STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Monetary Authority (MA) has taken the following disciplinary action against State Bank of India, Hong Kong Branch (SBIHK):

   (a) ordered SBIHK to submit to the Hong Kong Monetary Authority (HKMA), by a date and in a manner to be specified by the MA, a report prepared by an independent external advisor assessing (i) whether the Remedial Plan of SBIHK[1] is sufficient to address the contraventions found by the HKMA and (ii) the effectiveness of the implementation of the Remedial Plan, pursuant to section 21(2)(b) of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Chapter 615 of the Laws of Hong Kong) (AMLO)[2];

   (b) ordered SBIHK to pay a pecuniary penalty of 7,500,000 Hong Kong Dollars, pursuant to section 21(2)(c) of the AMLO; and

   (c) reprimanded SBIHK, pursuant to section 21(2)(a) of the AMLO.

Summary of Contraventions and Facts

2. The disciplinary action follows the HKMA's investigation, which found that, between April 2012 and November 2013, SBIHK contravened four specified provisions, namely sections 3(1), 5(1), 19(1) and 19(3) of Schedule 2 to the AMLO. SBIHK's contraventions and the related findings are summarised below:-

   <u>Section 3(1) of Schedule 2 to the AMLO</u>

   (a) SBIHK contravened section 3(1) of Schedule 2 to the AMLO in that it failed to obtain the information set out in paragraphs 4.9.8 and 4.9.11 of the Guideline on Anti-Money Laundering and Counter-Terrorist

[1] The Remedial Plan refers to the remedial actions taken by SBIHK in response to the HKMA's onsite examination in 2012 to rectify the weaknesses identified in its anti-money laundering and counter-terrorist financing (AML/CFT) controls.

[2] The AMLO came into operation on 1 April 2012. It stipulates a set of customer due diligence and record-keeping measures to be undertaken by financial institutions. Such requirements are detailed in Schedule 2 to the AMLO. The MA is the relevant authority under the AMLO for supervising authorized institutions' compliance with the requirements set out in the AMLO.

Financing (For Authorized Institutions) (AML Guideline)[3] to conduct the customer due diligence (CDD) measures set out in sections 2(1)(a) and 2(1)(b) of Schedule 2 to the AMLO in respect of 28 corporate customers that opened accounts between 1 April 2012 and 21 November 2013.

(b) In respect of those 28 corporate accounts, SBIHK failed to take measures to identify the beneficial owners (BOs) and take reasonable measures to verify the identities of the BOs of the accounts in the account opening process by:-

(i) failing to obtain reliable, independent and up-to-date documents, data or information as set out in paragraph 4.9.11 of the AML Guideline to identify the BOs and verify the identities of the BOs of the customers in respect of 22 accounts; and

(ii) failing to identify intermediate layers of companies with multiple layers in their ownership structure to understand the ownership and control structure and to follow the chain of ownership to the individuals who are the ultimate BOs of the direct customers as set out under paragraph 4.9.15 of the AML Guideline in respect of 17 accounts.

<u>Section 5(1) of Schedule 2 to the AMLO</u>

(c) SBIHK failed to continuously monitor its business relationships with its customers because it:

(i) failed to identify transactions that were complex, unusually large in amount or of an unusual pattern, or had no apparent economic or lawful purpose as a result of relying on its review of four system generated reports, which were ineffective in providing the responsible staff with the relevant information for carrying out the necessary on-going monitoring. Furthermore, there was no record that scrutiny of transactions of customer accounts had been performed by SBIHK before December 2013. SBIHK therefore contravened section 5(1) of Schedule 2 to the AMLO during the period from April 2012 to November 2013; and

(ii) assigned money laundering and terrorist financing (ML/TF) risk ratings to new customers at the time that SBIHK established business relationships but the customer ML/TF risk ratings were not updated or reviewed periodically thereafter until February 2013. Moreover, customers who were assigned a high ML/TF risk rating were not subject to any periodic review in accordance with the CDD requirements until February 2013. SBIHK therefore contravened

[3] The AML Guideline was published by the HKMA under section 7 of the AMLO and section 7(3) of the Banking Ordinance (Chapter 155 of the Laws of Hong Kong) on 27 January 2012. Revised versions of the AML Guideline were published on 13 July 2012 and 27 March 2015 respectively.

section 5(1) of Schedule 2 to the AMLO during the period from April 2012 to January 2013.

Section 19(1) of Schedule 2 to the AMLO

(d) SBIHK failed to screen all of its customers on a periodic basis, and screen its customers' BOs before establishing business relationships and on a periodic basis thereafter, against its internal database for determining whether they were politically exposed persons (PEPs) during the period from April 2012 to December 2012 and therefore contravened section 19(1) of Schedule 2 to the AMLO during this period.

Section 19(3) of Schedule 2 to the AMLO

(e) SBIHK's AML/CFT policies and procedures were more or less a copy of the relevant parts of the AML Guideline, with only very minor amendments to reflect SBIHK's own practices. SBIHK had not developed any detailed procedures for a number of important AML/CFT control areas, including CDD measures, on-going transaction monitoring, special measures on PEPs and high-risk situations until December 2013. SBIHK failed to establish effective procedures to ensure compliance with the specified provisions in sections 3 and 5 of Schedule 2 to the AMLO during the period from April 2012 to November 2013 and therefore contravened section 19(3) of Schedule 2 to the AMLO during this period.

Conclusion

3. Having considered all of the relevant circumstances, the MA has found that, between April 2012 and November 2013, SBIHK contravened four specified provisions, namely sections 3(1), 5(1), 19(1) and 19(3) of Schedule 2 to the AMLO.

4. In determining the disciplinary action set out in the first paragraph, the MA has had regarded to the Guideline on Exercising Power to Impose Pecuniary Penalty[4] and has taken into account all relevant circumstances of the case, including but not limited to:

(a) the need to send a clear deterrent message to the market about the importance of effective internal AML/CFT controls and procedures;

(b) SBIHK has taken very positive and intensive remediation work to address the contraventions identified in the HKMA's investigation and other weaknesses identified in the HKMA's onsite examination;

[4] This Guideline was published by the HKMA on 29 June 2012 under section 23(1) of the AMLO. It sets out the factors that the MA will normally consider in determining whether to impose a pecuniary penalty on an authorized institution and the amount of the pecuniary penalty if the authorized institution contravenes a specified provision as defined by section 5(11) of the AMLO.

(c) SBIHK's proactive engagement of an external consultant to conduct an extensive review and an audit firm to carry out an internal audit on an on-going basis;

(d) SBIHK has confirmed through an external consultant that neither actual problem accounts nor suspicious transactions have been identified;

(e) SBIHK has implemented a remedial plan as recommended by the external consultant;

(f) SBIHK had a change of senior management in Hong Kong with the appointment of a new Chief Executive Officer in October 2013; and

(g) SBIHK does not have any previous disciplinary record and has co-operated with the HKMA.

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