

**Summary of Order in Original No. 19/DIR/FIU-IND/2022 in the matter of The
Hongkong and Shanghai Banking Corporation Ltd. (“HSBC” or “the Bank”)**

The present matter came to the attention of FIU-IND with the lodging of First Information Reports (FIRs) by a state police force in relation to the activities of certain companies alleged to be indulging in various banned activities including the conducting and facilitating of online gambling. The funds that were proceeds of such criminal activities were routed and channelled through bank accounts maintained by the same entities with the Bank herein.

After becoming aware of the above FIRs, the Bank filed suspicious transaction reports (STRs) with FIU-IND in respect of the accounts maintained by the same entities and certain others affiliated with the said entities. Pursuant to the filing of STRs in relation to the entities in question, the matter was taken up for further scrutiny by FIU-IND and call for additional information was issued to the Bank requiring it to provide additional details relating to the accounts maintained by the said entities. The information supplied by the Bank was examined and it was observed that the Bank: (i) may have closed alerts generated relating to the accounts of the above referenced entities improperly; (ii) may have failed to conduct effective due diligence in connection with the same accounts despite large transactions observed therein; and (iii) may have failed to put in place an effective mechanism to detect and report suspicious transactions.

Based on the observations above, and other information available on record, the Bank was issued a show cause notice by FIU-IND wherein the following charges were put to the Bank:

- (i) In improperly closing the alerts generated in the accounts of the respective entities, the Bank may have contravened provisions of Rule 7(3) and 2(1)(g) of the PML Rules;
- (ii) The details of the turnovers of the concerned entities, when seen with certain other facts, and the fact that no STR was filed till receipt of notice from law enforcement agencies suggested that the Bank may have failed to report suspicious transactions thereby violating the obligations contained in Rule 8(2) of the PML Rules read with Rule 3(1)(D) and Rule 2(1)(g).
- (iii) The Bank may have misreported figures in relation to certain cross border wire transfer reports filed with FIU-IND in violation of Rule 3(1)(E) of the PML Rules read with Rule 8(1).
- (iv) The Bank may have failed to exercise ongoing due diligence measures in relation to certain accounts belonging to the concerned entities with particular reference to the business relationship with the concerned entity to examine the transactions in question to ensure that they were consistent with their knowledge of the client, their business and risk profile and the source of funds in violation of the provisions of Rule 9(12) of the PML Rules.

- (v) The Bank may have failed to formulate and implement enhanced due diligence measures, in violation of Rule 9(14) of the PML Rules, in connection with the failure to verify the client's identity taking into consideration the type of client, business relationship, nature and value of transactions based on the overall money laundering and terrorist financing risks involved.

Detailed written submissions were made by Bank in response to the notice. Based on additional queries of FIU-IND, further detailed written submissions were also made. Further, the Bank was also provided an opportunity for personal hearing before Director, FIU-IND.

After considering the written and oral submissions of the Bank, Director, FIU-IND, based on the voluminous material available on record, found that the charges against Bank were substantiated. Consequently, vide order dated October 31, 2022 in exercise of his powers under Section 13, PMLA, it was found to be appropriate to:

- (i) In respect of charges relating to the failure of the Bank to carry out due diligence as required under Rule 9(12)(i), PML Rules, levy a monetary penalty of Rs. 4,00,000 (Rupees Four Lakh Only) in connection with four breaches found to have occurred.
- (ii) In respect of charges relating to failure of the Bank to carry out due diligence as required under Rule 9(12)(ii), PML Rules, levy a monetary penalty of Rs. 4,00,000 (Rupees Four Lakh Only) in connection with four breaches found to have occurred.
- (iii) In respect of (consolidated) charges relating to failure of the Bank to implement effective mechanism to detect and report STRs, levy a monetary penalty of Rs. 1,92,00,000 (Rupees One Crore Ninety Two Lakh Only) in connection with 192 breaches found to have occurred.
- (iv) In respect of charges relating to failure of the Bank to report STRs in accounts of the concerned entities, levy a monetary penalty of Rs. 5,00,000 (Rupees Five Lakh Only) in connection with four breaches found to have occurred.
- (v) In respect of charges relating to failure of the Bank to properly report cross border wire transfer reports (CBWTRs), levy a monetary penalty of Rs. 1,75,000 (Rupees One Lakh Seventy Five Thousand Only) in connection with seven breaches found to have occurred.
- (vi) In addition, issue specific and detailed remedial directions to the Bank to take certain actions, in a time-bound manner, to mitigate risks flowing from the above contraventions.

Disclaimer: The summary of the referenced order of Director, FIU-IND is only representational in nature. It does not hold any legal significance and cannot be relied upon or referred to as precedent in any other case.