

REGULATORY UPDATES (FINANCIAL SERVICES) July 2019 Issue



To maintain the financial stability and facilitate the economic growth of Hong Kong, regulators have been reviewing and establishing different legal framework regularly for financial institutions. In this month, the Hong Kong Monetary Authority (HKMA) and Securities and Futures Commission (SFC) have the following updates:

Sale of medical insurance products

The HKMA has published a circular in regard of the relevant regulatory requirements for selling medical insurance products on 6 June 2019.

In light of the recent implementation of the Voluntary Health Insurance Scheme (VHIS), the HKMA has reminded the authorized institutions (AIs) the applicable regulations in the following areas: (a) customer suitability; (b) product disclosure; (c) additional requirements applicable to VHIS certified plans; and (d) cooling-off period. AIs are reminded to have in place product due diligence processes to assess the nature, features and risks of the products concerned and to determine the target customers' profile. AIs are also reminded to have proper controls and monitoring to ensure sufficient trainings are provided to their sales staff to ensure that they are familiar with the products before engaging in the relevant sales and marketing activities.

[Read more on HKMA's website](#)

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Observations of Mystery Shopping Programme (MSP) in respect of account opening by AIs in Hong Kong

The HKMA has issued a circular regarding the conducted MSP which focused on the customer interface aspect of the account opening processes on 14 June 2019.

The details of the observations of the MSP are documented into two reports and the HKMA has reminded the authorized institutions (AIs) to study the reports carefully and give due regard to the observations and recommendations set out in the reports. The HKMA has started following up with the concerned AIs on the observations of the MSP, and will continue the follow-up work and require the concerned AIs to take appropriate actions to address the potential issues identified in the MSP. In addition, the HKMA will continue to monitor the effectiveness of the measures adopted by AIs related to customer interface aspect of the account opening process.

[Read more on HKMA's website](#)

[Report on small and medium-sized enterprises](#)

[Report on ethnic minority customers](#)

Feedback from thematic review of authorized institutions' (AIs) application of AML/CFT controls in the SME segment

The HKMA has published a circular to share key observations and good practices that have been identified in a thematic review of how AIs apply anti-money laundering and counter-terrorist financing (AML/CFT) measures on 14 June 2019.

The review concluded that the AIs concerned have in general applied risk-based approach (RBA) to AML/CFT measures, while there is also room for improvement in respect of the on-boarding processes, such as insufficient guidance to frontline staff to support the use of discretion and judgement in the application of the RBA. The HKMA has summarised the observations as well as good practice in the aspects, namely (a) customer risk assessment; (b) customer due diligence; (c) implementation and training; and (d) use of technology, in the annex of the circular. AIs are expected to make reference to the annex and implement enhancement measures for SME onboarding policies and procedures.

[Read more on HKMA's website](#)

Prime services and related equity derivatives activities

The SFC has published a circular in regard of the expected standards of conduct and internal controls for prime brokers (PBs) on 10 June 2019.

The SFC would like to highlight the regulatory obligations of PBs in light of the remote booking as well as operating models and roles of Hong Kong entities when they provide prime services. Since the operating models for prime services are fragmented by virtue of the involvement of multiple legal entities of a financial institution, PBs are reminded to comply with the applicable rules and regulations in Hong Kong regardless of where the risk positions are booked. The SFC has also published a report covering the overview of the prime services industry landscape and highlighting observations and good industry practices noted from the SFC's recent thematic review of the internal controls and risk management processes.

[Read more on SFC's website](#)

[Report on the Thematic Review of Prime Services](#)

Implementation of regulatory requirements for online and offline sale of complex products

The SFC has issued a circular to provide further guidance by way of the frequently asked questions (FAQs) on the regulatory requirements for online and offline sale of complex products on 13 June 2019.

The newly added FAQs aim at:

- a) Clarifying that paragraph 5.5 of the Code of Conduct is applicable only when a client purchases a complex product on an unsolicited basis (ie no solicitation or recommendation has been made by an intermediary);
- b) Clarifying that the provision of a loan to facilitate a client to purchase a non-complex product would not convert the product into a complex product given that the loan does not alter the terms, features and risks of the product itself;
- c) Providing guidance on the implementation of the requirements in the case where an execution broker executes orders placed by an investment adviser or asset manager on behalf of a client; and
- d) Clarifying the SFC's expectation on the disclosure of product information for solicited or recommended repeat purchases generally and for compliance with paragraph 5.5 of the Code of Conduct for repeat purchases of the same complex product or complex products of the same product category.

[Read more on SFC's website](#)

[FAQs](#)

Foreign exchange margin trading on the Mainland and other activities not regulated by the SFC

On 17 June 2019, the SFC has published a circular to remind licensed corporations (LCs) that it is illegal for unapproved institutions to conduct foreign exchange margin trading on the Mainland or for any client on the Mainland to entrust an unapproved institution to do so. The SFC also highlighted the risks arising from LCs engaging in or being associated with illegal or fraudulent activities in the circular.

The SFC has urged that LCs which provide or market forex margin trading or similar services to Mainland investors should immediately review the legality of their activities under Mainland law and regulations. The SFC also reminds LCs to take all necessary steps to review the legality of the services offered to ensure their activities comply with the law and regulations administered by the SFC as well as the applicable requirements of other jurisdictions. It is reminded that failure to take appropriate action may impugn on the fitness and properness of the LC, its senior management and its controlling entities, and may result in regulatory action.

[Read more on SFC's website](#)

SFC reprimands and fines Credit Suisse (Hong Kong) Limited and Credit Suisse AG \$2.8 million for regulatory breaches

On 19 June 2019, the SFC has reprimanded and fined Credit Suisse (Hong Kong) Limited and Credit Suisse AG (Credit Suisse) \$2.8 million for failing to comply with the disclosure requirements when publishing certain research reports on Hong Kong-listed securities.

The SFC finds that Credit Suisse has failed to disclose their investment banking relationships with subject companies in certain research reports on Hong Kong-listed securities published between 2006 and 11 August 2016, which was caused by an information technology (IT) logic issue in one of Credit Suisse's IT system feeds.

[Read more on SFC's website](#)

SFAT affirms SFC decision to reprimand and fine FT Securities Limited \$3.5 million

On 24 June 2019, Securities and Futures Appeals Tribunal (SFAT) has affirmed the decision of the SFC to reprimand FT Securities Limited (FTSL) and fine it \$3.5 million for regulatory breaches and internal control failures in relation to preparation and publication of research reports.

The SFC concludes that FTSL has failed to supervise its staff members diligently in relation to the preparation and publication of three research reports, and its internal systems and controls were seriously deficient. Meanwhile the SFAT finds FTSL should be culpable of egregious failures to comply with the regulatory requirements addressing analyst conflicts of interest, and its failure to ensure independence and objectivity of research reports might damage investor confidence in the research sector and in the financial services industry more broadly.

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