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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 Hua Nan Commercial Bank, Ltd., Hong Kong Branch (HNCBHK) 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)<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 HNCBHK contravened four specified provisions, namely, paragraph (c) of section 5(1) (section 5(1)(c)) and section 19(3) of Schedule 2 to the AMLO during the period between April 2012 and July 2018 (Relevant Period A); and section 12(3) and section 12(5) of Schedule 2 to the AMLO during the period between 1 March 2018 and 9 July 2018 (Relevant Period B). HNCBHK's contraventions and the related findings are summarised below.

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

3. In November 2011, in order to enhance its transaction monitoring arrangement, HNCBHK launched a new automated transaction monitoring system (2011 TM System) to replace its anti-money laundering and counter-financing of terrorism (AML/CFT) related Management Information System reports (MIS reports). However, due to the system setting issues of the 2011 TM System, HNCBHK had continued to generate MIS reports in parallel for its transaction monitoring during Relevant Period A.
4. In February 2018, HNCBHK discovered that most of the transaction alerts generated by the 2011 TM System since its launch had not been reviewed. Therefore, HNCBHK conducted review on over 2,200 customers involved in the alerts backlog and retrospectively filed 304 suspicious transactions reports involving 504 customers.
5. The HKMA sampled 26 out of the 504 customers, and reviewed the transaction alerts in respect of these 26 customers. The investigation found that during Relevant Period A, HNCBHK failed to examine the background and purposes of transactions of these 26 customers which (i) were complex, unusually large in amount or of an unusual pattern; and (ii) had no apparent economic or lawful purpose, and to set out its findings in writing.

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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.

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

6. During Relevant Period A, HNCBHK failed to establish and maintain effective procedures for the purpose of carrying out its duties under section 5(1)(c) of Schedule 2 to the AMLO. In particular, the lapses in internal controls included:
  - (a) lack of policies and procedures in relation to clearance and review of the MIS reports as well as periodic review of their triggering parameters/thresholds;
  - (b) lack of staff training in relation to clearance and review of the MIS reports; and
  - (c) ineffective measures to ensure proper review of the MIS reports.

### Sections 12(3) and 12(5) of Schedule 2 to the AMLO

7. During Relevant Period B, due to deficiencies of the system design and setting, HNCBHK, as an ordering institution, failed to:
  - (a) record the names of the recipients before carrying out 741 cross-border outgoing wire transfers, and therefore contravened section 12(3) of Schedule 2 to the AMLO; and
  - (b) include the names of the recipients in the messages accompanying 1,209 cross-border outgoing wire transfers, and therefore contravened section 12(5) of Schedule 2 to the AMLO.

### **Conclusion**

8. Having considered all of the evidence and the representations of HNCBHK, the MA has found that HNCBHK contravened four specified provisions of the AMLO during Relevant Period A or Relevant Period B 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 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 and the duration of the contraventions;

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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.

- (b) the need to send a clear deterrent message to HNCBHK and the industry about the importance of effective controls and procedures to address money laundering and terrorist financing risks;
- (c) HNCBHK self-identified the deficiencies in its AML/CFT controls and proactively reported them to the HKMA;
- (d) HNCBHK has taken remedial and enhancement measures to address the deficiencies identified;
- (e) HNCBHK has no previous disciplinary record in relation to the AMLO; and
- (f) the cooperation with the HKMA rendered by HNCBHK during the enforcement proceedings.

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