
STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Monetary Authority (MA) has taken the following disciplinary action against JPMorgan Chase Bank, National Association, Hong Kong Branch (JPMorgan Hong Kong):-
 - (a) reprimanded JPMorgan Hong Kong, pursuant to section 21(2)(a) of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Chapter 615 of the Laws of Hong Kong) (AMLO)¹ in respect of its contraventions of sections 19(2) and 19(3) of Schedule 2 to the AMLO by failing to establish and maintain effective procedures (I) for identifying and handling wire transfers that did not comply with section 12(5) of Schedule 2 to the AMLO; and (II) for the purpose of carrying out its duties under sections 3 and 5 of Schedule 2 to the AMLO concerning customer due diligence (CDD) and continuous monitoring of business relationships respectively;
 - (b) ordered JPMorgan Hong Kong, pursuant to section 21(2)(b) of the AMLO, 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 measures taken by JPMorgan Hong Kong are sufficient to address the contraventions and other deficiencies identified by the HKMA²; and (II) the effectiveness of the implementation of such measures to address the contraventions and other deficiencies identified by the HKMA; and
 - (c) ordered JPMorgan Hong Kong to pay a pecuniary penalty of HK\$12,500,000, pursuant to section 21(2)(c) of the AMLO.

Summary of Contraventions and Facts

2. The disciplinary action follows an investigation by the HKMA which found that JPMorgan Hong Kong contravened six specified provisions - sections 3(1), 5(1), 12(5), 19(1), 19(2) and 19(3) of Schedule 2 to the AMLO, during the period from April 2012 to February 2014 (Relevant Period) as a result of deficiencies

¹ The short title of Chapter 615 of the Laws of Hong Kong was cited as the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance prior to 1 March 2018.

² Taking into consideration the remedial measures already implemented and on the particular facts of this case, the deficiencies concerning wire transfers are not included in the terms of the remedial order.

across several key control areas including CDD, periodic review of CDD information and wire transfers. The contraventions and the related findings are summarised in the following paragraphs.

3. The customers in relation to which JPMorgan Hong Kong contravened the AMLO were under its private banking business. While all relevant customer accounts were booked outside Hong Kong, the relationships were managed by Hong Kong staff members and each of the customers concerned had a business relationship with JPMorgan Hong Kong.

Sections 3(1) and 19(3) of Schedule 2 to the AMLO

4. JPMorgan Hong Kong had conducted a gap analysis before the enactment of the AMLO to seek to comply with the prevailing legal and regulatory requirements. However, as the gap analysis did not cover certain customers, JPMorgan Hong Kong failed to identify the following deficiencies in the CDD procedures applicable to these customers, rendering the procedures ineffective as regards all relevant customers:
 - (a) as regards certain customers, the CDD procedures did not require certificates of incumbency (COIs) or comparable documents to be obtained to verify their existence. For example, one of the procedures only required a certificate of incorporation or “certificate of formation” to be obtained. This was not in compliance with paragraph 4.9.11 of the Guideline on Anti-Money Laundering and Counter-Terrorist Financing (For Authorized Institutions)³ (AML Guideline) which, for corporations, required COI or other comparable documents such as a company search report to be obtained to ascertain whether the corporation was still registered and had not been dissolved, wound up, suspended or struck off; and
 - (b) regarding beneficial owners (BOs), while the CDD procedures required the identities of certain BOs, such as those of high risk customers, to be verified, it did not require the identities of all BOs to be verified.
5. In addition to the above deficiencies in CDD procedures, JPMorgan Hong Kong failed to verify the identities of certain customers and/or the BOs by omitting to obtain the required identification document and/or to ascertain the purpose or intended use of the account.
6. As a result of the above, JPMorgan Hong Kong contravened sections 3(1) and 19(3) of Schedule 2 to the AMLO.

Sections 5(1) and 19(3) of Schedule 2 to the AMLO

7. According to JPMorgan Hong Kong’s procedures and practice, certain related customers were managed in groups. When a periodic review was conducted

³ The version as applicable during the Relevant Period.

for any one of the customers within a relationship group to ensure that the documents, data and information relating to the customer obtained by JPMorgan Hong Kong were up-to-date and relevant, the periodic reviews of the other customers within the same relationship group would be regarded as completed. The procedures were inherently ineffective to ensure compliance with paragraph 4.7.13 of the AML Guideline⁴, which stated that “[a]ll high-risk customers (excluding dormant accounts) should be subject to a minimum of an annual review, and more frequently if deemed necessary by the [financial institution], of their profile to ensure the CDD information retained remains up-to-date and relevant”. The impact of this was that, during the Relevant Period, among 495 high risk customers in such relationship groups, JPMorgan Hong Kong failed to conduct an annual periodic review in respect of 259 of them.

8. Given the above, JPMorgan Hong Kong contravened sections 5(1) and 19(3) of Schedule 2 to the AMLO.

Sections 12(5) and 19(2) of Schedule 2 to the AMLO

9. JPMorgan Hong Kong offered code-named accounts for certain customers. Such code-named accounts were opened after CDD measures had been carried out in accordance with the prevailing CDD requirements. The code names, instead of actual names, of the customers would be used in bank statements and other customer correspondence. During the Relevant Period, JPMorgan Hong Kong did not ensure, as regards code-named accounts, that its procedures were effective to identify and handle wire transfers that failed to comply with section 12(5) of Schedule 2 to the AMLO, which requires the originator’s name to be included in the message or payment form accompanying the wire transfer. As a result of its ineffective procedures, when JPMorgan Hong Kong carried out outgoing wire transfers involving certain code-named account holders during the Relevant Period, the corresponding SWIFT⁵ messages contained code names, instead of the actual names of the account holders/originators.
10. Consequently, JPMorgan Hong Kong contravened sections 12(5) and 19(2) of Schedule 2 to the AMLO.

Section 19(1) of Schedule 2 to the AMLO

11. During the Relevant Period, JPMorgan Hong Kong’s procedures for determining whether a customer or a BO of a customer was a politically exposed person (PEP) did not fully accord with the definition of a PEP under the AMLO. Examples were found where JPMorgan Hong Kong had failed to determine PEPs. JPMorgan Hong Kong thus contravened section 19(1) of Schedule 2 to the AMLO.

⁴ The version as applicable during the Relevant Period.

⁵ SWIFT stands for “Society for Worldwide Interbank Financial Telecommunication”.

Conclusion

12. Having considered all of the evidence and the representations of JPMorgan Hong Kong, the MA found that JPMorgan Hong Kong contravened sections 3(1), 5(1), 12(5), 19(1), 19(2) and 19(3) of Schedule 2 to the AMLO during the Relevant Period.
13. In deciding the disciplinary action set out in the first paragraph, the MA had regard to the Guideline on Exercising Power to Impose Pecuniary Penalty⁶ and the Guidance Note on Cooperation with the HKMA in Investigations and Enforcement Proceedings⁷. The MA has taken into account all relevant circumstances of the case, including but not limited to:-
 - (a) the seriousness of the investigation findings, including the contraventions under section 19 of Schedule 2 to the AMLO which is concerned with the establishment and maintenance of effective procedures;
 - (b) the need to send a clear deterrent message to JPMorgan Hong Kong and the industry about the importance of effective controls and procedures to address money laundering and terrorist financing risks;
 - (c) JPMorgan Hong Kong had self-identified and reported certain deficiencies, and had taken positive and extensive remediation work in respect of such deficiencies and after it became aware of the contraventions and other deficiencies identified by the HKMA. In particular, it has enhanced its control functions to prevent similar contraventions from recurring; and
 - (d) JPMorgan Hong Kong has no previous disciplinary record in relation to the AMLO and co-operated with the HKMA during the investigation and enforcement proceedings.

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⁶ 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 consider, where applicable, in determining whether to impose a pecuniary penalty and the amount of the pecuniary penalty if there has been a contravention of a specified provision as defined by section 5(11) of the AMLO. A revised version of the guideline was published on 27 April 2018.

⁷ This guidance note was issued by the HKMA on 22 August 2018 to provide an overview of how the HKMA considers and recognises cooperation in its investigations and enforcement proceedings and highlight the benefits of cooperation.