
STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Monetary Authority (MA) has reprimanded TNG (Asia) Limited (TNG) and ordered it to pay a pecuniary penalty of HK\$1,575,000 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 August 2016 to August 2020 (Relevant Period), TNG contravened section 8Q of the PSSVFO as it had not fulfilled the minimum criteria under sections 6(2)(b) (anti-money laundering and counter-terrorist financing measures) and 5(1)(d) (prudential and risk management) of Part 2 of Schedule 3 to the PSSVFO. The areas of non-compliance and related findings are summarised in the following paragraphs.

Failure to have in place adequate and appropriate systems of control to ensure compliance with paragraphs 5.10 and 5.14 of the Guideline on Anti-Money Laundering and Counter-Financing of Terrorism (AML/CFT) for Stored Value Facility (SVF) Licensees (AML Guideline)¹ regarding transaction monitoring

3. TNG conducted a housekeeping exercise from late June to mid-July 2020 to close 27,543 transaction alert cases of 13,529 customers (Housekeeping Exercise) generated from December 2018 to April 2020. Amongst these alert cases, there were around 12,000 cases of around 6,000 customers (Relevant Cases) that were escalated from compliance staff to the Money Laundering Reporting Officer (MLRO) but TNG had no audit trail of the findings and outcomes of the MLRO's review of the Relevant Cases before the Housekeeping Exercise.
4. TNG failed to comply with paragraph 5.14 of the AML Guideline from February 2019 to mid-July 2020 in that it failed to document in writing the findings and outcomes of the review conducted by the MLRO for the Relevant Cases, as well as the rationale of any decision made after the MLRO's review.
5. TNG failed to comply with paragraph 5.10 of the AML Guideline from late June to mid-July 2020 in that it did not take appropriate steps to identify if there were any grounds for suspicion for the Relevant Cases so as to assess whether filing of suspicious transaction reports to the Joint Financial Intelligence Unit was necessary before closing the Relevant Cases in the Housekeeping Exercise.

¹ The applicable version of the AML Guideline was the October 2018 version.

Failure to have in place sound governance arrangement and effective risk management framework: Paragraphs 3.2.1 and 4.2.1 of the Guideline on Supervision of Stored Value Facility Licensees (SVF Licensees Guideline)²

6. During the Relevant Period, a family member of a senior management personnel of TNG (Person X) was involved in certain operations of TNG although Person X did not have a clearly defined official role in TNG. TNG failed to comply with paragraph 3.2.1 of the SVF Licensees Guideline in that it failed to have in place a sound governance arrangement to properly manage and control the risks of its business and operations. TNG also failed to comply with paragraph 4.2.1 of the SVF Licensees Guideline in that it did not have in place effective risk management framework.

Failure to have a robust internal control system to promote effective and efficient operation and to enable prevention or early detection of irregularities: Paragraph 4.3.1 of the SVF Licensees Guideline

7. During the Relevant Period, although there was an internal control protocol that imposed certain limitation on Person X's authority in carrying out some operational tasks for TNG, such protocol was not strictly followed in a number of incidents. These incidents were only discovered by TNG upon the HKMA's query during the HKMA's investigation. TNG failed to comply with paragraph 4.3.1 of the SVF Licensees Guideline in that it did not have a robust internal control system to promote effective and efficient operation and to enable prevention or early detection of irregularities.

Conclusion

8. Having considered all information on hand, the MA has found that TNG contravened section 8Q of the PSSVFO during the Relevant Period.
9. In deciding the disciplinary action set out in paragraph 1 above, the MA has had regard to the PSSVFO³, the Guideline on Exercising Power to Order a Pecuniary Penalty⁴, and the Guidance Note on Cooperation with the HKMA in Investigations and Enforcement Proceedings⁵. The MA has taken into account all relevant circumstances of the case, including but not limited to:

² The applicable version of the SVF Licensees Guideline was the September 2016 version.

³ 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.

⁴ 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 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.

⁵ 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.

- (a) the seriousness of the investigation findings;
- (b) the need to send a clear deterrent message to TNG and the industry about the importance of having in place (i) adequate and appropriate AML/CFT systems of control and (ii) appropriate risk management policies and procedures for managing the risks arising from the operation of an SVF licensee;
- (c) TNG has taken remedial measures, some were at the request of the HKMA, to address the deficiencies identified by the HKMA and enhance its relevant systems of control; and
- (d) TNG has no previous disciplinary record and is co-operative in resolving concerns identified by the HKMA.

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