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## STATEMENT OF DISCIPLINARY ACTION

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### **The Disciplinary Action**

1. The Monetary Authority (MA) has taken disciplinary action against CA Indosuez (Switzerland) SA, Hong Kong Branch (CAHK) to order it to pay a pecuniary penalty of HK\$3,500,000, 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 investigation by the Hong Kong Monetary Authority (HKMA) which found that CAHK contravened two specified provisions, namely paragraph (b) of section 5(1) (section 5(1)(b)) and section 19(3) of Schedule 2 to the AMLO during the period between 11 February 2016 and 2 October 2016 (Relevant Period). CAHK's contraventions and the related findings are summarised below.

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

3. Prior to November 2017, CAHK had outsourced its anti-money laundering (AML) control activities, including the reviewing and clearing of alerts generated from its post-transaction monitoring system, to a service provider. The review and clearance of the alerts by the service provider were, however, suspended during the Relevant Period. As a result, the alerts arising from the accounts of 17 customers were closed with delays of up to 453 days. CAHK failed to continuously monitor the business relationships with these 17 customers and contravened section 5(1)(b) of Schedule 2 to the AMLO.

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

4. Whilst CAHK had established policies and procedures to continuously monitor the business relationships with customers via its monitoring activities outsourced to the service provider, there was a lack of or inadequate controls on the part of CAHK to monitor and review the outsourced function and performance of the service provider in relation to the AML transaction monitoring process. This resulted in the untimely review and clearance of the alerts during the Relevant Period. CAHK failed to maintain effective procedures for carrying out its duties under section

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<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.

5(1)(b) of Schedule 2 to the AMLO and therefore contravened section 19(3) of Schedule 2 to the AMLO.

## **Conclusion**

5. Having considered all the evidence and the representations of CAHK, the MA has found that CAHK contravened the two specified provisions during the Relevant Period as set out in paragraphs 2 to 4 above.
6. 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 taken into account all relevant circumstances of the case, including but not limited to:
  - (a) the seriousness of the investigation findings;
  - (b) the need to send a clear deterrent message to CAHK and the industry about the importance of effective controls and procedures to address money laundering and terrorist financing risks;
  - (c) CAHK has taken remedial actions to address the deficiencies identified; and
  - (d) CAHK has no previous disciplinary record in relation to the AMLO and cooperated with the HKMA during the investigation and enforcement proceedings.

- End -

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<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.