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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 CTBC Bank Co., Ltd., Hong Kong Branch (CTBCHK) to order it to pay a pecuniary penalty of HK\$6,000,000, 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 CTBCHK contravened three specified provisions, namely sections 5(1), 15 and 19(3) of Schedule 2 to the AMLO during the period from April 2012 to September 2014 (Relevant Period). CTBCHK's contraventions and the related findings are summarised below.

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

3. During Relevant Period, CTBCHK adopted a "mailer approach" (MaAp) for conducting periodic review of customer due diligence documents, data and information relating to a customer (customer information). Under this approach, CTBCHK issued a letter to customers enquiring whether there had been any change in the customer information provided at account opening (Letter). Where CTBCHK did not receive any response from a customer within 21 days from the issuance of the Letter, CTBCHK would assume no change to the existing customer information and would not take follow-up review or verification steps.
4. Despite that changes in customer information relating to company name, director and/or shareholder had occurred, CTBCHK failed to review from time to time the corresponding customer information of 148 customers to ensure that such information was up-to-date and relevant during Relevant Period. As a result, CTBCHK contravened paragraph (a) of section 5(1) of Schedule 2 to the AMLO.
5. In view of the inherent deficiencies of the MaAp and the systemic nature of the issue, CTBCHK contravened section 19(3) of Schedule 2 to the AMLO during Relevant Period in that it failed to establish and maintain effective procedures to ensure the customer information obtained by it was up-to-date and 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.

## Section 15 of Schedule 2 to the AMLO

6. CTBCHK contravened section 15 of Schedule 2 to the AMLO during Relevant Period in that it failed to take enhanced due diligence measures specified in paragraph (b) of that provision<sup>2</sup> in respect of 19 pre-existing high risk customers whose accounts had been opened before the AMLO commenced on 1 April 2012.

## **Conclusion**

7. Having considered all of the evidence and the representations of CTBCHK, the MA has found that CTBCHK contravened the three specified provisions during Relevant Period 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>3</sup> and the Guidance Note on Cooperation with the HKMA in Investigations and Enforcement Proceedings<sup>4</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 CTBCHK and the industry about the importance of effective controls and procedures to address money laundering and terrorist financing risks;
  - (c) CTBCHK has taken prompt remedial and enhancement actions to address the deficiencies identified by the HKMA; and
  - (d) CTBCHK 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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<sup>2</sup> The enhanced due diligence measures included (a) reasonable measures to verify the beneficial owners' identities so that CTBCHK was satisfied that it knew who the beneficial owners were and/or (b) either (i) reasonable measures to establish the relevant customers' or beneficial owners' sources of wealth and the sources of the funds involved in the business relationships or (ii) additional measures to mitigate the risk of money laundering or terrorist financing involved in respect of the relevant customers.

<sup>3</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>4</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.