

---

## STATEMENT OF DISCIPLINARY ACTION

---

### **The Disciplinary Action**

1. The Monetary Authority (MA) has taken disciplinary action against EFG Bank AG, Hong Kong Branch (EFGHK) to order it to pay a pecuniary penalty of HK\$16,000,000, 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)<sup>1</sup>.

### **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 EFGHK contravened five specified provisions, namely, section 3(3) of Schedule 2 to the AMLO during the period from 21 February 2016 to 16 January 2018 (Relevant Period A); and section 3(1), paragraph (b) of section 3(4) (section 3(4)(b)), paragraph (a) of section 5(1) (section 5(1)(a)) and section 19(3) of Schedule 2 to the AMLO during the period from 1 April 2012 to 31 October 2018 (Relevant Period B). EFGHK's contraventions and the related findings are summarised below.

#### Section 3(3) of Schedule 2 to the AMLO

3. During Relevant Period A, while EFGHK was aware of some red flags concerning the risks of money laundering and terrorist financing (ML/TF), EFGHK failed to complete the verification of the identities of 147 customers transferred from another financial institution and their beneficial owners (BOs) as soon as reasonably practicable after establishing business relationships with these customers.

#### Sections 3(1) and 3(4)(b) of Schedule 2 to the AMLO

4. During Relevant Period B, EFGHK failed to take reasonable measures to verify the identities of the BOs of 33 customers that were classified by EFGHK as "higher risk clients" (HRCs). EFGHK also failed to terminate the business relationships with 23 of the 33 HRCs as soon as reasonably practicable.

---

<sup>1</sup> Prior to 1 March 2018, the short title of Chapter 615 of the Laws of Hong Kong was the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance.

### Section 5(1)(a) of Schedule 2 to the AMLO

5. During Relevant Period B, EFGHK failed to continuously monitor the business relationships with 33 customers, including 30 HRCs. EFGHK did not carry out trigger event review when a transaction took place with regard to the respective customer that was, by virtue of the transaction amount, unusual and substantially exceeded EFGHK's documented understanding of the customer's monthly transaction amount.

### Section 19(3) of Schedule 2 to the AMLO

6. During Relevant Period B, EFGHK failed to establish and maintain effective procedures for carrying out its duties under sections 3(1)(a) and 5(1)(a) of Schedule 2 to the AMLO.
  - (a) In respect of duties under section 3(1)(a), although EFGHK had a procedural guideline in place requiring its staff to carry out customer due diligence (CDD) measures before establishing a business relationship with a customer, EFGHK failed to carry out the CDD measures in compliance with its internal requirements as well as the legal and regulatory standards.
  - (b) In respect of duties under section 5(1)(a), EFGHK's anti-money laundering policy did not provide a procedural guideline with sufficient details for periodic reviews and trigger event reviews in order to carry out on-going monitoring of business relationships with customers, until the relevant procedural guideline with the required details was developed in July 2018.

### **Conclusion**

7. Having considered all of the evidence and the representations of EFGHK, the MA has found that EFGHK contravened the five specified provisions of the AMLO during Relevant Period A or Relevant Period B as set out in paragraphs 2 to 6 above.
8. 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 Penalty<sup>2</sup> and the Guidance Note on Cooperation with the HKMA in Investigations and Enforcement Proceedings<sup>3</sup>. The MA has also taken into account all relevant circumstances of the case, including but not limited to:
  - (a) the seriousness of the investigation findings;

---

<sup>2</sup> 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.

<sup>3</sup> 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 EFGHK and the industry about the importance of effective controls and procedures to address the risks of ML/TF;
- (c) EFGHK has taken remedial and enhancement measures to address the deficiencies identified by the HKMA; and
- (d) EFGHK has no previous disciplinary record in relation to the AMLO and cooperated with the HKMA during the investigation and enforcement proceedings.

- End -