
STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Monetary Authority (MA) has taken disciplinary action against Cathay United Bank Company, Limited, Hong Kong Branch (CUBHK) to order it to pay a pecuniary penalty of HK\$11,000,000 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 CUBHK contravened five specified provisions, namely paragraph (a) of section 5(1) (section 5(1)(a)), paragraph (c) of section 5(3) (section 5(3)(c)), paragraph (b) of section 15 (section 15(b)), section 19(3) and section 23 of Schedule 2 to the AMLO during the period from April 2012 to February 2016 (Relevant Period). CUBHK's contraventions and the related findings are summarised below.

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

3. CUBHK failed to conduct periodic reviews on 249 customers to ensure that the customer due diligence information it obtained remained up-to-date and relevant in that: (i) periodic reviews upon trigger events in respect of 246 customers were conducted by phone verification of a very limited scope of information; and (ii) no annual periodic review was conducted in respect of three high risk customers.

Section 5(3)(c) of Schedule 2 to the AMLO

4. CUBHK failed to take additional measures to compensate for the money laundering or terrorist financing (ML/TF) risks caused by 17 high risk customers.

Section 15(b) of Schedule 2 to the AMLO

5. CUBHK failed to take enhanced customer due diligence (EDD) measures in respect of 17 high risk customers in that it did not: (i) obtain senior management approval to continue the business relationships; and/or (ii) take reasonable measures to establish the source of wealth and source of funds of the (beneficial

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.

owners of corporate) customers or take additional measures to mitigate the ML/TF risks involved.

Section 19(3) of Schedule 2 to the AMLO

6. During the Relevant Period, CUBHK contravened section 19(3) of Schedule 2 to the AMLO by failing to establish and maintain effective procedures for the purpose of carrying out its duties under sections 5(1)(a), 5(3)(c) and 15(b) of Schedule 2 to the AMLO in that:
 - (a) CUBHK's customer risk classification framework was defective by design. In addition, all customers who established business relationships with CUBHK before September 2009 were classified as low risk by default. Furthermore, customers irrespective of their risk levels were not subject to any risk re-assessment until April 2015. These resulted in an underestimation of the risk level of customers and prevented CUBHK from subjecting customers to proportionate controls and oversight that would be commensurate with their genuine risk levels;
 - (b) regarding section 5(1)(a) of Schedule 2 to the AMLO, there was a lack of clear, sufficient and detailed policies and procedures on the requirement of conducting periodic review before July 2015;
 - (c) regarding section 5(3)(c) of Schedule 2 to the AMLO, the additional measures that should be taken on high risk customers were not set out in any policies and procedures before July 2015; and
 - (d) regarding section 15(b) of Schedule 2 to the AMLO, there was a lack of clear policies and procedures on what EDD measures should be taken on high risk customers before July 2015.

Section 23 of Schedule 2 to the AMLO

7. CUBHK contravened section 23 of Schedule 2 to the AMLO in that it failed to take all reasonable measures to ensure that there were proper safeguards to prevent the contraventions as mentioned in paragraphs 3 to 6 above and to mitigate the ML/TF risks. Specifically, CUBHK's management oversight of anti-money laundering and counter-financing of terrorism (AML/CFT) controls was inadequate during the Relevant Period in that: (i) the senior management had not reviewed the effectiveness of the AML/CFT systems and made necessary enhancements in a timely manner; (ii) the senior management received insufficient objective information to discharge CUBHK's AML/CFT obligations; (iii) fundamental and key AML/CFT control issues were not discussed adequately at the relevant committee meetings and timely addressed; and (iv) the senior management failed to deploy sufficient resources for dealing with AML/CFT issues.

Conclusion

8. Having considered all of the evidence and the representations of CUBHK, the MA has found that CUBHK contravened the five specified provisions of the AMLO during the Relevant Period as set out in paragraphs 3 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 Penalty² and the Guidance Note on Cooperation with the HKMA in Investigations and Enforcement Proceedings³. 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 CUBHK and the industry about the importance of effective controls and procedures to address ML/TF risks;
 - (c) CUBHK has taken prompt remedial and enhancement actions to address the deficiencies identified by the HKMA; and
 - (d) CUBHK has no previous disciplinary record in relation to the AMLO and cooperated with the HKMA during the investigation and enforcement proceedings.

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² 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.

³ 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.