
STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Monetary Authority (MA) has taken disciplinary action against UBS AG, Hong Kong Branch (UBSHK) to order it to pay a pecuniary penalty of HK\$9,000,000, pursuant to section 21(2)(c) of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Chapter 615 of the Laws of Hong Kong) (AMLO)¹.

Summary of Contraventions and Facts

2. The disciplinary action follows an on-site examination and further investigation by the Hong Kong Monetary Authority (HKMA) which found that UBSHK contravened four specified provisions, namely (i) sections 5(1) and 19(3) of Schedule 2 to the AMLO during the period from April 2012 to November 2014 (Relevant Period A) and (ii) sections 6(1) and 6(2) of Schedule 2 to the AMLO during the period from April 2012 to October 2015 (Relevant Period B). UBSHK's contraventions and the related findings are summarised below.

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

3. During Relevant Period A, UBSHK failed to establish and maintain effective procedures for conducting the periodic reviews of customer accounts managed by UBSHK to ensure that the customer information obtained by it was up-to-date and relevant. The deficiencies include:
 - (a) a system error in relation to extraction of one group of customers due for periodic review; and
 - (b) in respect of another group of customers, the failure to: (i) update and set out in its policy and procedures the specific trigger events for the conduct of periodic review; (ii) communicate effectively the ad-hoc periodic review procedures to the relevant staff; and (iii) establish an effective monitoring and control procedure for due implementation of the policy requirements of the periodic review process.
4. As a result of the ineffective procedures, UBSHK failed to conduct periodic reviews in respect of 5,726 customers during Relevant Period A.

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.

5. In light of the above, UBSHK contravened paragraph (a) of section 5(1) and section 19(3) of Schedule 2 to the AMLO.

Sections 6(1) and 6(2) of Schedule 2 to the AMLO

6. During Relevant Period B, UBSHK failed to carry out customer due diligence (CDD) measures specified in section 2(1) of Schedule 2 to the AMLO in respect of a number of pre-existing customers² of the samples reviewed by the HKMA when suspicious transaction(s) took place with regard to each of these customers. UBSHK completed the periodic reviews for these customers in a period of more than eight to 22 months after filing of the respective suspicious transaction reports (STRs) with the Joint Financial Intelligence Unit (JFIU). UBSHK thus contravened section 6(1) of Schedule 2 to the AMLO.
7. UBSHK failed to terminate the business relationships with some pre-existing customers as soon as reasonably practicable during Relevant Period B when it was unable to comply with section 6(1) of Schedule 2 to the AMLO. The business relationships with these customers were terminated in a period of more than eight to 31 months after filing of the respective STRs with the JFIU. As a consequence, UBSHK contravened section 6(2) of Schedule 2 to the AMLO.

Conclusion

8. Having considered all of the evidence and the representations of UBSHK, the MA has found that UBSHK contravened the four specified provisions during the respective periods as set out in paragraphs 2 to 7 above.
9. In deciding the disciplinary action set out in paragraph 1 above, the MA has had regard to the Guideline on Exercising Power to Impose Pecuniary Penalty³ and the Guidance Note on Cooperation with the HKMA in Investigations and Enforcement Proceedings⁴. The MA has taken into account all relevant circumstances of the case, including but not limited to:
 - (a) the seriousness of the investigation findings;

² Part 1 of Schedule 2 to the AMLO defines a pre-existing customer, in relation to a financial institution, as a customer with whom the financial institution has established a business relationship before the date of commencement of the AMLO, i.e. 1 April 2012.

³ 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 this guideline was published on 27 April 2018.

⁴ 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.

- (b) the need to send a clear deterrent message to UBSHK and the industry about the importance of effective controls and procedures to address money laundering and terrorist financing risks;
- (c) UBSHK has taken prompt remedial and enhancement actions to address the deficiencies identified by the HKMA;
- (d) given UBSHK's reviews on all customers with missed periodic reviews had been completed and its policies to specify trigger events in respect of CDD reviews had been established and implemented, the likelihood that UBSHK will commit the same type of contraventions in the future had been reduced considerably; and
- (e) UBSHK 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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