STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Insurance Authority ("IA") has taken the following disciplinary action against the companies formerly known as MetLife Limited (now named FWD Life (Hong Kong) Limited) and Metropolitan Life Insurance Company of Hong Kong Limited (now named FWD Life Assurance Company (Hong Kong) Limited) (collectively referred to as the "Companies" in this Statement):

   (a) reprimanded the Companies, pursuant to section 21(2)(a) of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Chapter 615 of the Laws of Hong Kong) ("AMLO"); and

   (b) ordered the Companies to pay a pecuniary penalty of HK$7 million, pursuant to section 21(2) of AMLO, such amount to be borne equally by the Companies.

Summary of Contraventions and Facts

2. The disciplinary action follows an investigation by the IA which found that between January 2015 and 2017, the Companies (under the names of Metlife Limited and Metropolitan Life Insurance Company of Hong Kong Limited) contravened seven specified provisions, namely sections 5(1), 10(1), 10(2), 15, 19(1), 19(3) and 23 of Schedule 2 to AMLO[1]. The contraventions by the Companies and related findings are summarized in paragraphs 3 to 16 below.

Screening of politically exposed persons ("PEPs"):

3. The relevant provisions of AMLO in relation to screening of PEPs are as follows:

   (a) Section 19(1) of Schedule 2 to AMLO required a financial institution to establish and maintain effective procedures for determining whether a customer or a beneficial owner of a customer is a politically exposed person (as defined under AMLO) ("foreign PEPs").

   (b) Section 19(3) of Schedule 2 to AMLO required a financial institution, in respect of each kind of customer, business relationship, product and transaction, to establish and maintain effective procedures not inconsistent with AMLO for the purpose of carrying out the duties under (inter alia) sections 10 and 15 of Schedule 2 to AMLO.

   (c) Section 10 of Schedule 2 to AMLO set out special requirements which a financial institution must comply with in relation to customers who are foreign PEPs, in respect of obtaining senior management approval before establishing (in the case of section 10(1)) or continuing (in the case of section 10(2)) a business relationship

[1] Applicable versions of AMLO: 13 November 2015, 13 November 2016 and 26 June 2017.

and taking reasonable measures to establish the customer's or beneficial owner's source of wealth and source of funds.

(d) Section 15 of Schedule 2 to AMLO set out enhanced due diligence measures which a financial institution must take in any situation that by its nature may present a high risk of money laundering or terrorist financing, such as obtaining senior management approval to establish or continue a business relationship and either taking reasonable measures to establish the relevant customer's or beneficial owner's source of wealth and source of funds or taking additional measures to mitigate the risk of money laundering or terrorist financing. Guideline 3 on Anti-Money Laundering and Counter-Terrorist financing[2] ("Guideline 3") issued by the IA pursuant to section 7 of AMLO required a financial institution to take reasonable measures to determine whether an individual is a domestic PEP as defined in Guideline 3, to determine whether the domestic PEP poses a higher risk of money laundering or terrorist financing and, if so, to carry out the enhanced due diligence required in Section 15 of Schedule 2 to AMLO.

4. The Companies' controls and procedures for screening customers to establish whether they were PEPs prior to a business relationship being established were deficient and inadequate. This resulted in the Companies issuing long term insurance policies to, and establishing business relationships with PEPs, without them having been identified as such.

5. After policy issuance, although the Companies carried out PEP screening of customers, backlogs in screening led to delays in customers being identified as PEPs in a timely manner. The fact that the Companies did not carry out appropriate screening prior to the applications for insurance policies being accepted, meant that the Companies were exposed to delays in identifying PEPs after the business relationship had been entered into.

6. After eventually identifying customers as PEPs, the Companies failed to take reasonable measures to identify their source of funds and source of wealth (as in most cases PEP customers did not respond to the Companies' requests for such information after the insurance policies had been issued). Further, there were examples of the Companies failing to obtain senior management approval to continue the business relationships with PEPs. The processes and controls which the Companies had in place to obtain senior management approval to continue the business relationships and to take reasonable measures to identify the source of funds and source of wealth were therefore inadequate and deficient.

7. The Companies quarterly certification process which aimed to serve as a control to monitor the timely screening of PEPs by the Companies, was inadequate and deficient as certifications were made to indicate alerts had been cleared in a timely manner, despite there being backlogs.

8. Information on beneficial owners of customers was not subject to PEP screening and, as such, the Companies failed to maintain effective procedures for determining whether a beneficial owner of a customer was a PEP or to identify such situations which may by their nature present a high risk of money laundering or terrorist financing.

---

[2] Applicable versions of Guideline 3: March 2015 and June 2017

9. Similar deficiencies to those found in relation to the Companies' PEP screening processes for applications for insurance policies, existed in relation to applications for changes of policy ownership.

10. By reason of the matters summarized in paragraphs 3 to 9 above, the Companies contravened sections 10(1), 10(2), 15, 19(1) and 19(3) of Schedule 2 to AMLO.

Risk assessments to identify high risk customers prior to entering into a business relationship

11. Although the Companies' anti-money laundering manual required staff, prior to the establishment of a business relationship, to make reasonable efforts to assess the risk profile of a customer and the factors which staff should take into account when making this assessment, risk ratings denoting the risk of money laundering or terrorist financing regarding customers were not denoted on the Companies' underwriting worksheets for policy applications or worksheets/notes in relation to applications for changes of policy ownership. The Companies thereby contravened section 19(3) of Schedule 2 to AMLO by failing to maintain effective procedures to assess whether a business relationship would by its nature present a high risk of money laundering or terrorist financing (as required section 15 of Schedule 2 to AMLO).

Annual reviews of high risk customers

12. Section 5 of Schedule 2 to AMLO stipulated a financial institution's duty to monitor business relationships with customers. Pursuant to section 5(1)(a) of Schedule 2 to AMLO, this duty included reviewing from time-to-time documents, data and information in relation to the customers that had been obtained by the financial institution for the purpose of complying with the requirements imposed under Part 2 of Schedule 2 to AMLO, to ensure the documents, data and information were up-to-date and relevant. Paragraph 4.7.13 of Guideline 3 provided guidance in relation to section 5(1)(a) of Schedule 2 to AMLO to the effect that all customers that presented a high money-laundering or terrorist financing risk should be subject to a minimum of an annual review by the insurance institution to ensure the customer due diligence information retained remains up-to-date and relevant. Section 19(3) of Schedule 2 to AMLO required a financial institution, in respect of each kind of customer, business relationship, product and transaction to establish and maintain effective procedures not inconsistent with AMLO for the purpose of carrying out its duties, *inter alia*, under section 5 of Schedule 2 to AMLO.

13. Although the Companies' anti-money laundering manual required all high risk customers to be subject to a minimum annual review, the Companies only began to carry out such reviews in November 2017. Prior to November 2017, therefore, the Companies contravened section 5(1) and Section 19(3) of Schedule 2 to AMLO, by failing to review documents, data and information relating to the customers of the Companies which present a high risk of money laundering or terrorist financing on at least an annual basis to ensure such documents, data and information are up to date, and in failing to maintain effective procedures to discharge this duty.

Monitoring transactions

14. Section 5(1)(c) of Schedule 2 to AMLO set out a financial institution's duty to monitor continuously business relationships with customers by identifying transactions that:

(i) are complex, unusually large in amount or of an unusual pattern; and
(ii) have no apparent economic or lawful purpose

and examine the background and purposes of those transactions and set out the findings in writing.

15. The Companies' anti-money laundering manual only required the Companies to screen customer level transactions against two parameters, to identify transactions that required further risk assessment (parameter 1: at least 3 withdrawals + cumulative deposits > USD65k; parameter 2: at least 3 withdrawals + cumulative withdrawals > USD65K). In August 2016, the Global Anti-Money Laundering Officer from the group of companies to which the Companies belonged, following a review of the Companies' anti-money laundering programs, cited that the two parameters used by the Companies were inadequate and that, at a minimum, four additional parameters should be issued for identifying transactions that needed to be reviewed for suspicious activities (surrenders of policies during the "free look" (i.e. cooling off) period; policy loans being taken within one year of policy issuance; surrenders within 90 days of policy issuance; and surrenders in excess of USD100,000 within one year of policy issuance). The implementation of the expanded risk parameters for monitoring transactions was only executed by the Companies at the end of October 2017 (after the IA had commenced an on-site inspection against the Companies).

16. The two parameters used by the Companies for their monitoring prior to end October 2017 were insufficient and inadequate to discharge their duty under section 5(1)(c) of Schedule 2 to AMLO to monitor continuously business relationships with customers by identifying transactions that (i) are complex, unusually large in amount or of an unusual pattern; and (ii) have no apparent economic or lawful purpose. Accordingly, for the period from 2015 to 30 October 2017, the Companies contravened both section 5(1)(c) and section 19(3) of Schedule 2 to AMLO by failing in respect of each kind of customer, business relationship, product and transaction to establish and maintain effective procedures not inconsistent with AMLO for the purpose of carrying out their duties, *inter alia*, under section 5 of Schedule 2 to AMLO.

Failure to take all reasonable measures

17. There was confusion amongst the Companies' staff as to who had responsibility for the roles of Compliance Officer and Money Laundering Reporting Officer and, thereby, to whom reports could be made and questions on anti-money laundering and counter-terrorist financing matters could be directed. This was indicative of a lack of clear communication by the Companies to their staff and an underlying weakness in the Companies' anti-money laundering and counter-terrorist financing governance and culture of compliance during the period from 2015 to 2017. For this reason, and for the reasons stated in paragraphs 3 to 16 above, the Companies contravened section 23 of Schedule 2 to AMLO by failing to take all reasonable measures (a) to ensure that proper safeguards existed to prevent a contravention of any requirement under Part 2 of Schedule 2 to AMLO; and (b) to mitigate money laundering and terrorist financing risks.

Conclusion

18. For the reasons stated in paragraphs 3 to 16 above, between January 2015 and 2017, the Companies contravened sections 5(1), 10(1), 10(2), 15, 19(1), 19(3) and 23 of Schedule 2 to AMLO.

19. In deciding the disciplinary actions set out in the paragraph 1 above, the IA had regard to the Guideline on Exercising Power to Impose Penalty in Respect of Anti-Money Laundering and Counter-Terrorist Financing, Guideline 3A[3], and took account of all relevant circumstances of the case including but not limited to the following:

    (a) the contraventions by the Companies revealed systemic weaknesses in the anti-money laundering and counter-terrorism financing controls and governance of the Companies;

    (b) the duration of the contraventions (January 2015 to October 2017);

    (c) the need to send a clear deterrent message about the importance of effective internal anti-money laundering and counter-terrorist financing controls and procedures;

    (d) the Companies have a clean disciplinary record; and

    (e) the fact that the Companies have taken remedial measures to address the deficiencies identified.

20. It is also observed that since the contraventions occurred the Companies have been acquired by the FWD group and are under entirely new management.

-End-

[3] Published under, inter alia, section 32(1) of the AMLO setting out the considerations the IA will take into account in exercising its power to impose a pecuniary penalty.