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## STATEMENT OF DISCIPLINARY ACTION

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### The Disciplinary Action

1. The Monetary Authority (MA) has taken the following disciplinary action against China Construction Bank (Asia) Corporation Limited (CCBA):
  - (a) ordered CCBA to submit to the Hong Kong Monetary Authority (HKMA) a report prepared by an independent external advisor assessing the sufficiency and effectiveness of the remedial measures taken by CCBA to address the contraventions and other deficiencies identified by the HKMA, pursuant to section 21(2)(b) of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Chapter 615 of the Laws of Hong Kong) (AMLO)<sup>1</sup>; and
  - (b) ordered CCBA to pay a pecuniary penalty of HK\$8,500,000, pursuant to section 21(2)(c) of the AMLO.

### Summary of Contraventions and Facts

2. The disciplinary action follows an on-site examination and further investigation by the HKMA which found that CCBA contravened four specified provisions, namely (i) paragraphs (c) and (a) of section 5(1) of Schedule 2 to the AMLO during the periods from January 2013 to June 2014 (Relevant Period A) and from January 2013 to October 2016 (Relevant Period B) respectively; (ii) sections 15 and 19(3) of Schedule 2 to the AMLO during Relevant Period A; and (iii) section 20(3) of Schedule 2 to the AMLO during the period from February 2013 to June 2018 (Relevant Period C). CCBA's contraventions and the related findings are summarised below.

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

3. CCBA contravened paragraph (a) of section 5(1) of Schedule 2 to the AMLO during Relevant Period B in that it failed to conduct: (i) annual reviews for high-risk customers; or (ii) periodic reviews upon trigger event in a timely manner in respect of 46 customers of the samples reviewed by the HKMA.
4. CCBA contravened paragraph (c) of section 5(1) of Schedule 2 to the AMLO in respect of 29 customers of the samples reviewed by the HKMA during Relevant

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<sup>1</sup> 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.

Period A in that it failed to: (i) examine the background and purpose of transactions, which were complex, unusually large in amount or of an unusual pattern or had no apparent economic or lawful purpose, and set out its findings in writing; or (ii) complete the investigation in a timely manner or adequately examine the background and purposes of the relevant transactions.

5. During Relevant Period A, CCBA's automated transaction monitoring system generated alerts for transactions hitting its pre-set threshold but it only investigated a small portion of alerts which met its restrictive selection criteria. CCBA thus contravened section 19(3) of Schedule 2 to the AMLO for failing to establish and maintain effective procedures.

#### Section 15 of Schedule 2 to the AMLO

6. During Relevant Period A, CCBA failed to obtain senior management approval in a timely manner to continue the business relationship in high risk situations with 51 customers of the samples reviewed by the HKMA. CCBA therefore contravened paragraph (b) of section 15 of Schedule 2 to the AMLO.

#### Section 20(3) of Schedule 2 to the AMLO

7. CCBA contravened section 20(3) of Schedule 2 to the AMLO in that it was unable to provide the HKMA with the relevant reports which bore the annotations made by the reviewers and/or the reviewers' initials for seven customers during Relevant Period C.

### **Conclusion**

8. Having considered all of the evidence and the representations of CCBA, the MA has found that CCBA 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 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;

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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 CCBA and the industry about the importance of effective controls and procedures to address money laundering and terrorist financing risks;
- (c) CCBA has taken remedial and enhancement actions to address the deficiencies identified by the HKMA; and
- (d) CCBA 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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