

## REGULATORY UPDATES (FINANCIAL SERVICES) December 2018 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), Securities and Futures Commission (SFC) and Mandatory Provident Fund Schemes Authority (MPFA) have the following updates:

### **Frequently Asked Questions in relation to Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT)**

The HKMA has published a set of frequently asked questions (FAQs) in relation to AML/CFT on 31 October 2018.

The FAQs were made with the aim to be read in conjunction with the AML/CFT Guideline. In turn, authorized institutions are expected to be fully conversant with these FAQs and meet their AML/CFT legal and regulatory obligations with regard to them.

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

### **Banking (Exposure Limits) Rules, Banking (Capital) (Amendment) Rules 2018 and Banking (Disclosure) (Amendment) (No. 2) Rules 2018**

The Banking (Exposure Limits) Rules (BELR), the Banking (Capital) (Amendment) Rules 2018 (BCAR) and the Banking (Disclosure) (Amendment) (No. 2) Rules 2018 (BDAR) were published in the Gazette on 16 November 2018.

Subject to the views of the Legislative Council, the legislations should come into action on 11 January 2019 for amendments in the BCAR; 1 April 2019 for amendments in the BCAR in relation to TLAC holdings; and 1 July 2019 for the BELR, the BDAR, and amendments in the BCAR in relation to concentration risk in sovereign exposures.

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

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## Complaints Watch

The HKMA has published the twelfth issue of its newsletter on 23 November 2018.

This issue has stated out two major complaints received by the HKMA namely a) investments made through joint accounts which affected if suitability was assessed in respect of any one or all of the account holders; and b) double-charging of transactions on credit/debit cards which raised the concern on the prompt and effective handling of chargeback requests.

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

## Update on Enhanced Competency Framework on Cybersecurity

The HKMA has published the updated Enhanced Competency Framework on Cybersecurity (ECF-C) on 26 November 2018.

The Associate Cybersecurity Professional designation of the Hong Kong Institute of Bankers was added as an additional option available to banking practitioners for meeting the Core Level of the ECF-C.

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

## Statement on regulatory framework for virtual asset portfolios managers, fund distributors and trading platform operators

The SFC has issued a statement on regulatory framework for virtual asset portfolios managers, fund distributors and trading platform operators on 1 November 2018.

This statement sets out a) the regulatory standards for firms managing virtual asset portfolios, distributing virtual asset funds, or both; and b) the SFC's intention on establishing a conceptual framework for the potential regulation of virtual asset trading platforms, with a view to exploring (and forming a view after the exploratory stage) whether virtual asset trading platforms are suitable for regulation.

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

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

## Distribution of virtual asset funds

The SFC has published a circular on 1 November 2018 to remind intermediaries licensed or registered for (i) Type 1 regulated activity (ie Dealing in securities) or (ii) Type 9 regulated activity (ie Asset management) of triggering the licensing or registration requirement when distributing the funds investing in the virtual assets, regardless of whether or not the underlying virtual assets constitute "securities" or a "futures contract" as defined in the SFO.

Whether or not the virtual asset funds are authorised by the SFC, the intermediaries should ensure compliance with, among other things, paragraph 5.2 of the Code of Conduct as supplemented by the Suitability FAQs. Specifically, the intermediaries should ensure the recommendation or solicitation made is suitable for the clients under all circumstances.

If the intermediaries distribute virtual assets funds which are not authorised by the SFC and have a stated investment objective to invest in virtual assets or intend to invest or have invested more than 10% of their gross asset value in virtual assets directly or indirectly, they should observe the additional requirements which are a) Selling restrictions and concentration assessments; b) Due diligence on virtual asset funds not authorised by the SFC; and c) Information for clients.

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

## New Solution for e-STR reporting

The SFC has issued a circular to encourage the licensed corporations (LCs) and associate entities to use e-STR in future STR submission on 2 November 2018.

The Joint Financial Intelligence Unit (JFIU) has rolled out a new solution, "e-STR Submission" in 20 August 2018, which will soon replace the existing STR submission channel, "S-box", tentatively in the 1st quarter of 2019.

The new solution of e-STR would allow users to make disclosure via an electronic means in a faster and more secure manner. Users could retrieve previous STR and check the feedback given by the JFIU in real time.

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

## Thematic review of remote booking, operational and data risk management practices

The SFC has observed the growing complexity of trading and business models, extensive use of technology, greater reliance on big data and more challenging liquidity conditions all pose increasing risks to financial institutions in Hong Kong.

On 16 November 2018, the SFC has announced to commence a thematic review of selected LCs to assess their risk governance and oversight framework as well as their risk management practices. The review comprises three work streams focusing on the underlying risks of LCs' remote booking models, operational risk and data risk, with the aim of providing further guidance for LCs to cope with these evolving risks.

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

## New arrangements for submission of notifications and delivery of letters of approval

The SFC has announced the new arrangements for submission of notifications and delivery of letters of approval on 23 November 2018.

With effective on 26 November 2018, all licensees and registered institutions are subject to the following new arrangements of the licensing matters:

a) Electronic submission of notifications and annual return

Directors of LCs or registered institutions and persons authorised by their boards of directors will be able to submit corporate notifications and annual return via the SFC Online Portal.

b) Electronic letters of approval to individual applicants

The SFC will send approval letters electronically to the email address provided by individual licence applicants, with a copy to the office email address of the principal licensed corporation with which they are affiliated.

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

## Payment of Annual Fees and Submission of Annual Returns by Registered Intermediaries (RIs) via "eService"

The MPFA has issued a circular on 9 November 2018 to remind RIs to pay their annual fees for 2019 chargeable period.

The MPFA has reminded the RIs to settle the annual fee on or before 1 February 2019, otherwise an additional fee equal to 10% of the annual fee will be incurred. In addition, it is strongly recommended to make payment of annual fees through the MPFA's eService platform.

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

## Governance Principles for MPF Trustees

The MPFA has published the Governance Principles for MPF trustees to provide recommendations and practical examples to MPF trustees in enhancing their governance standards on 15 November 2018.

MPF trustees are expected to review and assess whether their existing governance framework and arrangements are in accordance with the Governance Principles within 6 months. The MPFA would follow up with the trustees on the implementation of the Governance Principles.

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

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