

ENFORCEMENT OUTCOME

Revocation of Licence - CYBERservices ASIA Ref: ENF/04H2021/E1

1. Background

- 1.1. CYBERservices ASIA (the "Company") holds a Global Business Licence and a Payment Intermediary Services Licence issued by the Financial Services Commission (the "FSC") since June 2012.
- 1.2. An on-site inspection (the "Inspection") conducted by the FSC at the premises of the Company revealed that it was in breach of numerous statutory obligations. A deficiency letter was thus issued to the Company detailing the Inspection findings and requiring the Company to submit an action plan to remedy these statutory breaches, with an implementation timeline to be agreed with the FSC. The Company duly responded to the deficiency letter and requested additional time to remedy the breaches uncovered by the Inspection.
- 1.3. The Company failed to submit any such remedial plan to the FSC.
- 1.4. In this regard, following an assessment of the matter, the Enforcement Directorate gave written notice, to the Company, of its intention to refer the matter to the Enforcement Committee (the "EC") pursuant to section 53 (1) of the Financial Services Act (the "FSA"). The Company did not make any submissions in this regard. The matter was thus referred to the EC.

Financial Services Commission

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2. Breaches committed by the Company

2.1. Based on the referral material provided by the FSC, the EC observed that the Company had been acting in breach of the FSA, the Financial Intelligence and Anti-Money Laundering Act 2002 (the "FIAMLA") and the Financial Intelligence and Anti-Money Laundering Regulations 2018 ("FIAML Regulations"):

2.1.1. Failure to commence business

While the Company was licensed in 2012, at the date of the Inspection, the Company did not have any clients and there was no evidence to support that it had initiated the business activity for which it had been licensed.

2.1.2. Breach of section 71 (3) (a) (iii) of the FSA

Following the resignation of **[Name of company edited for Confidentiality]** as its Management Company and Company Secretary with effect from 31 July 2020, the Company had been in contravention of section 71 (3) (a) (iii) of the FSA according to which, the holder of a Global Business Licence, is required, at all times, to be administered by a Management Company.

2.1.3. Contravention of section 71 (3) (b) (ii) of the FSA

The holder of a Global Business Licence is required to maintain its principal account in Mauritius. Having failed to meet this statutory requirement, the Inspection revealed that the Company had been in contravention of section 71 (3) (b) (ii) of the FSA.

2.1.4. Anti-Money Laundering and Countering the Financing of Terrorism ("AML/CFT")

The Inspection showed that the Company:

- (i) did not have policies, controls and procedures to mitigate and manage effectively the risks of money laundering and terrorism financing ("ML/TF") resulting in a breach of section 17A of the FIAMLA;

- (ii) had, since being licensed, failed to appoint a Money Laundering Reporting Officer ("MLRO"), a Deputy MLRO and a Compliance Officer, thus contravening regulation 26 (1), 26 (2) and 22 (1) (a) of the FIAML Regulations; and
- (iii) had infringed regulation 22 (1) (c) of the FIAML Regulations since it did not have a training programme for its directors to maintain awareness of the legislative provisions relating to ML/TF to assist them in recognising transactions and actions that may be linked to ML/TF and to instruct them regarding the procedures to be followed where any such links have been identified.

3. Proceedings before the EC

Contemplated Sanction

- 3.1. Having duly considered the above-mentioned Inspection findings, the EC contemplated to revoke the Payment Intermediary Services Licence held by the Company pursuant to sections 7 (1) (c) (vi) and 52 (3) of the FSA.

Warning Notice under section 53(2) of the FSA

- 3.2. The EC issued a Warning Notice dated 07 April 2021 to the Company pursuant to section 53 (2) of the FSA. The purpose of this Warning Notice was to inform the Company that:
- 3.2.1. the EC was contemplating to revoke the Payment Intermediary Services Licence held by the Company pursuant to sections 7 (1) (c) (vi) and 52 (3) of the FSA; and
 - 3.2.2. it was entitled, as of right, to make written representations to the EC within a period of 21 days as to why its Payment Intermediary Services Licence should not be revoked.
- 3.3. A copy of the referral material provided by the FSC was duly submitted to the Company along with the Warning Notice.

3.4. The Company did not make any written representations to the EC.

4. Decision of the EC

4.1. In light of the above, the EC concluded that the breaches, as detailed at paragraph 2, are undefended by the Company. The EC has thus revoked the Payment Intermediary Services Licence held by the Company pursuant to sections 7(1) (c) (vi) and 52(3) of the FSA.

4.2. This decision shall take effect immediately after a period of 21 days from the date of the decision notice.

5. Application to the Financial Services Review Panel (the “FSRP”)

5.1. The Company may make an application to the FSRP for a review of the above decision of the EC, within 21 days from the issue of the notice. Such an application must be lodged with the Secretary of the FSRP specifying the reasons for a review, in accordance with section 53(4) of the FSA. A copy of the application must be filed with the FSC.

5.2. The decision notice was issued on 30 June 2021 and became effective on 21 July 2021. Based on the records of the FSC as at date, no such application has been filed by the Company.

4 August 2021

This published version of the Decision Notice has been edited for formatting purposes, to remove certain confidential, sensitive or personal information and to include certain information which the FSC deems important for the awareness of the members of the public and for transparency purposes.