BDO NEWS

November 2019

www.bdo.com.hk

REGULATORY UPDATES (FINANCIAL SERVICES)
November 2019 Issue

CONTENTS

To maintain the financial stability and facilitate the economic growth of Hong Kong, regulators have been reviewing different regulations and guidelines regularly. Regulators and financial institutions around the globe may have new developments. In this month, the following has happened:

Best practices on beneficial ownership for legal persons

Anonymous shell companies are one of the most widely used methods for laundering the proceeds of crime and corruption. On 24 Oct 2019, the Financial Action Task Force (FATF) finalised the new FATF Best Practices to help countries get rid of the cloak of secrecy concerning the ultimate owner of a company, foundation, association or any other legal person, and prevent their misuse for crime and terrorism.

The best practices come with examples from across the global network of FATF and FATF-Style regional bodies' members, which will help countries implement the FATF's requirements. The report highlights that jurisdictions using a multi-pronged approach with several sources of information are often more effective in preventing the misuse of legal persons for criminal purposes.

The report identifies the most common challenges that countries face in ensuring that the beneficial owner(s) of legal persons is identified, and suggests key features of an effective system.

The paper also suggests options for jurisdictions to obtain beneficial ownership information of overseas entities.

This is a must-read for those who would like to improve their process in identifying beneficial ownership of their counterparties and in understanding practices of different country or region, eg Indonesia, UK, and Italy etc.

Source: The Financial Action Task Force, http://www.fatf-gafi.org/publications/fatfrecommendations/documents/best-practices-beneficial-ownership-legal-persons.html

Improving global AML/CFT compliance

As part of its ongoing review of compliance with the AML/CFT standards, the FATF identified the jurisdictions mentioned below to have strategic AML/CFT deficiencies for which they have developed an action plan with the FATF on 18 October 2019.

While the situations differ among each jurisdiction, each jurisdiction provided a written high-level political commitment to address the identified deficiencies.

A number of jurisdictions have not yet been reviewed by the FATF. The FATF continues to identify additional jurisdictions, on an ongoing basis, that pose a risk to the international financial system.

The FATF and the FATF-style regional bodies (FSRBs) will continue to work with the jurisdictions noted below and to report on the progress made in addressing the identified deficiencies. The FATF calls on these jurisdictions to complete the implementation of action plans expeditiously and within the proposed timeframes. The FATF will closely monitor the implementation of these action plans.

Jurisdictions with strategic deficiencies		
The Bahamas	Iceland	Syria
Botswana	Mongolia	Trinidad and Tobago
Cambodia	Pakistan	Yemen
Ghana	Panama	Zimbabwe

Jurisdictions no longer subject to monitoring
Ethiopia
Sri Lanka
Tunisia

Source: The Financial Action Task Force, http://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/fatf-compliance-october-2019.html

New requirements on e-banking risk management

On 24 October 2019, the Hong Kong Monetary Authority (HKMA) issued a revised version of the Supervisory Policy Manual (SPM) module on TM-E-1 'Risk Management of E-banking'.

The revised SPM module issued seeks to:

(i) Strengthen risk management controls for e-banking amid evolving cyber threats and fraud risks;

(ii) Provide more principle-based guidance and greater flexibility to enable the industry to cope with challenges brought about by technological advancement and changing customer expectation;

(iii) Introduce suitable changes in preparation for the introduction of virtual banking; and

(iv) Clarify certain existing requirements particularly those relating to new digital banking services.

This SPM covers the requirements on:

- Risk governance of e-banking
- Independent assessment and penetration tests
- Customer security measures
- System and network security for Internet banking
- Controls related to Internet banking

among others.

Banks are expected to identify any material gaps of their existing risk management controls against the revised SPM. Appropriate measures should be implemented to achieve compliance with the new or revised requirements set out in the module no later than 12 months after its issuance, unless there are other controls in place which can effectively manage the relevant risks.

Source: Hong Kong Monetary Authority, https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2019/20191024e1.pdf

Money laundering risks from 'stablecoins' and other emerging assets

On 18 October 2019, the FATF agreed how to assess countries' implementation of the new global standard introduced by FATF earlier in June to address the money laundering and terrorist financing risks of virtual assets.

Given the global nature of virtual assets, it is essential that countries around the world implement these requirements swiftly, and together. From now on, FATF will assess, as part of its mutual evaluations, how well countries are implementing these measures. Countries that have already undergone their mutual evaluation will be required to report back during their follow-up process on the actions they have taken in this area.

Emerging assets such as so-called global 'stablecoins', and their proposed global networks and platforms, could potentially cause a shift in the virtual asset ecosystem and have implications for the money laundering and terrorist financing risks. There are two concerns: mass-market adoption of virtual assets and person-to-person transfers, without the need for a regulated intermediary. Together these changes could have serious consequences for our ability to detect and prevent money laundering and terrorist financing.

In general terms, both global 'stablecoins' and their service providers would be subject to the FATF standards either as virtual assets and virtual asset service providers or as traditional financial assets and their service providers. They should never be outside the scope of anti-money laundering controls.

The FATF is actively monitoring emerging assets including global 'stablecoins'. It will continue to examine their characteristics and risks, and consider further clarifications on how the FATF standards apply to global 'stablecoins' and their service providers, as well as whether further updates are necessary.

National authorities are responsible for implementing AML/CFT rules in their jurisdiction, through national laws and regulations. The FATF will work to promote effective global implementation of its standards as they apply to virtual assets and other emerging assets.

The FATF will continue to ensure its standards remain relevant and responsive and it will report to G20 Finance Ministers and Central Bank Governors in 2020 on the risks from global 'stablecoins' and other emerging assets.

Source: The Financial Action Task Force, http://www.fatf-gafi.org/publications/fatfgeneral/documents/statement-virtual-assets-global-stablecoins.html

BDO'S SUPPORT AND ASSISTANCE

25th Floor, Wing On Centre
111 Connaught Road Central
Hong Kong
Tel: +852 2218 8288
Fax: +852 2815 2239
info@bdo.com.hk

RICKY CHENG
Director and Head of Risk Advisory
Tel: +852 2218 8266
rickycheng@bdo.com.hk