, examining the judicial influences that culminated in the 2019 reforms;

(b) paras 22 to 24 highlight the new fraud offence introduced by s 424A and its relationship to existing fraud concepts; and

(c) paras 25 to 43 examine how courts have approached fraud in criminal legislation beyond the Penal Code, with particular focus on the recent decision in *Sun Weiyeh v Public Prosecutor*¹² (“*Sun Weiyeh (HC)*”) because it has given important guidance on the judicial approach towards fraud in sector-specific legislation.

II. Brief history of defining “fraudulently” in Penal Code

8 The statutory definition of “fraudulently” under the PC 2008 prior to the amendments in 2019 was as follows:

“Fraudulently”

25. A person is said to do a thing fraudulently if he does that thing with intent to defraud, but not otherwise.

9 This definition was adopted from the Indian Penal Code,¹³ (which was then enacted in the Straits Settlements in 1871 by the Straits Settlements Legislative Council)¹⁴ and remained unchanged until 2019.

12 [2025] 5 SLR 372.

13 Act No 45 of 1860 (India).

14 The Penal Code 1871 (SS Ord No 4 of 1871).

10 The *Penal Code Review Committee Report* (“PCRC Report”) of August 2018 identified an impetus to define this term (and to amend the prevailing statutory definition of “dishonestly”)¹⁵ because of three key concerns:¹⁶

(a) First, the definition of “dishonestly” was seen as overly narrow for modern commercial contexts. It covered only wrongful gain and wrongful loss and excluded wrongful avoidance of loss or exposure to risk of loss, even though such conduct was practically equivalent and covered in contemporary fraud statutes in other jurisdictions, *eg*, in the UK’s Fraud Act 2006.¹⁷

(b) Second, there was a conceptual inconsistency between “dishonestly” and “fraudulently” in the then-Penal Code. “Dishonestly” as defined then had no reference to morality or to the moral standards of ordinary people, whereas “fraudulently” had been interpreted to include both legal and moral wrongdoing through intentional deception for advantage or detriment. This created a gap where conduct may be fraudulent but not dishonest, particularly in legal “grey areas”. Without the amendments to the PC 2008, a practice may be fraudulent, involving intentional deception for gain, but it may not be dishonest because of a lack of clarity or development in the law. This was seen as an unsatisfactory inconsistency in the operation between the two types of *mens rea*.

(c) Third, the definition of “fraudulently” was a tautology and gave no guidance on the substantive definition of “fraudulently” or “intent to defraud”.

11 The Penal Code Review Committee thus recommended giving the term “fraudulently” a clear definition in the Penal

15 “Dishonestly” was then defined as “[w]hoever does anything with the intention of causing wrongful gain to one person, or wrongful loss to another person, is said to do that thing dishonestly”: Penal Code (Cap 244, 2008 Rev Ed) s 24.

16 PCRC Report at p 58.

17 (c 35) (UK).

Code by codifying the explanation of “fraudulently” as provided for in *Law Society of Singapore v Nor’ain bte Abu Bakar*¹⁸ (“Nor’ain”).

12 *Nor’ain* did not consider the term “fraudulently” in the criminal context but instead considered it in the context of s 83(2)(b) of the Legal Profession Act.¹⁹

13 In *Nor’ain*, the Court of Appeal first considered the definition of the term fraud in the *Derry* sense (ie, for the tort of deceit).²⁰ However, the court decided not to adopt that definition because *Derry* concerned a civil action.²¹ Instead, the court made reference to the 1985 revised edition of the Penal Code²² (“PC 1985”) definition of “fraudulently”,²³ which defined a person as acting fraudulently “if he does that thing with intent to defraud, but not otherwise”.²⁴

14 The Court of Appeal referred to two decisions, the Malaysian decision of *Seet Soon Guan v Public Prosecutor*²⁵ (“*Seet Soon Guan*”) and the Indian decision of *S P Chengalvaraya Naidu v Jagannath*²⁶ (“*S P Chengalvaraya*”).²⁷ In *Seet Soon Guan*, the Malaysian court held that a person would have acted fraudulently or with intent to defraud if:

... he acts with the intention that some person be deceived and by means of such deception that either an advantage should accrue to him or injury, loss or detriment should befall some other person or persons.

18 [2009] 1 SLR(R) 753 at [46]. It was observed in Stanley Yeo, Neil Morgan & Chan Wing Cheong, *Criminal Law in Singapore* (LexisNexis, 2022) at para 14.79 that this new definition in *Law Society of Singapore v Nor’ain bte Abu Bakar* [2009] 1 SLR(R) 753 also followed the previous case law, including the Myanmar case of *King-Emperor v Tha By Aw* (1907) 4 BLR 315.

19 Cap 161, 2001 Rev Ed. *Law Society of Singapore v Nor’ain bte Abu Bakar* [2009] 1 SLR(R) 753 at [39].

20 *Law Society of Singapore v Nor’ain bte Abu Bakar* [2009] 1 SLR(R) 753 at [42].

21 *Law Society of Singapore v Nor’ain bte Abu Bakar* [2009] 1 SLR(R) 753 at [43].

22 Cap 224, 1985 Rev Ed.

23 *Law Society of Singapore v Nor’ain bte Abu Bakar* [2009] 1 SLR(R) 753 at [44].

24 Penal Code (Cap 224, 1985 Rev Ed) s 25.

25 [1955] MLJ 223.

26 AIR 1994 SC 853.

27 *Law Society of Singapore v Nor’ain bte Abu Bakar* [2009] 1 SLR(R) 753 at [44]–[45].

- 15 *SP Chengalvaraya*, on the other hand, established that:²⁸
- A fraud is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage.
- 16 The Court of Appeal in *Nor'ain*, relying on the foregoing two cases and the PC 1985 definition of "fraudulently", defined the term "fraudulent conduct" under the Legal Professional Act²⁹ as follows:³⁰
- An advocate and solicitor will be held to have acted fraudulently or deceitfully if he has acted with the intention that some person, including the judge, be deceived and, by means of such deception, that either an advantage should accrue to him or his client, or injury, loss or detriment should befall some other person or persons. He need not make an explicit false representation; it is fraudulent if he intentionally seeks to create a false impression by concealing the truth: *suppressio veri, suggestio falsi*.
- 17 About five years after *Nor'ain*, the Court of Appeal had the occasion to consider specifically the definition of an "intent to defraud" in the Penal Code; specifically, s 477A of the Penal Code³¹ was considered in *Public Prosecutor v Li Weiming*³² ("*Li Weiming*"), where the offender was charged for engaging in a conspiracy to falsify accounts "with intent to defraud".
- 18 In *Li Weiming*, the Court of Appeal held that "with intent to defraud" means "with intent to practise a fraud" on someone or other (and it need not be anyone in particular).³³ Thereafter, when considering the *mens rea*, ie, an "intent to defraud", the court observed that there were two competing *mentes reae*. The

28 *Law Society of Singapore v Nor'ain bte Abu Bakar* [2009] 1 SLR(R) 753 at [45], citing *SP Chengalvaraya Naidu v Jagannath* AIR 1994 SC 853 at [8].

29 Cap 161, 2001 Rev Ed.

30 *Law Society of Singapore v Nor'ain bte Abu Bakar* [2009] 1 SLR(R) 753 at [46].

31 Cap 224, 2008 Rev Ed.

32 [2014] 2 SLR 393.

33 *Public Prosecutor v Li Weiming* [2014] 2 SLR 393 at [81].

first was provided by the Supreme Court of India in *S Harnam Singh v The State*³⁴ (“*S Harnam*”), which stated as follows:³⁵

[I]t has been settled by a catena of authorities that ‘intent to defraud’ contained two elements viz., deceit and injury. A person is said to deceive another when by practicing ‘*suggestio falsi*’ or ‘*suppressio veri*’ [sic] or both he intentionally induces another to believe a thing to be true, which he knows to be false or does not believe to be true. ‘Injury’ has been defined in Section 44 of the [Indian Penal Code] as denoting ‘any harm whatever illegally caused to any person, in body, mind, reputation or property’.

19 The second, which the court saw as a “slightly wider definition”,³⁶ was the definition provided in *Nor’ain*.³⁷ The court noted that the definition in *Nor’ain* did not require loss, injury or detriment to another as a necessary element in proving a fraudulent intent; it was sufficient that a deception was intended to result in an advantage accruing to the person alleged to have acted fraudulently. The court appeared to have adopted the definition in *Nor’ain*, and stated that:³⁸

It [was] clearly possible that a person may carry out an act with an intent to defraud by practicing a deception with the aim of causing an injury, loss or detriment or obtaining an advantage, even if he is indifferent as to who the object of his fraudulent intent is. ... An intent of this nature would be regarded as a general intent to defraud.

20 The PCRC Report also recommended limiting the definitions of “dishonestly” and “fraudulently” to the Penal Code only, recognising that they were “composite fault elements, that may have different meanings in different contexts”.³⁹

34 (1976) 2 SCC 819.

35 *S Harnam Singh v The State* (1976) 2 SCC 819 at [18].

36 *Public Prosecutor v Li Weiming* [2014] 2 SLR 393 at [83].

37 See para 15 above.

38 *Public Prosecutor v Li Weiming* [2014] 2 SLR 393 at [84]. This clarification by the court as to the definition of the term “fraudulently” was noted in the PCRC Report, which stated that an Explanation should be drafted to codify this; see the PCRC Report at p 60.

39 PCRC Report at p 61.

21 In summary, the key points from the foregoing overview of the brief history of “fraud” in the Penal Code are as follows:

- (a) First, the pre-2019 definition of “fraudulently” was circular, defining it as acting “with intent to defraud” without explaining what fraud meant.
- (b) Second, the current definition of “fraudulently” in the Penal Code now codifies existing case law.
- (c) Third, “fraudulently” as defined in the Penal Code only applies to the Penal Code.

III. The offence of “fraud” in Penal Code

22 Apart from defining the term “fraudulently”, the PCRC Report also recommended new offences of “no-outcome fraud” and “obtaining services fraudulently”. These were meant to tackle emerging crime trends. Regarding no-outcome fraud, it was noted that there was a lacuna in the law, as there were difficulties in making out an offence such as cheating under Singapore law for certain cases involving fraud.⁴⁰

23 This lacuna was particularly problematic in sophisticated financial markets where traditional offences like cheating proved inadequate. The PCRC Report highlighted the pertinent example where banks were able to collude to manipulate the London Interbank Offered Rate (“LIBOR”) benchmark by submitting false interest rate data, but Singapore’s Securities and Futures Act⁴¹ (“SFA 2006”) could not address this because LIBOR-type rates were not classified as “securities”. Even under cheating laws, criminal prosecution would be difficult as it would require proving that the victims relied on specific false representations about rate calculations, which was hard to establish factually. While Singapore had introduced a framework for financial benchmarks through amendments to the SFA 2006,⁴² offences

40 PCRC Report at pp 41–43.

41 Cap 289, 2006 Rev Ed.

42 This is found at Part 6AA of the Securities and Futures Act 2001 (2020 Rev Ed), which was introduced by the Securities and Futures (Amendment) Act 2017 (Act 4 of 2017).

like cheating were victim-dependent, making criminal liability contingent on factors such as whether victims were actually deceived and how they responded. These were gaps where clearly fraudulent conduct (like LIBOR manipulation) could escape prosecution due to the difficulty of proving impact on the victims.⁴³

24 The foregoing precipitated the creation of a new offence of no-outcome fraud (similar to that defined in the UK’s Fraud Act 2006),⁴⁴ which is now s 424A of the Penal Code.⁴⁵

IV. “Fraud” in criminal legislation beyond Penal Code

25 Despite the Penal Code encapsulating a wide range of offences and forming the primary criminal legislation in Singapore, there is a wide range of other fraud related offences that *do not* fall within the Penal Code. From land-related offences⁴⁶ to the use of ship-related documents,⁴⁷ fraud plays a major role in many offences outside the scope of the Penal Code. It is not difficult to see why. In *Bebe*, the court observed how the hallmark of fraud is “dishonesty or moral turpitude”,⁴⁸ characteristics that transcend specific statutory frameworks and can manifest across diverse areas of law, especially where trust, representations, and/or commercial dealings are involved.

26 However, as highlighted at para 21(c) above, the definition of “fraudulently” in the Penal Code has been excluded from applying to offences falling outside of the Penal Code.

43 PCRC Report at p 43.

44 (c 35) (UK).

45 See para 6 above.

46 Land Titles Act 1993 (2020 Rev Ed) s 169.

47 Merchant Shipping Act 1995 (2020 Rev Ed) s 193.

48 *United Overseas Bank Ltd v Bebe bte Mohammad* [2006] 4 SLR(R) 884 at [34]–[35].

27 An example of an offence where the definition of “fraudulently” under the Penal Code does not apply is an offence of fraudulent trading under the then-s 340 of the Companies Act⁴⁹ (“CA 2006”). Under s 340(1) read with s 340(5) of the CA 2006, there are two offences, namely (a) carrying on a business with intent to defraud creditors; and (b) carrying on a business for any fraudulent purpose.

28 The District Court in *Public Prosecutor v Phang Wah*⁵⁰ held that “fraudulent purpose” connoted an intention to go “beyond the bounds of what ordinary decent people engaged in business would regard as honest”, or involving “according to the current notions of fair trading among commercial men, real moral blame”.⁵¹ The High Court affirmed this definition in *Phang Wah v Public Prosecutor*⁵², and held that a finding of dishonesty was required, with knowledge encompassing also a situation of turning a blind eye to the obvious.⁵³ This is a marked difference from the PC 2008 definition of “fraudulently”, which was something that was noted in the PCRC Report.⁵⁴ The Penal Code definition focuses on intent to deceive with resulting advantage or detriment, while the offence of fraudulent trading in the CA 2006 involved a broader moral assessment of what ordinary decent business people would regard as honest. This illustrates the observation in the PCRC Report that composite fault elements like “fraudulently” require different meanings in different statutory contexts, and the PCRC Report thus did not recommend for the term “fraudulently” in the PC 2008 to apply to non-Penal Code offences.⁵⁵

29 Nevertheless, s 6A of the Penal Code cannot prevent courts from interpreting “fraud” or “fraudulently” in other statutes based on first principles or the common law, which may

49 Cap 50, 2006 Rev Ed. The offence was repealed in the Companies Act (Cap 50, 2006 Rev Ed) and is now found in s 238 of the Insolvency, Restructuring and Dissolution Act 2018 (2020 Rev Ed).

50 [2010] SGDC 505.

51 *Public Prosecutor v Phang Wah* [2010] SGDC 505 at [253].

52 [2012] 1 SLR 646.

53 *Phang Wah v Public Prosecutor* [2012] 1 SLR 646 at [24]–[25].

54 PCRC Report at p 61.

55 PCRC Report at p 61.

result in similar principles as those underpinning the definition of “fraudulently” in the Penal Code. This would not go against the PCRC Report and may even be implied from the portion of the report that said:⁵⁶

[T]he *mens rea* of ‘dishonestly’ and ‘fraudulently’ are especially complex because they are composite fault elements, that may have different meanings in different contexts.

30 The recent decision of *Sun Weiyeh (HC)* is illustrative of how courts approach the definition of “fraud” in criminal legislation outside the Penal Code. In that case, the High Court had to determine the meaning of “fraud” under s 201(b) of the SFA 2006, which criminalises acts that are “likely to operate as a fraud or deception” in connection with securities transactions.⁵⁷

31 In *Sun Weiyeh (HC)*, the offender faced two charges under s 201(b) of the SFA 2006. He was the Chief Investment Officer of One Asia Investment Partners, an asset/fund management company in Singapore. He was also the Portfolio Manager of two funds, the Arion Asia Credit Fund (“AACF”) High Yield Basis Fund SP (“SP1”) (which was largely funded by an external investor) and the AACF Investment Grade Bond Fund II SP (“SP5”) (of which he was a majority shareholder).

32 On 4 January 2016, the external investor of SP1 submitted a formal redemption request which required SP1’s assets (of mostly bonds) to be liquidated. In the course of liquidating the assets, the offender took charge of selling two bonds. On 19 January 2016 at 10am, he sought bids over the Bloomberg messaging platform from 11 market participants and received executable bids from four market participants (*ie*, Morgan Stanley Asia (“Morgan Stanley”), BNP Paribas, SC Lowy Financial and Haitong International Securities (Singapore) Pte Ltd (“Haitong’’)). From about 10.30am to 10.41am, the offender

56 PCRC Report at p 61.

57 For completeness, there is another limb under s 201(b) of the Securities and Futures Act (Cap 289, 2006 Rev Ed) which criminalises acts that “operates as a fraud or deception” in connection with securities transactions. The full s 201(b) of the Securities and Futures Act (Cap 289, 2006 Rev Ed) is stated below at para 34.

arranged the sale of the bonds to SP5 through an intermediary, Pareto Securities Pte Ltd, pegged to the lowest bid price that he received, which was from Haitong. About four months later, SP5 sold the bonds to the market for a profit of about US\$1.1m. Had Morgan Stanley's bid prices been used for the sale of the two bonds, SP1 investors would have obtained US\$324,000 more in sale proceeds.

33 In the District Court (*ie*, *Public Prosecutor v Sun Weiyeh*⁵⁸ (“*Sun Weiyeh (DC)*”), the district judge (“DJ”) convicted and sentenced the offender to six months' imprisonment *per charge* and ordered the sentences for both charges to run concurrently. The DJ's reasoning encompassed the following key findings:

(a) Section 201(b) of the SFA 2006 did not require proof of deception, dishonesty or an intention to defraud. It was sufficient that the offender intentionally committed the act in question with a blameworthy state of mind of knowledge that by his act he would thereby enrich himself or cause loss to investors.⁵⁹

(b) The offender had access to higher bid prices but proceeded to execute the trades to sell at lower prices to SP5. The offender's defences (*ie*, that Morgan Stanley's bid prices were no longer executable because its sales representative told him to “please refresh before trading”, that he did not see BNP Paribas's bids due to oversight, and that SC Lowy Financial gave a bid for only one of the bonds) were rejected. The DJ found that the offender had never engaged in genuine price discovery either by himself or through Pareto Securities Pte Ltd's sales representative. The DJ further found that the offender sold the bonds to SP5 because he liked the bonds and he knew he would make a gain from the trades and at the expense of the SP1 shareholders.⁶⁰

58 [2024] SGDC 242.

59 [2024] SGDC 242 at [237]–[238].

60 *Public Prosecutor v Sun Weiyeh* [2024] SGDC 242 at [289]–[350] and [383]–[459].

(c) The offender owed fiduciary duties to SP1 investors, including to avoid conflicts of interest and to secure the best available prices to sell the bonds. The offender’s failure to disclose his interest in SP5 and act in the interests of SP1 breached these duties.⁶¹

34 One of the main points of appeal surrounded the *mens rea* for the offence under s 201(b) of the SFA 2006. For completeness, s 201(b) of the SFA 2006 provided that:

Employment of manipulative and deceptive devices

201. No person shall, directly or indirectly, in connection with the subscription, purchase or sale of any capital markets products —

...

(b) engage in any act, practice or course of business which operates as a fraud or deception, or is likely to operate as a fraud or deception, upon any person;

...

35 In the appeal, the appellant (*ie*, the offender) contended that “fraud” under the SFA 2006 should be confined to cases involving deception, effectively adopting the definition of “fraudulently” in the Penal Code which requires “intent to deceive another person”.⁶² Against this, the Prosecution argued that “fraud” had to be given a meaning which was distinct from “deception”. Specifically, “fraud” was a broader concept which could include dishonest conduct that did not arise from deception. Without being prescriptive, this would include a breach of duty with the knowledge that it would result in wrongful gain to himself or wrongful loss to others.⁶³

36 Instead of relying on the Penal Code’s definition of fraud, the court first looked at the legislative purpose behind s 201(b) of the SFA 2006. The court held that the Legislature’s overarching objective in criminalising market misconduct under the SFA 2006

61 *Public Prosecutor v Sun Weiyeh* [2024] SGDC 242 at [240]–[269] and [444]–[461].

62 *Sun Weiyeh v Public Prosecutor* [2025] 5 SLR 372 at [37].

63 *Sun Weiyeh v Public Prosecutor* [2025] 5 SLR 372 at [38].

was to protect public investors. The SFA 2006 was also intended to protect public confidence in the market and ensure that the operation of the market was not distorted. As for s 201(b), it was meant to be a catch-all provision intended to cover all forms of securities fraud not otherwise dealt with in other sections of the SFA 2006 that were amorphous and capable of incorporating a myriad of illegitimate trading practices.⁶⁴

37 The court held that while there would inevitably be overlap between “fraud” and “deception” under s 201(b), the scope of fraud was not confined exclusively to cases involving deception.⁶⁵

38 The court then made two important observations:

(a) The court explicitly acknowledged that the Penal Code’s definition of “fraudulently” could not apply to the SFA 2006, citing s 6A of the Penal Code which excludes the application of “fraudulently” to offences outside the Penal Code. This reinforced the observation made in the PCRC Report that the *mens rea* of “fraudulently” is “especially complex” because it has a “composite fault element”, that may have different meanings in different contexts.⁶⁶

(b) The court did not attempt to cast a legal definition for “fraud”, noting that it was an amorphous concept and that other previous Court of Appeal decisions had made similar observations in different contexts.⁶⁷

39 Particularly instructive was the court’s recognition of abuse of position as a form of fraud. The court held that where a person was placed in a position where he was expected to safeguard, or not to act against, the financial interests of another person, the abuse of such position which resulted in detriment to those financial interests would fall within the scope

64 *Sun Weiyeh v Public Prosecutor* [2025] 5 SLR 372 at [39]–[40].

65 *Sun Weiyeh v Public Prosecutor* [2025] 5 SLR 372 at [42].

66 *Sun Weiyeh v Public Prosecutor* [2025] 5 SLR 372 at [44], citing the PCRC Report at p 61.

67 *Sun Weiyeh v Public Prosecutor* [2025] 5 SLR 372 at [45].

of fraud under s 201(b) of the SFA 2006.⁶⁸ This approach bears similarities to the offence in s 424A(1)(c) of the Penal Code, which criminalises fraud by “abuse of position”, although the court was careful not to rely on this provision because it post-dated the offender’s conduct.⁶⁹

40 The court also held that under s 201(b) of the SFA 2006, there was no requirement that the offender had to have a specific intent to deceive, manipulate or defraud for the offence to be made out.⁷⁰ The court noted that the touchstone of fraud is dishonesty and an offence would be made out upon proof that the offender acted with an objectively dishonest state of mind.⁷¹

41 The court’s reasoning demonstrates how fraud can encompass conduct that does not involve traditional deceptive representations. The offender in *Sun Weiyeh (HC)* was convicted for selling securities at an undervalue from one fund to another fund in which he held a majority shareholding, despite knowing of higher bids from third parties. There was no evidence that the offender made any false representations to investors. Instead, the fraud laid in his breach of duty to act honestly in the investors’ interests, done with knowledge that this would cause them detriment whilst benefiting himself. The court found that the offender had acted dishonestly by deliberately choosing to sell the bonds to himself effectively at lower prices despite being aware of higher executable bids. On this premise, the court held that the charges under s 201(b) were made out and upheld the offender’s conviction and sentence.

42 From a precedential perspective, *Sun Weiyeh (HC)* establishes important principles under s 201(b) of the SFA 2006, which are likely to remain applicable under s 201(b) of the current Securities and Futures Act 2001 (2020 Rev Ed) as the substantive wording of the provision remains unchanged:⁷²

68 *Sun Weiyeh v Public Prosecutor* [2025] 5 SLR 372 at [47].

69 *Sun Weiyeh v Public Prosecutor* [2025] 5 SLR 372 at [51].

70 *Sun Weiyeh v Public Prosecutor* [2025] 5 SLR 372 at [61(d)].

71 *Sun Weiyeh v Public Prosecutor* [2025] 5 SLR 372 at [60].

72 There were two amendments to s 201(b) since the Securities and Futures Act (Cap 289, 2006 Rev Ed). The first was to substitute the word “securities”
(cont’d on the next page)

(a) First, asset managers owe a duty to act honestly towards their clients, and breach of this duty can constitute fraud even without traditional deceptive representations.

(b) Second, where a person is placed in a position where he is expected to safeguard, or not to act against, the financial interests of another person, abuse of such position resulting in detriment to those financial interests would fall within the scope of fraud under s 201(b) of the SFA 2006.

(c) Third, the decision demonstrates that “fraud” under s 201(b) of the SFA 2006 involves “dishonesty”, with the court stating that “the touchstone of fraud is dishonesty” and that “fraud invariably involves dishonesty”.

(d) Fourth, the court clarified that the requisite *mens rea* under s 201(b) of the SFA 2006 requires only an objectively dishonest state of mind, not a specific intent to deceive or defraud, rejecting arguments that a specific fraudulent intent is necessary.

(e) Fifth, the decision reinforces the position that s 201(b) of the SFA 2006 is a catch-all provision with a deliberately broad scope, reflecting Parliament’s intention to protect investors.

43 On a broader level, the decision shows that for non-Penal Code offences, courts will develop contextually appropriate meanings of fraud based on the legislative purpose and protective objectives of the specific statute. This approach will appropriately deal with fraud cases under sector-specific criminal legislation, particularly in cases involving abuse of fiduciary or quasi-fiduciary relationships where traditional acts of deception may be absent.

to “capital markets products” in the chapeau: Securities and Futures (Amendment) Act 2017 (Act 4 of 2017) s 92. The second was an amendment to the drafting convention, which changed the term “No person shall” to “A person must not” in the chapeau: Revised Edition of the Laws (Section 7) Order 2021 s 2.

V. Conclusion

44 The development of fraud in Singapore’s criminal law has taken a nuanced approach that balanced precision with flexibility. The 2019 amendments to the Penal Code, whilst providing clarity to the previously tautological definition of “fraudulently”, have deliberately confined their application to the Penal Code alone. This reflected an understanding that fraud, as observed in *Bebe*, manifested in varied forms and methods, and was not capable of an exhaustive definition that should apply to other statutes.

45 The case law examined in this article demonstrates that in criminal cases, our courts have adopted a pragmatic yet principled approach when interpreting and defining fraud in different statutory contexts. In particular, our courts have developed contextually appropriate meanings through purposive interpretation that serve the protective and regulatory objectives of specific statutes. In this regard, the High Court in *Sun Weiyeh (HC)* has set out useful principles on “fraud” in s 201(b) of the SFA 2006.

46 This flexible approach is well-suited for addressing novel forms of commercial misconduct that may not align with traditional fraud paradigms. As commercial practices continue to evolve, especially in increasingly sophisticated financial and digital markets, the development of “fraud” and its related concepts in ways that advance legislative purposes would provide a robust and responsive framework for safeguarding the integrity of Singapore’s legal and commercial systems.

47 These developments also highlight the importance of understanding fraud as a contextually sensitive concept. The hallmark of fraud – dishonesty or moral turpitude – should remain constant. However, its context-specific manifestations will likely evolve, requiring judicial interpretation and legislative development if necessary.