

NEW YORK STATE DEPARTMENT
OF FINANCIAL SERVICES

In the Matter of

MASHREQBANK, PSC and
MASHREQBANK, PSC, NEW YORK BRANCH

**CONSENT ORDER UNDER
NEW YORK BANKING LAW SECTIONS 39 and 44**

The New York State Department of Financial Services (the “Department”), Mashreqbank, psc (“Mashreq”) and the New York Branch of Mashreqbank, psc (the “New York Branch” or the “Branch”) (together, the “Bank”) are willing to resolve the matters described herein without further proceedings;

WHEREAS, Mashreq is an international banking institution with more than 70 branches and assets totaling over \$34 billion, and is licensed by the Department to operate a foreign bank branch in New York State;

WHEREAS, as of July 31, 2018, the New York Branch presently has assets totaling approximately \$1.1 billion and (along with its predecessor entity) has operated in New York since 1989;

WHEREAS, in 2016, the Department conducted a safety and soundness examination of the New York Branch as of June 30, 2016 (the “2016 Examination”), and the Department provided the Bank with its Report of Examination (the “2016 ROE”) in May 2017, to which the New York Branch provided its responses in June and September 2017;

WHEREAS, in 2017, the Department and the Federal Reserve Bank of New York (“FRBNY”) conducted a joint examination of the New York Branch, as of September 30, 2017 (the “2017 Examination”);

WHEREAS, in February 2018, the Department and FRBNY provided the Bank with a Report of Examination (the “2017 ROE”) describing their joint findings; and in May 2018, the Bank provided its response to the 2017 ROE. The Department hereby finds as follows:

The Department’s Findings After Examination and Investigation

Mashreq Bank

1. Founded in 1967, Mashreq is based in Dubai, United Arab Emirates (“UAE”), with 49 domestic branches, and 26 branches and representative offices abroad, including branches in Bahrain, Egypt, Hong Kong, India, Kuwait, Qatar, United Kingdom and the United States, and representative offices in Bangladesh, Nepal and Pakistan. It also has several subsidiaries in the UAE, Bahrain and the British Virgin Islands. Mashreq is the oldest and largest private bank in the UAE, with approximately 4,000 employees worldwide. The New York Branch is the only one located in the United States.

2. The New York Branch offers correspondent banking and trade finance services and is a long-standing provider of U.S. Dollar (“USD”) clearing services. In 2016 alone, the Branch cleared more than 1.2 million USD transactions with an aggregate value of over \$367 billion. In 2017, the branch cleared well over 1 million USD transactions with an aggregate value exceeding \$350 billion.

3. The provision of USD clearing services both generates revenue for Mashreq and enhances Mashreq’s reputation among its peers in a highly competitive market. Mashreq provides USD clearing primarily to clients located in Southeast Asia, the Middle East and Northern Africa – regions that have been identified as high risk jurisdictions.¹ Of the New York

¹ See, e.g., Financial Action Task Force (“FATF”) Public Statement, 18 October 2013, available at <http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/fatf-public-statement-oct-2013.html>.

Branch's approximately 139 foreign financial institution customers, the Branch identifies nearly two-thirds of them as high-risk.

4. In light of the risks presented by the market it serves, it is essential that the Bank and its New York Branch maintain and enhance a compliance infrastructure equal to the task of managing these risks. Deficiencies identified during examinations conducted by the Department and counterparts at the FRBNY in 2016 and 2017 demonstrate that the Branch has not yet completed its efforts to develop a compliance infrastructure commensurate with the risks presented by its business activities. A bank's programs should improve sufficiently over time as the institution receives the benefit of the guidance provided by the examiners and works to implement solutions to issues uncovered during examinations. As described more fully below, while the Branch made some progress in remediation, it failed to address all of the compliance issues identified by its regulators. The Branch received consecutive low ratings during its last two examinations, thus warranting this enforcement action and the remediation measures described below.

The 2016 Examination

5. In the year prior to the 2016 Examination (defined below), deficiencies were identified in the New York Branch's handling of transaction monitoring rules and alerts. Transaction monitoring, an essential component of the compliance function, is the process by which an institution monitors financial transactions after their execution for potential Bank Secrecy Act or Anti-Money Laundering ("BSA/AML") violations, and determines whether there should be any Suspicious Activity Reports ("SARs") filed with law enforcement authorities. For smaller institutions with a modest volume of business, this process may be

carried out manually. Mid-size and larger institutions typically employ electronic systems using advanced software to monitor transactions

6. Additionally, it was determined that the Branch failed to properly set the sensitivity settings for screening and filtering U.S. dollar transactions in a manner that complied with the regulations issued by the U.S. Office of Foreign Assets Control (“OFAC”). As a result of these findings, the Bank made a number of commitments to its regulators to improve its BSA/AML and OFAC compliance programs.

7. When DFS examiners conducted an examination of the New York Branch in the Fall of 2016, the examiners determined that the Bank had not yet satisfied its commitments to regulators to improve its compliance function. The Branch received a low rating, mainly due to continued deficiencies in the Branch’s BSA/AML program, as well as certain shortcomings identified in the Branch’s program to comply with OFAC regulations. At the time of the 2016 Examination, the Branch’s BSA/AML and OFAC policies lacked sufficient detail, instead merely citing standard language from applicable regulations; and various compliance programs were insufficiently tailored to address the specific risks associated with the Branch’s particular lines of business.

8. Additionally, the New York Branch’s transaction monitoring infrastructure remained insufficient. In the years leading up to the 2016 Examination, the New York Branch relied heavily on a transaction monitoring system that had some manual components, which was plainly inadequate to address risks associated with an annual USD clearing volume of \$300 billion. Though the Branch had commenced increasing its compliance staffing levels and had applied an interim transaction monitoring solution, it had not yet implemented a sufficiently well-designed system. Shortcomings included failing to make appropriate use of relevant

information in Know Your Customer (“KYC”) files, including documentation detailing the customer’s line of business and anticipated activity.

9. The Department’s examiners also found that, in some cases, the same analyst conducted first- and second-level reviews of the same transaction, defeating the purpose of a second-level review. Analysts also frequently used broad, generic language when addressing or documenting the disposition of alerts; the absence of detail may have adversely impacted the New York Branch’s ability to properly detect trends and patterns embedded in its customers’ activities.

10. In order to ensure that law enforcement and intelligence agencies obtain information on a timely basis, the Bank Secrecy Act and its accompanying regulations require financial institutions to report suspicious transactions within 30 days from the date of the initial detection of facts that may constitute a basis for filing a Suspicious Activity Report, and in no event later than 60 days.²

11. At the time of the 2016 Examination, the New York Branch had accumulated a three-month backlog in its generation of any transaction monitoring alerts. With some 1,500 to 1,600 alerts typically generated per month during that period, the gap between the generation of alerts and their subsequent review presented a compliance risk to Mashreq, and potentially increased risks to other financial institutions with which it conducted business.

12. DFS examiners also uncovered weaknesses in the New York Branch’s KYC practices. Although the Branch’s customer base consists principally of foreign financial institutions located in high-risk regions, examiners determined that due diligence files nonetheless lacked robust information about its foreign correspondent customers’ markets.

² See, e.g., Federal Financial Institutions Examination Council BSA/AML Examination Manual, https://www.ffiec.gov/bsa_aml_infobase/pages_manual/OLM_015.htm.

13. DFS examiners also identified deficiencies in the Branch's policies and procedures for tracking investigations of OFAC alerts, including a lack of sufficient differentiations of the rationales for closing investigations, and inadequate documentation of the progress of specific investigations identified in the Branch's OFAC Investigation Log.

The 2017 Examination

14. DFS Examiners and examiners from FRBNY conducted a joint examination in November and December 2017 (the "2017 Examination") and determined that, despite some progress, the Bank failed to fully correct a number of deficiencies in the Branch's compliance program.

15. Transaction monitoring remained a significant challenge for the Branch. The New York Branch's system at that time was generating nearly 2,000 transaction monitoring alerts monthly. Although the Bank had engaged third-party consultants to help implement a more effective transaction monitoring system, substantial deficiencies persisted. For example, examiners found that records regarding specific alerts and dispositions continued to lack detailed information, making it difficult for examiners to assess the adequacy of investigations conducted by compliance staff. Rationales for closing alerts failed to include essential information, such as the relationship between the transacting parties.

16. Further, each transaction monitoring alert would be reviewed only once by a single reviewer, who would determine whether the alert should be closed or escalated. Although a robust quality control review protocol might provide some measure of assurance where a program relies on a single reviewer's determinations, at the time of the 2017 Examination, quality reviews of alerts suffered from a five-month backlog.

17. Examiners also determined that rules utilized by the Branch's transaction monitoring system were not properly implemented. Examiners found, for example, that the rules did not adequately address the Branch's customer base and transaction volume, and were not properly calibrated to monitor risks associated with certain common scenarios in foreign correspondent activities. Moreover, a third-party vendor's effort to validate these transaction monitoring rules was determined to be deficient, doing little more than summarizing the interim rules and indicating their purported adequacy.

18. Customer due diligence was also found to be inadequate, as documentation evidencing such reviews contained gaps and failed to document specific information regarding the analyses performed of expected-versus-actual transactional activity.

19. Moreover, although the Branch had implemented a new sanctions screening system, its OFAC compliance program continued to suffer from gaps in execution. The Branch maintained insufficient documentation concerning dispositions of OFAC alerts and cases, and Branch compliance staff could not substantiate or provide documented rationales for waiving specific alerts and cases. Further, the Branch's OFAC policies lacked sufficient rationales regarding procedures for investigating alerts.

20. The inadequacies in the Branch's BSA/AML and gaps in execution of its OFAC compliance programs are ultimately attributable, not only to Branch management, but also the Head Office. For example, to address previously identified deficiencies, the Head Office engaged a third-party auditor to independently conduct the Branch's 2017 BSA/AML audit (the "External Auditor") and to validate the Branch's remedial work. The Internal Audit function at the Head Office did not provide sufficient oversight of the External Auditor, such that the External Auditor produced workpapers that failed to demonstrate adequate testing of the

BSA/AML program. Moreover, the External Auditor rated the BSA/AML program generally adequate, omitting to identify numerous issues uncovered by examiners including the substantial backlog of transaction monitoring alerts detailed in the 2016 ROE.³

21. In November 2017, the External Auditor issued its report detailing its validation of efforts to remediate prior examination deficiencies. The report lacked narrative conclusions, instead, merely pointing to the corresponding workpapers for detail. The examiners who reviewed the External Auditor's workpapers found that the sample size for the External Auditor's review of OFAC alerts was too small. Examiners conducted follow-up discussions with the External Auditor and concluded that, rather than performing independent testing to validate management's various corrective actions, the External Auditor merely signed off on documentation provided by management. Though such documentation detailed certain efforts made by management to strengthen the Branch's compliance function (such as hiring additional personnel, including a resident Internal Auditor at the Branch), it failed to provide examiners independent corroboration of the adequacy or sustainability of the Branch's BSA/AML and OFAC compliance programs.

22. The 2017 ROE detailed deficiencies beyond those described above, and assigned the New York Branch an overall low score for the second consecutive examination cycle.

Strong Cooperation with the Department

23. In its interactions with the Department concerning this resolution of the deficiencies identified in the 2016 and 2017 Examinations, the Bank has demonstrated a keen interest in, and commitment to, remediating the shortcomings identified above, and to building

³ The Branch sought to address the backlog of transaction monitoring alerts by engaging temporary employees to conduct necessary reviews and analyses. Examiners were not satisfied that these temporary employees received the training necessary to complete the job in an adequate manner.

an effective and sustainable BSA/AML and OFAC compliance infrastructure. Among other things, the Bank has demonstrated its commitment by devoting substantial financial and corporate resources to enhancing the compliance function at the New York Branch.

24. The Department has given substantial weight to the laudable conduct of Mashreq described in Paragraph 23 above, among other factors, in agreeing to the terms and remedies of this Consent Order, including the amount of the civil monetary penalty imposed.

NOW THEREFORE, to resolve this matter without further proceedings pursuant to the Superintendent's authority under Sections 39 and 44 of the Banking Law, the Department and the Bank hereby stipulate and agree to the terms and conditions listed below requiring further review of the Bank's activities, for remediation, and for imposition of a penalty:

Violations of Laws and Regulations

25. Mashreq and the New York Branch failed to maintain an effective and compliant anti-money laundering program, in violation of 3 N.Y.C.R.R. § 116.2.

26. Mashreq and the New York Branch failed to maintain and make available at the Branch appropriate books, accounts and records reflecting all transactions and actions, in that the books, accounts and records lacked sufficient differentiations of the rationales for closing OFAC-related investigations, and contained inadequate documentation of the progress of specific investigations identified in the Branch's OFAC Investigation Log, in violation of New York Banking Law § 200-c.

Settlement Provisions

Monetary Payment

27. The Bank shall pay a penalty pursuant to Banking Law §§ 39 and 44 to the Department in the amount of \$40,000,000.00. It shall pay the entire amount within ten (10) days

of executing this Consent Order. The Bank agrees that it will not claim, assert or apply for a tax deduction or tax credit with regard to any U.S. federal, state, or local tax, directly or indirectly, for any portion of the penalty paid pursuant to this Consent Order.

Immediate Compliance Consultant

28. Mashreq and the Branch shall engage an independent third party of the Department's choosing, within ten (10) days of the date of this order, to immediately consult about and assist the Branch in addressing deficiencies in the Branch's compliance function, including, without limitation, compliance with BSA/AML requirements, federal sanctions laws and New York law and regulations (the "Compliance Consultant").

29. The Compliance Consultant shall work with the Department, the Branch and, as necessary, Mashreq to implement changes or modifications affecting policies, procedures or personnel that may be made immediately to address any identified deficiencies in the Branch's BSA/AML and OFAC compliance function. The sole and exclusive objective of the engagement of the Compliance Consultant, including any resulting findings, results, or reports arising from such engagement, is to inform and enhance the Bank's efforts to remediate deficiencies in the Branch's BSA/AML and OFAC compliance function.

30. The term of the Compliance Consultant's engagement shall be for a period of six months, and may be extended further as necessary in the sole discretion of the Department.

Review of Transaction Monitoring Program

31. Within forty-five (45) days of this Order, Mashreq and the New York Branch shall engage an independent third party acceptable to the Department to conduct a review of the Branch's USD clearing transaction activity for the six-month period from April 1, 2016 through September 30, 2016 (the "Lookback Consultant"). The sole and exclusive objective of this

review, including any resulting findings, results, or reports arising from such review, is to inform the Bank's remediation efforts by determining whether suspicious activity involving high risk customers or transactions or possible money laundering at, by, or through the Branch, were properly identified and reported in accordance with suspicious activity reporting regulations and New York law (the "Transaction Review").

32. Within twenty (20) days of the engagement, but prior to the commencement of the Transaction Review, Mashreq and the Branch shall jointly submit to the Department for approval additional terms in the engagement letter that set forth:

- a. the methodology for conducting the Transaction Review, including any sampling procedures to be followed;
- b. the expertise and resources to be dedicated to the Transaction Review;
- c. the anticipated date of completion of the Transaction Review and a report concerning the findings of the Transaction Review (the "Transaction Review Report"); and
- d. a commitment that supporting material and drafts associated with the Transaction Review will be made available to the Department upon request.

33. The Lookback Consultant shall provide to the Department a copy of the Transaction Review Report at the same time that the report is provided to Mashreq and the Branch.

34. Throughout the Transaction Review, Mashreq and the Branch shall ensure that all matters or transactions required to be reported and that have not previously been reported, are reported in accordance with applicable rules and regulations.

BSA/AML Compliance Program

35. Within one-hundred forty (140) days of the engagement of the Compliance Consultant, Mashreq and the Branch shall jointly submit a written revised BSA/AML compliance program for the Branch, acceptable to the Department. At a minimum, the program shall provide for:

- a. a system of internal controls designed to ensure compliance with BSA/AML requirements and related state laws and regulations;
- b. controls designed to ensure compliance with all BSA/AML requirements relating to correspondent accounts for foreign financial institutions;
- c. a comprehensive BSA/AML risk assessment that identifies and considers all products and services of the Branch, customer types, geographic locations, and transaction volumes, as appropriate, in determining inherent and residual risks;
- d. management of the Branch's BSA/AML compliance program by a qualified compliance officer, who is given full autonomy, independence, and responsibility for implementing and maintaining an effective BSA/AML compliance program that is commensurate with the Branch's size and risk profile, and is supported by adequate staffing levels and resources;
- e. identification of management information systems used to achieve compliance with BSA/AML requirements and related state laws and regulations and a timeline to review key systems to ensure they are configured to mitigate BSA/AML risks;

- f. comprehensive and timely independent testing for the Branch's compliance with applicable BSA/AML requirements and related state laws and regulations; and
- g. effective training for all appropriate Branch personnel and Mashreq personnel that perform BSA/AML compliance-related functions for the Branch in all aspects of the BSA/AML requirements, related state laws and regulations, and internal BSA/AML policies and procedures.

Suspicious Activity Monitoring and Reporting

36. Within one-hundred forty (140) days of the engagement of the Compliance Consultant, Mashreq and the Branch shall jointly submit a written program to reasonably ensure the identification and timely, accurate, and complete reporting by the Branch of all known or suspected violations of law or suspicious transactions to law enforcement and supervisory authorities, as required by applicable suspicious activity reporting laws and regulations, acceptable to the Department. At a minimum, the program shall include:

- a. a well-documented methodology for establishing suspicious activity monitoring rules and thresholds appropriate for the Branch's profile which considers factors such as type of customer, type of product or service, geographic location, and foreign correspondent banking activities, including USD clearing activities;
- b. policies and procedures for analyzing, testing, and documenting changes to suspicious activity monitoring rules and thresholds;
- c. enhanced suspicious activity monitoring and investigation criteria and procedures to ensure the timely detection, investigation, and reporting of all

known or suspected violations of law and suspicious transactions, including, but not limited to:

- i. effective monitoring of customer accounts and transactions, including but not limited to, transactions conducted through foreign correspondent accounts;
- ii. appropriate allocation of resources to manage suspicious activity alert and case inventory;
- iii. adequate escalation of information about potentially suspicious activity through appropriate levels of management;
- iv. maintenance of sufficient documentation with respect to the investigation and analysis of potentially suspicious activity, including the resolution and escalation of concerns; and
- v. maintenance of accurate and comprehensive customer and transactional data and ensuring that it is utilized by the Branch's BSA/AML compliance program.

Customer Due Diligence

37. Within one-hundred forty (140) days of the engagement of the Compliance Consultant, Mashreq and the Branch shall jointly submit a written enhanced customer due diligence program, acceptable to the Department. At a minimum, the program shall include:

- a. policies, procedures, and controls to ensure that the Branch collects, analyzes, and retains complete and accurate customer information for all account holders, including, but not limited to, affiliates;

- b. a plan to remediate any deficient due diligence for existing customer accounts;
- c. a revised methodology for assigning risk ratings to account holders that considers factors such as type of customer, type of products and services, geographic locations, and transaction volume;
- d. for each customer whose transactions require enhanced due diligence procedures to:
 - i. determine the appropriate documentation necessary to verify the identity and business activities of the customer; and
 - ii. understand the normal and expected transactions of the customer.
- e. policies, procedures, and controls to ensure that foreign correspondent accounts are accorded the appropriate due diligence and, where necessary, enhanced due diligence; and
- f. periodic reviews and evaluations of customer and account information for the entire customer base to ensure that information is current, complete, and that the risk rating reflects the current information, and if applicable, documenting rationales for any revisions made to the customer risk rating.

Corporate Governance and Management Oversight

38. Within one-hundred forty (140) days of the engagement of the Compliance Consultant, Mashreq's board of directors and the management of the Branch shall jointly submit to the Department a written plan to enhance oversight, by the management of Mashreq and the Branch, of the Branch's compliance with the BSA/AML requirements, the related state laws and regulations, and the regulations issued by OFAC, acceptable to the Department. The plan shall

provide for a sustainable governance framework that, at a minimum, addresses, considers, and includes:

- a. actions the board of directors will take to maintain effective control over, and oversight of, Branch management's compliance with BSA/AML requirements, related state laws and regulations, and OFAC regulations;
- b. measures to improve the management information systems reporting of the Branch's compliance with BSA/AML requirements, related state laws and regulations, and OFAC regulations to senior management of Mashreq and the Branch;
- c. clearly defined roles, responsibilities, and accountability regarding compliance with BSA/AML requirements, related state laws and regulations, and OFAC regulations for Mashreq's and the Branch's respective management, compliance personnel, and internal audit staff;
- d. measures to ensure BSA/AML issues are appropriately tracked, escalated, and reviewed by the Branch's senior management;
- e. measures to ensure that the person or groups at Mashreq and the Branch charged with the responsibility of overseeing the Branch's compliance with BSA/AML requirements, related state laws and regulations, and OFAC regulations possess appropriate subject matter expertise and are actively involved in carrying out such responsibilities;
- f. adequate resources to ensure the Branch's compliance with this Order, BSA/AML requirements, related state laws and regulations, and OFAC regulations; and

- g. direct reporting by the Branch regarding BSA/AML compliance to the board of directors or a committee thereof.

Full and Complete Cooperation of the Bank

39. Mashreq and the Branch each agree that they will fully cooperate with the Compliance Consultant and the Lookback Consultant and will support the work of each by, among other things, providing each full and complete access to all relevant personnel, consultants and third-party service providers, files, reports, or records, whether located in New York, the UAE, or any other location, that pertain to or affect activities conducted by or through the New York Branch, consistent with applicable law. Mashreq further commits and agrees that it will fully cooperate with the Department regarding all terms of this Consent Order.

Breach of Consent Order

40. In the event that the Department believes the Bank to be in material breach of the Consent Order, the Department will provide written notice to the Bank and the Bank must, within ten (10) business days of receiving such notice, or on a later date if so determined in the Department's sole discretion, appear before the Department to demonstrate that no material breach has occurred or, to the extent pertinent, that the breach is not material or has been cured.

41. The parties understand and agree that the Bank's failure to make the required showing within the designated time period shall be presumptive evidence of the Bank's breach. Upon a finding that the Bank has breached the Consent Order, the Department has all the remedies available to it under New York Banking and Financial Services Law and may use any evidence available to the Department in any ensuing hearings, notices, or orders.

Waiver of Rights

42. The parties understand and agree that no provision of this Consent Order is subject to review in any court or tribunal outside the Department.

Parties Bound by the Consent Order

43. This Consent Order is binding on the Department and the Bank, as well as any successors and assigns. This Consent Order does not bind any federal or other state agency or law enforcement authority.

44. No further action will be taken by the Department against the Bank for the specific conduct set forth in this Order, provided that the Bank complies with the terms of the Order.

Notices

45. All notices or communications regarding this Consent Order shall be sent to:

For the Department:

Jeremy Schildcrout
Assistant Deputy Superintendent for Enforcement
New York State Department of Financial Services
One State Street
New York, NY 10004

Alice McKenney
Attorney
New York State Department of Financial Services
One State Street
New York, NY 10004

For Mashreq and the New York Branch:

Rajesh Verma
Senior Vice President, Head of
Compliance and Bank MLRO
Mashreq psc
Post Box 1250
Dubai, United Arab Emirates

Faizan Siddiqui
Country Head
Mashreqbank psc – New York
17 State Street
New York, NY 10004

Miscellaneous

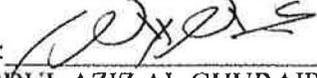
46. Each provision of this Consent Order shall remain effective and enforceable until stayed, modified, suspended or terminated by the Department.

47. No promise, assurance, representation, or understanding other than those contained in this Consent Order has been made to induce any party to agree to the provisions of the Consent Order.

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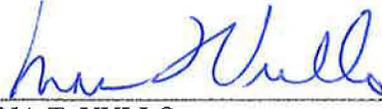
IN WITNESS WHEREOF, the parties have caused this Consent Order to be signed this 10th
day of OCTOBER, 2018.

MASHREQ BANK, PSC

By: 

ABDUL AZIZ AL GHURAIR
Chief Executive Office

**NEW YORK STATE DEPARTMENT OF
FINANCIAL SERVICES**

By: 

MARIA T. VULLO
Superintendent of Financial Services

**MASHREQ BANK, PSC, NEW YORK
BRANCH**

By: 

FAIZAN SIDDIQUI
Country Head

By: 

MATTHEW L. LEVINE
Executive Deputy Superintendent of
Enforcement