
STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Monetary Authority (MA) has reprimanded 33 Financial Services Limited (33FS) and ordered it to pay a pecuniary penalty of HK\$875,000 pursuant to sections 33Q(2)(b)(iii) and 33Q(2)(a) of the Payment Systems and Stored Value Facilities Ordinance (Chapter 584 of the Laws of Hong Kong) (PSSVFO).

Summary of the Contravention and Facts

2. The disciplinary action follows an on-site examination and further investigation by the Hong Kong Monetary Authority (HKMA) which found that, during the period from November 2016 to June 2019 (Relevant Period), 33FS failed to have in place adequate and appropriate systems of control to ensure compliance with the relevant paragraphs of the Guideline on Anti-Money Laundering and Counter-Financing of Terrorism (AML/CFT) for Stored Value Facility (SVF) Licensees (Guideline)¹, and therefore not fulfilling the minimum criterion relating to AML/CFT measures under section 6(2)(b) of Part 2 of Schedule 3 to, and amounted to a contravention of section 8Q of, the PSSVFO. This case involved control deficiencies in respect of transaction monitoring and name screening. 33FS' non-compliance with the relevant paragraphs of the Guideline and the related findings are summarised in the following paragraphs.

Paragraphs 5.1, 5.10 and 5.14 of the Guideline

3. During the Relevant Period, 33FS failed to comply with paragraphs 5.1, 5.10² and 5.14³ of the Guideline regarding transaction monitoring in that:
 - (a) there was a lack of adequate and appropriate guidance in its policies and procedures on the handling of Management Information System reports (with alerts listed therein), the review of transactions to enable its relevant staff to form suspicion or to recognise the signs of any possible money laundering (ML) or terrorist financing (TF) activities, as well as the expected timeframe for clearing the alerts;

¹ During the Relevant Period, three versions of the Guideline prevailed: September 2016, February 2018 and October 2018. References to the Guideline herein refer to the October 2018 version unless specified otherwise.

² Similar requirement is provided under paragraph 5.1(b) of the Guideline (September 2016 and February 2018 versions).

³ Similar requirement is provided under paragraph 5.11 of the Guideline (September 2016 and February 2018 versions).

- (b) there was inappropriate scrutiny of transactions and clearance of alerts. 33FS' examination of the transactions underlying the alerts was neither effective nor adequate, as the HKMA's findings pertaining to 33FS' enquiries with the distributors that distributed the cards to the relevant customers failed to explain the background and purposes of the transactions concerned. In most of the cases, 33FS accepted the explanation provided by the customers through the distributors⁴ at face value;
- (c) 33FS failed to examine the background and purposes of the overseas cash withdrawals through automated teller machines, in particular when third-party's deposits were the source of funds for these withdrawals; it did not obtain sufficient information from the customers or distributors on the reasons for and source of the top-up funds. 33FS ignored: (i) its internal control measures of not allowing third-party's deposit and not accepting corporate customers for issuing reloadable cards; and (ii) the relevant red flags in its internal policy and the relevant examples of possible suspicious situation as provided in paragraph 7.11 of the Guideline; and
- (d) 33FS failed to set out the findings of the background and purposes of transactions in writing, as its rationales for clearance of the alerts sampled by the HKMA were either insufficient or not documented.

Paragraph 6.16⁵ of the Guideline

- 4. During the period from 17 January 2017 to 22 May 2019, 33FS failed to comply with paragraph 6.16 of the Guideline in that name screening was not conducted in respect of over 90% of its customers subsequent to on-boarding when name screening databases had new or updated information.

Conclusion

- 5. Having considered all information on hand, the MA has found that 33FS contravened section 8Q of the PSSVFO during the Relevant Period.
- 6. In deciding the disciplinary action set out in paragraph 1 above, the MA has had regard to the PSSVFO⁶, the Guideline on Exercising Power to Order a Pecuniary Penalty⁷,

⁴ During the Relevant Period, the SVF issued by 33FS (i.e. prepaid cards) were available for sales, among other channels, at the office of 33FS and distributors.

⁵ Similar requirement is provided under paragraph 6.22 of the Guideline (September 2016 and February 2018 versions).

⁶ Section 33Q(3) of the PSSVFO specifies the matters that the MA must have regard to before taking any actions against a regulated person under section 33Q(2). According to section 33Q(4) of the PSSVFO, in reaching a decision to take an action under section 33Q(2)(a) or (b), the MA may have regard to any information or material in the MA's possession that is relevant to the decision, regardless of how the information or material has come into the MA's possession.

⁷ This guideline was published by the HKMA on 27 April 2018 under section 54(1E) of the PSSVFO. It sets out the factors that the MA will consider, where applicable, in determining whether to order a pecuniary penalty and the amount of the pecuniary penalty if there has been a contravention of a provision of the

and the Guidance Note on Cooperation with the HKMA in Investigations and Enforcement Proceedings⁸. 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 33FS and the industry about the importance of effective controls and procedures to address ML and TF risks;
- (c) 33FS has taken remedial measures to address the deficiencies identified by the HKMA and enhance its AML/CFT systems of control. In this regard, 33FS will submit to the HKMA a report prepared by an external auditor to validate the completeness and effectiveness of the remedial measures and the enhancement; and
- (d) 33FS has no previous disciplinary record and is co-operative in resolving concerns identified by the HKMA.

- End -

PSSVFO, a requirement imposed under the PSSVFO or a condition attached to a licence, consent or any other instrument granted or given by the MA under the PSSVFO.

⁸ This guidance note was issued by the HKMA on 22 August 2018 to provide an overview of how the HKMA considers and recognizes cooperation in its investigations and enforcement proceedings and highlight the benefits of cooperation.