

## CLOSING THE GAP: A TIMELY CALL FOR SINGAPORE TO CONSIDER REGULATING INSIDE INFORMATION IN SPORTS BETTING

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Although Singapore has legalised sports betting since 1999 and the sector involves billions of dollars, it lacks specific legislation regulating the misuse of inside information in sports betting, one of the two most common forms of match manipulation observed internationally and a recognised money laundering risk. This regulatory gap could be exploited, especially as developments in other jurisdictions reveal emerging legal and policy challenges that Singapore’s existing anti-corruption laws cannot fully address. These implications remain unexamined in the Singapore context and this article seeks to fill that gap by examining these challenges, identifying existing regulatory approaches, and proposing a Hybrid Information-Connected Approach, inspired by Singapore’s financial insider trading laws, for Singapore to consider adopting. By identifying and defining this hybrid approach, this article aims to contribute a framework for future regulatory development in sports betting and support Singapore’s efforts to uphold sports integrity and strengthen its anti-money laundering regime.

### I. INTRODUCTION

Legalised sports betting was launched in Singapore in 1999 in support of the country’s plans for professional football development.<sup>1</sup> It was reported that more than S\$10 billion was spent on lotteries and sports betting in Singapore in the financial year of 2023<sup>2</sup> and market research forecasts that the global legalised sports betting market will grow to US\$231.2 billion by 2032.<sup>3</sup> Despite the substantial economic value of this sector, Singapore has not enacted specific legislation to regulate

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<sup>1</sup> Singapore Pools, “Our Milestones” <<https://www.singaporepools.com.sg/en/ci/Pages/milestones.aspx>>.

<sup>2</sup> Aqil Hamzah, “\$10.3b spent on lotteries and sports betting in S’pore in last financial year, up 12% from year before”, *The Straits Times* <<https://www.straitstimes.com/singapore/103b-spent-on-lotteries-and-sports-betting-last-financial-year-up-12-from-year-before>> (3 November 2023).

<sup>3</sup> Acumen Research and Consulting, “Sports Betting Market is set to reach USD 231.2 billion by 2032, with a notable 11.1% growth rate (CAGR)”, *yahoo!finance* <<https://finance.yahoo.com/news/sports-betting-market-set-reach-154700099.html>> (19 October 2023).

match-fixing and the misuse of inside information in sports betting, which are two of the most common forms of match manipulation observed internationally.<sup>4</sup> Traditionally, Singapore has relied on its anti-corruption laws to prosecute match-fixing conduct.<sup>5</sup> In addition, sport governing bodies, such as the Football Association of Singapore, use contractual obligations or codes of conduct to prevent sports corruption and regulate the gambling activities of their players and officials.<sup>6</sup> However, it has been observed that the criminalisation of the manipulation of sports competitions may still be necessary in Singapore eventually, given the limited disciplinary jurisdiction of the sport governing bodies.<sup>7</sup>

While Singapore's reliance on its anti-corruption laws has proven reliable, even seemingly able to address the emergence of match-fixing in new areas like e-sports,<sup>8</sup> the absence of laws in Singapore addressing the use of inside information in sports betting presents a gap that could be exploited. The likelihood of someone misusing inside information for legalised sports betting is real, as evidenced by incidents in New South Wales ("NSW"), Australia, where charges have been brought against persons for using inside information to bet on sporting events.<sup>9</sup>

One may question why a country, which has legalised sports betting, should take a position on the misuse of inside information. If the primary objective is to uphold sports integrity and prevent athletes from cheating in their games, then it should suffice for the sport governing bodies to have their own regulations and impose their disciplinary measures. However, recent developments in other jurisdictions demonstrate that the misuse of inside information in sports betting presents foreseeable legal challenges. These include sports betting by journalists with inside information,<sup>10</sup> the dissemination of misinformation that may unfairly influence betting

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<sup>4</sup> See Björn Hessert & Chui Ling Goh, "A Comparative Case Study of Match-Fixing Laws in Singapore, Australia, Germany, and Switzerland" (2022) 17 (2) *Asian Journal of Comparative Law* 286 at 286, 295 [Hessert & Goh]; Explanatory Report to the Council of Europe Convention on the Manipulation of Sports Competitions (Council of Europe Treaty Series — No. 215) <<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800d383f>> (18 September 2024) at 1–2, at [4]–[5] [*Macolin Convention Explanatory Report*].

<sup>5</sup> Hessert & Goh, *supra* note 4 at 288.

<sup>6</sup> *Ibid* at 290–291.

<sup>7</sup> *Ibid* at 292.

<sup>8</sup> Ang Hwee Min, "IN FOCUS: 'You'll never catch the cheats' — how the dark side of e-sports threatens its growth", *Channel News Asia* <<https://www.channelnewsasia.com/singapore/e-sports-cheating-match-fixing-toxic-behaviour-gaming-mainstream-global-acceptance-growth-3566941>> (17 June 2023); Singapore Corrupt Practices Investigation Bureau, "Two Esports Players Charged for Alleged Corruption and Gambling Offences" <<https://www.cpb.gov.sg/press-room/press-releases/05082022-two-esports/>> (5 August 2022).

<sup>9</sup> Poppy Morandin, "Cheating at Gambling Offence: Using Inside Information for Betting Purposes", *Criminal Defence Lawyers Australia* <<https://www.criminaldefencelawyers.com.au/blog/cheating-at-gambling-offence-using-inside-information-for-betting-purposes/>> (9 February 2024); Poppy Morandin, "Cheating at Gambling Offences and Laws in NSW", *Criminal Defence Lawyers Australia* <<https://www.criminaldefencelawyers.com.au/blog/cheating-at-gambling-offences-and-laws-in-nsw/>> (23 November 2022).

<sup>10</sup> Brian Moritz, "A major sports betting journalism scandal is coming", *Nieman Lab* <<https://www.niemanlab.org/2023/12/a-major-sports-betting-journalism-scandal-is-coming/>> (December 2023) [Moritz]; Jared Diamond, "Journalists Have Inside Information. Gamblers May Be Trying to Get It.", *The Wall Street Journal* <<https://www.wsj.com/sports/journalists-inside-information-gambling-4e560bc6>> (20 September 2023) [Diamond]; Brendon Kleen, "What Happens to Sports Media When Everyone's a Gambler?", *Global Sport Matters* <<https://globalsportmatters.com/business/2022/01/11/what-happens-sports-media-sports-betting/>> (11 January 2022) [Kleen].

decisions and odds,<sup>11</sup> and the use of technology, which Singapore seeks to harness for good,<sup>12</sup> but which can also be used to unlawfully obtain and exploit inside information for sports betting.<sup>13</sup> Additionally, there are emerging policy questions that reflect changing trends and commercial opportunities such as: whether prohibitions on the use of inside information should apply to athletes only;<sup>14</sup> whether athletes should be allowed to commercialise their own biometric data or whether such data should be treated as confidential inside information;<sup>15</sup> and whether an athlete's personal social media posts about their health or training performance, when not officially released by their team, should amount to disclosure of inside information.<sup>16</sup> Furthermore, the misuse of inside information in sports betting has been identified as a significant money laundering risk,<sup>17</sup> and Singapore treats such risks seriously.<sup>18</sup>

The existing literature on the misuse of inside information in sports betting has not examined whether Singapore, with its more than two-decade-long history of legalised sports betting, should enact specific legislation to regulate such misuse, especially in light of the emerging legal issues and policy questions. This article aims to fill that gap by submitting that now is a timely moment for Singapore to

<sup>11</sup> Mike Florio, "In an age of legalized wagering, inside information — and inside misinformation — can be problematic for the NFL", *NBC Sports Pro Football Talk* <<https://www.nbcsports.com/nfl/profootballtalk/rumor-mill/news/in-an-age-of-legalized-wagering-inside-information-and-inside-misinformation-can-be-problematic-for-the-nfl>> (26 June 2023) [Florio].

<sup>12</sup> Smart Nation Singapore, "Our Smart Nation Vision" <<https://www.smartnation.gov.sg/about/our-vision/smart-nation-vision/>> [Smart Nation Singapore].

<sup>13</sup> Craig A Newman, "Cybercrime Meets Insider Trading in Sports", *The New York Times* <<https://www.nytimes.com/2018/07/06/business/dealbook/sports-betting-cybercrime.html>> (6 July 2018) [Newman]; Connor O'Halloran, "Olympics: New Zealand report Canada for flying drone to record training", *ESPN Singapore* <[https://www.espn.com.sg/olympics/story/\\_/id/40626803/olympics-2024-new-zealand-canada-training-drone-soccer-women](https://www.espn.com.sg/olympics/story/_/id/40626803/olympics-2024-new-zealand-canada-training-drone-soccer-women)> (24 July 2024) [O'Halloran].

<sup>14</sup> Brad Rossiter, "Fixing MMA: The Ongoing Insider Betting Scandal", *JETLaw The Vanderbilt Journal of Entertainment and Technology Law* <<https://www.vanderbilt.edu/jetlaw/2023/01/09/fixing-mma-the-ongoing-insider-betting-scandal/>> (9 January 2023) [Rossiter].

<sup>15</sup> Jacob Gershman, "The Brave New World of Betting on Athletes' Data", *The Wall Street Journal* <<https://www.wsj.com/articles/the-brave-new-world-of-betting-on-athletes-data-11583848891>> (10 March 2020) [Gershman].

<sup>16</sup> This has already occurred in relation to the financial markets in 2012 and will be elaborated subsequently in this article. See Sarah Clarke KC, *Insider Dealing Law and Practice*, 2d ed (Oxford: Oxford University Press, 2020) at 233–234 [Clarke].

<sup>17</sup> *Macolin Convention Explanatory Report*, *supra* note 4 at 2, para 5; *New South Wales, Legislative Assembly, Crimes Amendment (Cheating at Gambling) Bill 2012* Second Reading (22 August 2012) <<https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/HANSARD-1323879322-49537>> at 14230 (Greg Smith, Attorney-General and Minister for Justice) [*Crimes Amendment (Cheating at Gambling) Bill 2012* Second Reading]; *Australian Capital Territory, Legislative Assembly, Criminal Code (Cheating at gambling) Amendment Bill 2013* Explanatory Statement <[https://www5.austlii.edu.au/cgi-bin/download.cgi/download/au/legis/act/bill\\_es/ccgab2013340.pdf](https://www5.austlii.edu.au/cgi-bin/download.cgi/download/au/legis/act/bill_es/ccgab2013340.pdf)> at 7 (Mr Simon Corbell MLA, Attorney-General); Paul David Walley, "Officially Gambling: Tim Donaghy and the NBA's Need for an Absolute Ban on Referee Gambling" (2017) 21(1) *Gaming Law Review and Economics* 36 at 37 which discusses the 2007 case of an NBA referee who provided betting tips to a mafia crime family, using inside information that he obtained through his role as a referee.

<sup>18</sup> The Ministry of Home Affairs and the Monetary Authority of Singapore emphasise that combating money laundering is important and a priority for Singapore. See Monetary Authority of Singapore, "Anti-Money Laundering" <<https://www.mas.gov.sg/regulation/anti-money-laundering/>>; Ministry of Home Affairs, "Policy on Anti-Money Laundering and Countering the Financing of Terrorism" <<https://www.mha.gov.sg/what-we-do/managing-security-threats/countering-the-financing-of-terrorism/policy-on-anti-money-laundering-and-countering-the-financing-of-terrorism/>>.

consider enacting specific legislation to regulate the misuse of inside information in sports betting. The legal issues and policy questions surrounding the use of inside information reflect genuine concerns, and the conversations to address them require clear regulatory responses, beginning with the fundamental question of whether such conduct should be prohibited. Moreover, as Singapore continues to strengthen its anti-money laundering framework,<sup>19</sup> specific legislation on this aspect would complement those efforts and reinforce the integrity of its legalised sports betting landscape.

Part II of this article will explore how the misuse of inside information in sports betting can be regulated. It will examine the laws in NSW,<sup>20</sup> which is the first jurisdiction to enact specific legislation criminalising such conduct, setting a precedent in this area. Additionally, this part will analyse the relevant provisions in the Council of Europe Convention on the Manipulation of Sports Competitions (the “**Macolin Convention**”),<sup>21</sup> which remains the first and only international convention addressing the manipulation of sports competitions. The existing literature has yet to explicitly identify and categorise the existing regulatory approaches to addressing the misuse of inside information in sports betting. This part will identify two approaches: the information-connected approach derived from NSW’s Crimes Act 1900; and the person-connected approach as reflected in the Macolin Convention.

Part III will examine the implications of the existing gap in Singapore’s legal system regarding the misuse of inside information in sports betting. It will highlight how this gap results in two main areas of uncertainty. The first pertains to who should be prohibited from misusing inside information, particularly non-athletes and individuals not directly involved in sports such as journalists, and those who covertly acquire and exploit such information through dubious means with the aid of technology. The second concerns what type of information should be treated as inside information and safeguarded against misuse, given the novel complexities arising from emerging trends such as the dissemination of misinformation, the potential commercialisation of athletes’ biometric data, and athletes’ use of social media. Such instances do not necessarily involve corruption.

Part IV critiques both the information-connected and person-connected approaches in the context of sports betting. This part highlights that while the person-connected approach provides clarity on who is regulated and what information is prohibited from misuse, reinforcing trust among stakeholders within the sporting community, it leaves gaps that allow third parties to exploit inside information without consequence. In contrast, the information-connected approach promotes broader accountability and strengthens sports integrity but poses enforcement challenges and raises concerns about potential overreach.

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<sup>19</sup> Fabian Koh, “Lessons from S\$3b money laundering case will strengthen Singapore’s approach to tackling threat: PM Wong”, *Channel News Asia* <<https://www.channelnewsasia.com/singapore/lessons-s3-billion-case-help-strengthen-singapores-approach-tackling-money-laundering-pm-wong-4436876>> (26 June 2024). See also *Singapore Parliamentary Debates, Official Report* (8 April 2025) vol 95 <<https://sprs.parl.gov.sg/search/#/sprs3topic?reportid=bill-754>>.

<sup>20</sup> Crimes Act 1900 No. 40 (New South Wales) [Crimes Act 1900].

<sup>21</sup> Council of Europe Convention on the Manipulation of Sports Competitions, Council of Europe Treaty Series No. 215 (entered into force 1 September 2019) [Macolin Convention].

Part V explains the features of a hybrid information-connected approach (“**Hybrid Information-Connected Approach**”), which primarily draws from the information-connected approach while incorporating a key aspect of the person-connected approach, and proposes its adoption in Singapore. This hybrid approach aims to leverage the strengths of both approaches, while addressing their respective limitations, and is inspired by Singapore’s insider trading laws.<sup>22</sup> The existing literature has yet to articulate this hybrid approach in either the financial securities or sports betting context. This article is the first to identify and define the Hybrid Information-Connected Approach for regulating the misuse of inside information in sports betting, with the aim of supporting future analysis of different regulatory approaches in this area.

Part VI concludes that Singapore should now consider enacting specific legislation based on the Hybrid Information-Connected Approach to address the misuse of inside information in sports betting, an area that currently remains unregulated and susceptible to exploitation. The hybrid approach offers a principled framework to address the emerging legal and policy challenges identified in this article and reinforce Singapore’s broader anti-money laundering efforts.

## II. REGULATORY APPROACHES TO ADDRESS THE MISUSE OF INSIDE INFORMATION IN SPORTS BETTING

The current literature has not explicitly identified and categorised the approaches for regulating the misuse of inside information in sports betting. This part seeks to clarify this area by outlining two existing regulatory approaches: the information-connected approach adopted in NSW’s Crimes Act 1900, and the person-connected approach as reflected in the Macolin Convention.

### A. *The Criminalisation of the Misuse of Inside Information in Sports Betting in NSW: An Information-Connected Approach*

The State Government of NSW was the forerunner in enacting specific legislation to criminalise the misuse of inside information in sports betting in 2012.<sup>23</sup> During the legislative debates, the NSW legislative assembly considered<sup>24</sup> the NSW Law Reform Commission’s report<sup>25</sup> (“**NSW Commission’s Report**”) and agreed that it was imperative that a safe and lawful market for sports betting be preserved. The NSW Commission’s Report highlighted that inside information related to sports can be “of considerable importance to those criminal syndicates that employ sports

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<sup>22</sup> Securities and Futures Act 2001 (2020 Rev Ed), Part 12, Division 3 <<https://sso.agc.gov.sg/Act/SFA2001>> [SFA 2001].

<sup>23</sup> Hessert & Goh, *supra* note 4 at 296.

<sup>24</sup> *Crimes Amendment (Cheating at Gambling) Bill 2012* Second Reading, *supra* note 17.

<sup>25</sup> New South Wales, Law Reform Commission, *Cheating at Gambling*, Report 130 (August 2011) (Chairperson: James Wood, AO QC) <<http://lawreform.nsw.gov.au/documents/Publications/Reports/Report-130.pdf>> [NSW Commission’s Report].

betting in support of money laundering activities”.<sup>26</sup> It also explained that a person who misuses inside information may not fall under the disciplinary powers of the sport governing bodies,<sup>27</sup> and that “the opportunity for the misuse of such information, to gain an unfair advantage, is such that it calls for a more serious response than that which might be available on a disciplinary basis”.<sup>28</sup> To ensure consistency and certainty, the legislation adopted definitions “substantially based on those used for the insider dealing offences under the *Corporations Act 2001* (Cth)”, which also follow an information-connected approach.<sup>29</sup>

The legislative assembly accepted the NSW Commission’s recommendation to enact specific criminal offences to prosecute “those who seek to fix a betting outcome, to profit from such a fix or to use inside information”.<sup>30</sup> The legislative assembly also highlighted the NSW Commission’s observations that the use of corrupt and inside information

Can be of considerable importance to criminal syndicates that use sports betting as a form of money laundering [and that] several submissions to the commission’s review supported the creation of such an offence, noting that the opportunity for misuse of such information to gain an unfair advantage warranted a criminal response.<sup>31</sup>

There was unanimous support for the legislation as the opposition also did not oppose the bill.<sup>32</sup>

Consequently, the Crimes Act 1900 was amended and s 193Q<sup>33</sup> enacted to criminalise, in gist, a person who “possesses information” about an event, which is “corrupt conduct information”<sup>34</sup> or “inside information”,<sup>35</sup> and “knows or is reckless as to whether” the information is as such, and bets on the event, encourages someone else to do so, or communicates the information to someone else who the person knows or ought reasonably to know would or would likely bet on the event. Where corrupt conduct information is involved, the maximum punishment prescribed is 10 years’ imprisonment; where inside information is involved, the maximum punishment prescribed is 2 years’ imprisonment. Under the Crimes Act 1900, corrupt conduct information is defined as information about conduct or proposed conduct that “corrupts a betting outcome of an event”, which is in turn defined as conduct that affects or would likely affect the outcome of any betting on the event and is contrary to the standards of integrity reasonably expected of persons in a position to affect

<sup>26</sup> *Ibid* at 25, para 2.81.

<sup>27</sup> *Ibid* at 25–26, para 2.81.

<sup>28</sup> *Ibid* at 26, para 2.83.

<sup>29</sup> *Ibid* at 28, para 2.96.

<sup>30</sup> *Crimes Amendment (Cheating at Gambling) Bill 2012* Second Reading, *supra* note 17.

<sup>31</sup> *Ibid*.

<sup>32</sup> *New South Wales, Legislative Assembly, Crimes Amendment (Cheating at Gambling) Bill 2012* Second Reading (11 September 2012) <<https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/HANSARD-1820781676-48486>> (Adam Searle, Deputy Leader of the Opposition).

<sup>33</sup> Crimes Act 1900, *supra* note 20.

<sup>34</sup> *Ibid*, s 193Q(1).

<sup>35</sup> *Ibid*, s 193Q(2).

the betting outcome.<sup>36</sup> “Inside information” is defined as information that is not generally available and, if it were generally available, would or would likely influence persons who commonly bet on the event in deciding whether to bet or not.<sup>37</sup> The legislation also provides that information is generally available (“**Generally Available Information**”) if the information is readily observable by the public, or has been made known in a manner that would or would likely to bring it to the public’s attention, or consists of deductions, conclusions or inferences made or drawn from the aforementioned information.<sup>38</sup> Although the legislation categorises corrupt conduct information and inside information separately, corrupt conduct information can be considered a type of inside information, specifically inside information about corrupt conduct.<sup>39</sup> By the definition of Generally Available Information, corrupt conduct information is highly unlikely to be readily observable, made known to the public, or deducible by the public, given that such activities are usually covert in nature<sup>40</sup> and offenders often go to great lengths to avoid detection.<sup>41</sup>

The Crimes Act 1900 adopts an information-connected approach. Under this approach, the mischief which is criminalised is where a person unlawfully uses inside information, in one of the prohibited ways provided in the legislation, regardless of the source of the information.<sup>42</sup> In sports betting, the focus of an information-connected approach is on a person, regardless of their position or relationship with the sport or sporting event, who possesses inside information and misuses it for betting. The NSW Commission’s Report explained that such an approach is consistent with Commonwealth insider trading laws that eliminate the distinction between “primary” insiders (such as shareholders, directors, and employees) and “secondary” insiders (that is, those with no connection to the relevant company but who knowingly received the inside information from a primary insider).<sup>43</sup>

Although the decision to criminalise the misuse of inside information in NSW was progressive for its time, it has been observed that the scope of the legislation is limited because it is concerned only with the outcome of betting events, and would not cover events or acts that are unrelated to betting.<sup>44</sup> Nevertheless, the NSW Commission’s Report emphasised the importance of distinguishing deliberate conduct intended to influence betting activities, and other forms of rule-breaking or

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<sup>36</sup> *Ibid*, s 193Q(3) read with s 193H(1).

<sup>37</sup> *Ibid*, s 193Q(4).

<sup>38</sup> *Ibid*, s 193Q(5).

<sup>39</sup> United Nations Office on Drugs and Crime & International Olympic Committee, “Criminalization approaches to combat match-fixing and illegal/irregular betting: a global perspective” (July 2013) at 53 <[https://www.unodc.org/documents/corruption/Publications/2013/Criminalization\\_approaches\\_to\\_combat\\_match-fixing.pdf](https://www.unodc.org/documents/corruption/Publications/2013/Criminalization_approaches_to_combat_match-fixing.pdf)> [UNODC & IOC, Criminalization approaches].

<sup>40</sup> United Nations Office on Drugs and Crime & International Olympic Committee, “Criminal Law Provisions for the Prosecution of Competition Manipulation” (2018) at 43, 45 <[https://library.olympics.com/Default/doc/SYRACUSE/177042/criminal-law-provisions-for-the-prosecution-of-competition-manipulation-unodc-ioc-study?\\_lg=en-GB](https://library.olympics.com/Default/doc/SYRACUSE/177042/criminal-law-provisions-for-the-prosecution-of-competition-manipulation-unodc-ioc-study?_lg=en-GB)>.

<sup>41</sup> United Nations Office on Drugs and Crime, “Investigation of Cases of Competition Manipulation: A Practical Guide” (December 2023) at 39 <<https://www.un-ilibrary.org/content/books/9789211066937>> [UNODC, Investigation of Cases of Competition Manipulation].

<sup>42</sup> NSW Commission’s Report, *supra* note 25 at 27.

<sup>43</sup> *Ibid*.

<sup>44</sup> UNODC & IOC, Criminalization approaches, *supra* note 39 at 53; Hessert & Goh, *supra* note 4 at 296.

unsportsmanlike conduct that, while potentially affecting the outcome of a game, are unrelated to betting and should remain within the disciplinary purview of the sport governing bodies rather than criminal law.<sup>45</sup> Additionally, legislation that is almost identical to NSW's has subsequently been adopted in the Australian Capital Territory<sup>46</sup> and South Australia.<sup>47</sup>

B. *Provisions on the Misuse of Inside Information Under the Macolin Convention: A Person-Connected Approach*

The Macolin Convention was adopted by the Committee of Ministers of the Council of Europe<sup>48</sup> on 9 July 2014<sup>49</sup> and entered into force on 1 September 2019.<sup>50</sup> It has been described as “the only rule of international law on the manipulation of sports competitions”.<sup>51</sup> One of the concerns leading to the adoption of the Macolin Convention was the observation that a large illegal betting market had developed since the early 2000s which gave customers a very high pay-out and this “has attracted criminal groups, interested in manipulating the sports competitions on which bets are placed so as to exploit the information through betting, and in the course of this activity laundering criminal finances”.<sup>52</sup> It was also highlighted that international legal instruments, regarding transnational organised crime and corruption, do not specifically deal with manipulation of sports competitions because the latter may occur outside any transnational crime network and not involve corruption.<sup>53</sup>

The Macolin Convention defines “inside information” in art 3(7) as information about any competition that a person “possesses by virtue of his or her position in relation to a sport or competition”, excluding “information already published or common knowledge, easily accessible to interested members of the public or disclosed in accordance with the rules and regulations governing the relevant competition”. The Macolin Convention Explanatory Report explains that the term refers to information acquired or possessed by persons who “were able to obtain it only because of their position vis-à-vis a particular athlete, sport or competition” which may be used particularly for “manipulating a sports competition or to bet on the competition with an advantage”.<sup>54</sup> Additionally, art 7(1) provides that parties “shall encourage” sports organisations and competition organisers to adopt and

<sup>45</sup> NSW Commission's Report, *supra* note 25 at 21, para 2.65.

<sup>46</sup> Criminal Code 2002 (Australian Capital Territory) ss 363G, 363H.

<sup>47</sup> Criminal Law Consolidation Act 1935 (South Australia) s 144K.

<sup>48</sup> The Council of Europe is an organisation that is distinct from the European Union (EU) and the EU's institutions including the European Council and the Council of the European Union. For more information, see “The European Council and the Council of the European Union” <<https://www.consilium.europa.eu/en/European-Council-and-Council-of-the-EU>>.

<sup>49</sup> *Macolin Convention Explanatory Report*, *supra* note 4 at 1, para 1.

<sup>50</sup> Council of Europe Treaty Office, “Chart of signatures and ratifications of Treaty 215” <<https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treaty-num=215>>.

<sup>51</sup> Council of Europe Sport, “The Convention on the Manipulation of Sports Competitions (the Macolin Convention)” <<https://www.coe.int/en/web/sport/macolin>>.

<sup>52</sup> *Macolin Convention Explanatory Report*, *supra* note 4 at 2, para 5.

<sup>53</sup> *Ibid* at 3, paras 13–14.

<sup>54</sup> *Ibid* at 11, para 64.

implement, rules to combat the manipulation of sports competitions, and principles of good governance concerning, *inter alia*, the prevention of conflicts of interest (“COIs”) including prohibiting the misuse or dissemination of inside information.<sup>55</sup> Art 10(1) further provides that parties “shall adopt” such legislative or other necessary measures to prevent COIs and misuse of inside information by natural or legal persons involved in providing sports betting products.

The definition of inside information under the Macolin Convention refers to information that is not published or not common knowledge, which a person possesses because of their position in a sport or competition. The analysis thus begins first with how the person acquired the information and whether it was obtained by virtue of their role in the sport or competition. If so, the next inquiry concerns the nature of the information, specifically, whether it was unpublished or not common knowledge. If both criteria are met, the information would constitute inside information. Although not expressly articulated in the Macolin Convention and its explanatory report, this is akin to the “person-connected” approach used in certain jurisdictions, such as Japan, China,<sup>56</sup> and the United States of America (“US”),<sup>57</sup> to regulate insider dealings in their financial markets. A key aspect of the person-connected approach focuses on the relationship between an individual and the owner of the information, and it is based on the theory that the former owes fiduciary duties to the latter that should not be violated.<sup>58</sup> In other words, when a person obtains inside information by virtue of their role and would not otherwise have been privy to the information, they are expected not to betray the trust placed in them to possess the information. The importance of the relationship can be gleaned from the Macolin Convention Explanatory Report where the phrase “only because of their position” was emphasised in its explanation of inside information.<sup>59</sup>

### III. THE EXISTING GAP IN SINGAPORE’S LEGAL SYSTEM REGARDING THE MISUSE OF INSIDE INFORMATION IN SPORTS BETTING

The potential legal issues and policy questions mentioned in the introduction of this article stem from recent events and developments in other jurisdictions. It cannot be assumed that Singapore will be immune to these issues and questions. While this article is unable to canvas all the issues and questions exhaustively, the purpose of highlighting them is to show that without a legal framework in place, it will be challenging to initiate meaningful discussions or analyses about the propriety of individuals who possess sports-related inside information that could be used for sports betting.

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<sup>55</sup> Macolin Convention, *supra* note 21, art 7(1)(a).

<sup>56</sup> Yuen Teen Mak et al, “Does the Adoption of an Information-Connected Approach Reduce Insider Trading?” (2008) (Conference paper, 21st Australasian Finance and Banking Conference) at 3 [Mak et al].

<sup>57</sup> Lance Ang, “The regulation of share buybacks and insider dealing: a comparative analysis” (2023) 18(3) CMLJ 329 at 335.

<sup>58</sup> Mak et al, *supra* note 56 at 9–10.

<sup>59</sup> *Macolin Convention Explanatory Report*, *supra* note 4 at 11, para 64.

However, before proceeding further, this article highlights three caveats. First, this article proceeds on the premise that preserving the integrity of sports<sup>60</sup> and ensuring transparency and fairness to punters participating in legalised sports betting are in the public's interest.<sup>61</sup> Accordingly, even though there are continuing debates on whether insider dealing in the trading of financial securities should be illegal or not,<sup>62</sup> this article will not engage in a similar debate regarding the use of inside information in sports betting.

Second, the focus of this article is on the misuse of inside information in sports betting, rather than a broader issue concerning the use of such information to manipulate competitions including non-betting-related outcomes. This article adopts a more conservative scope, which may be necessary for a jurisdiction like Singapore that has not yet enacted specific legislation regarding the misuse of inside information in sports betting, allowing the matter to be addressed one step at a time. This was also the approach taken by NSW, when it first introduced legislation criminalising the misuse of inside information in sports betting. At the time, the NSW legislative assembly highlighted that the offences were novel in nature and would be reviewed after three years;<sup>63</sup> more than a decade later, the offences remain in effect.

Third, this article acknowledges that, besides criminalisation, other mechanisms such as education to raise awareness or the establishment of a specific regulatory agency with powers to impose disqualifications and civil financial penalties may also regulate and curb the misuse of inside information in sports betting.<sup>64</sup> However, this article submits that there is symbolic significance in enacting the misuse of inside information in sports betting as a criminal offence because it stigmatises the conduct and communicates to the public that the prohibited activity is a serious wrongdoing.<sup>65</sup> In particular, when the misuse of inside information affects a sector involving billions of dollars and has risks associated with money laundering, there is a strong case for stigmatisation as a deterrent. On the other hand, this article recognises the view that it should be the sport governing bodies who act, since they are primarily "responsible for sport and have self-regulatory and disciplinary responsibilities in the fight against manipulation of sports competitions".<sup>66</sup> In addition, where members of sport governing bodies and competition stakeholders are concerned, the misuse of inside information is closely tied to preventing COIs, and

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<sup>60</sup> NSW Commission's Report, *supra* note 25 at 5, para 1.19; International Olympic Committee, "Olympic Movement Code on the Prevention of the Manipulation of Competitions, Extract of the IOC Code of Ethics" <[https://stillmed.olympics.com/media/Documents/Beyond-the-Games/Fight-against-competition-manipulation/Code-Mouvement-Olympique-2022-EN.pdf#\\_ga=2.247252737.480753462.1688369509-1043555523.1678197020](https://stillmed.olympics.com/media/Documents/Beyond-the-Games/Fight-against-competition-manipulation/Code-Mouvement-Olympique-2022-EN.pdf#_ga=2.247252737.480753462.1688369509-1043555523.1678197020)> (September 2022) at 1, para (a); United Nations Office on Drugs and Crime, "Global Report on Corruption in Sport — Illegal Betting And Sport" <[https://www.unodc.org/res/safeguardingsport/grcs/section-9\\_html/SPORTS\\_CORRUPTION\\_2021\\_S9.pdf](https://www.unodc.org/res/safeguardingsport/grcs/section-9_html/SPORTS_CORRUPTION_2021_S9.pdf)> (2021) at 9, 24.

<sup>61</sup> NSW Commission's Report, *supra* note 25 at 7, para 1.32.

<sup>62</sup> Bariyima Sylvester Kokpan, Cleverline Brown & Etheldred Ego Woha, "Criminalization of Insider Trading: To Be or not to Be?" <<https://papers.ssrn.com/abstract=4459028>> (8 June 2023) at 7–10.

<sup>63</sup> *Crimes Amendment (Cheating at Gambling) Bill 2012* Second Reading, *supra* note 17.

<sup>64</sup> A P Simester et al, *Simester and Sullivan's Criminal Law: Theory and Doctrine*, 6th ed (Oxford: Hart Publishing, 2016) at 675–677 [A P Simester et al]; Adam Masters, "Corruption in sport: From the playing field to the field of policy" (2015) 34(2) *Policy and Society* 111 at 119–121.

<sup>65</sup> A P Simester et al, *supra* note 64 at 677.

<sup>66</sup> Macolin Convention, *supra* note 21, at 2.

sport governing bodies are encouraged to adopt and implement their own rules to combat such COIs.<sup>67</sup> Although this article acknowledges that there can be further discussions on whether legislation is the most appropriate approach, it proceeds on the premise that enacting specific legislation to prohibit the misuse of inside information in sports betting is appropriate. With the caveats in mind, this article submits that the absence of a legal framework in Singapore to address the use of such inside information poses two main problems.

### A. Uncertainty Over Who Should be Prohibited

First, without a legal framework, there is uncertainty over who should be prohibited from misusing inside information in sports betting. This uncertainty can manifest in two ways. The first concerns the criteria for determining which persons should be prohibited from misusing inside information, while others should not. Although it may seem instinctive to impose this prohibition on athletes,<sup>68</sup> without a legal framework in place, how would one reason as to which other persons should also be prohibited? This issue has already arisen in mixed martial arts (“MMA”) in the US. In 2018, the US Supreme Court struck down<sup>69</sup> the Professional and Amateur Sports Protection Act (“PASPA”). Before the decision, the PASPA had made it generally unlawful for a State in the US to establish sports betting. After the decision, it paved the way for legalised sports betting in the US.<sup>70</sup> It has since been observed that MMA fighters and their coaches have taken advantage of the opportunity to supplement their income, with earnings from gambling on MMA potentially exceeding their other revenue streams.<sup>71</sup> In November 2022, suspicious betting activity concerning an Ultimate Fighting Championship (“UFC”) fight led to regulatory investigations,

<sup>67</sup> *Ibid*, art 7(1)(a).

<sup>68</sup> In Singapore, several national sports associations have explicitly endorsed and required their athletes to comply with the Code of Conduct of the Olympic Movement Unit on the Prevention of the Manipulation of Sport Competitions, which prohibits, among other things, the sharing of inside information for betting, the manipulation of competitions and other corrupt purposes. For example, the Singapore Badminton Association, the Singapore Table Tennis Association, and Singapore Gymnastics, have adopted policies which are in line with the code of conduct. In addition, the Singapore Boxing Federation refers to compliance with the code of conduct in its constitution, as do the Singapore Athletics Association and the Football Association of Singapore. See Singapore Badminton Association, “Prevention of Manipulation of Competitions” <<https://singaporebadminton.org.sg/our-policies/>>; STTA, “Policies Adopted by STTA” <<https://www.stta.org.sg/about-us/policies/>>; Singapore Gymnastics, “Prevent Competition Manipulation Policy” <<http://www.singaporegymnastics.org.sg/news/prevent-competition-manipulation-policy>> (3 September 2021); Singapore Boxing Federation, “Our Policies” <<https://www.singapore-boxing.org/our-policies/>>; Constitution of Singapore Athletic Association <<https://api.singaporeathletics.org.sg/api/FileResources/X-0630-cd3677a7411f48d1ac100f174ef8d179.pdf>> (August 2021); Constitution of Football Association of Singapore <<https://www.fas.org.sg/wp-content/uploads/2025/03/FAS-Constitution-17032025.pdf>> (17 November 2023).

<sup>69</sup> *Murphy, Governor of New Jersey, et al v National Collegiate Athletic Association et al* Volume 584 Part 2 *United States Reports* 381 at 453 (Supreme Court, 2018) <<https://supreme.justia.com/cases/federal/us/584/16-476/>>.

<sup>70</sup> Lawrence Hurley, “U.S. high court paves way for states to legalize sports betting”, *Reuters* <<https://www.reuters.com/article/sports/us-high-court-paves-way-for-states-to-legalize-sports-betting-idUSKCN11F1WN/>> (15 May 2018).

<sup>71</sup> Rossiter, *supra* note 14.

amid beliefs that the betting was based on leaked information about one of the fighter's pre-fight injury.<sup>72</sup> The incident in November occurred despite the UFC updating its "UFC Athlete Conduct Policy" in October 2022,<sup>73</sup> which expressly states that "[a]thletes are prohibited from placing any wagers (directly or through a third party) on any UFC match, including placing any wagers on themselves".<sup>74</sup> The policy also notified the athletes that "in most states these same prohibitions apply to some or all of (i) relatives living in the same household as an athlete, (ii) an athlete's coaches, managers, handlers, athletic trainers, medical professionals and staff, and (iii) any other person with access to non-public information regarding participants in any MMA match".<sup>75</sup> Although the policy update was a step in the right direction, it has been commented that it is "very limited" as there are other persons, besides the athletes, with inside information who are not subject to the prohibition.<sup>76</sup> The incident in November still occurred despite the earlier policy update by the UFC. The question that arises is whether there was any principled reason for the UFC to have prohibited the athletes only, even though the UFC knew about the applicability of the prohibition to a wider group of individuals in most States in the US for "maintaining the integrity of [the] sport".<sup>77</sup>

Another profession linked to sports, and facing controversy over possessing inside information, is journalism. Journalists themselves have highlighted that they have access to inside information as they frequently know about important developments like injuries before the general public and are often involved in the determination of awards and Hall of Fame inductions which are sports-related events that people can bet on.<sup>78</sup> Although some are of the view that the misuse of inside information is unlikely because of competitive pressure to release breaking news,<sup>79</sup> they are also unable to completely rule out this risk especially in sports at lower levels

<sup>72</sup> David Purdum & Marc Raimondi, "UFC fight under investigation after suspicious betting detected", *ESPN* <[https://www.espn.com/chalk/story/\\_id/34968905/ufc-fight-investigation-suspicious-betting-detected](https://www.espn.com/chalk/story/_id/34968905/ufc-fight-investigation-suspicious-betting-detected)> (6 November 2022).

<sup>73</sup> Marc Raimondi, "New UFC policy prohibits fighters from wagering on promotion's fights", *ABC News* <<https://abcnews.go.com/Sports/ufc-policy-prohibits-fighters-wagering-promotions-fights/story?id=91650880>> (18 October 2022); Nolan King, "UFC to 'expressly prohibit' fighters, teams from wagering on bouts in updated 'athlete code of conduct'", *MMA Junkie* <<https://mmajunkie.usatoday.com/2022/10/ufc-news-wagering-ban-fighter-code-of-conduct>> (17 October 2022) [King]. King reproduced an extract of the e-mail circulated by the UFC to its roster of athletes and athlete managers, and provided a hyperlink to a copy of the UFC Athlete Conduct Policy.

<sup>74</sup> UFC Athlete Conduct Policy <[https://media.ufc.tv/conduct/athlete\\_conduct\\_policy.pdf](https://media.ufc.tv/conduct/athlete_conduct_policy.pdf)>.

<sup>75</sup> *Ibid.*

<sup>76</sup> Rossiter, *supra* note 14.

<sup>77</sup> King, *supra* note 73.

<sup>78</sup> Diamond, *supra* note 10; Sarah Scire, "Can reporters make bets on sports they cover? We asked a dozen newsrooms.", *Nieman Lab* <<https://www.niemanlab.org/2023/11/can-reporters-make-bets-on-sports-they-cover-we-asked-a-dozen-newsrooms/>> (2 November 2023) [Scire].

<sup>79</sup> In Singapore, there have been two reported incidents of journalists receiving confidential information from state officials. In one case, a journalist published an article about sensitive economic data ahead of official release. In another, the journalist prepared an article using embargoed information but did not proceed with publication after police investigations commenced. In both cases, it appears that the information was not used for personal financial gain, but to secure a competitive advantage in news reporting. See Maria Almenoar, "HDB officer fined \$2,000 for breaching Official Secrets Act by giving confidential info to ST journalist", *The Straits Times* <<https://www.straitstimes.com/singapore/courts-crime/hdb-officer-pleads-guilty-to-breaching-official-secrets-act-by-giving>> (20 December 2017); Raymond Whitaker, "Singapore tries five for revealing economic facts", *The Independent* <<https://www.independent.co.uk/news/world/singapore-tries-five-for-revealing-economic-facts-1512306.html>> (21 October 1993).

that may receive less attention and coverage.<sup>80</sup> It is arguable that journalists, who are primarily observers and not directly involved in the sport or event, should not be subject to the same prohibition, and it may simply be an ethical issue of avoiding COIs.<sup>81</sup> However, even among newsrooms in the US, there does not appear to be any consensus.<sup>82</sup>

In addition, the advent of technology, which Singapore aims to harness for good,<sup>83</sup> has ironically led to a new category of persons who misuse technology to wrongfully obtain and exploit inside information. Teams often analyse and store non-public information in their computer systems such as medical records, game plans, and biometric monitoring device data.<sup>84</sup> This treasure trove of information is likely to attract hackers looking to gain an advantage in sports betting.<sup>85</sup> Undoubtedly, the hackers would have committed an offence of unauthorised access to data held in computer systems. For example, in 2015, a scouting director of an American baseball team hacked into a competitor team's database looking for competitive information, using the information to his team's advantage, and did so for more than two years without detection; he was subsequently convicted and sentenced to imprisonment for corporate espionage.<sup>86</sup> Data hacks are becoming prevalent, and they are affecting the sporting world.<sup>87</sup> But what should the extent of the hacker's culpability be in such situations? On one hand, it can be asserted that the hacker's culpability should be focused solely on the unauthorised data access, which is the nub of the misconduct. However, it may not sound ideal if there are no repercussions for the hacker who had gone on to exploit the inside information for profit, either by selling the information to punters or directly placing bets.<sup>88</sup> A corollary and difficult question also arises as to whether punters who acquire such information, knowing or not caring that it was unlawfully obtained, should also be criminally liable. After all, if their demand for such information contributed to the hackers' motivations, then the issue should be addressed at both the demand and supply levels.

Besides data hacks, another technological development, which can have implications on how inside information may be obtained, is the use of drones. In July 2024, the New Zealand women's football team had their training session for the Olympics disrupted when a drone was flown over during their training and the operation of the drone turned out to involve a member of the Canadian soccer support team.<sup>89</sup> Although FIFA disciplined the Canadian women's soccer team<sup>90</sup> and this

<sup>80</sup> Kleen, *supra* note 10; Moritz, *supra* note 10.

<sup>81</sup> Kleen, *supra* note 10.

<sup>82</sup> Scire, *supra* note 78.

<sup>83</sup> Smart Nation Singapore, *supra* note 12.

<sup>84</sup> William H Williams, "On the Clock, Best Bet to Draft Cyberdefensive Linemen: Federal Regulation of Sports Betting from a Cybersecurity Perspective" (2019) 13(2) Brooklyn Journal of Corporate, Financial & Commercial Law 539 at 542–543, 545 [Williams].

<sup>85</sup> *Ibid* at 544.

<sup>86</sup> *Ibid* at 554; Newman, *supra* note 13. See also, for example, Computer Misuse Act 1993 (2020 Rev Ed), s 3 <<https://sso.agc.gov.sg/Act/CMA1993>>. This statutory provision criminalises unauthorised access to data held in a computer.

<sup>87</sup> Williams, *supra* note 84 at 548.

<sup>88</sup> Newman, *supra* note 13; Williams, *supra* note 84 at 544–545.

<sup>89</sup> O'Halloran, *supra* note 13.

<sup>90</sup> Francesca Gariano, "FIFA suspends Canada's women's soccer coach after drone-spying scandal" *TODAY* <<https://www.today.com/news/paris-olympics/canada-womens-soccer-drone-controversy-rcna163962>> (28 July 2024).

was upheld by the Court of Arbitration for Sport,<sup>91</sup> there was no finding that the motive was related to sports betting. Nevertheless, this incident highlights how technology can be misused to unethically, though not unlawfully, obtain non-public information. What then should the consequence be if the information was exploited, not to obtain a competitive edge, but to gain an advantage in sports betting?

If there was a legal framework in place, some of the questions that have arisen in the above examples may be addressed or, at the least, there is a starting point for discussion. For example, with an information-connected approach, the analysis could begin with a premise that any person who possesses inside information — whether the athlete, their team staff, third parties such as journalists, anyone who obtains inside information without authorised access, and punters who purchase the information from the latter — should fall within the scope of the legal framework and have their use of such information regulated. Parliament then needs to decide what the boundaries of how inside information can be lawfully used should be, *eg*, prohibiting its use for sports betting but not for purposes of publishing an article or for gaining a competitive edge (though the latter may still be an ethical issue left to the sport governing bodies to address through disciplinary measures). If a person-connected approach is adopted instead, then a person who is connected with a sport or sporting event should be aware that they are prohibited from using inside information in their possession for purposes beyond their role, unless Parliament enacts certain exceptions for them. But, without a framework in place, it is difficult for the conversation to even begin.

### B. *Uncertainty Over What Information Should be Protected*

The second way uncertainty arises concerns the types of information that should be classified as inside information and protected from misuse. While traditional conceptions of inside information, such as medical records, game plans, and biometric monitoring device data,<sup>92</sup> are relatively straightforward, the boundaries become less clear, and matters get more complicated, when there is dissemination of misinformation, the opportunity for commercialisation of an athlete's biometric information with sportsbooks, and athletes' use of social media.

The issue with a person's dissemination of misinformation is complicated because, implicit in the notion of misinformation, is the possibility that the person knows what the true inside information is.<sup>93</sup> However, in such a situation, the content that was disseminated is arguably not the inside information itself because the actual true inside information remains undisclosed. This raises the question of whether knowledge that the disseminated information was untrue should itself fall within the scope of inside information. The matter gets more complicated when it is difficult to ascertain whether the individual had inside information that he knew to be true and complete. For example, in June 2023, a reporter identified that a

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<sup>91</sup> Andrew Warshaw, "Canadian drones were not a on-off, finds report" *Inside World Football* <<https://www.insideworldfootball.com/2024/11/11/canadian-drones-not-off-finds-report/>> (11 November 2024).

<sup>92</sup> Williams, *supra* note 84 at 542–543, 545.

<sup>93</sup> Of course, a person may also disseminate misinformation if they are reckless as to the truth or are simply indifferent about the truth.

particular athlete “was gaining serious momentum”<sup>94</sup> to be the second overall pick in the National Basketball Association (“NBA”) draft. This information moved the betting markets towards the identified athlete; however, ultimately the team with the second overall draft pick chose someone else instead.<sup>95</sup> Although there was no suggestion that there was anything improper in the reporter’s conduct, it has been commented that “the appearance of potential impropriety is unavoidable”<sup>96</sup> especially because the reporter had a commercial partnership agreement with a popular online sportsbook.<sup>97</sup> The identified athlete eventually became the third overall NBA draft pick.<sup>98</sup> In this example, had the reporter received information, which was not Generally Available Information, that the identified athlete would not be the number one draft pick but could potentially be selected as the second draft pick along with several other candidates, what would justify his disclosure of the athlete “gaining serious momentum”, and not the other candidates? If the identities of the other candidates constitute inside information, there should be no reason why information about the identified athlete should not similarly constitute inside information.

The opportunity for athletes to commercialise their biometric information also complicates what inside information should encompass. It has been reported in the US that sportsbooks have been “jockeying with professional leagues and players for control” of real time biometric data about the athletes.<sup>99</sup> In the State of Illinois, in the US, a sports-betting law<sup>100</sup> has been passed that bans sportsbooks from using “personal biometric data”<sup>101</sup> such as heart rate, blood pressure, perspiration rate, glucose levels and sleep patterns, without written authorisation from the athlete’s players’ association; this assumes that there is a potential market for the data since written authorisation can be obtained.<sup>102</sup> Putting aside issues of data privacy and ethics for now,<sup>103</sup> if such biometric data can be commercialised by an athlete as a commodity and sold to the highest bidder, it may not be desirable for such data to be considered as inside information and utilised exclusively by one party for financial gains. Building on the earlier discussion about misinformation, similar challenges may arise if a sportsbook holds exclusive access to such biometric data. For example, if a sportsbook possesses real-time biometric data indicating that a star forward in a football team has been having irregular sleep patterns likely to impair their performance, it may manipulate betting odds by inflating the likelihood of the athlete’s team winning, thereby creating a misleading impression for punters.

<sup>94</sup> Diamond, *supra* note 10; Florio, *supra* note 11.

<sup>95</sup> Florio, *supra* note 11.

<sup>96</sup> *Ibid.*

<sup>97</sup> Diamond, *supra* note 10.

<sup>98</sup> *Ibid.*

<sup>99</sup> Gershman, *supra* note 15.

<sup>100</sup> Sports Wagering Act, 230 ILCS 45 <<https://www.ilga.gov/legislation/ilcs/ilcs5.asp?ActID=3996&ChapterID=25>>, s 25-80 [Sports Wagering Act].

<sup>101</sup> *Ibid.*, s 25-10.

<sup>102</sup> Gershman, *supra* note 15.

<sup>103</sup> For example, see Kristy Gale, “The Sports Industry’s New Power Play: Athlete Biometric Data Domination. Who Owns It and What May Be Done With it?” (2016) 6(1) *Arizona State Sports & Entertainment Law Journal* 7; Barbara Osborne & Jennie L Cunningham, “Legal and Ethical Implications of Athletes’ Biometric Data Collection in Professional Sport” (2017) 28(1) *Marq Sports L Rev* 37; Sarah M Brown & Kate M Brown, “Betting on Athlete Data: The Legal Landscape of Professional Sports, Athletes’ Rights and Gaming Companies” (2022) 9(2) *JGSM* 325 at 332–333.

It is already common for sportsbooks to rely on non-public information, acquired through legitimate exclusive data access arrangements with professional leagues, to set betting odds.<sup>104</sup> Regulatory frameworks therefore should be developed, or evolve, to regulate and prevent misuse.

Even when an athlete's biometric data is not commercialised for betting purposes, complications remain. For instance, an athlete may endorse a company's fitness product and agree to share their biometric data for research and development purposes to improve the performance or effectiveness of the product. In this situation, because the use is not betting related, one could argue that the information should not be classified as inside information. However, this raises additional questions. Should the athlete be required to take precautions to ensure that their biometric data will not be used by the company's employees for sports betting purposes? Further, what regulatory consequences, if any, should follow if one of the company's employees wrongfully uses the biometric data for betting?

Another form of personal information that complicates the concept of inside information is content posted by an athlete on their personal social media account, such as their health or training performance updates, which is not officially released by their team, but could nonetheless influence betting activity. While this has not yet reportedly occurred in the context of sports betting, it has already occurred vis-à-vis the financial markets. In 2012, the CEO of Netflix Inc made an announcement on his personal Facebook page about the company's monthly online viewings and it caused the share prices of Netflix to rise sharply, even though that information was never reported in any company press release.<sup>105</sup> It is therefore conceivable that an athlete may similarly publish posts about their health status and thoughts about their training performance on their personal social media accounts, perhaps to engage their fans<sup>106</sup> or seek mental health support during injury rehabilitation,<sup>107</sup> which are

<sup>104</sup> Samanth Subramanian, "Inside the Companies That Set Sports Gambling Odds", *Bloomberg* <<https://www.bloomberg.com/news/features/2024-10-11/sports-gambling-odds-are-set-by-these-little-known-companies?embedded-checkout=true>> (11 October 2024) [Subramanian].

<sup>105</sup> Clarke, *supra* note 16 at 233–234.

<sup>106</sup> Social media has become an important tool for athletes to build their personal brands, grow their fan-base, and attract sponsorship opportunities or gain other forms of social capital. This has prompted a growing body of research exploring how social media influences athletes, consumers, and brands. See, for example, Kevin R Filo, Daniel J Lock, & Adam Karg, "Sport and Social Media Research: A Review" (2015) 18(2) *Sport Management Review* 166; Jason P Doyle, Yiran Su, & Thilo Kunkel, "Athlete branding via social media: examining the factors influencing consumer engagement on Instagram" (2022) 22(4) *European Sport Management Quarterly* 506; Thilo Kunkel, Jason Doyle, & Sangwon Na, "Becoming more than an athlete: developing an athlete's personal brand using strategic philanthropy" (2022) 22(3) *European Sport Management Quarterly* 358. At the same time, this article recognises the potential downsides of social media use by athletes, including risks such as cyberbullying and online shaming that arise from the public's direct, and possibly unadulterated, access to aspects of an athlete's life as portrayed online. These consequences have also been the subject of academic research study. See, for example, Marion E Hambrick et al, "Understanding Professional Athletes' Use of Twitter: A Content Analysis of Athlete Tweets" (2010) 3 *International Journal of Sport Communication* 454; Anne S Y Cheung, "Revisiting Privacy and Dignity: Online Shaming in the Global E-Village" (2014) 3(2) *Laws* 301; Ellen MacPherson & Gretchen Kerr, "Sport fans' responses on social media to professional athletes' norm violations" (2021) 19(1) *International Journal of Sport and Exercise Psychology* 102. A detailed analysis of these issues, however, falls outside the scope of this article.

<sup>107</sup> Brodie Nankervis et al, "How do professional Australian Football League (AFL) players utilise social media during periods of injury? A mixed methods analysis" *ScienceDirect* (2018) 21(7) *Journal of Science and Medicine in Sport* 681.

not officially released by their team but could nonetheless be used by punters for sports betting purposes. In such a situation, should the information constitute inside information that the athlete should have kept confidential, or should it be considered as information about their personal affairs and endeavours that they are free to share on social media? If the athlete has a significant fanbase on social media, *eg*, Lionel Messi who has over 361 million followers,<sup>108</sup> would the disclosed information become Generally Available Information? What if the social media post was only accessible by subscription (even if the subscription was free)? Specifically, should the subscribers, who receive information disclosed directly by the athlete on their social media account, be prohibited from using that information for betting purposes?

Similarly, these instances show that a legal framework needs to be in place to commence discussions on how they should be addressed. For example, with the information-connected approach, the starting point would be that information should be considered as inside information so long as it is not Generally Available Information, and would, or would likely, influence persons who commonly bet on the event in deciding whether to bet or not. As such, in the context of misinformation being disseminated by a person who knows what the true inside information is, it can be argued that the dissemination should have been prohibited because it is based on information that is not Generally Available Information and would likely influence a person's betting decision. In addition, athletes who want to commercialise their biometric data with third parties unrelated to sports betting, or post about their health and training performance on their personal social media accounts, would have to be mindful that such information is not Generally Available Information and so take reasonable steps to ensure that the information would not be used for betting purposes. If a sportsbook is involved and has possession of an athlete's biometric data, then Parliament may have to enact specific prohibitions to prevent misuse by sportsbooks that unfairly prejudices punters.

If a person-connected approach is adopted instead, then a person who is connected with a sport or sporting event should know that the information that they possess, solely because of their position in the sport or event, is inside information when the information is unpublished or not common knowledge. Under such an approach, an athlete would know that their biometric data and any content about their sport would constitute inside information, and that they should not be disclosing such information whether through commercialisation, posting on social media, or otherwise, unless there are exceptions that apply. This person-connected approach can also provide a useful starting point for discussing the situation involving misinformation. The decision to prohibit any dissemination of misinformation can be contingent on the identity of the perpetrator and less on whether the perpetrator knew what the complete and true inside information was.

Finally, this article highlights that the instances discussed above do not necessarily involve corruption within Singapore's primary anti-corruption statute<sup>109</sup> because a key element of the offence of corruption in Singapore requires, in gist,

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<sup>108</sup> Stacy Jo Dixon, "Athletes with the most Instagram followers worldwide 2022", *Statista* <<https://www.statista.com/statistics/647392/most-followers-instagram-athletes/>> (13 September 2023).

<sup>109</sup> Prevention of Corruption Act 1960 (2020 Rev Ed) <<https://sso.agc.gov.sg/Act/PCA1960>> [PCA 1960].

*quid pro quo*, that is, gratification is promised or given to an individual in exchange for the latter doing or forbearing to do an act,<sup>110</sup> or doing or forbearing to do an act that concerns his principal's affairs or business.<sup>111</sup> A journalist or team official who makes use of inside information in their possession to directly place bets may be corrupt in the moral sense but would not have committed the offence of corruption because there was no *quid pro quo* for their act of placing bets. A person who disseminates misinformation, affecting betting odds, may not have done so because he was promised gratification to do so. Similarly, the punter, who obtains inside information from a hacker or through dubious means like the use of a drone to observe training grounds, may not necessarily have offered gratification prior to the hacker's or drone-operator's actions (though it would certainly raise suspicions of corruption if the hacker or drone-operator was a member of the athlete's or team's support personnel). Athletes who wish to commercialise their biometric data, or publish content on social media, would certainly fall outside the scope of corruption offences. Consequently, relying solely on anti-corruption laws would be insufficient to address the emerging legal issues and policy questions highlighted in this part, and a country like Singapore, which has legalised sports betting, will not be immune from them. Without a specific legal framework in place, there will be uncertainty over how these issues and questions should be addressed and resolved.

#### IV. CRITIQUING THE INFORMATION-CONNECTED AND THE PERSON-CONNECTED APPROACHES

Before explaining its proposal that Singapore can consider adopting the Hybrid Information-Connected Approach to regulate the misuse of inside information in sports betting, this article examines the advantages and disadvantages of both the information-connected and person-connected approaches in the context of sports.

The advantage of the person-connected approach is that it provides some "bright-line rules"<sup>112</sup> and could make matters straightforward to identify a person who falls within the prohibited activity.<sup>113</sup> In addition, such an approach, when used in conjunction with a rebuttable statutory presumption that the person intended to engage in the prohibited activity, can be a powerful deterrent instrument because the legal burden will be on the person to rebut it on a balance of probabilities.<sup>114</sup> It could therefore put people, who possess inside information only because of their position,

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<sup>110</sup> *Ibid*, ss 5(a)–5(b).

<sup>111</sup> *Ibid*, ss 6(a)–6(b).

<sup>112</sup> Hui Huang, "The regulation of insider trading in China: A critical review and proposals for reform" (2005) 17(3) *Austl J Corp L* 281 at 294.

<sup>113</sup> Z Su & M A Berkahn, "The Definition of "Insider" in Section 3 of the Securities Markets Act 1988: A Review and Comparison With Other Jurisdictions" (November 2003) (Discussion Paper Series 218, School of Accountancy, Massey University, Palmerston North, New Zealand) <<https://mro.massey.ac.nz/items/cf1bcf2b-8735-454a-bbc5-49e4bb937ac3>> at 15.

<sup>114</sup> Australia, Australian Law Reform Commission, *Traditional Rights and Freedoms—Encroachments by Commonwealth Laws* Report 129 (December 2015) <[https://www.alrc.gov.au/wp-content/uploads/2019/08/alrc\\_129\\_final\\_report\\_.pdf](https://www.alrc.gov.au/wp-content/uploads/2019/08/alrc_129_final_report_.pdf)> at 262, para 9.14 (Chairperson: Rosalind Croucher AM) [Australian Law Reform Commission].

on notice that they are expected to act with integrity and not misuse inside information that they are privy to because of their role. It also then reinforces the notion that the trust placed in them, by virtue of their role, should be robustly protected and that any hint of mistrust will put the onus immediately on them to give an explanation. In the context of sports, a person-connected approach therefore has an immediate advantage of ensuring that the people most intricately involved, *eg*, the athletes, officials and organisers of sporting events, uphold the trust placed in them because of their roles and to treat inside information seriously and take due care to prevent any misuse.

In Singapore, Singapore Pools, which is currently the country's only legalised sports betting operator, already appears to recognise the risk of inside information being misused for betting and their house rules reflect aspects of a person-connected approach. Its house rules<sup>115</sup> prohibit any player, official, or volunteer associated with football teams in the Singapore Premier League, the Singapore Cup or successor competitions, from betting on those events or others their entity is involved in. The same prohibition also applies to staff, officials, or volunteers of the Football Association of Singapore who may influence match outcomes. The house rules suggest a recognition that individuals closely connected to a sport or sporting event possess valuable inside information such as player condition, morale, or match tactics, and that restrictions are necessary to prevent their misuse of such inside information for betting.<sup>116</sup>

However, under the person-connected approach, whether information constitutes inside information depends first on the individual's relationship with the sport or event in question. The first step in the analysis is to determine whether the information was obtained by virtue of the individual's role in the sport or event. If it was not, the analysis ends and there is no inside information to speak of. In other words, in determining whether there was inside information, the primary threshold inquiry is the relationship between the individual and the sport or sporting event. An odd situation could then arise where information which could typically be considered as inside information, such as tactical game strategies,<sup>117</sup> may technically fall outside the definition of inside information simply because the person who possessed the information is a third party unrelated to the sport or the event, for example, a cleaner who overhears the team's tactical discussions<sup>118</sup> or a journalist who is granted access to a training session and observes information about game strategies.

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<sup>115</sup> Singapore Pools House Rules <<https://www.singaporepools.com.sg/en/rules/pages/index.html>> (3 June 2025) at para 2.46.

<sup>116</sup> While paragraph 2.46 of the Singapore Pools House Rules states that engaging in the prohibited acts "may constitute criminal conduct", it does not identify the specific laws under which such conduct would be criminalised. Presently, the consequence of breaching the prohibition appears to still be contractual as paragraph 4.6(i) of their house rules provides that a breach of the house rules will disqualify the holder of a betting ticket from claiming any prize that would otherwise have been payable.

<sup>117</sup> *Macolin Convention Explanatory Report*, *supra* note 4 at 11, para 64.

<sup>118</sup> Ellie Harrison, "When does Cleaning Up start on TV? What's it about and who's in the cast?", *RadioTimes* <<https://www.radiotimes.com/tv/drama/cleaning-up-sheridan-smith-itv-air-date-cast-plot/>> (4 April 2019). In this drama series, a cleaner learns about inside information when carrying out cleaning services at a brokerage firm and uses the inside information in the financial markets. While fictional in nature, fiction can sometimes shape or even become reality.

In contrast, the information-connected approach does not require a person's involvement in a sport or sporting event when examining inside information.<sup>119</sup> The focus is immediately on whether the information was Generally Available Information<sup>120</sup> or not, and the role of the person who possesses the information is not a primary consideration. This approach has the advantage of capturing anyone who misuses inside information for betting, even those not directly involved in the sport or a sporting event. A key challenge however is that enforceability could be problematic because it will become increasingly difficult to obtain direct evidence of what information was passed as it is shared from person to person. After all, insiders are unlikely to disclose inside information in a way where they can be overheard or recorded doing so.<sup>121</sup> In its 2023 and 2024 publications, the United Nations Office on Drugs and Crime (“UNODC”)<sup>122</sup> highlighted the covert nature of illegal sports betting and the sophisticated methods used to avoid detection and enforcement efforts. These include identity theft and the use of third parties' personal details to place bets, and the use of virtual private networks and cryptocurrencies to conceal betting activities.<sup>123</sup> The UNODC's 2024 report documented case studies where corruption and illegal sports betting were linked to criminal organisations and athletes, and their methods included the use of encrypted communications<sup>124</sup> and the covert use of satellite technology to exploit signal delays.<sup>125</sup> Another concern is that the information-connected approach could be perceived as overreaching because there is no need for the person to have any involvement with the sport or sporting event; the latter is not a “true insider” in the sense that the person was entrusted with inside information, but instead had simply observed it.<sup>126</sup>

However, while challenges in obtaining direct evidence are real, the concerns about overreach may be overstated for the information-connected approach because, even though the definition of inside information could appear broad, the actual prohibited activity is not, since the unlawful conduct must ultimately relate to a sports betting event. For example, a hospital staff member who observes a player's injury, thereby possessing inside information, does not commit an offence if the staff does not make use of that information to place bets.<sup>127</sup> Moreover, if one of the objectives is to preserve the integrity of sports as a public interest,<sup>128</sup> a broader definition

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<sup>119</sup> Crimes Act 1900, *supra* note 20, s 193Q(4).

<sup>120</sup> *Ibid*, s 193Q(5).

<sup>121</sup> Clarke, *supra* note 16 at 77.

<sup>122</sup> The UNODC is a United Nations office that was established in 1997. Its mission is to tackle the world drug problem, fight organised crime, prevent and counter corruption and terrorism, and promote fair and effective criminal justice systems. For more information, see United Nations Office on Drugs and Crime, “About Us” <[www.unodc.org/unodc/en/about-unodc/index.html](http://www.unodc.org/unodc/en/about-unodc/index.html)>.

<sup>123</sup> UNODC, Investigation of Cases of Competition Manipulation, *supra* note 41 at 13.

<sup>124</sup> United Nations Office on Drugs and Crime, “Game Over: Exposing the linkages between corruption, serious and organized crime in sport” <[www.unodc.org/unodc/en/safeguardingsport/newsandevents/game-over\\_-unodc-exposes-the-link-between-corruption-and-organized-crime-in-sport.html](http://www.unodc.org/unodc/en/safeguardingsport/newsandevents/game-over_-unodc-exposes-the-link-between-corruption-and-organized-crime-in-sport.html)> (21 October 2024) at 17 [UNODC, Game Over].

<sup>125</sup> *Ibid* at 19.

<sup>126</sup> Greg Brower & Mark Starr, “Insider Betting: Deep threat or no harm, no foul”, *CGIMAGAZINECOM* <<https://www.bhfs.com/insight/insider-betting-deep-threat-or-no-harm-no-foul/>> (September 2019) 29 at 32.

<sup>127</sup> *Ibid* at 31.

<sup>128</sup> Hessert & Goh, *supra* note 4 at 297.

of inside information could encourage the public to be more cautious of sport or competition-related inside information that they possess and help foster a culture of preventing the misuse of such information in sports betting.

## V. THE HYBRID INFORMATION-CONNECTED APPROACH FOR SINGAPORE

Singapore can consider adopting the Hybrid Information-Connected Approach to regulate the misuse of inside information in sports betting. Based primarily on the information-connected approach and incorporating a key aspect of the person-connected approach, the Hybrid Information-Connected Approach aims to leverage the strengths of both while addressing their limitations. Although it is inspired by Singapore's insider trading laws,<sup>129</sup> the existing literature has yet to articulate this hybrid approach in either the financial securities or sports betting context. This article is the first to identify and define the Hybrid Information-Connected Approach for regulating the misuse of inside information in sports betting. This part explains its features and potential suitability for Singapore.

First, under the Hybrid Information-Connected Approach, the definition of inside information would be based on what is not Generally Available Information and need not be tied to sports betting-related events or outcomes. One proposed way of crafting the definition of inside information is as follows:

- (1) Information in connection with a sport or sporting event is “inside information” if the information—
  - (a) is not generally available; and
  - (b) if it were generally available, would, or would be likely to:
    - (i) influence the decisions or actions of persons involved in the sport or sporting event, including to alter their decision or decide on a course of action that they would not have taken without the information; or
    - (ii) affect the unpredictability of the outcome of the sport or sporting event.
- (2) Information is generally available if—
  - (a) it consists of matter that is readily observable by the public; or
  - (b) it has been made known in a manner that would, or would be likely to, bring it to the attention of the public; or
  - (c) it consists of deductions, conclusions or inferences made or drawn from information referred to in paragraph (a) or (b).
- (3) “Information” includes matters of supposition, matters relating to the future, and matters relating to the intentions or likely intentions of a person, whether such intentions concern conduct that may give rise to criminal or civil liability.
- (4) A “sporting event” shall include any competition, contest or event in which one or more athletes receive awards or recognition, whether at an amateur or professional level.

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<sup>129</sup> SFA 2001, *supra* note 22, Part 12, Division 3.

The proposed definition of inside information is adapted from s 193Q(4) of NSW's Crimes Act 1900 but removes the reference to sports betting and punters. To avoid the definition being too broad, the proposed definition attempts to limit the scope by referring to information, which if made generally available, would influence the decisions or actions of persons involved in the sport or sporting event, or affect the unpredictable nature of the sport. The latter is to acknowledge that "sport, based on fair and equal competition, is unpredictable in nature".<sup>130</sup> Accordingly, for example, information about the injury of a star athlete on a team, if made generally available, would be likely to influence the opposing team's game plans; or information that an athlete will be awarded the Most Valuable Player ("MVP") accolade by a sport governing body at its annual awards ceremony, if made generally available, would render the outcome of the event predictable. These types of information would fall under the proposed definition of inside information.

In addition, adapting from the definition of "information" in Singapore's SFA 2001<sup>131</sup> as well as the definition of "corrupt conduct information" in s 193Q(3) of NSW's Crimes Act 1900, the proposed definition for Singapore will provide, in a non-exhaustive fashion, what "information" can entail and clarify that it can include information about unlawful conduct such as corruption or wrongful conduct such as an employee's contractual breach of confidentiality that can give rise to civil liability. The definition of a "sporting event" also clarifies that the term is not limited to actual games or competitions but will also include other sports-related events such as the naming of MVPs. With the proposed definition of inside information, any individual who possesses inside information must exercise caution to avoid contravening any of the prohibitions enacted. Such individuals would include not only athletes and coaching staff but also include third parties unrelated to a sport or sporting event such as a journalist, a data hacker, and anyone who comes into possession of inside information even if by way of dubious albeit lawful means such as the covert use of drones.

Second, with the proposed definition of inside information, it will be important to make clear that the proposed prohibition is in connection with sports betting only.<sup>132</sup> The language of the offence can be adopted along the lines of ss 193Q(1) and 193Q(2) of NSW's Crimes Act 1900 as follows:

- (1) A person who possesses inside information, and who knows or is reckless as to whether the information is inside information, is guilty of an offence if the person—

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<sup>130</sup> Macolin Convention, *supra* note 21, at 2.

<sup>131</sup> SFA 2001, *supra* note 22, s 214(1).

<sup>132</sup> This article acknowledges that inside information may be legitimately communicated in the context of intelligence sharing and enforcement investigations, particularly where inter-agency cooperation and coordination can facilitate early detection and intervention in cases of competition manipulation including those involving illegal sports betting. This is an approach recognised by the UNODC. However, such communication of inside information also raises important ethical considerations during investigations, including the need to respect individual privacy rights, ensure the protection of whistleblowers, and avoid conflicts of interest among the various stakeholders involved. See UNODC, Investigation of Cases of Competition Manipulation, *supra* note 41 at 11–13, 16–17, 24, 39, 51. As this article primarily focuses on law reform and regulatory design rather than enforcement, it does not explore these issues in detail. Further research could examine how national legislation on the (mis)use of inside information in sports betting may influence investigative practices and enforcement operations.

- (a) bets on the sporting event; or
- (b) encourages another person to do so in a particular way; or
- (c) communicates the information to another person who the first person knows or ought reasonably to know would or would be likely to bet on the sporting event.

To mitigate the difficulty of obtaining direct evidence for enforcement, especially in cases involving a small, closed circle of insiders using sophisticated means to avoid detection, this article proposes the following rebuttable statutory presumption regarding a defendant's knowledge of inside information, which is adapted from Singapore's SFA 2001,<sup>133</sup> when a "connected person" is involved:

- (1) In any proceedings against a person connected to a sport or sporting event (hereinafter a "connected person"), where the prosecution proves that the connected person was at the material time —
  - (a) in possession of information concerning the sport or sporting event to which the person was connected; and
  - (b) the information was not generally available,
 it is presumed, until the contrary is proved, that the connected person knew at the material time that the information was inside information.
- (2) A "connected person" is:
  - (a) an active participant of a sport (whether at the amateur or professional level);
  - (b) a support personnel of a sport, including an agent, team manager, trainer, medical personnel and any person working with an active participant of a sport;
  - (c) an official of a sport, including a referee, judge and steward, and an owner, executive, management committee member, and staff member, of an entity which governs the sport;
  - (d) an official of a sporting event, including a sponsor, organiser, owner, executive, director, and staff member, of a sporting event; or
  - (e) a person who occupies a position in a sport or sporting event that may reasonably be expected to give the person access to inside information.

The Hybrid Information-Connected Approach proposed is therefore primarily based on the information-connected approach, while incorporating a key aspect of the person-connected approach in the form of a rebuttable presumption<sup>134</sup> that the

<sup>133</sup> SFA 2001, *supra* note 22, ss 218(4)–218(5).

<sup>134</sup> There has been extensive discourse on the fairness of enacting statutory presumptions. See, for example, "Constitutionality of Rebuttable Statutory Presumptions" (1955) 55(4) Colum L Rev 527; David N Brown, "The Constitutionality of Statutory Criminal Presumptions" (1966) 34(1) U Chicago L Rev 141; James J Duane, "The Constitutionality of Irrebuttable Presumptions" (2006) 19 Regent UL Rev 149; R A Duff, "Strict Liability, Legal Presumptions, and the Presumption of Innocence" in A P Simester, ed, *Appraising Strict Liability* (Oxford: Oxford University Press, 2005) at 129–133, 137–143; Daniel Seng & Stephen Mason, "Artificial Intelligence and Evidence" (2021) 33 SAclJ 241 at 250–254; Ho Hock Lai, "Revisiting the Constitutionality of Presumptions in the Misuse of Drugs Act 1973" (February 2025) NUS Law Working Paper No 2025/002 <[https://law.nus.edu.sg/wp-content/uploads/2025/02/02\\_HoHockLai.pdf](https://law.nus.edu.sg/wp-content/uploads/2025/02/02_HoHockLai.pdf)>. However, a detailed analysis of this issue falls outside the scope of this article.

connected person knew that he possessed inside information. The rebuttable presumption should be an evidential one that puts the onus on the defendant to adduce sufficient evidence to contest the issue, and not a presumption that reverses the legal burden of proof to the defendant to prove their innocence.<sup>135</sup> The categories of people listed as a “connected person” are primarily adapted from the definition of “competition stakeholders” under the Macolin Convention.<sup>136</sup> Although journalists are not expressly listed, the open-ended scope of subparagraph (2)(e) of the proposed definition allows room for the common law to develop and, through case law, establish what other professions should also be considered a “connected person” in the future.<sup>137</sup>

For Singapore, the adoption of the Hybrid Information-Connected Approach will also have the benefit of existing case law on insider trading under Singapore’s SFA 2001 to assist in statutory interpretation and application. In 2012, the Singapore Court of Appeal issued a comprehensive judgment about Singapore’s insider trading laws, which also explained how Singapore’s legislative framework on insider trading, inspired by Australia, transformed from a person-connected approach to an information-connected approach.<sup>138</sup> In the judgment, among other things, the court explained what “information” could include<sup>139</sup> and held that it was important to consider the combination of information particularised by the prosecution, as a whole, when determining whether the information was Generally Available Information, even if discrete aspects of the information were generally available.<sup>140</sup> The court also explained that, when considering whether the information was “readily observable by the public”, it is irrelevant to determine how many people actually observed the information and that information may be readily observable even if no one observed it.<sup>141</sup> Importantly, the court also held that, when determining whether deductions, conclusions or inferences can be made or drawn from information in the public domain, it needs to consider whether that information was of the same character or quality as the information that the connected person possessed.<sup>142</sup> On the issue of how the presumption may be rebutted by a connected person, the court

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<sup>135</sup> Australian Law Reform Commission, *supra* note 114 at 261–262, paras 9.13–9.14.

<sup>136</sup> Macolin Convention, *supra* note 21, art 3(6); *Macolin Convention Explanatory Report*, *supra* note 4 at 9.

<sup>137</sup> This article does not suggest that a “connected person” will invariably seek to exploit inside information for personal gain. However, criminal actors may, under the guise of friendly or innocuous interactions, gain access to individuals involved in a sport or sporting event who possess such inside information. This initial access, which can often be perceived as harmless, may unwittingly or otherwise lead to more serious forms of corrupt conduct implicating the connected person as they become manipulated or exploited. See Kevin Carpenter, “The threat from within: Combatting the integrity risk of insider information”, *SportBusiness* <<https://www.sportbusiness.com/2019/04/the-threat-from-within-combatting-the-integrity-risk-of-insider-information/>> (8 April 2019); UNODC, *Game Over*, *supra* note 124 at 15–16. A regulatory framework that prohibits the communication of inside information for betting, coupled with penal provisions capturing instigation, may also serve to deter such criminal attempts before the situation escalates.

<sup>138</sup> *Lew Chee Fai Kevin v Monetary Authority of Singapore* [2012] 2 SLR 913 at 939, [51]–[53] [*Lew Chee Fai Kevin*].

<sup>139</sup> *Ibid* at 930, [31].

<sup>140</sup> *Ibid* at 937, [48].

<sup>141</sup> *Ibid* at 946–947, [71].

<sup>142</sup> *Ibid* at 954, [87].

held that the court should first consider if a reasonable person would consider the information not to be generally available, and if so, consideration would then be given to the connected person's circumstances (including their mental state and experience) in order to determine if there are subjective factors which would prevent them from arriving at the same conclusion.<sup>143</sup> The judgment also makes clear that the presumption is a rebuttable evidential presumption because it constitutes only one element in establishing liability for insider trading and the prosecuting authority must still prove other necessary elements.<sup>144</sup>

Last, to deal with the issue of sportsbooks possessing inside information and using it to manipulate betting odds to unfairly prejudice punters, a provision along the following lines can be considered:

- (1) Where an entity sets betting odds and accepts bets on a sporting event, it must not use inside information in a manner that results in odds that materially differ from: (a) the odds that the entity, acting reasonably and in the ordinary course of its business, would have set; or (b) the odds that a reasonable sportsbook, acting without access to the inside information and having regard to the circumstances that ought reasonably to have been in its contemplation, would have set.
- (2) An entity that contravenes subsection (1) shall be guilty of an offence.

This provision is novel and aims to address scenarios in which sportsbooks, including those with lawful, exclusive access to non-public data,<sup>145</sup> may use inside information in a way that creates a misleading impression or undermines betting fairness. It sets out two alternative grounds that serve distinct but complementary purposes. Subsection (1)(a) focuses on the sportsbook's own ordinary course of business and introduces a subjective-objective test that allows for the use of inside information where it is legitimately held by the sportsbook and is used in accordance with the entity's established processes, but also imposes a reasonableness standard to guard against reliance on internal practices that are inherently unfair. Subsection (1)(b) introduces an objective benchmark by asking what a reasonable sportsbook, without access to the inside information, would have done in similar circumstances. On either ground, the objective benchmark could serve two important purposes: first, it accommodates the future development of Singapore's legalised sports betting industry, including the potential entry of private operators; and second, it facilitates the development of case law to ensure that local practices are aligned with practices generally accepted in other jurisdictions. The inclusion of a materiality threshold ensures that only significant deviations will attract criminal liability, rather than marginal differences that naturally arise in a competitive market where most sportsbooks are likely to offer similar odds.<sup>146</sup>

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<sup>143</sup> *Ibid* at 971, [139].

<sup>144</sup> *Ibid* at 924–928, [23]–[25].

<sup>145</sup> Subramanian, *supra* note 104.

<sup>146</sup> Matt Ryan Webber, "Sportsbook: What It Is, History, and Legality", *Investopedia* <<https://www.investopedia.com/sportsbook-5217715>> (29 October 2024).

While the proposal is made in this article, the urgency to enact such a provision<sup>147</sup> is probably not acute, given that Singapore Pools has thus far been the only gaming entity authorised to offer and accept sports bets in Singapore. It is a wholly owned subsidiary<sup>148</sup> of the Tote Board, which is in turn a statutory board of the Ministry of Finance.<sup>149</sup> In other words, legalised sports betting is still effectively controlled by the State in Singapore, and there is no indication that this will change in the foreseeable future. Accordingly, at this juncture, the risk of private sportsbooks being established in Singapore, and having an opportunity to unfairly manipulate betting odds with inside information, is quite remote.<sup>150</sup> Moreover, Singapore Pools' Responsible Gaming Code of Conduct affirms its commitment to conduct their activities "in a legal and socially responsible manner, with the highest level of integrity and accountability".<sup>151</sup> Singapore Pools is also a member<sup>152</sup> of the World Lottery Association<sup>153</sup> whose "Responsible Gaming Principles" require members to adopt reasonable and balanced measures to protect customer interests, promote legal and responsible gaming, and ensure that the public receives accurate and balanced information to make informed choices about gaming within their jurisdiction.<sup>154</sup> In addition, Singapore Pools is a member<sup>155</sup> of the United Lotteries for Integrity in Sports, which is a global non-profit association dedicated to protecting the integrity of sports competitions and combating crime in sports and illegal betting practices.<sup>156</sup>

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<sup>147</sup> *Quare* whether such a statutory provision could also serve as a deterrent to offshore operators (which are prohibited from offering sports betting services in Singapore), though this may raise further issues concerning extraterritorial application.

<sup>148</sup> Singapore Pools, "Who We Are" <<https://www.singaporepools.com.sg/en/ci/Pages/default.aspx>>.

<sup>149</sup> Tote Board, "Who We Are" <<https://www.toteboard.gov.sg/who-we-are>>.

<sup>150</sup> This assumes that Singapore Pools, as a state-controlled sportsbook, is less likely to use inside information in a manner that unfairly prejudices punters. However, there is no publicly available information on how it determines betting odds or whether any inside information is collected or used in the process. Future research could examine these practices and assess how proposed legislation regulating the unlawful use of inside information in sports betting may impact both Singapore Pools and any future private sportsbooks permitted to operate in Singapore.

<sup>151</sup> Singapore Pools, "Our Commitment on Safer Play" <<https://www.singaporepools.com.sg/ms/sp/en/our-commitment-to-safer-play.html>>.

<sup>152</sup> World Lottery Association, "Regular Members" <<https://www.world-lotteries.org/members/our-members/lottery-members?filter-region=Asia+%2F+The+Pacific>>.

<sup>153</sup> The World Lottery Association is an international member-based organisation comprising state-authorized lotteries, licensed sports betting operators, and suppliers to the global gaming industry, with the aim of supporting its members to achieve positive societal impact, while upholding integrity and responsible gaming standards. For more information, see World Lottery Association, "About Us" <<https://www.world-lotteries.org/about-us>>. The Association has also expressed support for the Macolin Convention and its relevance for the lottery and sports betting industry. See Council of Europe Sport, "World Lottery Association and the Macolin Convention" <<https://www.coe.int/en/web/sport/wla-and-the-macolin-convention>>.

<sup>154</sup> World Lottery Association, "Principles" <<https://www.world-lotteries.org/services/industry-standards/responsible-gaming-framework/principles-2025>>.

<sup>155</sup> United Lotteries for Integrity in Sports, "Members" <<https://ulis.org/network/our-members>>.

<sup>156</sup> United Lotteries for Integrity in Sports, "What we do" <<https://ulis.org/what-we-do>>.

## VI. CONCLUSION

The proposed statutory provisions based on the Hybrid Information-Connected Approach provide a framework for analysing the legal and policy issues in sports betting highlighted in this article, and for considering how they may be addressed. Under the framework, any individual who uses inside information for betting purposes would fall within the scope of the prohibition, regardless of how they obtained the information or whether they have any connection to the sport or sporting event. Third parties in the scenarios described earlier such as the journalist, data hacker, and punter who obtains inside information through dubious means, will be caught under the prohibition. Where a connection exists between the offender and the sport or sporting event, a stringent onus is placed on them to rebut an evidential statutory presumption.

The issue with the dissemination of misinformation remains complex and may depend on the facts of each case. However, if it was a connected person who disseminated the misinformation while in possession of information concerning the sport or sporting event to which they were connected, and it is also proven that the information that they possessed was not generally available, the statutory presumption would apply, requiring them to explain their actions. If they are unable to do so, and it is further proven that they engaged in one of the prohibited acts, then they will be criminally liable. In this way, even if the misinformation did not reflect the actual content of the inside information, the connected person's act of distorting the truth to manipulate betting activity for their benefit should still be prohibited.

Athletes considering the commercialisation of their biometric data would have to be mindful of two points. First, their biometric data constitutes inside information. Second, they should take reasonable steps to ensure that the commercial arrangement includes contractual clauses that will prevent the counterparty's officers and employees from misusing the data for sports betting purposes. Otherwise, if the information is eventually used for betting, the athlete's sharing of the biometric data could technically fall within the scope of the prohibition, that is, "[communicating] the information to another person who the first person knows or ought reasonably to know would or would be likely to bet on the sporting event".

Similarly, athletes, who publish content on social media, should be cautious that information about their health and training performance could still constitute inside information, especially if access to their social media content is by subscription only. The content may neither be considered as "readily observable by the public" since access is limited by subscription nor considered "made known to the public" since it was only made known to a closed circle of persons, that is, his subscribers. However, a counterargument based on common law<sup>157</sup> may be made that the content is Generally Available Information because it is irrelevant how many people viewed the content so long as it is readily observable by any subscriber of the athlete's social media content. In any event, the athlete should consider including a disclaimer along the lines that the content is not communicated for sports betting purposes. Without such a disclaimer, if the social media content is eventually used for betting, the posting could technically fall under the prohibition of

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<sup>157</sup> *Lew Chee Fai Kevin*, *supra* note 138 at 946, para 71.

“[communicating] the information to another person who the first person knows or ought reasonably to know would or would be likely to bet on the sporting event”.<sup>158</sup>

Furthermore, specific legislation to target the misuse of inside information in sports betting will send a strong signal, particularly to those who intend to do so for money laundering purposes, that such conduct will not be tolerated. Money laundering has been repeatedly identified as a significant risk associated with the misuse of inside information in sports betting as evidenced from the NSW Commission Report,<sup>159</sup> the legislative assembly debates of NSW<sup>160</sup> and the Macolin Convention Explanatory Report.<sup>161</sup> Indeed, some early signs of a connection between sports betting and money laundering have emerged in Singapore. In June 2024, it was reported that an accused person, who was resident in Singapore, pleaded guilty to charges of money laundering; it was found that he was in possession of cash suspected to be benefits from illegal remote gambling services.<sup>162</sup> The accused was part of a larger group of accused persons who were involved in a multi-billion dollar money laundering case that shocked the public. This case highlights the connection between illicit gambling and money laundering in Singapore, and there is no telling when money laundering intentions might likewise get intertwined with the country’s legalised sports betting sector. This case also subsequently prompted Singapore’s Prime Minister, in his address at the opening of the Financial Action Task Force (“FATF”)<sup>163</sup> Plenary Meeting 2024, to highlight that Singapore will strengthen its regulations and enforcement even as the country recognised that “[e]ven the most stringent anti-money laundering regimes can be circumvented by determined criminals who will continuously search for gaps to exploit”.<sup>164</sup>

The current absence of laws to regulate the misuse of inside information in sports betting presents a gap that can be unlawfully exploited. Although there may not be an urgent need to enact sport-specific laws to combat match-fixing activities in Singapore since such cases can still be addressed under Singapore’s primary anti-corruption statute,<sup>165</sup> it is timely now for Singapore to close the gap and consider adopting specific legislation to address the second most common form of sports manipulation observed internationally: the misuse of inside information in sports betting.

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<sup>158</sup> This also raises the question of the level of awareness that the athlete should reasonably be held to, particularly given that it may be quite incredible that no one would use such information for betting purposes. A discussion of this issue, however, falls outside the scope of this article.

<sup>159</sup> NSW Commission’s Report, *supra* note 25 at 7, para 1.32, and at 25, para 2.81.

<sup>160</sup> *Crimes Amendment (Cheating at Gambling) Bill 2012* Second Reading, *supra* note 17.

<sup>161</sup> *Macolin Convention Explanatory Report*, *supra* note 4 at para 5.

<sup>162</sup> Koh Wan Ting, “Last offender to plead guilty in S\$3 billion money laundering case gets 16 months’ jail”, *Channel News Asia* <<https://www.channelnewsasia.com/singapore/billion-dollar-money-laundering-case-wang-dehai-china-illegal-gambling-4393826>> (7 June 2024).

<sup>163</sup> The FATF was established in 1989 and based in Paris, France. It is an inter-governmental body that sets international standards which aim to prevent money laundering and terrorist financing activities and the harm they cause to society. More than 200 countries and jurisdictions have committed to implement the standards promulgated by the FATF as part of a coordinated international effort to prevent organised crime, corruption and terrorism. Singapore is a member of the FATF. For more information, see The Financial Action Task Force, “FATF Home” <<https://www.fatf-gafi.org/en/home.html>>.

<sup>164</sup> PM Lawrence Wong, “Speech by Prime Minister and Minister for Finance Lawrence Wong at the Financial Action Task Force Plenary on 26 June 2024” <<https://www.pmo.gov.sg/Newsroom/PM-Lawrence-Wong-at-the-Financial-Action-Task-Force-Plenary>> (26 June 2024).

<sup>165</sup> PCA 1960, *supra* note 109; Hessert & Goh, *supra* note 4 at 287.