
FINAL NOTICE

To: Al Rayan Bank PLC

Reference
Number: 229148

Address: 24A Calthorpe Road, Edgbaston, Birmingham, West Midlands, B15 1RP

Date: 11 January 2023

1. ACTION

- 1.1. For the reasons given in this Final Notice, the Authority hereby imposes on Al Rayan Bank PLC ("Al Rayan") a financial penalty of £4,023,600, pursuant to section 206 of the Act.
- 1.2. Al Rayan agreed to resolve this matter and qualified for a 30% (stage 1) discount under the Authority's executive settlement procedures. Were it not for this discount, the Authority would have imposed a financial penalty of £5,748,000 on Al Rayan.

2. SUMMARY OF REASONS

- 2.1. The Authority has the operational objective of protecting and enhancing the integrity of the UK financial system. The laundering of money through UK financial institutions undermines the integrity of the UK financial system. Financial institutions operating in the UK are therefore responsible for minimising their risk of being used for criminal purposes, including the risk of being used to facilitate money laundering or terrorist financing.
- 2.2. To mitigate this risk, UK firms must take reasonable care to organise and control their affairs responsibly and effectively and to establish, implement and maintain adequate policies and procedures for countering the risk of them being used to further financial crime, for example, by those seeking to launder the proceeds of

crime, evade financial sanctions, or finance terrorism. This includes establishing and maintaining appropriate risk-based anti-money laundering (“AML”) systems and controls which are compliant with the applicable Money Laundering Regulations. The obligations on a firm under the Money Laundering Regulations 2007 (the “ML Regulations”) include:

- 2.2.1. applying, on a risk-sensitive basis, enhanced customer due diligence (“EDD”) measures and enhanced ongoing monitoring in any situation which by its nature can present a higher risk of money laundering or terrorist financing;
 - 2.2.2. applying scrutiny to transactions undertaken throughout the course of their relationship with a customer to ensure that the transactions are consistent with the firm’s knowledge of the customer;
 - 2.2.3. keeping documents, data or information obtained for the purpose of applying customer due diligence (“CDD”) measures up-to-date;
 - 2.2.4. providing adequate training to staff in relation to the law relating to money laundering and terrorist financing and in how to recognise and deal with transactions and other activities which may be related to money laundering or terrorist financing; and
 - 2.2.5. establishing and maintaining appropriate and risk-sensitive policies and procedures in order to prevent activities related to money laundering and terrorist financing, including in relation to internal control and the monitoring and management of compliance with such policies and procedures.
- 2.3. Al Rayan is headquartered in Birmingham and operates through several branches throughout the UK. Al Rayan’s parent bank, Al Rayan (UK) Limited is a subsidiary of Masraf Al Rayan Q.S.C (“MAR”), a Qatar-based Islamic bank. Al Rayan provides Sharia compliant savings, finance and current account services to over 90,000 personal, business and premier customers, including a significant number of customers from member states of the Gulf Cooperation Council (“GCC”) who are primarily serviced by Al Rayan’s GCC business areas. The other two business areas (Home Purchase Plan (“HPP”) and Commercial Property Finance (“CPF”)) operated by Al Rayan principally provide secured lending arrangements to UK customers

for the primary purpose of acquiring residential (HPP) and commercial property (CPF) in the UK. Al Rayan's Knightsbridge branch, established on 15 May 2015, was set up to specifically target high net worth ("HNW") and ultra-high net worth ("UHNW") individuals, and particularly focussed on GCC based customers.

2.4. Al Rayan was required, pursuant to the Authority's Principles for Businesses (the "Principles"), to take reasonable care to organise its affairs responsibly and effectively, with adequate risk management systems. Al Rayan was also required to have policies and procedures in place, comprehensive and proportionate to its business activities, to enable it to identify, assess, monitor and manage money laundering risk.

2.5. Between 1 April 2015 and 30 November 2017 ("the Relevant Period"), Al Rayan failed to meet these requirements and, in doing so, breached Principle 3. In particular:

2.5.1. Al Rayan failed to establish, implement and maintain appropriate and risk-sensitive policies and procedures in relation to the application of EDD and, in particular, in relation to establishing high-risk customers' Source of Wealth and Source of Funds at the point of onboarding;

2.5.2. Although Al Rayan identified that cash transactions presented a high-risk of financial crime, it nonetheless failed to establish, implement and maintain appropriate and risk-sensitive policies and procedures in relation to the handling and treatment of cash deposits, including whether they should be accepted or rejected if adequate Source of Funds information was not provided or when there was suspicion in relation to the transaction. Al Rayan accepted £22.74 million in cash deposits of over £10,000 across its branch network during the Relevant Period;

2.5.3. Al Rayan failed to carry out adequate EDD in relation to establishing high-risk customers' Source of Wealth and Source of Funds at the point of onboarding and subsequently failed to carry out EDD and enhanced ongoing monitoring in higher risk situations. For the purposes of onboarding, Al Rayan relied on due diligence carried out by financial institutions within GCC states, in circumstances where it was aware this would not meet the required standards under the ML Regulations and where Al Rayan's own policies stated that customers from GCC countries

should be subject to the same CDD and EDD as customers from other nations;

- 2.5.4. Al Rayan's failure to establish high-risk customers' Source of Wealth and Source of Funds at onboarding contributed to its inability/failure to adequately corroborate the origin of customer monies in subsequent large, in person, cash deposits, considered by Al Rayan to be higher risk transactions;
- 2.5.5. Al Rayan failed to adequately scrutinize transactions undertaken through the course of its relationship with customers, including the Source of Funds involved in such transactions, specifically in relation to the receipt of large cash deposits;
- 2.5.6. Where Al Rayan's Second Line of Defence indicated, following a transaction review, that further EDD was required the EDD was not undertaken and there was no framework in place to ensure the concerns were addressed;
- 2.5.7. Al Rayan failed to keep documents, data or information obtained for the purposes of applying CDD and EDD measures up-to-date. There was a significant back-log of over 300 existing high-risk and PEP customers whose KYC ("know your client") periodic reviews had not been undertaken during the Relevant Period in accordance with Al Rayan's policies and were overdue;
- 2.5.8. Al Rayan failed to provide adequate training to staff, including in relation to the handling of large cash deposits and the "tipping off" rules, which led to the acceptance of large, in person cash deposits without adequate challenge or scrutiny at the point of deposit;
- 2.5.9. Al Rayan failed to have appropriate internal controls in order to prevent activities related to money laundering and terrorist financing. An internal audit of its Financial Crime Unit ("FCU") (a key part of Al Rayan's Second Line of Defence) was not conducted over an 8-year period, between 2009 and 2017, meaning that it was unable to ensure the First and Second Line of Defence were functioning appropriately; and

- 2.5.10. Al Rayan was specifically made aware of the risks presented by deficiencies in its financial crime systems and controls through the Relevant Period. In 2015 and 2017, the Authority visited Al Rayan to review its AML control framework. During both of those visits, the Authority identified weaknesses across Al Rayan's AML control framework that Al Rayan was required to address. However, Al Rayan failed to remediate those weaknesses in accordance with its own remediation action plan and certain key actions remained unresolved during the Relevant Period.
- 2.6. These failings arose in circumstances where Al Rayan was specifically targeting higher risk customers and undertaking large cash transactions within its GCC business area which heightened the potential for financial crime to occur. During the Relevant Period, Al Rayan's processes permitted money to enter the UK financial system without carrying out appropriate due diligence to ensure the money was for legitimate purposes and not connected with financial crime. The Authority recognises that Al Rayan's HPP and CPF business areas related to financing activities funded by deposits from a predominantly low risk customer base, presenting a significantly reduced financial crime risk.
- 2.7. On 5 April 2019, owing to the concerns raised by the Authority in respect of Al Rayan's AML control framework and the lack of sufficient progress by Al Rayan in remediating the concerns, Al Rayan entered into a voluntary requirement restricting it from accepting or processing any new deposit account applications from: any prospective person categorised as high-risk for the purposes of financial crime risk (as defined in Al Rayan's customer risk rating tool and associated methodology), politically exposed persons ("PEPs"), or family members or known close associates of PEPs.
- 2.8. On 13 July 2018, the Authority imposed a requirement upon Al Rayan to appoint a Skilled Person under section 166 of the Act. Working with the Skilled Person over more than 3 years, Al Rayan committed significant resources to improving its AML control framework. These improvements resulted in the Authority lifting the voluntary requirement in June 2022. Al Rayan continues to be subject to a limited business restriction until certain of its processes are automated.
- 2.9. The Authority hereby imposes on Al Rayan a financial penalty of £4,023,600 pursuant to section 206 of the Act.

3. DEFINITIONS

3.1. The definitions below are used in this Notice:

"the Act" means the Financial Services and Markets Act 2000;

"2015 Action Plan" means Al Rayan's AML remediation action plan which was put in place following the Authority's 2015 visit;

"AML" means anti-money laundering;

"AML champions" means Al Rayan's nominated AML subject matter experts;

"the Authority" means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority;

"Authority's file review" means the review of 15 customer files including individual, corporate and charity customers carried out as part of the investigation;

"BRCC" means the Risk, Compliance & Credit Committee of the Board;

"CDD" means customer due diligence measures as defined in Regulation 5 of the ML Regulations;

"CPF" means Al Rayan's Commercial Property Financial business area which principally provides secured lending arrangements to UK customers for the primary purpose of acquiring commercial property in the UK;

"CRRS" means Al Rayan's customer risk rating system which was updated as part of the 2015 Action Plan and which began to be implemented in November 2016;

"EDD" means enhanced customer due diligence as defined in Regulation 14 of the ML Regulations;

"First Line of Defence" means front line staff namely branch cashiers and branch management;

"FCU" means Financial Crime Unit, a key part of Al Rayan's Second Line of Defence;

"GCC" means Gulf Cooperation Council, a regional union of Gulf states comprising Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates;

"HNW" means High Net Worth individual – Al Rayan classified a HNW customer as a customer with an estimated annual income of £500,000 to £1,000,000 and/or estimated net assets of £1,000,000 – 15,000,000;

"HPP" means Al Rayan's Home Purchase Plan business area which principally provides secured lending arrangements to UK customers for the primary purpose of acquiring residential property in the UK;

"JMLSG" means the Joint Money Laundering Steering Group. The JMLSG is a body comprised of the leading UK trade associations in the financial services sector;

"JMLSG Guidance" means the guidance that was applicable during the Relevant Period issued by the JMLSG, and approved by the Treasury, on compliance with the legal requirements in the ML Regulations, the regulatory requirements in the Handbook and evolving practice within the financial services industry. The JMLSG Guidance sets out good practice for the UK financial services sector on the prevention of money laundering and combatting of terrorist financing;

"KYC" means Know Your Customer;

"KYC Periodic Review" means KYC periodic review of an existing customer's information and risk classification;

"MAR" means Masraf Al-Rayan Q.S.C, Al Rayan's parent bank based in Qatar;

"ML Regulations" means the Money Laundering Regulations 2007, which were in force in respect of conduct beginning after 15 December 2007 and before 26 June 2017 inclusive;

"MLRO" means Money Laundering Reporting Officer;

"NCA" means National Crime Agency;

"Other Business" means customers, predominantly charities and corporate entities, who do not form part of the GCC, HPP or CPF business areas and whose deposits were utilised by Al Rayan's Treasury business area;

"PEP" means a Politically Exposed Person as defined in Regulation 14(5) of the ML Regulations;

"Premier Branch" means Al Rayan's Knightsbridge branch;

"Relevant Period" means 1 April 2015 – 30 November 2017;

"SAR" means a Suspicious Activity Report;

"Second Line of Defence" means Al Rayan's Financial Crime Unit and Compliance team;

"Skilled Person" means the skilled person appointed by Al Rayan, as imposed by the Authority under section 166 of the Act;

"Source of Funds" refers to the origin of funds involved in the business relationship or occasional transaction. It refers to the activity that generated the funds, for example salary payments or sale proceeds, as well as the means through which the customer's or beneficial owner's funds were transferred;

"Source of Wealth" describes how a customer or beneficial owner acquired their total wealth;

"tipping off" means the offences defined in the Proceeds of Crime Act 2002, section 333A;

"Third Line of Defence" means Al Rayan's Internal Audit function;

"TM1" means a Transaction Monitoring system which monitored transfers in and out of customers' accounts (Al Rayan's core banking system);

"TM2" means a Transaction Monitoring System which was used for real-time card transactions which were monitored on a 24/7 basis via a third party;

“UHNW” means Ultra High Net Worth individual – Al Rayan classified an UHNW customer as a customer with an estimated annual income of over £1m and/or estimated net assets of more than £15m.

4. FACTS AND MATTERS

Background

- 4.1. Al Rayan was authorised in August 2004 and until December 2014 was known as the Islamic Bank of Britain. Al Rayan is headquartered in Birmingham and, during the Relevant Period, operated through ten UK branches.
- 4.2. Al Rayan's parent bank, Al Rayan (UK) Limited is a subsidiary of MAR¹, an Islamic Bank which is based in Qatar. Al Rayan provides Sharia compliant savings, finance and current account services to over 90,000 personal, business and premier customers. Al Rayan provides banking services to retail customers, as well as corporate and charitable entities. Many of Al Rayan's customers are nationals of countries in the GCC, who are primarily serviced by Al Rayan's GCC business area.
- 4.3. Al Rayan's business is organised around three main business areas: GCC, HPP and CPF. The GCC business, in summary, comprises deposit-taking, current account and other banking facilities (including lending) provided to a range of retail customers (primarily individuals who are nationals of countries in the GCC or non-GCC premier customers who require UK-based banking services), a significant number of whom are rated "high risk". By contrast, the HPP and CPF divisions provide financing products, with some customers having operational accounts to facilitate the repayment of the underlying loan products. Al Rayan also conducted business with a number of customers, predominantly charities and corporate entities, who do not form part of the GCC, HPP or CPF business areas and whose deposits were utilised by Al Rayan's Treasury business area ("Other Business").
- 4.4. In January 2015, Al Rayan policy identified that *"Premier Banking and wealth management is perceived to be high-risk for money laundering purposes because the relevant customers have complex needs requiring complex solutions ... Al Rayan has assessed its current accounts and treasury deposit accounts for high net worth individuals as presenting a higher level of risk."*
- 4.5. Al Rayan's Knightsbridge branch (also referred to as the "Premier Branch") was opened on 15 May 2015 and was established to provide premier banking services

¹Whilst MAR is mentioned in this Notice, no criticisms are made of MAR which is not subject to the ML Regulations.

to predominately HNW and UHNW individuals from GCC countries, within Al Rayan's GCC business area. As at the end of September 2017, the Knightsbridge branch had approximately 1,500 current accounts and 258 Home Purchase with a book value of approximately £253m. The majority of Al Rayan's high-risk customers from an AML perspective were serviced through the Knightsbridge branch.

- 4.6. On 1,133 occasions, Al Rayan accepted in person cash deposits of more than £10,000 across its branch network during the Relevant Period. These deposits totalled £22.74 million and included 60 cash deposits of more than £50,000, 16 which were more than £100,000 and 9 of more than £200,000.
- 4.7. Al Rayan policy identified that cash transactions presented a high-risk of financial crime and left the bank particularly vulnerable, because of the nature and universal acceptability of cash and the fact that there is little or no audit trail, such that its "Preventing Financial Crime" manual stated that *"special care is required in handling cash transactions for large amounts, even for customers who maintain accounts with the Bank. Any questionable activity must be examined to establish the source of funds and/or wealth if appropriate and to determine and document the reason for the activity"*.

Previous Assessments by the Authority of Al Rayan's AML systems and controls

The Authority's 2015 assessment

- 4.8. In April 2015, the Authority carried out an assessment of Al Rayan's AML and sanctions systems and controls, as part of the Authority's AML supervision strategy (the "Authority's 2015 Assessment"). As a part of the assessment, the Authority reviewed 17 high-risk/PEP customer files as well as 5 standard risk files.
- 4.9. Following the assessment, the Authority set out in a letter to Al Rayan a number of serious concerns in relation to its AML systems and controls and alerted Al Rayan to the need to ensure that there was a sufficient focus on AML measures throughout its business and to ensure that compliance with legal and regulatory requirements was prioritised. The deficiencies identified included:

- 4.9.1. No formal documented risk assessment of customers to identify higher risk customers with the exception of PEPs and customers linked to sanctioned countries.
 - 4.9.2. Little information regarding the purpose and intended nature of the relationship was gathered for individual customers.
 - 4.9.3. A failure to conduct adequate EDD on the basis that, amongst other things, there was a failure to adequately verify or gain sufficient information in relation to PEP customers' Source of Wealth and Source of Funds, including a general lack of willingness to seek further information from customers.
 - 4.9.4. Weaknesses in the quality of ongoing monitoring and periodic reviews, with reviews either non-existent or sporadic in a number of instances. Where reviews had been undertaken, there were concerns about the quality and judgement at sign off, for example, a number of reviews were signed off despite a clear lack of adequate EDD, missing documents and discrepancies on file.
 - 4.9.5. Weaknesses across all three lines of defence with no internal audit of the FCU (a key part of Al Rayan's Second Line of Defence in AML matters) for a protracted period.
- 4.10. The Authority asked Al Rayan to set out the action it planned to take to remedy the findings. In response, Al Rayan put in place an Action Plan dated 9 July 2015 (the "2015 Action Plan") which included the following planned steps:
- 4.10.1. conducting a retrospective review of all existing PEP and high-risk customer files to identify any information gaps;
 - 4.10.2. carrying out a remediation exercise on existing customers to ensure it gathered sufficient information in relation to Source of Wealth and Source of Funds for PEP customers;
 - 4.10.3. engaging an external consultant to assist Al Rayan with, amongst other things, (a) defining and documenting the approach to onboarding PEPs and high-risk customers, and (b) identifying and documenting what

constitutes sufficient evidence of Source of Wealth and how it should be captured;

4.10.4. conducting an internal audit of the FCU. The scope of the review was to focus on the principal findings of the Authority's 2015 Assessment and to include a qualitative assessment of the robustness of the systems and control in mitigating financial crime risks;

4.10.5. determining and documenting new processes for the on-going monitoring of PEPs and high-risk customers; and

4.10.6. introducing sector and role specific training in 2016.

The Authority's 2017 assessment

4.11. In June 2017, the Authority conducted a further assessment of Al Rayan's AML and sanctions systems and controls, focussing on the Knightsbridge branch (the "Authority's 2017 Assessment"). As part of the assessment, the Authority reviewed a further 19 customer files. The Authority concluded that, whilst some improvements to the financial crime control framework had been made since the Authority's 2015 Assessment, there were ongoing and significant concerns in relation to weaknesses Al Rayan had committed to address in the 2015 Action Plan. The Authority identified:

4.11.1. concerns with the quality of the EDD conducted on high-risk customers who had been onboarded after the Authority's 2015 Assessment, amongst other things, in relation to the identification and verification of customers' Source of Wealth and Source of Funds;

4.11.2. over 300 periodic reviews for high-risk customers and PEP customers were past their due date;

4.11.3. that no defined framework was in place at branch level to register or acknowledge when customer periodic reviews were due, relying solely on the FCU to control and advise on due dates; and

4.11.4. that Al Rayan had still not completed the internal audit of the FCU (which the 2015 Action Plan had stated would be completed by 30 November

2015), two years after receiving feedback from the Authority that such a review was required which meant that there had been no internal audit of the FCU for 8 years.

4.12. The Authority identified two further serious concerns in relation to Al Rayan's AML systems and controls during the 2017 visit, namely:

4.12.1. the controls and oversight in place at the Knightsbridge branch in relation to the handling and treatment of large cash transactions, and the willingness to accept cash deposits without always gaining sufficient evidence of Source of Funds; and

4.12.2. a lack of knowledge and understanding within the Knightsbridge branch of the "tipping off" offence whereby a fear of committing this offence was discouraging branch staff from rejecting cash deposits even when they had concerns.

4.13. As a result of the Authority's 2015 and 2017 assessments, the Authority imposed a skilled person requirement upon the firm and the Skilled Person was appointed on 17 September 2018.

Al Rayan's customer risk classification

4.14. Al Rayan implemented the same AML policies and procedures across all its branches and had in place policies and procedures designed to identify the financial crime risk posed by a potential customer and on-board them in accordance with its risk appetite.

4.15. Al Rayan's customer risk classification included low, medium and high-risk customer categories. Certain customers were automatically classified as "high-risk", including:

4.15.1. HNWs, i.e. customers with an estimated annual income of £500,000 to £1,000,000 and/or estimated net assets of £1m to £15m;

4.15.2. UHNWs, i.e. customers with an estimated annual income of over £1m and/or estimated net assets of more than £15m; and

- 4.15.3. all customers classified as PEPs (although between March 2015 and January 2016, there were inconsistencies across Al Rayan's policies as to the risk classification of PEPs).
- 4.16. Throughout the Relevant Period, Al Rayan's approach to risk-rating charities and UK corporate customers was unclear. The policies appear to contradict each other and variously indicated that a low, medium or high risk could be assigned and it is unclear how these policies were applied.
- 4.17. Al Rayan's policies provided that it *"will deal with customers where the customer's profile is consistent with the Bank's vision and strategic objectives and Risk Management Framework ("RMF")" and "undertake activity involving PEP's, HNW clients and other heightened risk customer types subject to the satisfactory application of Bank's AML policy and procedural standards, including that concerning due diligence efforts over business activities, source of wealth and source of funds."*

Requirements in relation to EDD – establishing and, where appropriate, verifying Source of Wealth and Source of Funds

ML Regulations and JMLSG

- 4.18. Regulation 14(1)(b) (Enhanced customer due diligence and ongoing monitoring) of the ML Regulations provides, amongst other things, that a firm must apply on a risk sensitive basis EDD measures and enhanced ongoing monitoring in any situation which by its nature can present a higher risk of money laundering or terrorist financing.
- 4.19. As applicable to Regulation 14(1)(b) of the ML Regulations, paragraphs 4.50 and 5.5.6 of Part I of the JMLSG state:
- 4.19.1. "Where a customer is assessed as carrying a higher risk, then depending on the product sought, it will be necessary to seek additional information in respect of the customer, to be better able to judge whether or not the higher risk that the customer is perceived to present is likely to materialise. Such additional information may include an understanding of where the customer's funds and wealth have come from."

- 4.19.2. "When someone becomes a new customer, or applies for a new product or service, or where there are indications that the risk associated with an existing business relationship might have increased, the firm should, depending on the nature of the product or service for which they are applying, request information as to the customer's residential status, employment and salary details, and other sources of income or wealth (e.g., inheritance, divorce settlement, property sale), in order to decide whether to accept the application or continue with the relationship. The firm should consider whether, in some circumstances, evidence of source of wealth or income should be required (for example, if from an inheritance, see a copy of the will)".
- 4.20. Regulation 14(4)(b) of the ML Regulations requires that PEP customers are subject to EDD and a firm must, amongst other things, take adequate measures to establish the Source of Wealth and Source of Funds involved in the relationship or transaction.
- 4.21. As regards Regulation 14(4)(b), paragraph 5.5.30 of Part I of the JMLSG states that "*As part of its EDD, the firm should consider, on a risk sensitive basis, whether the information regarding source of wealth and source of funds should be evidenced. For example, for source of wealth or funds from inheritance, a copy of the Will could be requested, or if from a sale of property, evidence of conveyancing could be sought.*"
- 4.22. In relation to the wealth management sector, paragraph 5.13 of Part II of the JMLSG provides that "*As a minimum requirement to counter the perceived and actual risks, the firm, and those acting in support of the business, must exercise a greater degree of diligence throughout the relationship which will be beyond that needed for normal retail banking purposes*", further stating that "*The firm must endeavour to understand the nature of the client's business and consider whether it is consistent and reasonable, including the origins of the client's wealth [and] Where possible and appropriate, documentary evidence relating to the economic activity that gave rise to the wealth.*"
- 4.23. Thus establishing and, where appropriate, verifying (a) how a customer acquired their total wealth (Source of Wealth) and (b) the origin of the funds involved in the relationship or transaction, including the activity that generated the funds and the means through which the funds were transferred (Source of Funds) is an

important aspect of EDD and can be an essential element of understanding the financial crime risks associated with a customer either at the point of onboarding or thereafter.

- 4.24. Regulation 17 (2)(d)(iii)-(iv) (Reliance) of the ML Regulations states that a firm may rely on due diligence conducted by a non-EEA third party provided that it is:
- 4.24.1. subject to requirements equivalent to those laid down in Directive 2005/60/EC of the European Parliament and of the Council of 26th October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (“the Third Money Laundering Directive”); and
- 4.24.2. supervised for compliance with those requirements in a manner equivalent to section 2 of Chapter V of the Third Money Laundering Directive.

Al Rayan’s Policies and procedures

- 4.25. Al Rayan’s “Preventing Financial Crime” manual dated 14 January 2015 warned that “...*Wealthy and powerful customers often wield political power and influence. There is often a desire for extreme confidentiality and reluctance to provide evidence of beneficial ownership and source of wealth.*”
- 4.26. The manual required Al Rayan to “*obtain background information about a customer prior to establishing a relationship or opening an account. In particular, to verify the identity of the customer and find out the customer’s business, source of income and where necessary the source of wealth, the expected level of activity on the customer’s account and the reasons for opening the account*” and “*undertake additional due diligence on customers or agents that are deemed to present a higher risk.*” It further stated that “*The extent to which the information is verified will depend on the risk assessment of the customer.*”
- 4.27. Thus, on the Authority’s reading, the “Preventing Financial Crime” manual required Al Rayan to obtain information in relation to the Source of Wealth and Source of Funds of customers identified as high-risk, and also to verify this information through documentary evidence on a risk-sensitive basis. However, it did not attempt to articulate with any specificity what Source of Wealth and Source

of Funds information and/or documentary evidence for the purposes of verification should be gathered.

- 4.28. Al Rayan's procedures for gathering EDD at onboarding for individual high-risk customers required staff to record certain high-level information including a customer's employment, monthly income from employment, sources of other income if applicable, the nature and type of transactions to be undertaken and the nature/level of business to be conducted. It also required staff to record the origins of the customer's wealth and to include evidence to validate the information obtained from the customer. However, once again, Al Rayan's procedures did not give clear guidance to staff as to what information (for example, in terms of what might constitute an appropriate level of detail) and/or evidence of the origins of the customer's wealth they were required to gather.
- 4.29. The Authority has noted from the customer file reviews that it undertook in the context of this investigation that there were three due diligence documents completed at onboarding for individuals:
 - 4.29.1. the KYC checklist;
 - 4.29.2. the Account Application Form; and
 - 4.29.3. the KYC (EDD) supplementary form, replaced in January 2016 by the Customer Due Diligence – Individual Overall Summary form.
- 4.30. The KYC checklist set out the key due diligence questions to be asked, risk rating to be applied, account type and relevant documents to be completed at onboarding.
- 4.31. The Account Application Form gathered information in relation to, amongst other things, a customer's employment status/income and whether the customer was a home-owner, together with the value of the property.
- 4.32. The KYC (EDD) supplementary form and Customer Due Diligence – Individual Overall Summary forms, all:
 - 4.32.1. required an explanation of the customer's Source of Wealth;
 - 4.32.2. indicated that there was a need for some measure of verification/validation of a customer's Source of Wealth (for example, advising staff that "*Evidence should be obtained*" or to "*Attach support*

narrative and documents if required” or of the need for “independent verification”); and

- 4.32.3. required an explanation of the nature and type of transactions to be undertaken.
- 4.33. The KYC (EDD) supplementary form was used throughout 2015 and included basic provisions for staff to understand *“the origins of the client’s wealth”* and stated that *“evidence should be obtained”*. This form was replaced by January 2016 with the Customer Due Diligence – Individual Overall Summary form.
- 4.34. Versions of the Customer Due Diligence – Individual Overall Summary form, used to assist in gathering EDD at onboarding from January 2016 onwards, included a *“Source of Wealth and Source of Funds EDD Guidance and Checklist”*. The checklist set out further requirements on independent verification of Source of Wealth and Source of Funds, stating the objectives were to:
 - 4.34.1. *“Validate that the customer’s SoW and SoF’s are generated legitimately with no direct or indirect connection to financial crime”;*
 - 4.34.2. *“Understand the level / nature of underlying AML risk, including difficulties that may arise in establishing / verifying the customer’s SoW and SoF’s and the impact that may have on residual AML risk”.*
- 4.35. The guidance on the nature of Source of Wealth and Source of Funds information and evidence to be acquired stated:
 - 4.35.1. *“The aim is to build ‘the story’ and validate how the customer accrued their net wealth and how they intend to fund their relationship with the Bank. Simple statements such as ‘income from business’ ‘inheritance’ and ‘transfer from overseas account’ are not sufficient”.*
- 4.36. For the sources of information which were acceptable to use, the guidance stated:
 - 4.36.1. *“Due diligence assessment should be undertaken using a number of different / collaborative sources with emphasis on independent verification. Meaningful assessments must be made specifically addressing AML objectives”.*

- 4.37. Whilst Al Rayan's KYC EDD forms clearly aspired to establishing the customer's Source of Wealth and Source of Funds by gathering relevant information and verifying it, as with the "Preventing Financial Crime" manual referred to above, there was an absence of clear guidance to staff as to what information/evidence they were required to obtain as a prerequisite to onboarding a high-risk customer.
- 4.38. The Customer Due Diligence – Individual Overall Summary form, used from 2016 onwards, also required an explanation of the rationale for the approval of onboarding a customer from an AML risk perspective and confirmation that Al Rayan's policy and guidance in relation to Source of Wealth and Source of Funds had been satisfactorily applied.
- 4.39. Al Rayan proceeded on the basis that no members of the GCC were listed as equivalent jurisdictions to the UK / EU in relation to the prevailing AML requirements. Therefore Al Rayan acknowledged that due diligence conducted through Al Rayan's parent bank, MAR, could not be solely relied upon for the purpose of satisfying Al Rayan's financial crime controls. In this regard, Al Rayan's internal policies expressly stated that for any *"new applications from its parent company, Masraf Al Rayan, the Bank will follow the same procedures and requirements as for any normal (none referred) application in line with the KYC Matrix"*.
- 4.40. The Authority identified two documents which were completed for both corporate and charity customers at onboarding:
- 4.40.1. KYB Checklist; and
 - 4.40.2. Non-Personal Account or Charities Application Form.
- 4.41. Both documents were used to gather CDD in relation to corporate and charity customers, providing for the collection of key identification evidence and obtaining an understanding of their principal business and expected account activity.
- 4.42. Al Rayan's policies and procedures did not provide further granular guidance for staff in order to enable them to understand what EDD was required for charities or corporate customers classified as high-risk.

Issues identified with EDD at onboarding

Identified concerns in relation to establishing Source of Wealth and Source of Funds for high-risk customers

The Authority's 2015 Assessment

- 4.43. The Authority's 2015 Assessment of Al Rayan's AML systems and controls identified concerns in relation to the EDD gathered for customers during onboarding. Specifically, in relation to the sufficiency of Source of Wealth and Source of Funds, the Authority noted that "*The vast majority of the High-risk and PEP files we tested failed in relation to EDD. In most instances, staff had failed to adequately verify or gain sufficient information in relation to Source of Wealth and Source of Funds for PEP customers.*" Following the Authority's 2015 Assessment, Al Rayan developed the 2015 Action Plan, to be conducted by the FCU to address issues identified by the Authority, including a remediation exercise on existing customers to ensure sufficient information was held in relation to Source of Wealth and Source of Funds.

The 2015 Third Party Review

- 4.44. In December 2015, a third party review of Al Rayan's AML systems and controls also identified concerns in relation to the adequacy of Source of Wealth and Source of Funds gathered by Al Rayan. A review of 50 high-risk customer files found:
- 4.44.1. in 17 of 50 files (34%), Al Rayan failed to identify the customer's Source of Funds;
 - 4.44.2. in 41 of 50 files (82%), Al Rayan failed to verify the customer's Source of Funds;
 - 4.44.3. in 25 of 50 files (50%), Al Rayan failed to identify the customer's Source of Wealth ; and
 - 4.44.4. in 48 of 50 cases (96%), Al Rayan failed to verify the customer's Source of Wealth.

The Authority's 2017 assessment

- 4.45. The Authority's 2017 Assessment assessed Al Rayan's AML and sanctions systems and controls, focussing on the Knightsbridge branch. The Authority concluded that, whilst some improvements to the financial crime control framework had been made since the Authority's 2015 Assessment, significant concerns in relation to issues Al Rayan had committed to address in the 2015 Action Plan, had not been adequately addressed.
- 4.46. File reviews conducted during the Authority's 2017 Assessment again identified concerns with the adequacy of the EDD conducted on high-risk customers, including instances where no EDD was evidenced and there were insufficient details of Source of Wealth and Source of Funds.

Al Rayan's 2017 Internal Audit

- 4.47. In August 2017, 2 years after being notified by the FCA that an audit was required and 8 years from the last internal audit of the FCU, Al Rayan conducted an internal audit of the FCU (the "2017 Internal Audit") which identified 'major' concerns in relation to the verification of high-risk and PEP customers' Source of Wealth and Source of Funds at onboarding. The findings were consistent with the third party review conducted in December 2015 (see paragraph 4.44 above).
- 4.48. The 2017 Internal Audit of FCU also stated that *"during our fieldwork, we noted that there were instances where the remediation exercise results/recommendations have not been implemented by FCU"* and accordingly further remediation steps were recommended (see paragraph 4.146 below for further details in this regard). The 2017 Internal Audit noted in this regard that *"[i]n one instance, a review of a customer's profile recommended the closure of all related accounts due the lack of information provided about the source of wealth and source of funds and in light of the particular customer's father's embezzlement scandal and the particular customer's account was closed by another financial institution due to AML concerns"*, however this recommendation had not been implemented. The 2017 Internal Audit further recommended that *"an assessment of the entire customer database to identify information gaps and inaccuracies for all High-risk and PEP customers and actions should be taken to remediate these gaps to ensure compliance with FCA SYSC 6.3.1."*

The Authority's Customer File Review

- 4.49. During this investigation, the Authority reviewed a further 15 customer files, selected across customers who made large cash deposits through the Relevant Period, including 9 individual customers (one of whom was onboarded prior to the Relevant Period), 2 corporate customers and 4 charity customers (two of whom were onboarded prior to the Relevant Period). In short, the Authority identified deficiencies in Al Rayan's AML control framework across all 15 files.

Individuals

- 4.50. In relation to the EDD conducted at onboarding, there was a failure to adequately establish the Source of Wealth and/or the Source of Funds in respect of 7 of the 8 the individual customers who were onboarded during the Relevant Period, either through a failure to obtain a meaningful level of information or to verify such information as was obtained, in circumstances where such measures were appropriate. For 7 of the 8 customers, the Source of Wealth and Source of Funds assessments relied upon statements made by the customer at onboarding and were supported by a combination of:

- 4.50.1. letters of recommendation from MAR/GCC-based banks; and/or
- 4.50.2. bank statements/cheques from the customer's non-EEA bank account(s); and/or
- 4.50.3. open-source searches and screening.

- 4.51. Al Rayan's policies stated that high-risk customers referred by MAR should be subject to the same EDD procedures as any other high-risk Al Rayan customer. Al Rayan was therefore aware that it could not rely solely on customer information collected by MAR and that it needed to conduct its own EDD as required to satisfy the ML Regulations.

- 4.52. Reliance on customers' declarations, the very limited information contained in customers' non-EEA bank statements, screening and letters of recommendation from MAR, did not provide Al Rayan with an adequate understanding of how these customers acquired their wealth and did not enable Al Rayan to adequately identify the Source of Funds to be used in the banking relationship and subsequent transactions. Thus, there was a failure on the part of Al Rayan to gather a meaningful level of information in relation to the customers' Source of Wealth and

Source of Funds and, furthermore, a failure to verify the limited information that was gathered.

Corporates and Charities

- 4.53. As detailed in paragraph 4.16 above, it is unclear from Al Rayan's policies how it risk-rated both corporate and charity customers at onboarding and, furthermore, the customer files reviewed by the Authority during this investigation did not indicate that a risk rating or risk assessment had been applied to the 2 corporate customers and the 2 charity customers onboarded during the Relevant Period.

Customer file examples of Al Rayan's application of EDD in relation to seeking to establish Source of Wealth and Source of Funds at onboarding

Customer A

- 4.54. Al Rayan onboarded Customer A at the Knightsbridge branch on 9 September 2015 as a customer of its GCC business area. It assessed Customer A as an HNW and PEP customer and in accordance with Al Rayan's policies classified Customer A as high-risk.
- 4.55. The documents Al Rayan completed at onboarding (the Premier KYC checklist, the Account Application Form and the 2015 version of the KYC (EDD) supplementary form) identified the customer's income and assets as: salary from State employment (stated to be in excess of £10 million annually); estimated value of residential home (in excess of £10 million); and income from the ownership of residential and commercial properties in Qatar. The KYC (EDD) Supplementary form recorded, in response to "The Origins of the client's wealth (evidence should be obtained)" section, that Customer A "...used to be a minister...now he owns properties all over Qatar...".
- 4.56. Al Rayan accepted bank statements of a MAR savings and current account from 2 July 2015 – 13 September 2015 from Customer A as identification and verification of Customer A's Source of Wealth and Source of Funds.
- 4.57. Whilst Customer A's MAR account statements identified a high balance of funds during September 2015 (at some points in excess of 12 million Qatari Riyal), the transactional narratives on the bank statements did not provide any meaningful

information in relation to or evidence of Customer A's Source of Wealth or Source of Funds as described in the account opening documents. The narrative descriptions on the statements provided line entries such as "House Cheque Drawn", "House Cheque Deposit" and "Cash Deposit", however such descriptions did not provide Al Rayan with evidence to verify the customer's overall wealth and did not demonstrate the origins of the funds that were to be utilised in the banking relationship with Al Rayan. No further evidence was held on file in support of the customer's Source of Wealth or Source of Funds, for example, there was no attempt to obtain any form of corroboration of the stated salary or evidence of ownership of, or income from, the customer's property portfolio.

Customer B

- 4.58. Al Rayan onboarded Customer B at the Knightsbridge branch on 24 August 2016 as a customer of its GCC business area. It assessed Customer B as an UHNW and PEP customer and in accordance with Al Rayan's policies, Customer B was classed as high-risk.
- 4.59. The documents completed at onboarding were the Premier KYC checklist, the Account Application Form and the (2016) Customer Due Diligence – Individual Overall Summary form containing the Source of Wealth and Source of Funds EDD Guidance and Checklist. These documents outlined Customer B's income and assets as: a joint property portfolio valued at approximately £125 million generating £6 million income per annum, inheritance, income from family businesses and salary (£75,000 per annum). It also noted that "*The client's family inherited the major part of their wealth*". More detailed explanations in relation to the income and assets were not sought and, in this way, only very scant and high-level information was obtained in relation to Customer B's overall Source of Wealth.
- 4.60. As regards the EDD evidence on file as at onboarding, this comprised of a letter from a GCC bank confirming Customer B's address, an open-source search, screening conducted on Customer B and savings account statements from a Qatar bank account. The savings account statements showed Customer B's balance in that account from time to time and included brief transactional narratives however, they did not provide Al Rayan with meaningful information and/or evidence to verify the customer's Source of Wealth and they did not demonstrate the origins of the funds that were to be utilised in the banking relationship with Al

Rayan. The savings account statements provided at onboarding showed a starting balance as at March 2016 of in excess of 900,000 QAR however they did not shed any light on the origin of the funds in the account as at this time. In addition, from the very limited information obtained at onboarding, it is immediately apparent that the savings account statements related to only a fraction of Customer B's overall wealth. In this way, whilst the savings account statements did include reference to a number of credits described as being "Salary" which accorded with Customer B's explanation at onboarding that he had a salary of £75,000 per annum, they reflected only a fraction of the customer's overall income/wealth and, in any event, there was no underlying evidence to support the origin of even these payments.

- 4.61. The Authority also notes that the 2016 Source of Wealth and Source of Funds EDD Guidance and Checklist effective at the time Customer B was onboarded set out guidance for understanding a customer's Source of Wealth and Source of Funds and indicated in relation to due diligence that the emphasis should be on "independent verification". Al Rayan nonetheless proceeded on the basis that customer declarations, the savings account statements and a letter confirming Customer B's address from a GCC bank were effective EDD. The Authority's view is that this information did not constitute "independent verification" of the customer's Source of Wealth and Source of Funds.
- 4.62. In summary, whilst the bank statements provided by Customer B included the balance within that savings account and made reference to salary payments being received, they did not provide a meaningful level of information or verification as to the provenance of the monies in that account or the customer's overall wealth. There was no further evidence held on file to independently verify the Source of Wealth or Source of Funds at onboarding, for example, payslips, a will or probate information evidencing the inheritance, or evidence of ownership or income from the property portfolio. Despite this, the Customer Due Diligence – Overall Summary indicated that the Source of Wealth and Funds Guidance & Checklist had been properly applied.

Customer C

- 4.63. Al Rayan onboarded Customer C at the Knightsbridge branch on 29 September 2016 as a customer of its GCC business area. Al Rayan assessed Customer C as

an HNW and PEP customer and in accordance with Al Rayan's policies classed Customer C as high-risk.

- 4.64. Three documents were completed for Customer C's onboarding: the Premier KYC checklist, the Premier Application Form and the Customer Due Diligence - Overall Summary. These documents identified the customer's income and assets as: income from employment, inheritance and rental income from a large property portfolio (with annual income being approximately £3 million). Once again, more detailed information as to the income/assets was not sought such that only very scant and high-level information was obtained in relation to Customer C's overall Source of Wealth.
- 4.65. The evidence on file in support of Customer C's Source of Wealth and Source of Funds at onboarding was similarly limited and comprised a declaration by the customer, a written reference provided by MAR confirming the customer's address in Qatar and that its MAR account was in good standing and copies of the MAR current account statements for September 2016. There was also open-source material confirming the customer's employment in a non-remunerative role on file.
- 4.66. Once again, the MAR current account statements did not provide a meaningful level of information or verification in relation to Customer C's Source of Wealth or Source of Funds. There was no further independent information or evidence held on file to verify the nature and extent of the customer's employment, inheritance or ownership of/income from the property portfolio (such as payslips, will or probate documents or evidence of ownership or income from the property portfolio).
- 4.67. Despite this, the Customer Due Diligence - Overall Summary and the Premier Application Form stated that the Source of Wealth and Funds Guidance and Checklist had been satisfactorily applied. It was also noted that "*Due diligence checks have been properly evidenced and documented...*".

Customer D

- 4.68. Al Rayan onboarded Customer D at the Coventry Road branch on 30 November 2015. Customer D, one of Al Rayan's Other Business customers, was identified as a start-up UK limited company which had recently been incorporated with a sole

proprietor and shareholder, whose principal activity was to repair, buy and sell forklifts/heavy duty vehicles and sell them internationally, through the proprietor's father who was based in Iraq and who was also to provide a large initiating payment. There is no evidence on file of a risk rating having been assigned to this customer.

- 4.69. Paragraph 4.32 of Part I of the JMLSG sets out that "*Customers (not necessarily PEPs) based in, or conducting business in or through, a high-risk jurisdiction, or a jurisdiction with known higher levels of corruption or organised crime, or drug production/distribution*" is a risk factor which should be taken into account in assessing a customer's overall risk category. Shortly following the onboarding of Customer D, Al Rayan's AML / CTF & Sanctions (AML) Risk Appetite dated 17 December 2015 set out that Al Rayan would not engage in transactional activity involving foreign jurisdictions that had:

"a Corruption Perception Index (CPI) score of less than [20] and or, is listed by the Financial Action Task Force (FATF) as a [High Risk and Non Cooperative Jurisdiction."

The document noted that Iraq had a CPI of 16 and was included on FATF's list of high risk, non-cooperative jurisdictions. Therefore, Al Rayan's policy specifically restricted Customer D's business activities.

- 4.70. Notwithstanding, the Authority considers that it is clear that Customer D should have been categorised as high-risk and therefore EDD should have been conducted on Customer D at onboarding.
- 4.71. However, the information gathered at the point of onboarding fell well short of adequate EDD. Two documents were completed at onboarding, a "Business Application form KYB Checklist" and "Non-personal account application form". These documents identified Customer D and set out its principal activities and anticipated level of business. Standard CDD information was gathered in relation to Customer D as a UK limited company however as regards seeking to establish a meaningful understanding of Customer D and its proprietor's father's activities, this was limited to the provision of a handful of one page, paper invoices from third parties to a business based in Iraq. No further information was gathered in relation the proprietor's father, such as the nature of his business activities in Iraq and/or his source of income/wealth, despite the fact that Customer D would be engaged in the purchase and sale of construction equipment through its

proprietor's father in Iraq, a high-risk jurisdiction, and was also to receive a large initiating payment from the proprietor's father in Iraq.

Summary of EDD at onboarding

- 4.72. Throughout the Relevant Period, Al Rayan was repeatedly informed and reminded of the weaknesses in its AML framework, including in relation to EDD for the purposes of establishing customers' Source of Wealth and Source of Funds. Despite this, Al Rayan failed to ensure that its policies and procedures in relation to the identification and verification of customers' Source of Wealth and Source of Funds at onboarding met the relevant regulatory requirements and, in doing so, also failed to ensure that it was compliant with its obligation to counter the risk that Al Rayan might be used to further financial crime.
- 4.73. It is evident, with reference to the Authority's file reviews, that Al Rayan failed to undertake adequate EDD to establish its high-risk customers' Source of Wealth and Source of Funds, both in terms of gathering meaningful information from its customers and, where it was appropriate to do so, verifying that information. Rather than gathering documentary evidence in order to independently verify its high-risk customers' Source of Wealth and Source of Funds, for individual customers, Al Rayan frequently relied upon information provided by the customer itself and high-level information from MAR, whilst also placing unwarranted reliance on non-EEA bank statements which provided very little, if any, information in relation to the customer's broader wealth and the provenance of the customer's monies. Due to the high-risk and PEP nature of these customers, identification and verification of their Source of Wealth and Source of Funds was appropriate and therefore required to comply with both Al Rayan's internal policies and the ML Regulations. However, despite this, Al Rayan failed to take sufficient steps to establish and verify its high-risk customers' Source of Wealth and Source of Funds.

EDD for large cash deposits

ML Regulations and JMLSG

- 4.74. In accordance with Regulation 14(1)(b) of the ML Regulations, a firm must apply, on a risk-sensitive basis, EDD measures and enhanced ongoing monitoring in any *“situation which by its nature can present a higher risk of money laundering or terrorist financing.”* Where the customer is classified as a PEP, firms must *“take adequate measures to establish the source of wealth and source of funds which are involved in the proposed business relationship or occasional transaction”*.
- 4.75. Regulation 8(2)(a) of the ML Regulations states that ongoing monitoring of a business relationship means *“scrutiny of transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with the relevant person’s knowledge of the customer, his business and risk profile”*.
- 4.76. Regulation 20(2)(a)(i)-(iii) of the ML Regulations also states that a firm must establish and maintain appropriate and risk-sensitive policies and procedures *“which provide for the identification and scrutiny of (i) complex or unusually large transactions; (ii) unusual patterns of transactions which have no apparent economic or visible lawful purpose; and (iii) any other activity which the relevant person regards as particularly likely by its nature to be related to money laundering or terrorist financing”*.
- 4.77. In relation to Regulation 14(1) of the ML Regulations, paragraph 5.7.12 of Part I of the JMLSG states that *“Higher risk accounts and customer relationships require enhanced ongoing monitoring. This will generally mean more frequent or intensive monitoring.”* Likewise, in relation to Regulation 14(1)(b) of the ML Regulations, paragraph 4.51 of Part I of the JMLSG states that *“Where the risks of ML/TF are higher, firms must conduct enhanced due diligence measures consistent with the risks identified. In particular, they should increase the degree and nature of monitoring of the business relationship, in order to determine whether these transactions or activities appear unusual or suspicious.”*

- 4.78. In relation to Regulation 8, paragraph 5.7.2 of Part I of the JMLSG states that *"Monitoring customer activity helps identify unusual activity. If unusual activities cannot be rationally explained, they may involve money laundering or terrorist financing ... The key elements of any system are having up-to-date customer information, on the basis of which it will be possible to spot the unusual, and asking pertinent questions to elicit the reasons for unusual transactions or activities in order to judge whether they may represent something suspicious."*
- 4.79. Paragraph 4.32 of Part I of the JMLSG also states that *"Customers engaged in a business which involve significant amounts of cash"* is a risk factor which firms need to consider and, furthermore, paragraph 4.36 states that *"Firms should examine, as far as reasonably possible, the background and purpose of all complex, unusual large transactions, and all unusual patterns of transactions which have no apparent economic or lawful purpose."*
- 4.80. The Authority considers that, in accordance with the ML Regulations and the JMLSG guidance, when material amounts of physical cash are presented over the counter by a high-risk customer, EDD/enhanced ongoing monitoring measures should be applied, an important component of which is scrutiny of the Source of Funds provided. The degree of scrutiny and the type of supporting evidence required for the corroboration of Source of Funds is dependent on the specific circumstances and the level of money laundering or terrorist financing risk.

Al Rayan' policies and procedures for large cash deposits

Source of Wealth and Source of Funds

- 4.81. Al Rayan's policies identified that cash transactions presented a high-risk of financial crime and left the bank particularly vulnerable, because of the nature and universal acceptability of cash and the fact that there is little or no audit trail. They further provided that *"special care is required in handling cash transactions for large amounts, even for customers who maintain accounts with the Bank. Any questionable activity must be examined to establish the source of funds and/or wealth if appropriate and to determine and document the reason for the activity. The basic principle to be followed is that the quantity and frequency of cash transactions should have relevance to the nature and size of the customer's business ..."*

- 4.82. Al Rayan's policies set out a non-exhaustive list of cash-based scenarios which would amount to suspicious or questionable activity in relation to possible financial crime, for example:
- 4.82.1. Unusually large cash deposits made by an individual or company whose ostensible business activity would normally be generated by cheques and other instruments.
 - 4.82.2. A one-off substantial cash deposit mainly composed of high denomination notes.
 - 4.82.3. Customers who deposit cash by means of numerous credit slips so that the total of each deposit is unremarkable, but the total of all credits is significant.
 - 4.82.4. An account or customer that has frequent deposits or large amounts of currency wrapped in currency straps that have been stamped by other banks.
 - 4.82.5. Customers who seek to exchange large quantities of low denomination notes for those of higher denominations or frequently exchange cash into other currencies.
 - 4.82.6. Large cash deposits in connection to property transactions.
- 4.83. When accepting cash deposits greater than £3,000, Al Rayan's First Line of Defence (the cashiers) was required, in accordance with Al Rayan policy, to review a customer's transaction history/activity and assess whether the transaction was in line with the customer's profile. Al Rayan's cashiers were also required, in accordance with Al Rayan policy, to question each customer paying in funds of over £3,000 with respect to the Source of Funds and record the details in the notes section on Al Rayan's customer database, regardless of the customer's risk rating.
- 4.84. Whilst Al Rayan's policies did not explicitly require cashiers to obtain evidence of Source of Funds for cash deposits over £3,000, in November 2017, all branches received an email from senior management which stated, "[to] reiterate...the process in the Cashier Manual...For cash deposits above £3000 you must obtain

proof of the source of funds before accepting the deposit. If the customer does not have this proof then you cannot accept the deposit." Thus, although Al Rayan's policies failed to make this clear, the expectation was that cashiers should gather evidence of Source of Funds in respect of cash deposits in excess of £3,000.

4.85. Al Rayan's "Cashiering - Branch Procedure Document" detailed the cash related procedures and controls which were to be followed in all branches, through the Relevant Period. These procedures were adopted in the Knightsbridge branch when it was first established. However, the procedures were not at all clear and precise about:

4.85.1. the steps required when presented with a higher risk situation, such as large cash transactions involving high-risk customers, both in terms of what information should be gathered from the customer by way of explanation, in what circumstances documentary evidence of Source of Funds was required and guidance as to what would comprise acceptable documentary evidence; and

4.85.2. whether cash deposits should be accepted or rejected if there was any suspicion about the Source of Funds and/or evidence of the Source of Funds was not available.

4.86. The Authority considers that, having identified cash deposits as posing a high risk from an AML perspective, it was incumbent upon Al Rayan to ensure that it implemented appropriate risk-sensitive policies and procedures so that its staff would know what to do when confronted with a cash transaction. As referred to above, Al Rayan failed to do so.

Monitoring procedures for Second Line of Defence

4.87. The Second Line of Defence (primarily the FCU), was responsible for conducting transaction monitoring. Al Rayan used two systems to monitor transactions:

4.87.1. TM1: which monitored transfers in and out of customers' accounts; and

4.87.2. TM2: which was used for real-time card transactions monitored on a 24/7 basis via a third party.

4.88. The FCU reviewed transactions which triggered set rules within TM1 and TM2 and were flagged for further monitoring. For example, deposits of more than £10,000

in a single deposit or in aggregate over 7 days, or where a customer was placed on a "watch list".

- 4.89. The FCU reviewed each flagged transaction and determined whether the activity warranted further investigation. If the transaction did not warrant further investigation, the FCU noted the reasons why and authorised the transaction. If after the investigation, suspicions remained, an internal disclosure report would be made to the MLRO, or nominated deputy, for validation and onward reporting to the NCA. All payments had been received by Al Rayan at this stage and any actions were retrospective.

The nature of Al Rayan's cash deposits

- 4.90. As detailed above at paragraph 4.72 - 4.73, throughout the Relevant Period, Al Rayan onboarded high-risk customers without conducting adequate EDD in terms of establishing their Source of Wealth and Source of Funds, despite being repeatedly informed and reminded of the weaknesses in its EDD procedures in these areas.
- 4.91. The Authority notes, based on its file review in this investigation, the following recurring themes for each customer type:
- 4.91.1. the individual (as opposed to corporate) customer files recorded large, in person, cash deposits at Al Rayan's branches, which resulted from customers withdrawing cash from an overseas bank account, transporting it into the UK and physically depositing the money over the counter, into their Al Rayan bank account;
 - 4.91.2. the corporate customer files recorded cash deposits which were higher than anticipated and, in one instance, related to a business with activities in an overseas jurisdiction associated with higher levels of corruption; and
 - 4.91.3. certain charity customer files recorded large cash deposits as a result of donations and frequently transferred monies overseas to higher risk jurisdictions.

- 4.92. The Authority's view is that all of these scenarios clearly entailed a higher risk of financial crime and accordingly it was important for Al Rayan to have robust processes in place for conducting EDD/enhanced ongoing monitoring and, more specifically, to establish and, where appropriate, verify customers' Source of Funds in the context of such cash transactions.

Issues identified with monitoring of cash deposits

The Authority's 2017 Assessment

- 4.93. The Authority's 2017 Assessment identified serious concerns with Al Rayan's handling and treatment of large cash transactions and its willingness to accept cash deposits without always gaining sufficient evidence of Source of Funds. In addition, the Authority discovered that there was a lack of understanding of the "tipping off" offence at the Knightsbridge branch such that branch staff would not reject cash deposits, even where they had suspicions around the Source of Funds, due to a concern that rejecting the deposit might amount to "tipping off" a customer within the meaning of section 333A of the Proceeds of Crime Act 2002. If there were suspicions around a customer's Source of Funds, rather than rejecting the cash deposit, branch staff would escalate the issue internally and if necessary, submit a SAR, having already taken in and banked the monies.

Al Rayan's 2018 Internal Audit

- 4.94. The internal audit report of the Knightsbridge branch dated January 2018 concluded that the First and Second Line of Defence were:
- 4.94.1. unable to exercise the required judgment regarding the receipt of large cash deposits, specifically in relation to the requisite Source of Funds;
 - 4.94.2. not sufficiently risk aware or pro-active in seeking advice from Head Office when they encountered situations about which they should reasonably have questions or suspicions;
 - 4.94.3. unable to adequately consider whether cash deposits should be accepted or rejected if there was any suspicion about the Source of Funds and/or evidence of the Source of Funds was not available; and

4.94.4. it was noted in some cases that cashiers were reluctant to offend customers by not accepting deposits.

4.95. Aside from the findings of Al Rayan's 2018 internal audit, the Authority's own enquiries also identified that certain First Line of Defence staff's understanding in relation to the treatment of cash deposits, as communicated by management, was to "take in money regardless".

4.96. In this regard, the accepted position amongst some of the cashiers was that, due to the majority of customers being HNW or UHNW, a customer's status was taken for granted and there was little questioning of customers in relation to Source of Funds at the point of deposit, as it was presumed that all the necessary checks had been done.

Suspicious activity (Tipping Off)

4.97. Thus although Al Rayan policies (such as the Cashiering Branch Procedure Document) provided some guidance to staff about the "tipping off" offence and how to avoid tipping off customers in relation to potentially suspicious transactions, in reality, there was a fundamental misunderstanding in this area amongst First Line of Defence staff at the Knightsbridge branch. This led to the First Line of Defence's reluctance to request further information/evidence from customers which, in turn, resulted in the situation whereby Al Rayan failed to carry out appropriate EDD and enhanced ongoing monitoring to ensure that cash deposited over the counter was for legitimate purposes and not connected with financial crime. These failings exposed Al Rayan to an unacceptable risk that it would be used to further financial crime.

The Authority's file review

Individual customers

4.98. The Authority's review of 9 individual customer's cash deposits in the context of this investigation showed HNWs withdrawing large amounts of cash from their GCC bank accounts, transporting the cash to the UK and then physically depositing the cash, in person, over the counter into their Al Rayan account(s).

- 4.99. In relation to 7 of the 8 customers onboarded during the Relevant Period, the Authority identified, as explained at paragraph 4.49 - 4.52 and 4.72 - 4.73, that their Source of Wealth and/or Source of Funds had not been adequately established at onboarding.
- 4.100. The Authority also identified that there was inadequate scrutiny applied by the First and Second Line of Defence at the point of certain cash deposits, such that Al Rayan failed to adequately establish the origin of the cash and, therefore, the extent to which there was a risk that Al Rayan might have been being used to further financial crime. From its file reviews, the Authority identified that Al Rayan failed to gather adequate information and evidence in relation to these cash transactions such that its knowledge of them was, in large part, limited to the fact that the cash in question derived from a non-EEA bank account. However, Al Rayan had little or no knowledge of how the funds in the non-EEA bank account had been generated (partly as a result of the abovementioned EDD deficiencies at the point of onboarding) and Al Rayan failed to obtain adequate information and evidence to support the origin of the cash transactions.

Corporate and charity customers

- 4.101. The Authority's file reviews of two corporate customers identified instances of significant cash deposits over and above the anticipated level set out at onboarding and insufficient EDD/enhanced ongoing monitoring, including a failure to obtain meaningful information as to/evidence of the Source of Funds for the cash deposits.
- 4.102. The Authority's file reviews for two of the four charity customers identified instances of large cash deposits being accepted by Al Rayan with inadequate scrutiny of the explanations provided and insufficient consideration of previous transactions and anticipated account activity.

Examples of inadequate measures to understand customers' Source of Funds on large cash deposits

Customer C

- 4.103. Al Rayan onboarded Customer C on 29 September 2016 and identified Customer C as an HNW and PEP at the point of onboarding. The EDD conducted at

onboarding, as detailed in paragraph 4.63 - 4.67 above, did not adequately establish Customer C's Source of Wealth and Source of Funds.

- 4.104. Customer C's onboarding documents noted the anticipated account activity to be a bank transfer of £50,000 into the account 3 to 4 times a year. However, as it transpired, the account was credited with cash deposits as opposed to bank transfers and these cash deposits doubled the anticipated account activity for a year within a 9-month period. A total of £460,000 in cash was deposited at the Knightsbridge branch between 30 September 2016 and 7 July 2017, which included a cash deposit of £250,000 on 21 November 2016, two cash deposits of £100,000 on 8 May 2017 and 7 July 2017, and a £10,000 cash deposit on 1 June 2017.

Cash deposit 1 - £250,000

- 4.105. On 21 November 2016, Customer C made a cash deposit of £250,000 at the Knightsbridge branch. Al Rayan's records indicate that the money was withdrawn from the customer's GCC bank account and exchanged into Sterling and Euros in Qatar on 18 January 2016, 26 September 2016 and 16 November 2016. The First Line of Defence accepted a cheque drawn on a GCC bank account indicating that funds derived from Customer C's GCC bank account and currency exchange receipts as evidence of Source of Funds.
- 4.106. Following the receipt of this cash deposit, the Second Line of Defence queried with the First Line of Defence the reason why the transaction was not made via a bank transfer as expected. The reason provided was that "*he had the cash at home because he exchanges the Sterling throughout the year...*". The Second Line of Defence cited "*no concerns*" with the transaction or the reason given for it, despite it being significantly different both in size and nature to the type of transactions which were anticipated at onboarding and Al Rayan having no meaningful understanding of how the funds were generated. The Second Line of Defence requested that any future large cash deposits be made via bank transfer, however this was stated to be for safety concerns rather than AML concerns.

Cash Deposits 2 and 3 of £100,000 each

- 4.107. Customer C made two subsequent cash deposits of £100,000, on 8 May 2017 and 7 July 2017:

4.107.1. For cash deposit 2, a currency exchange receipt for £100,000 from a GCC foreign exchange company dated 25 April 2017 was provided in support of the transaction.

4.107.2. For cash deposit 3, a GCC bank statement indicating that a cheque had been cashed and a currency exchange receipt for £100,000 from a GCC foreign exchange company dated 22 June 2017 was provided in support of the transaction.

4.108. The Second Line of Defence did not identify any concerns at the time of cash deposits 2 and 3 despite, once again, having no meaningful understanding of how the funds had been generated. In addition, the Second Line of Defence made no further reference to its earlier request that, in future transactions, the deposit be made by bank transfer as opposed to in cash.

Cash deposit 4 £10,000

4.109. On 1 June 2017, Customer C made a further cash deposit of £10,000 and a cash withdrawal of the same amount. The purpose of the transaction recorded by the Second Line of Defence was the exchange of £20 notes into £50 notes. There is no evidence on the file of any attempt to establish the Source of Funds in support of this deposit or of questions being asked of Customer C as to the reason for this transaction.

4.110. The Second Line of Defence did not cite any concerns with cash deposit 4 despite this scenario specifically comprising one of the hallmarks for questionable activity identified in Al Rayan's policies and procedures in relation to handling large cash deposits (see paragraph 4.82.5 above).

Summary in relation to Customer C

4.111. At onboarding, Customer C was classified as a PEP/HNW and therefore high-risk. Regulation 14 (4)(b) of the ML Regulations required Al Rayan to conduct "adequate measures to establish the source of wealth and source of funds which are involved in the proposed business relationship or occasional transaction" in those circumstances. However, as explained in paragraphs 4.63 - 4.67 and 4.72 - 4.73 above, Al Rayan did not undertake adequate EDD in relation to Customer

C at onboarding, and there was a failure to establish its Source of Wealth and Source of Funds.

- 4.112. In relation to cash deposits over £3,000, Al Rayan's policy required the First and Second Line of Defence to scrutinise Source of Funds and for staff to be vigilant; it further required that all unusual transactions for all customers be identified and discretely researched, particularly in relation to large cash deposits, as detailed in paragraph 4.82.
- 4.113. In cash deposits 1, 2 and 3, Al Rayan understood Customer C to have deposited money deriving from a GCC bank account into their Al Rayan account in the UK. The evidence supporting the Source of Funds in relation to these transactions demonstrated that (a) the cash appeared to originate from the customer's GCC bank account, (b) a cheque or cash was deposited with GCC-based foreign exchange bureaus, (c) cash was provided in Sterling and Euros in return and (d) this cash was then deposited into Customer C's Al Rayan account in the UK. The deficient EDD conducted at Customer C's onboarding, as detailed in paragraphs 4.63 - 4.67 and 4.72 - 4.73 above, meant that Al Rayan did not have a meaningful understanding of its Source of Wealth and Source of Funds. In these circumstances, the provision of a GCC bank statement or a cheque drawn on a GCC account, coupled with currency exchange receipts, did not enable Al Rayan to establish and corroborate that Customer C's Source of Funds for the purposes of the cash transactions was legitimate and not connected to financial crime.
- 4.114. The Second Line of Defence did not adequately investigate the AML risk presented by cash deposits 1, 2 and 3. Its enquiries failed to identify that Al Rayan had not adequately established Source of Wealth and Source of Funds at onboarding and it accepted at face value such limited explanations as the customer gave for the purpose of the cash transactions without adequate investigation. Of further concern, these cash transactions occurred in circumstances where, at onboarding, it had been recorded that credits were to be made via bank transfer and not via cash deposits through currency exchanges in the GCC. Furthermore, the cash deposits that were made substantially exceeded the expected annual account activity recorded at onboarding, with no evidence on file to support that any of these red flags were investigated by the First and Second Line of Defence.
- 4.115. Finally, for cash deposit 4, no evidence of Source of Funds was provided in support of the transaction despite the fact that the exchange of low denominations notes

into high denomination notes was an example included in Al Rayan's policies of 'questionable activity', requiring further investigation. There is no evidence that any such investigation took place.

Customer D

- 4.116. Al Rayan onboarded Customer D at the Coventry Road, Birmingham branch on 30 November 2015. Customer D, one of Al Rayan's Other Business customers, was identified as a start-up UK limited company which had recently been incorporated with a sole proprietor and shareholder, whose principal activity was to repair, buy and sell forklifts/heavy duty vehicles and sell them internationally, through the proprietor's father who was based in Iraq. As detailed in paragraph 4.68 - 4.71 above, minimal information was gathered in relation the proprietor's father's activities in Iraq and/or his source of income, despite the fact that Customer D would be engaged in the purchase and sale of construction equipment through him in Iraq and was also to receive a large initiating payment from the proprietor's father in Iraq, a high-risk jurisdiction.
- 4.117. From the documentation produced at onboarding, the expected account activity was noted as follows; *"Regarding credit and debit International transactions [Customer D] will be doing around 10k a month. As this is a start-up business the figure is a forecast so when business picks [up] the customer will come into the branch to inform of any changes. Cash withdrawals/deposits would be around 2k (per month) but [Customer D] is expecting most of transfer to [be] electronic transfer as payment will [be] mostly nationwide."* Overall, it was anticipated that there would be annual turnover of £200,000.
- 4.118. Over a two-year period, Al Rayan received approximately £580,000 in cash deposits from Customer D, despite the fact that the initial indication at onboarding was that *"cash withdrawals/deposits would be around 2k (per month)"* and, further, that Customer B was expecting most of the transfers to be electronic transfers. The evidence of Source of Funds provided in support of the cash deposits consisted of single page, paper invoice receipts from sales of construction vehicles/other items, all of which were addressed to businesses in Iraq. While Al Rayan's Second Line of Defence identified concerns in relation to the overall turnover and requirement for updated EDD, no concerns were identified in relation to the cash deposits.

Summary Customer D

- 4.119. At onboarding, it appears that no risk classification was applied to Customer D. The Authority's view is that, as per paragraph 4.68 - 4.70 above, Customer D should have been classified as high-risk. However, as explained in paragraph 4.71 above, Al Rayan's due diligence at onboarding fell well short of adequate EDD in relation to Customer D.
- 4.120. Of the 25 cash deposits over £10,000 made by Customer D over the two-year period, (a) no further queries were raised by Al Rayan's First or Second Line of Defence, as to why these monies were being deposited in cash in contrast with the anticipated "*electronic transfer*" activity on the account as recorded at onboarding and (b) no further evidence of Source of Funds was provided to support the receipt of large sums of cash other than the above invoice receipts.
- 4.121. Al Rayan did not adequately investigate the AML risk presented by the cash deposits and its enquiries failed to identify that only an inadequate level of due diligence had been performed at the point of onboarding. In addition, although the increase in anticipated account activity for Customer D was identified multiple times by the Second Line of Defence through 2016, no further EDD was gathered in relation to the activities underlying the cash deposits.

Customer E

- 4.122. The account for Customer E, one of Al Rayan's Other Business customers, was opened at the Coventry Road, Birmingham Branch of Al Rayan on 29 May 2015. Customer E was a UK charity running as a limited company, with international operations. As explained at paragraph 4.16 above, Al Rayan's approach to risk-rating charities was unclear and no risk rating in relation to Customer E is provided in the documentation at onboarding. The account opening documentation stated that the charity raised donations which were to be used for the relief of poverty throughout the world but mainly in certain high-risk jurisdictions. Customer E was recognised as being a recipient of donations from the general public (some of which would be cash) and it was anticipated that it would be making international payments of approximately £300,000 annually, including to high-risk overseas jurisdictions.

- 4.123. The account opening documentation also recorded that the annual turnover for Customer E was expected to be £800,000 per annum with anticipated cash activity (i.e. credits and debits) of £10,000 per month.
- 4.124. On 16 August 2016, Customer E made a cash deposit of approximately £360,000. This cash deposit was unusually large both in terms of anticipated account activity and actual activity on the account, as illustrated by the fact that a total of only approximately £500,000 had been deposited into the account during the previous 13 months. Despite this, the Second Line of Defence identified “no concerns” with this deposit on the basis of some cursory enquiries whereby the cash was said to have come from a religious festival collection and had been kept in a safe with donations “*saved over a time/months*”. There is no evidence that the Second Line of Defence assessed this cash deposit in the context of the previous cash deposits made into the account, noting only the turnover on the account and the amount of credits to date. Had they done so, they would have been aware of Customer E’s separate cash deposit of £99,940 which was made on 24 June 2016, just two months before and which appeared to raise questions about the high-level explanation given as to the accumulation of cash over time. In any event, the Authority considers that, given its magnitude and in the circumstances, Customer E’s cash deposit of 16 August 2016 was a higher risk situation which should accordingly have triggered a meaningful level of EDD and enhanced ongoing monitoring.

Summary of Issues with EDD on cash deposits

- 4.125. The Authority considers that the file reviews undertaken in the context of this investigation demonstrate that Al Rayan failed to:
- 4.125.1. adequately perform EDD and enhanced ongoing monitoring in the context of higher risk situations, namely where customers sought to make large, in person, deposits of cash over the counter. This included a failure to establish and verify customers’ Source of Funds in relation to such high-risk transactions. In this regard, Al Rayan’s failure to adequately establish high-risk customers’ Source of Wealth and Source of Funds at onboarding contributed to its subsequent inability/failure to establish its customers’ Source of Funds in the context of the cash transactions, such that it did not have a meaningful understanding of the origin of these monies and it was not able to assess whether those

transactions were for legitimate purposes and not in connection with financial crime; and

- 4.125.2. adequately scrutinise potentially suspicious activity given, in particular, that (a) Al Rayan had itself identified that cash transactions presented a high-risk of financial crime and left the bank particularly vulnerable, (b) the cash transactions observed by the Authority in the context of its file reviews were frequently inconsistent with the account activity expected on the basis of information supplied at the point of onboarding, (c) Al Rayan did not adequately enquire into the overall purpose or reason for the cash transactions in order to evaluate whether they had a legitimate economic or lawful purpose and (d) Al Rayan did not establish the Source of Funds of the cash transactions in circumstances where it had also failed to establish customers' overall Source of Wealth and Source of Funds at the point of onboarding.

Ongoing Monitoring – KYC Periodic Review

Requirements

ML Regulations and JMLSG

- 4.126. Regulation 8 (1)-(2) of the ML Regulations (Ongoing monitoring) states that:

"(1) A relevant person must conduct ongoing monitoring of a business relationship.

(2) "Ongoing monitoring" of a business relationship means—

(a) scrutiny of transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with the relevant person's knowledge of the customer, his business and risk profile; and

(b) keeping the documents, data or information obtained for the purpose of applying customer due diligence measures up-to-date."

- 4.127. In accordance with Regulation 14 (1)(b) of the ML Regulations, a firm must also apply, on a risk-sensitive basis, EDD and enhanced ongoing monitoring in any situation which by its nature can present a higher risk of money laundering or terrorist financing. Paragraph 5.7.12 of Part I of the JMLSG states that "*Higher risk accounts and customer relationships require enhanced ongoing monitoring. This will generally mean more frequent or intensive monitoring.*"

Al Rayan's policies in relation to KYC periodic reviews

- 4.128. At the start of the Relevant Period, between 1 April 2015 and 17 March 2016, Al Rayan's policies stated that "*information held relating to HNW and GCC customers will be reviewed and updated on a yearly basis, or when a material change occurs in the risk profile of a customer. Periodic review of particular customers will be made on a risk-based basis, i.e. PEPs are conducted quarterly.*"

- 4.129. The "High Risk Customer Policy" dated 17 March 2016, subsequently required that all high-risk customers be reviewed annually, stating that:
"Consistent with the risk-based AML approach, CDD and supporting customer profiles for all High-risk relationships must be reassessed at least on an annual basis. These annual reviews will be conducted by Financial Crime Unit ("FCU") with the assistance of the Relationship Managers...

All High Risk customer relationships must be reviewed at least annually by the Board Risk Credit and Compliance Committee as part its risk management responsibilities. Amongst others, on a risk basis the results of enhanced on-going monitoring should form part of the reporting process to the committee and the assessment of the High Risk customer relationship and decisions over continuation."

- 4.130. As part of this process, Al Rayan's Second Line of Defence was responsible for: conducting customer risk assessments to ensure all KYC was collected and updated to Al Rayan's systems; ensuring red flag indicators were considered; and assessing the justification for the retention of the high-risk customer with reference to the legitimacy of the customer's Source of Wealth and Source of Funds. Once the review was completed, the assessment would be submitted to the MLRO for re-approval of the relationship with the customer.

Issues identified with KYC periodic reviews

The Authority's 2015 Assessment

4.131. In 2015, the Authority identified weaknesses in the quality of Al Rayan's KYC periodic reviews, with reviews being either non-existent or sporadic. The Authority also had concerns over the quality and judgement at sign-off of the KYC periodic reviews that were undertaken. The Authority's concerns included:

4.131.1. the forms used to carry out the reviews were insufficient to adequately re-assess the relationship for changes in the risk profile, either as a result of account activity or changes in the customer profile, and often consisted of a 'cut and paste' of the original information provided by the customer;

4.131.2. in some cases, there was conflicting information on the customer file which had not been challenged or escalated, for example, contradictory information concerning Source of Wealth and Source of Funds which Al Rayan had not questioned or rectified; and

4.131.3. Reviews were signed off despite a clear lack of adequate EDD, missing documents and discrepancies on file.

4.132. The Authority asked Al Rayan to set out the action it planned to take to remedy the findings of the Authority's 2015 Assessment. In response, Al Rayan put in place the 2015 Action Plan which set out the planned steps to rectify the deficiencies identified, including:

4.132.1. conducting a retrospective review of all existing PEP and high-risk customer files to identify any information gaps;

4.132.2. carrying out a remediation exercise on existing customers to ensure it gathered sufficient information in relation to Source of Wealth and Source of Funds for PEP clients; and

4.132.3. determining and documenting new processes for the on-going monitoring of PEPs and high-risk clients.

- 4.133. Following these findings, Al Rayan intended to implement the CRRS system which would enable the automatic generation of alerts when a customer's KYC periodic review was due, the aim being to enable Al Rayan to adequately manage its ongoing monitoring obligations of customers.

The Authority's 2017 Assessment

- 4.134. In June 2017, the Authority's 2017 Assessment found that:
- 4.134.1. Over 300 KYC periodic reviews for high risk and PEPs were past their due date; and
 - 4.134.2. Al Rayan did not have a defined framework in place at branch level to register or acknowledge when customer KYC periodic reviews were due. In this regard, Al Rayan relied solely on the FCU to control and advise on due dates.
- 4.135. More broadly, the Authority's 2017 Assessment also found there were ongoing and significant concerns in relation to weaknesses Al Rayan had committed to address in the 2015 Action Plan, including the completion of customer file remediation work.
- 4.136. In response to the Authority's 2017 assessment, amongst other things, Al Rayan recognised that *"the backlog of Periodic Reviews of client files is not at an acceptable level"*.

Al Rayan's 2017 Internal Audit

- 4.137. Al Rayan recognised that its recommended improvements to the KYC periodic review process following the Authority's 2015 visit had not been implemented and stated that the backlog of periodic reviews of client files would be addressed by 30 April 2018. Reasons provided for the ongoing delay were cited in Al Rayan's August 2017 internal audit as follows: *"due to resource constraints, the FCU did not perform their annual review of High-risk customers in 2016"*.
- 4.138. Al Rayan also considered that the introduction of the CRRS would provide a defined framework at branch level *"to register or acknowledge when client periodic reviews are due"*.

The Authority's file review – KYC periodic reviews

- 4.139. In the context of this investigation, the Authority reviewed 15 customer files across the Relevant Period and found that none of the 14 of 15 files due for KYC period review contained any evidence to indicate a KYC periodic review had been undertaken.
- 4.140. The customer file review undertaken by the Authority did identify ad hoc requests made by Al Rayan's Second Line of Defence for further CDD and EDD to be conducted on certain customers (due to transaction monitoring indicating a material change in the expected account activity or concern with the information held about the customer) however, in a number of instances, these were simply ignored or followed up in a manner which was entirely inadequate. The following example highlights a customer file where the need for further EDD was identified by the Second Line of Defence, but there is no evidence on file to suggest that those further measures were undertaken.

Customer file example of no EDD being undertaken despite a material change in the customer's circumstance

Customer D

- 4.141. Customer D was onboarded as a corporate customer in November 2015 (see paragraphs 4.116 – 4.121). It was a start-up UK limited company which had been recently incorporated with a sole proprietor and shareholder, whose principal activity was to repair, buy and sell forklifts/heavy duty vehicles and sell them internationally, through the proprietor's father, who was based in Iraq.
- 4.142. The first significant payment made into Customer D's account in January 2016, shortly after onboarding, was a "loan" from Customer D's father for approximately £124,000 (which was paid by way of bank transfer). The payment was made from a high-risk jurisdiction in relation to a new customer who was to be dealing with the purchase/sale of construction vehicles in Iraq, a high-risk jurisdiction. Inadequate due diligence was performed at onboarding in relation to Customer D's proprietor's father and the business in Iraq, such that Al Rayan did not have a meaningful understanding as to the origin of this initiating payment.

- 4.143. In May 2016, a transaction was flagged for monitoring and the Second Line of Defence highlighted a concern that *"expected turnover was £200k pa... To date they have had £262,606.02. Will ask branch to get more info"*. Following this query from the Second Line of Defence, the First Line of Defence stated *"The funds have come from his father and he is expecting more funds around 400k as the business has improved. He has around 20 fork lifts and is looking to expand his business"*. Despite the vague nature of this response, it did not trigger any further investigation or an attempt to corroborate this explanation by the First or Second Line of Defence.
- 4.144. In October 2016, the Second Line of Defence noted that *"Looking at the anticipated turnover it looks like they are doing more so will ask branch to do new EDD on the company"*. However, despite this request from the Second Line of Defence, no further enquiries or EDD information are recorded on the file.
- 4.145. In November 2016, a Second Line of Defence file note following a cash deposit on 16 November 2016 which had triggered transaction monitoring stated *"Expected turnover is £200,000 PA. Turnover so far is £1,094,946.03. Asked branch to do EDD and ask about the turnover"*. However, despite this request from the Second Line of Defence, once again, no further enquiries or EDD are recorded on the file.
- 4.146. In the case of Customer D, the Second Line of Defence did identify the need for further EDD to be conducted on the customer due to the fivefold increase in account turnover in a year, but there is no evidence on the customer file to suggest that additional EDD was undertaken. For example, there is no indication that Al Rayan made any attempt to obtain a meaningful understanding of Customer D's business, how it was that the activity on the account was so much higher than anticipated and/or why there were such a large number of high-value cash deposits, again, in circumstances where this was contrary to anticipated activity on the account; likewise, Al Rayan seemingly made no proactive attempt to obtain any commercial documentation underlying the business activities of Customer D, instead relying solely on single-page invoices volunteered by Customer D. A failure to perform adequate EDD and enhanced ongoing monitoring in relation to Customer D, even when the need to do so was specifically identified by the Second Line of Defence, exposed Al Rayan to the risk of being used to facilitate financial crime, especially given the nature of Consumer D's business, the geographical location of its operations and the amount of cash received (see paragraphs 4.116 – 4.121 above).

Internal audit

- 4.147. Al Rayan's Internal Audit function was responsible for auditing Al Rayan's compliance with UK statutory and regulatory obligations and with financial crime policies and procedures. The Internal Audit function acted as Al Rayan's Third Line of Defence.
- 4.148. Al Rayan conducted an internal audit of the FCU in February 2009. The Authority noted in its 2015 assessment that an internal audit of the FCU had not been conducted for a number of years prior to 2015 and Al Rayan was informed that one should be undertaken. Following the Authority's 2015 Assessment, Al Rayan put in place the 2015 Action Plan which set out the planned steps to rectify the deficiencies identified, including conducting an internal audit of the FCU. In terms of timing, the 2015 Action Plan stated that the internal audit was scheduled to commence in September 2015 and the due date for completion was 30 November 2015. However, as it transpired, the Authority's 2017 Assessment noted that Al Rayan had still not completed the internal audit of the FCU two years after receiving feedback from the Authority that such a review was required.
- 4.149. Al Rayan finally completed the internal audit of the FCU in 2017 ("Al Rayan's 2017 Internal Audit"), 8 years after the previous internal audit of the FCU had been carried out. The scope of the review was to focus on the principal deficiencies identified by the FCA and it was to include a qualitative assessment of the robustness of the systems and control in mitigating financial crime risks.
- 4.150. Al Rayan's 2017 Internal Audit report in relation to the FCU was produced in August 2017 and its review of the Knightsbridge branch was produced in January 2018 (the "2018 Internal Audit of the Knightsbridge branch") which included a review of "*branch procedures – Cash Transactions & Anti money laundering*".
- 4.151. Both Internal Audit reports identified 'major' and 'significant' issues across key areas of Al Rayan's financial crime controls, including:
- 4.151.1. The process to identify high-risk customers and the risk assessment performed at a number of non-Premier branches was very limited.

- 4.151.2. the onboarding of high-risk and PEP customers, in particular, the inadequacy of EDD including Source of Wealth and Source of Funds acquired at onboarding (see paragraphs 4.43 - 4.73.).
- 4.151.3. ongoing monitoring, whereby it was identified that the list of high-risk and PEP customers monitored was incomplete, as follows:
- 4.151.3.1. 35 high-risk customers were not included on the monitoring list, representing 13% of the total monitoring list of 271 high-risk customers; and
 - 4.151.3.2. 19 PEP customers were not included on the monitoring list, representing 5.5% of the total monitoring list of 351 PEP customers.
- 4.151.4. annual KYC periodic reviews of high-risk customers had not been undertaken in 2016. (see paragraphs 4.130 - 4.138); and
- 4.151.5. inadequate management and supervision in relation to the handling of large cash deposits in the Knightsbridge branch, with a need for *"bespoke Branch procedures and training reflecting the high-risk at Knightsbridge branch around acceptance of large cash deposits and associated anti-money laundering procedures."* (see paragraph 4.125 above and the section of this Notice entitled 'Training' immediately below).
- 4.152. The Authority considers that the extent of the deficiencies across Al Rayan's AML systems and controls was exacerbated by its failure to conduct an internal audit of the FCU until August 2017. In this way, Al Rayan operated for over 8 years (between February 2009 and August 2017) without an effective Third Line of Defence, meaning that weaknesses in Al Rayan's AML control framework were not identified and persisted for a significant period of time which, in turn, led to the risk of Al Rayan being used in furtherance of financial crime.

Training

- 4.153. Al Rayan's "Preventing Financial Crime" manual dated 14 January 2015 provided that:

"One of the most important controls over the prevention and detection of money laundering is to have employees who are alert to the risks of money laundering. They must be well trained in the identification of activities or transactions which may prove to be suspicious. Staff who are meeting with customers or handling transactions and instructions may be either the Bank's strongest defence against money laundering and terrorist financing or its weakest link."

- 4.154. The Authority's customer file reviews and interview evidence demonstrate that staff across Al Rayan's First and Second Lines of Defence had insufficient knowledge and understanding of the ML Regulations to adequately carry out EDD, both in terms of establishing customers' Source of Wealth and Source of Funds at the point of onboarding and establishing customers' Source of Funds in the context of higher risk situations, as well as adequately identifying and resolving suspicious activity.

- 4.155. In April 2015, the Authority carried out its 2015 Assessment of Al Rayan's AML and sanctions systems and controls. Following the assessment, the Authority set out a number of serious concerns in relation to Al Rayan's AML systems and controls and alerted Al Rayan to the need to ensure that there was a sufficient focus on AML measures throughout its business and to ensure that compliance with legal and regulatory requirements was prioritised. In response, Al Rayan put in place the 2015 Action Plan which included introducing sector and role specific training in 2016 whereby *"Training programmes (computer based or otherwise) will be developed which are specific for the first and second line areas of the business"* and *"AML Champions in each front line business area to be identified and trained to act as experts within the front line areas"*.

- 4.156. Al Rayan's Knightsbridge branch, established on 15 May 2015, was set up to specifically target HNW and UHNW individuals, and particularly focussed on GCC-based customers. From June 2015, Al Rayan was aware of a lack of training and supervision of staff at the Knightsbridge branch. Over the ensuing months, senior management committees noted that staff at the Knightsbridge branch had not been observed (such as by way of '1:1' meetings) due to a lack of management

resource and 'Training' was allocated a 'red' risk category. In this way, Al Rayan failed to supervise staff within the Knightsbridge branch during the first six months of its opening. This lack of training and supervision occurred in circumstances where it was well-known that the Knightsbridge branch dealt with a large proportion of Al Rayan's high-risk customers and Al Rayan was specifically aware of the risks associated with increased exposure to high-risk customers.

4.157. In June 2017, the Authority conducted its 2017 Assessment, concluding that, whilst some improvements to the financial crime control framework had been made since the Authority's 2015 Assessment, there were ongoing and significant concerns in relation to weaknesses that Al Rayan had committed to address in the 2015 Action Plan, including the introduction of more targeted training for staff. The Authority also identified two further serious areas of concern during the 2017 visit, namely:

4.157.1. the controls and oversight in place at the Knightsbridge branch in relation to the handling and treatment of large cash transactions, and the willingness to accept cash deposits without always gaining sufficient evidence of Source of Funds; and

4.157.2. a lack of knowledge and understanding within the Knightsbridge branch of the "tipping off" offence whereby a fear of committing this offence was discouraging branch staff from rejecting cash deposits even when they had concerns.

4.158. In September 2017, senior management noted that the "root cause" of the deficiencies at the Knightsbridge branch identified by the Authority's 2017 Assessment (namely around the handling of large cash transactions and the lack of understanding of the "tipping off" offence) was linked to poor training of staff. Accordingly, third party training providers were being considered to provide targeted training for frontline customer-facing roles and AML champions, and to ensure that induction training was sufficient. Al Rayan also wrote to the Authority on 8 September 2017, amongst other things, stating that:

4.158.1. "We acknowledge that the failure of staff at the Knightsbridge branch to fully understand the "tipping off" rules in relation to the cash handling procedures was very concerning";

4.158.2. further "role specific" training was being organised for all branch staff and Head Office, with additional workshops and testing to ensure all the regulations and guidelines were fully understood; and

4.158.3. the format of the training would include face-to-face classroom training which would allow staff the opportunity to have "question and answer" sessions with the trainers.

4.159. However, despite these intentions, the 2018 Internal Audit of the Knightsbridge branch still concluded that, until very recently, the training provided to Al Rayan staff was "*generic and computer based*" and that:

"Given the Branch's Premier Banking clientele, and their habit of depositing and withdrawing large amounts of cash, we are of the view that this is insufficient, and that more bespoke training is required. It was highlighted by the Chief Commercial Officer that he requested from the Compliance team to provide a bespoke training to the Branch staff."

4.160. The 2018 Internal Audit of the Knightsbridge branch also noted that Al Rayan's branch staff were not "*sufficiently risk aware, and are not sufficiently pro-active in seeking advice from Head Office when they encounter situations about which they should reasonably have questions or suspicions.*"

4.161. Thus, Al Rayan staff received 'generic computer-based training' throughout the Relevant Period which was not sufficiently targeted towards their AML needs. Whilst Al Rayan did put in place 'AML champions' to whom AML related questions and queries were to be directed, the training that the AML champions themselves received did not encompass critical areas where knowledge was lacking in the First and Second Line of Defence (such as how to adequately establish Source of Wealth and Source of Funds, and the handling of large cash deposits).

4.162. The Authority considers it is evident that the inadequate training of staff (for example, in relation to the handling of large cash transactions) contributed to the deficiencies across Al Rayan's EDD processes, thereby exposing Al Rayan to the risk to being used to further financial crime.

Failure to implement remediation

- 4.163. Following the Authority's 2015 Assessment, Al Rayan implemented its 2015 Action Plan to remediate the Authority's concerns with Al Rayan's AML control framework.
- 4.164. Al Rayan failed to remediate three key issues by the end of the Relevant Period, as follows:
- 4.164.1. Al Rayan failed to complete the remediation of the due diligence on Source of Wealth and Source of Funds for high-risk and PEP customers. Not all high-risk and PEP files existing before 2016 had been fully remediated, with 245 of the 423 customer files still requiring remediation as of 7 September 2017, despite the 2015 Action Plan stating that this exercise would be complete before the end of 2015.
 - 4.164.2. Al Rayan failed to address the backlog of KYC periodic reviews of high-risk and PEP customer files and also failed to put in place a defined framework at branch level to register or acknowledge when KYC periodic reviews were due. 316 of the 665 high-risk and PEP customer files had not been subject to KYC periodic review from 1 April 2015 to 7 September 2017.
 - 4.164.3. As explained at paragraph 4.153 - 4.162 above, Al Rayan failed to implement sector and role specific AML training for the First and Second Lines of the business.
- 4.165. In addition, between February 2009 and July 2015 Al Rayan neglected to carry out an internal audit of the FCU. The 2015 Action Plan required the internal audit to be completed by November 2015, however it was not completed until August 2017. Therefore Al Rayan did not have an effective Third Line of Defence over the FCU and in relation to AML matters for over 8 years.
- 4.166. The interim MLRO Report for the reporting period January 2017 to August 2017 referred to issues in relation to the resource available to Al Rayan, on the basis of an inability to acquire "*the correct level of experienced and qualified staff*". The Report went on to state that this lack of adequate resource "hampered" Al Rayan's

ability to remediate certain deficiencies across its financial crime framework by the end of the Relevant Period.

5. FAILINGS

- 5.1. The regulatory provisions relevant to this Notice are referred to in Annex A.
- 5.2. Principle 3 required Al Rayan to take reasonable care to organise its affairs responsibly and effectively, with adequate risk management systems. Al Rayan was also required to have policies and procedures in place, comprehensive and proportionate to its business activities, to enable it to identify, assess, monitor and manage money laundering risk.
- 5.3. Al Rayan failed to meet these requirements and, in doing so, breached Principle 3 in that during the Relevant Period:
 - 5.3.1. Al Rayan failed to establish, implement and maintain appropriate and risk-sensitive policies and procedures in relation to the application of EDD and, in particular, in relation to establishing high-risk customers' Source of Wealth and Source of Funds at the point of onboarding. In this regard, the policies and procedures in place in relation to the appropriate information/evidence required to establish and verify customers' Source of Wealth and Source of Funds were not sufficiently clear, the result of which was that high-risk and PEP customers were onboarded on the basis of inadequate EDD. (See paragraphs 4.25 - 4.73).
 - 5.3.2. Although Al Rayan identified that cash transactions presented a high-risk of financial crime, it nonetheless failed to establish, implement and maintain appropriate and risk-sensitive policies and procedures in relation to the handling and treatment of cash deposits, including whether they should be accepted or rejected if adequate Source of Funds information was not provided or when there was suspicion in relation to the transaction. In this regard, Al Rayan's policies and procedures for processing large cash deposits were not sufficiently clear so as to inform staff what evidence of Source of Funds was required. Al Rayan accepted £22.74 million in cash deposits of over £10,000 across its branch network during the Relevant Period. (See paragraphs 4.81 - 4.125).

- 5.3.3. Al Rayan failed to carry out adequate EDD in relation to establishing high-risk customers' Source of Wealth and Source of Funds at the point of onboarding and subsequently failed to carry out EDD and enhanced ongoing monitoring in higher risk situations. For the purposes of onboarding, Al Rayan relied on due diligence carried out by financial institutions within GCC states, in circumstances where it was aware this would not meet the required standards under the ML Regulations and where Al Rayan's own policies stated that customers from GCC countries should be subject to the same CDD and EDD as customers from other nations. In addition, Al Rayan staff were over-reliant upon uncorroborated explanations from customers as to their Source of Wealth and Source of Funds, together with bank account statements and letters of recommendation from non-EEA financial institutions which provided very limited information about customers' overall wealth and/or the origins of their funds. (See paragraphs 4.25 - 4.125).
- 5.3.4. Al Rayan's failure to establish high-risk customers' Source of Wealth and Source of Funds at onboarding contributed to its inability/failure to adequately corroborate the origin of customer monies in subsequent large, in person, cash deposits, considered by Al Rayan to be higher risk transactions. (See paragraphs 4.25 - 4.125).
- 5.3.5. Al Rayan failed to adequately scrutinize transactions undertaken through the course of its relationship with customers, including the Source of Funds involved in such transactions, specifically in relation to the receipt of large cash deposits. (See paragraphs 4.93 - 4.125).
- 5.3.6. Where Al Rayan's Second Line of Defence indicated, following a transaction review, that further EDD was required the EDD was not undertaken and there was no framework in place to ensure the concerns were addressed; (See paragraphs 4.128 - 4.146).
- 5.3.7. Al Rayan failed to keep documents, data or information obtained for the purposes of applying CDD and EDD measures up-to-date. In 2017, the Authority found that there was a significant back-log of over 300 existing high-risk and PEP customers whose KYC periodic reviews had not been undertaken during the Relevant Period in accordance with Al Rayan's policies and were overdue. (See paragraphs 4.131 - 4.146).

- 5.3.8. Al Rayan failed to provide adequate AML training for staff throughout the Relevant Period, including in relation to the handling of large cash deposits and the “tipping off” rules, which led to the acceptance of large, in person cash deposits without adequate challenge or scrutiny at the point of deposit. (See paragraphs 4.153 – 4.162).
- 5.3.9. Al Rayan failed to have appropriate internal controls in order to prevent activities related to money laundering and terrorist financing. An internal audit of the FCU (Al Rayan’s Second Line of Defence) was not conducted over an 8-year period, between 2009 and 2017, meaning that it was unable to ensure the First and Second Line of Defence were functioning appropriately. (See paragraph 4.165).
- 5.3.10. Al Rayan was specifically made aware of the risks presented by deficiencies in its financial crime systems and controls through the Relevant Period. In 2015 and 2017, the Authority visited Al Rayan to review its AML control framework. During both of those visits, the Authority identified weaknesses across Al Rayan’s AML control framework that Al Rayan was required to address. However, Al Rayan failed to remediate those weaknesses in accordance with its own remediation action plan and certain key actions remained unresolved during the Relevant Period. For example, by September 2017, (1) almost 50% of high-risk customers files had not been subject to a KYC periodic review in line with Al Rayan policy; (2) contrary to commitments made in the 2015 Action Plan, there was no framework in place to effectively manage KYC period reviews; and (3) Al Rayan had failed to implement adequate AML training for the First and Second Lines of Defence. (See paragraphs 4.163 - 4.166).
- 5.4. These failings arose in circumstances where Al Rayan was specifically targeting higher risk customers and undertaking large cash transactions within its GCC business area, which heightened the potential for financial crime to occur. During the Relevant Period, Al Rayan’s processes permitted money to enter the UK financial system without carrying out appropriate due diligence to ensure the money was for legitimate purposes and not connected with financial crime. The Authority recognises that the HPP and CPF divisions whose business related to

financing activities, were funded by deposits from a predominantly low risk customer base, presenting a significantly reduced financial crime risk.

- 5.5. As a consequence of these inadequacies in Al Rayan's AML control framework, it was unable to adequately identify, assess, monitor or manage its money laundering risk, particularly in relation to high-risk customers, which resulted in an unacceptable level of risk that it would be used by those seeking to launder money or commit financial crime.

6. SANCTION

Financial penalty

- 6.1. The Authority's policy for imposing a financial penalty is set out in Chapter 6 of DEPP. In respect of conduct occurring on or after 6 March 2010, the Authority applies a five-step framework to determine the appropriate level of financial penalty. DEPP 6.5A sets out the details of the five-step framework that applies in respect of financial penalties imposed on firms.

Step 1: disgorgement

- 6.2. Pursuant to DEPP 6.5A.1G, at Step 1 the Authority seeks to deprive a firm of the financial benefit derived directly from the breach where it is practicable to quantify this.
- 6.3. The Authority has not identified any financial benefit that Al Rayan derived directly from its breach.
- 6.4. Step 1 is therefore £0.

Step 2: the seriousness of the breach

- 6.5. Pursuant to DEPP 6.5A.2G, at Step 2 the Authority determines a figure that reflects the seriousness of the breach. Where the amount of revenue generated by a firm from a particular product line or business area is indicative of the harm or potential harm that its breach may cause, that figure will be based on a percentage of the firm's revenue from the relevant products or business area.

6.6. The Authority considers that the revenue generated by Al Rayan is indicative of the harm or potential harm caused by its breach. The Authority has therefore determined a figure based on a percentage of Al Rayan's relevant revenue. Al Rayan's relevant revenue is the revenue derived by Al Rayan's business areas funded by its deposit-taking activity during the period of the breach. The period of Al Rayan's breach was from April 2015 to November 2017. The Authority considers Al Rayan's relevant revenue for this period to be £106,445,890.

6.7. In deciding on the percentage of the relevant revenue that forms the basis of the step 2 figure, the Authority considers the seriousness of the breach and chooses a percentage between 0% and 20%. This range is divided into five fixed levels which represent, on a sliding scale, the seriousness of the breach; the more serious the breach, the higher the level. For penalties imposed on firms there are the following five levels:

6.7.1. Level 1 – 0%

6.7.2. Level 2 – 5%

6.7.3. Level 3 – 10%

6.7.4. Level 4 – 15%

6.7.5. Level 5 – 20%

6.8. In assessing the seriousness level, the Authority takes into account various factors which reflect the impact and nature of the breach, and whether it was committed deliberately or recklessly. DEPP 6.5A.2G(11) lists factors likely to be considered 'level 4 or 5 factors'. Of these, the Authority considers the following factors to be relevant:

6.8.1. the breaches revealed serious or systemic weaknesses in the firm's procedures or in the management of systems or internal controls relating to all or part of the firm's business; and

6.8.2. the breaches created a significant risk that financial crime would be facilitated, occasioned or otherwise occur.

6.9. Taking all of these factors into account, the Authority considers the seriousness of the breach to be level 4 and so the Step 2 figure is 15% of £106,445,890.

6.10. Step 2 is therefore £15,966,883.

- 6.11. Pursuant to DEPP 6.5.3(3)G, the Authority may decrease the level of penalty arrived at after applying Step 2 of the framework if it considers that the penalty is disproportionately high for the breaches concerned. Notwithstanding the serious and long-running nature of Al Rayan’s breaches, the Authority considers that the level of penalty would nonetheless be disproportionate if it were not reduced and should be adjusted.
- 6.12. The Authority considers that relevant revenue should include revenue from the HPP and CPF business areas because those business areas were funded by customer deposits affected by some of the misconduct. However, in contrast with Al Rayan’s GCC business area and its Other Business, the overwhelming proportion of the funding for the HPP and CPF business areas derived from transactions that were made by predominantly low risk customers making predominantly low risk transactions.
- 6.13. The reasons for a reduction in this instance therefore result from the very different financial crime risks relating to the clearly separate business areas affected by the failings. The Authority considers that the penalty otherwise calculated at Step 2 would be disproportionate.
- 6.14. In order to achieve a penalty that is proportionate to the breach, and having taken into account previous cases, the Step 2 figure is reduced to £4,790,065.

Step 3: mitigating and aggravating factors

- 6.15. Pursuant to DEPP 6.5A.3G, at Step 3 the Authority may increase or decrease the amount of the financial penalty arrived at after Step 2, but not including any amount to be disgorged as set out in Step 1, to take into account factors which aggravate or mitigate the breach.
- 6.16. The Authority considers that the following factors aggravate the breach:
- 6.16.1. The Authority visited Al Rayan in 2015, as part of its supervisory strategy for Al Rayan and to carry out a review of its AML control framework. The Authority sent its feedback letter to Al Rayan on 16 June 2015 highlighting the weaknesses identified by the review. The Authority also visited Al Rayan in 2017 and again informed Al Rayan of its ongoing concerns about aspects of its AML control framework.

Despite these express warnings, the deficiencies in Al Rayan's AML control framework were not addressed in an adequate timeframe or in accordance with the 2015 Action Plan and it failed to remediate a number of key issues by the end of the Relevant Period.

6.16.2. The Authority has published guidance on the steps firms can take to reduce financial crime risk and provided examples of good and back practice since 2011. Since 1990, the JMLSG has published detailed written guidance on AML controls. During the Relevant Period, the JMLSG provided guidance on compliance with the legal requirements of the ML Regulations, regulatory requirements in the Handbook and evolving practice in the financial services industry. Before, or during, the Relevant Period the Authority published the following guidance in relation to AML controls which set out examples to assist firms:

6.16.2.1. in March 2008, the Authority published a report titled "Review of firms' implementation of a risk-based approach to anti-money laundering". The report notes, among other things, that a firm must take steps to ensure that its knowledge about a business relationship with a customer remains current, and keeps documents, data and information obtained in the CDD context up to date;

6.16.2.2. in June 2011, the Authority published a report titled "Banks' management of high money-laundering risk situations: How banks deal with high-risk customers (including politically exposed persons), correspondent banking relationships and wire transfers". The report highlighted the importance of banks applying meaningful EDD measures in high-risk situations and noted the importance of carrying out enhanced monitoring of high-risk customers throughout relationships; and

6.16.2.3. in December 2011, the Authority published "Financial Crime: A Guide for Firms". The guide highlighted the need to conduct adequate CDD checks, perform ongoing monitoring and carry out EDD measures and enhanced ongoing monitoring when handling higher-risk situations.

- 6.16.2.4. In November 2014, the Authority published a report titled "How small banks manage money laundering and sanctions risk: Update". This review focused on high-risk customers, PEPs, and correspondent banking and found that there were continuing weaknesses in most small banks' AML systems and controls, including significant and widespread weaknesses in key AML controls, including AML risk assessments at both a business and customer level, and EDD and ongoing-monitoring of high risk, PEP, and correspondent relationships.
- 6.16.3. The Authority has published a number of Notices against firms for AML weaknesses both before and during the Relevant Period, including in respect of Alpari Limited on 5 May 2010, Coutts & Company on 23 March 2012, Habib Bank AG Zurich on 4 May 2012, Turkish Bank (UK) Limited on 26 July 2012, EFG Private Bank Ltd on 28 March 2013, Standard Bank PLC on 22 January 2014, Barclays Bank PLC on 25 November 2015, Sonali Bank (UK) Limited on 12 October 2016 and Deutsche Bank AG on 30 January 2017. These actions stressed to the industry the Authority's view of firms with AML deficiencies, and Al Rayan was accordingly aware of the importance of implementing and maintaining robust AML systems and controls.
- 6.17. Consequently, Al Rayan was aware, or ought to have been aware, of the importance of putting in place and maintaining effective procedures to detect and prevent money laundering.
- 6.18. The Authority considers that the following factor mitigates the breach:
- 6.18.1. On 13 July 2018, the Authority imposed a requirement upon Al Rayan to appoint a Skilled Person under section 166 of the Act. Thereafter, Al Rayan entered into a voluntary requirement restricting it from accepting or processing any new deposit account applications from: any prospective person categorised as high-risk for the purposes of financial crime (as defined in Al Rayan's customer risk rating tool and associated methodology), PEPs, or family members or known close associates of PEPs. Working with the Skilled Person over more than 3 years Al Rayan committed significant resources to improving its AML control

framework, as a consequence of which the Authority lifted the voluntary requirement in June 2022.

6.19. Having taken into account these aggravating and mitigating factors, the Authority considers that the Step 2 figure should be increased by 20%.

6.20. Step 3 is therefore £5,748,078.

Step 4: adjustment for deterrence

6.21. Pursuant to DEPP 6.5A.4G, if the Authority considers the figure arrived at after Step 3 is insufficient to deter the firm who committed the breach, or others, from committing further or similar breaches, then the Authority may increase the penalty.

6.22. The Authority considers that the Step 3 figure of £5,748,078 represents a sufficient deterrent to Al Rayan and others, and so has not increased the penalty at Step 4.

6.23. Step 4 is therefore £5,748,078.

Step 5: settlement discount

6.24. Pursuant to DEPP 6.5A.5G, if the Authority and the firm on whom a penalty is to be imposed agree the amount of the financial penalty and other terms, DEPP 6.7 provides that the amount of the financial penalty which might otherwise have been payable will be reduced to reflect the stage at which the Authority and the firm reached agreement. The settlement discount does not apply to the disgorgement of any benefit calculated at Step 1.

6.25. The Authority and Al Rayan reached agreement at Stage 1 and so a 30% discount applies to the Step 4 figure.

6.26. Step 5 is therefore £4,023,655.

Penalty

6.27. The Authority hereby imposes a total financial penalty of £4,023,600 on Al Rayan for breaching Principle 3.

7. PROCEDURAL MATTERS

- 7.1. This Notice is given to Al Rayan Bank PLC under and in accordance with section 390 of the Act. The following statutory rights are important.

Decision maker

- 7.2. The decision which gave rise to the obligation to give this Notice was made by the Settlement Decision Makers.

Manner and time for payment

- 7.3. The financial penalty must be paid in full by Al Rayan Bank PLC to the Authority no later than 25 January 2023.

If the financial penalty is not paid

- 7.4. If all or any of the financial penalty is outstanding on 25 January 2023, the Authority may recover the outstanding amount as a debt owed by Al Rayan Bank PLC and due to the Authority.

Publicity

- 7.5. Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this notice relates. Under those provisions, the Authority must publish such information about the matter to which this notice relates as the Authority considers appropriate. The information may be published in such manner as the Authority considers appropriate. However, the Authority may not publish information if such publication would, in the opinion of the Authority, be unfair to Al Rayan Bank PLC or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.
- 7.6. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority contacts

- 7.7. For more information concerning this matter generally, contact Richard Topham (direct line: 020 7066 1180 / email: richard.topham@fca.org.uk) or Owen Dixon (direct line: 020 7066 9374 / email: owen.dixon@fca.org.uk) at the Authority.

Lauren Rafter

Head of Department

Financial Conduct Authority, Enforcement and Market Oversight Division

ANNEX A

RELEVANT STATUTORY AND REGULATORY PROVISIONS

- 1.1. The Authority's statutory objectives, set out in section 1B(3) of the Act, include the integrity objectives (protecting and enhancing the integrity of the UK financial system).
- 1.2. Section 206(1) of the Act provides:
"If the Authority considers that an authorised person has contravened a requirement imposed on him by or under this Act... it may impose on him a penalty, in respect of the contravention, of such amount as it considers appropriate."

RELEVANT REGULATORY PROVISIONS

Principles for Businesses

- 1.3. The Principles are a general statement of the fundamental obligations of firms under the regulatory system and are set out in the Authority's Handbook. They derive their authority from the Authority's rule-making powers set out in the Act. The relevant Principles are as follows.
- 1.4. Principle 3 provides:
A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.

Senior Management Arrangements, Systems and Controls ("SYSC")

- 1.5. SYSC 6.1.1R provides:
A firm must establish, implement and maintain adequate policies and procedures sufficient to ensure compliance of the firm including its managers, employees and appointed representatives (or where applicable, tied agents) with its obligations under the regulatory system and for countering the risk that the firm might be used to further financial crime.
- 1.6. SYSC 6.3.1R provides:
A firm must ensure the policies and procedures established under SYSC 6.1.1R include systems and controls that:
 - (1) enable it to identify, assess, monitor and manage money laundering risk; and
 - (2) are comprehensive and proportionate to the nature, scale and complexity of its activities."

1.7. SYSC 6.3.3R provides:

A firm must carry out a regular assessment of the adequacy of these systems and controls to ensure that they comply with SYSC 6.3.1R.”

DEPP

1.8. Chapter 6 of DEPP, which forms part of the Authority’s Handbook, sets out the Authority’s statement of policy with respect to the imposition and amount of financial penalties under the Act.

The Enforcement Guide

1.9. The Enforcement Guide sets out the Authority’s approach to exercising its main enforcement powers under the Act.

1.10. Chapter 7 of the Enforcement Guide sets out the Authority’s approach to exercising its power to impose a financial a penalty.