



HONG KONG MONETARY AUTHORITY  
香港金融管理局

## Press Releases

26 Aug 2022

# The Monetary Authority takes disciplinary action against Commerzbank AG, Hong Kong Branch for contraventions of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance

The Hong Kong Monetary Authority (HKMA) announced today (26 August) that it had completed an investigation and disciplinary proceedings for Commerzbank AG, Hong Kong Branch (CBHK) under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Chapter 615 of the Laws of Hong Kong) (AMLO) ([Note 1](#)). The Monetary Authority (MA) has imposed a pecuniary penalty of HK\$6,000,000 against CBHK for contraventions of the AMLO.

The disciplinary action ([Note 2](#)) follows an on-site examination and further investigation by the HKMA on CBHK's systems and controls for compliance with the AMLO. The control lapses identified in the investigation relate to conducting customer due diligence (CDD) before establishing business relationships during the period between April 2012 and June 2016. CBHK also failed to establish and maintain effective procedures for carrying out its duties under the AMLO in relation to conducting CDD and implementing name screening mechanism of customers' beneficial owners during this period.

In deciding the disciplinary action, the MA took into account the relevant circumstances and factors, including the following:

- (a) The seriousness of the investigation findings;
- (b) The need to send a clear deterrent message to CBHK and the industry about the importance of effective controls and procedures to address money laundering and terrorist financing risks;
- (c) CBHK's remedial actions to address the deficiencies identified by the HKMA; and
- (d) CBHK has no previous disciplinary record in relation to the AMLO and cooperated with the HKMA during the investigation and enforcement proceedings.

Ms Carmen Chu, Executive Director (Enforcement and AML) of the HKMA, said, "As the first line of defence, carrying out CDD measures upon customer on-boarding is fundamental to combating money laundering and terrorist financing and thereby maintaining the integrity of the banking system of Hong Kong. Banks should make reference to the HKMA's relevant guidelines and circulars in reviewing and optimising the performance of their anti-money laundering and counter-financing of terrorism control systems on an on-going basis, to ensure that the design and implementation of their policies and procedures remain effective."

Relevant link: [Statement of Disciplinary Action](#)

End.

Notes:-

1. 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.
2. The disciplinary action is taken under section 21 of the AMLO. The AMLO imposes CDD and record-keeping requirements on specified financial institutions, including Authorized Institutions, and designated non-financial businesses and professions. As regards Authorized Institutions, the MA is the relevant authority under the AMLO.

Last revision date : 26 August 2022

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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 Commerzbank AG, Hong Kong Branch (CBHK) 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 CBHK contravened four specified provisions, namely paragraph (a) of section 3(1) (section 3(1)(a)), paragraph (b) of section 3(4) (section 3(4)(b)), section 19(1) and section 19(3) of Schedule 2 to the AMLO during the period between 1 April 2012 and 30 June 2016 (Relevant Period). CBHK's contraventions and the related findings are summarised below.

#### Sections 3(1)(a) and 3(4)(b) of Schedule 2 to the AMLO

3. The HKMA's sample review found that during the Relevant Period, CBHK failed to carry out the customer due diligence (CDD) measures specified in any one or all of sections 2(1)(a), 2(1)(b) and 2(1)(d) of Schedule 2 to the AMLO in respect of 17 customers before establishing business relationships with them. Delays of carrying out such measures ranged from two to 46 months. CBHK therefore contravened section 3(1)(a) of Schedule 2 to the AMLO.
4. CBHK did not terminate the business relationships with 12 customers for periods ranging from six to 46 months when CBHK was unable to comply with section 3(1) of Schedule 2 to the AMLO. CBHK thus contravened section 3(4)(b) of Schedule 2 to the AMLO.

#### Section 19(1) of Schedule 2 to the AMLO

5. CBHK contravened section 19(1) of Schedule 2 to the AMLO as it failed to establish and maintain effective procedures for determining whether a customer or a beneficial owner (BO) of a customer is a politically exposed person (PEP). Before August 2015, CBHK's automated PEP name screening was conducted

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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.

only on customers but not on customers' BOs. Furthermore, the procedures of CBHK for manual PEP name screening of customers' BOs were not implemented effectively, with some delays in name screening of, and omissions in identifying, BOs of PEP-related customers. CBHK's failure to establish and maintain effective procedures for carrying out the CDD measures set out in section 2(1)(b) of Schedule 2 to the AMLO to identify customers' BOs also contributed to CBHK's failure to have effective procedures for determining whether a customer's BO was a PEP.

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

6. During the Relevant Period, the procedures adopted by CBHK for carrying out CDD fell short of the standards in respect of the relevant requirements under the AMLO and the HKMA's Guideline on Anti-Money Laundering and Counter-Terrorist Financing for Authorized Institutions. The procedures allowed continuity of a business relationship despite the failure to carry out CDD measures, as long as the approval from a line manager was obtained. Moreover, no requirement had been established nor maintained in any of CBHK's procedures or manuals for checking the completeness of CDD measures or the time of completion of the CDD measures before establishing business relationships. CBHK therefore contravened section 19(3) of Schedule 2 to the AMLO.

#### **Conclusion**

7. Having considered all of the evidence and the representations of CBHK, the MA has found that CBHK contravened the four specified provisions during the 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>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;
  - (b) the need to send a clear deterrent message to CBHK and the industry about the importance of effective controls and procedures to address money laundering and terrorist financing risks;

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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.

- (c) CBHK has taken prompt remedial actions to address the deficiencies identified by the HKMA; and
- (d) CBHK 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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