STATEMENT OF DISCIPLINARY ACTION

The Disciplinary Action

1. The Insurance Authority **("IA")**, pursuant to section 21(2) of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) (**"AMLO"**), has taken disciplinary actions against FWD Life Insurance Company (Bermuda) Limited (**"FWD"**), ordering it to pay pecuniary penalties amounting to HK$19.5 million.

Summary of Contraventions and Facts

2. The disciplinary actions follow an on-site inspection by the IA which found that during periods between April 2012 and September 2024, FWD contravened sections 5(1), 10(2), 15, 19(1), 19(3) and 23 of Schedule 2 of AMLO, as summarized in paragraphs 3 to 21 below.

Contraventions on controls on Third Party Payments

3. Section 23(b) of Schedule 2 of AMLO requires a financial institution to take all reasonable measures to mitigate money laundering and terrorist financing (**"ML/TF"**) risks. Guideline 3 on Anti-Money Laundering and Counter-Terrorist Financing (**"Guideline 3"**) issued by the IA cites, in the context of suspicious transaction reporting, examples of situations that might give rise to suspicion and which should prompt further investigation. These situations included unnecessary routing of funds or other property from/to third parties or through third party accounts; a proposal to purchase by utilizing a cheque drawn from an account other than the personal account of the proposer; and any transaction involving an undisclosed party.

4. FWD accepted bank drafts as payment of premiums. FWD's own Anti-Money Laundering Payment Acceptance Procedures provided that a copy of the bank draft application should be obtained to verify the payor's identity. In actual practice, its procedures did not come into effect or it had been superseded by the process it had deployed. FWD in fact allowed proof of the payor's identity to be provided by way of Premium Payment Declaration Forms ("**PPD forms**") for payments over HK$150,000, whereby policy holders simply self-declare that they, the insureds or the settlors (in the case of trust customers) had purchased the bank drafts.

5. The IA sampled 129 bank drafts for payments ranging from HK$400,000 to HK$4.7 million, spanning from January 2021 to December 2023. It was found that 3 bank drafts were submitted without PPD forms or any documentary proofs. For the remaining 126 bank drafts, PPD forms were submitted, but the bank drafts were not purchased by the policy holders, insureds or settlors (in the case of trust customers) in 68 of the samples.

6. Insurers should take a risk-based approach when developing controls to prevent contraventions of the AMLO. Generally, there is a greater risk of potential ML/TF activities where the premium payments are large in amount. Therefore, for premiums that are large in amount, more stringent controls should be imposed. In this case, FWD did not have in place a threshold amount where comprehensive identity proof of the payor was mandated in practice.

7. Accordingly, FWD contravened section 23(b) of Schedule 2 of AMLO.

Contraventions in respect of Suspicious Transaction Monitoring

8. Section 5(1)(c) of Schedule 2 of AMLO sets out a financial institution's duty to continuously monitor its business relationships with customers by identifying transactions that (a) are complex, unusually large in amount or of an unusual pattern; and (b) have no apparent economic or lawful purpose, and to examine the background and purposes of such transactions and set out its findings in writing. Section 19(3) of Schedule 2 of AMLO requires 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 of AMLO.

9. FWD did not have any follow-up checking procedures between January 2022 and December 2022 to ascertain why premium payments made in cash were split, for unexplained reasons, into a series of separate payments. As a result, 306 insurance policies with split cash payments were not examined by FWD. Upon request by the IA, the Company reviewed certain of these transactions totaling HK$23.8 million, and found that they had been paid by unknown parties. This resulted in FWD eventually filing a suspicious transaction report to the Joint Financial Intelligence Unit (**"JFIU"**).

10. During the same period, FWD failed to monitor the design of its system for monitoring suspicious transactions. Due to an improper system design, the system failed to generate over a hundred alerts of potentially suspicious transactions. Subsequent review of these "unalerted" transactions prompted by the IA resulted in FWD filing another suspicious transaction report to the JFIU.

11. Accordingly, FWD contravened sections 5(1)(c) and 19(3) of Schedule 2 of AMLO.

Contraventions relating to Politically Exposed Persons ("PEPs")

12. The relevant provisions of Schedule 2 of AMLO relating to PEPs are as follows:

(a) Section 19(1) of Schedule 2 of 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 PEP (as defined under AMLO) ("**foreign PEPs/non-Hong Kong PEPs**" [1]).

(b) Section 19(3) of Schedule 2 of 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 of AMLO.

(c) Section 10 of Schedule 2 of AMLO set out special requirements which a financial institution must comply with in relation to customers who are foreign PEPs/non-Hong Kong 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 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 of AMLO set out enhanced due diligence measures which a financial institution must take in situations that by its nature may present a high risk of ML/TF, 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 ML/TF. Guideline 3 required an insurance institution to take reasonable measures to determine whether an individual is a domestic PEP/Hong Kong PEP[2] or an international organization PEP (as defined in Guideline 3), to determine whether the domestic PEP/Hong Kong PEP/international organization PEP poses a higher risk of ML/TF and, if so, to carry out the enhanced due diligence required in section 15 of Schedule 2 of AMLO.

13. The IA found significant amounts of data on beneficial owners of policy holders that were legal entities or trusts was missing in FWD's source systems, resulting in the non-screening of beneficial owners of policy holders that were trusts or

[1] The use of the term "foreign PEPs/non-Hong Kong PEPs" aims to reflect that section 1(1) of Schedule 2 of AMLO was amended and came into force on 1 June 2023, with the definition of "politically exposed person" revised to refer to a person who is or has been entrusted with a prominent public function in a place outside Hong Kong, rather than outside the People's Republic of China, as defined in the previous section 1(1) of Schedule 2 of AMLO.

[2] Following the replacement of "foreign PEP" with "non-Hong Kong PEP" in the June 2023 version of the Guideline 3, the term "domestic PEP", as defined in paragraph 4.11.12 of the September 2019 version of the Guideline, was similarly replaced with "Hong Kong PEP", as defined in paragraph 4.11.15 of the June 2023 version of the Guideline 3.

legal entities for PEP status, either at the outset of business relationships or on an ongoing basis for a considerable period of time from April 2012 to November 2020.

14. The IA also identified significant deficiencies in FWD's PEP screening and monitoring framework, which includes several failures in the operation and effectiveness of key screening controls and alert management processes as well as other shortcomings identified during remediation. As a result, FWD failed to identify 58 customers or beneficial owners as PEPs (including 7 foreign/non-Hong Kong PEPs) and conduct requisite enhanced due diligence measures and obtain senior management approvals for them during the material time.

15. Accordingly, FWD contravened sections 10(2), 15, 19(1) and 19(3) of Schedule 2 of AMLO.

Contraventions in respect of Customer Due Diligence

16. Section 15(a) of Schedule 2 of AMLO required that in any situation that by its nature may present a high risk of ML/TF, where a business relationship is to be established, a financial institution should obtain approval from the senior management to establish the business relationship.

17. The IA found that from January 2022 to December 2022, FWD failed to promptly obtain the requisite senior management approvals at the outset of establishing business relationships with 19 policy holders who presented to be high ML/TF risks. FWD, therefore, contravened section 15(a) of Schedule 2 of AMLO.

Contraventions on Compliance Function and Senior Management Oversight

18. Section 23 of Schedule 2 of AMLO required a financial institution to take all reasonable measures (a) to ensure that proper safeguards exist to prevent a contravention of any requirement under Part 2 of Schedule 2 of AMLO; and (b) to mitigate ML and TF risks. Guideline 3 supplemented this by identifying the senior management of an authorized long term insurer as having responsibility to implement effective anti-money laundering and counter-terrorist financing (**"AML/CFT"**) systems and, for this purpose, the senior management should appoint a compliance function with responsibility for, *inter alia,* developing and/or continuously reviewing the insurance institution's AML/CFT systems, and overseeing all aspects of the insurer's AML/CFT systems, including monitoring their effectiveness and enhancing the controls and procedures where necessary. In order that the compliance officer can discharge their responsibilities, senior management should, as far as practicable, ensure that the compliance officer is fully conversant with the insurance institution's statutory and regulatory requirements and the ML/TF risks arising from the insurance institution's business, and implement effective AML/CFT systems.

19. The contraventions summarized in paragraphs 3 to 17 above demonstrate failures in FWD's compliance function to develop and continuously review its AML/CFT systems and implement and monitor its AML/CFT compliance controls and processes. Such failures further indicate that FWD's previous compliance officer was not adequately conversant with the statutory and regulatory requirements and the ML/TF risks arising from FWD's business.

20. Not all shortcomings can be laid solely at the compliance function's doorstep. It is the responsibility of the senior management to implement effective AML/CFT systems.

21. Accordingly, FWD contravened section 23 of Schedule 2 of AMLO.

Conclusion

22. For the reasons stated in paragraphs 3 to 21 above, between April 2012 and September 2024, FWD contravened sections 5(1), 10(2), 15, 19(1), 19(3) and 23 of Schedule 2 of AMLO.

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

(a) the contraventions revealed systemic weaknesses in FWD's AML/CFT controls and governance;

(b) the duration of the contraventions;

(c) following remediation, FWD found that there had been no onboarding of customers that ought not to have ultimately been accepted as a result of delayed detection or enhanced reviews;

(d) the majority of the contraventions were identified by the IA;

(e) the need to send a clear and strong deterrent message;

(f) other than disciplinary actions arising from contraventions committed by insurers that were acquired by its parent company after the relevant conduct had occurred (for which FWD was not in any way culpable), FWD has no disciplinary record in relation to AMLO; and

(g) the level of cooperation shown by FWD during the process resulting in this disciplinary action, the significant resources (financial, human and time commitment) to addressing the issues, accepting accountability for past shortcomings and indicating a commitment to maintain strengthened

AML/CFT controls and processes going forward and that FWD has made considerable progress in remediating all of the matters referenced and addressing the deficiencies identified.