

REGULATORY UPDATES (FINANCIAL SERVICES) June 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), Securities and Futures Commission (SFC) and Insurance Authority (IA) have the following updates:

Use of Personal Data in Fintech Development

The HKMA has issued a circular on 3 May 2019 to encourage authorized institutions (AIs) to adopt and implement the Ethical Accountability Framework for the collection and use of personal data.

Since AIs has been collecting and using an increasing amount of personal data of customers, the HKMA collaborated with the Office of the Privacy Commissioner for Personal Data (PCPD) to provide more guidance to AIs on the proper use of personal data. The HKMA supports the concept of data ethics and stewardship in the context of collecting and using personal data, thus encourages AIs to adopt the Framework and implement the "Data Stewardship Accountability, Data Impact Assessments and Oversight Models" shared by the PCPD in the development of fintech products and services.

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

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Key measures on sustainable banking and green finance

The HKMA has published three sets of measures to support and promote Hong Kong's green finance development on 7 May 2019.

- a) With the aim to support of the mission to reduce climate change risks and to achieve sustainable finance, the HKMA has launched the following three sets of measures:
- b) Green and Sustainable Banking: There would be three Phases in developing and implementing the "Greenness Baseline" for the banking industry;
- c) Responsible Investment: The HKMA would give priority to Green and ESG investments for the Exchange Fund if the long term return is comparable to other investments on a risk-adjusted basis;

Centre for Green Finance: It will serve as a platform for technical support and experience sharing for the green development of the Hong Kong banking and finance industry.

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

Granting of virtual banking licences

On 9 May 2019, the HKMA has granted virtual banking licences to Ant SME Services (Hong Kong) Limited, Infinium Limited, Insight Fintech HK Limited and Ping An OneConnect Company Limited with immediate effect.

After granting the three virtual banking licenses, the number of licensed banks in Hong Kong would be increased to 160 and the HKMA expects to be able to conduct a comprehensive assessment of the situation about one year after the first virtual bank has launched its service.

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

Granting of Stored Value Facility (SVF) licences

On 10 May 2019, the HKMA has granted SVF licences to Yintran Group Holdings Limited and Geoswift Cards Services Limited with immediate effect.

After granting the two new SVF licenses, there are 15 non-bank SVF licensees in total meanwhile 3 licensed banks are also operating SVFs.

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

Recent inspection findings related to client facilitation

On 14 May 2019, the SFC has issued a circular to highlight its emphasis on the observations it made during a thematic review of client facilitation as well as its expected standards, which was previously highlighted in a circular issued on 14 February 2018.

The SFC has also identified the several issues in its inspections of selected brokers from mid-2018. The inspection findings are listed as follows:

- a) Some traders misrepresented a house or client facilitation trade as an agency trade;
- b) Some traders were silent or not transparent about whether facilitation would be involved in a trade;
- c) Some traders failed to obtain explicit pre-trade consent from clients when effecting client facilitation trades;
- d) Some Indications of interest were described as natural although they were not based on a genuine client intent to trade; and
- e) Some firms' policies and procedures were not clear and could not ensure compliance with the expected standards, although they reported that their client facilitation policies were reviewed and enhanced in light of the 14 February 2018 circular.

The SFC takes these findings seriously and reiterates that brokerage firms and their traders should obtain explicit client consent prior to each client facilitation trade.

The SFC will investigate any apparent improper conduct and non-compliance, and shall take regulatory action against the individuals (including relevant Managers-in-Charge) as well as the brokerage firms as appropriate. Licensed Corporations (LCs) are advised to critically review existing policies and procedures and revise them as appropriate to ensure that they are clear, in full compliance with the expected standards and have been properly implemented and communicated to all relevant staff.

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

SFC reprimands and fines China Merchants Securities (HK) Co., Limited \$27 million for sponsor failures

The SFC has reprimanded and fined China Merchants Securities (HK) Co., Limited (CMS) \$27 million for failing to discharge its obligations as a joint sponsor in relation to the listing application of China Metal Recycling (Holdings) Limited (China Metal) on 27 May 2019.

The disciplinary action followed the SFC's earlier sanction against the other joint sponsor – UBS AG and UBS Securities Hong Kong Limited (collectively UBS) – for their failures in relation to the listing application of China Metal and two other companies.

The SFC's investigation revealed that CMS and UBS had respectively failed in their due diligence as joint sponsors to address a number of unusual facts and findings on China Metal and its customers during the listing process.

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

Credit rating model risk management

On 28 May 2019, the SFC had issued a circular (i) specifying the regulatory concerns related to model risk management identified by the SFC during their supervision of credit rating agencies (CRAs), (ii) providing guidance to CRAs on the expected standards for the management of risks emanating from the application of credit rating models when providing credit rating services, and (iii) providing examples of good model risk management practices observed by the SFC.

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

SFC reprimands and fines China Merchants Securities (HK) Co., Limited \$5 million for mishandling client money

On 28 May 2019, the SFC had issued a circular (i) specifying the regulatory concerns related to model risk management identified by the SFC during their supervision of credit rating agencies (CRAs), (ii) providing guidance to CRAs on the expected standards for the management of risks emanating from the application of credit rating models when providing credit rating services, and (iii) providing examples of good model risk management practices observed by the SFC.

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

Third-party deposits and payments

On the 31 May 2019, the SFC has issued a circular to reiterate the importance of mitigating the risks associated with third-party payments to or from accounts maintained by clients with LCs and associated entities (AEs). LCs and AEs are reminded to enforce appropriate and effective control measures which are capable of addressing these risks and meeting the requirements set out in the relevant guidelines and circulars.

To assist LCs and AEs in reviewing the adequacy of their policies and procedures for mitigating the risks associated with third-party deposits and payments, the SFC has summarised in the Appendix the key control measures which should be in place and also provide non-exhaustive examples of effective practices to implement them. These control measures aim to protect client assets as well as to detect and

prevent money laundering and terrorist financing and other illicit activities involving third-party deposits and payments.

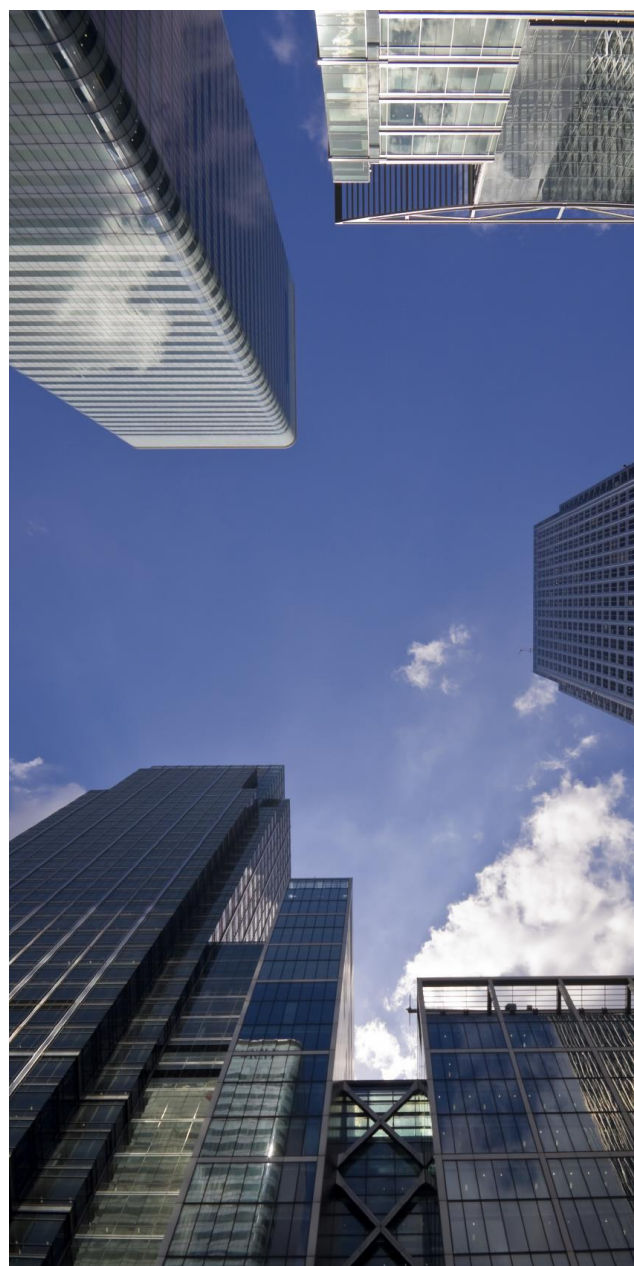
[Read more on the SFC's website](#)

Frequently Asked Questions issued by the SFC on disclosure of investigations commenced by licensed corporations in the notifications of cessation of accreditation ("the FAQ")

On 31 May 2019, the HKMA had issued a circular regarding a SFC's FAQ. It provided guidance on disclosing information to the SFC whether a licensed individual is under investigation commenced by the Registered Institutions (RIs) or LCs within six months and the cessation of accreditation of that licensed individual. RIs are also required to provide information to both the SFC and the HKMA.

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

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



Commencement Date for New Regulatory Regime for Insurance Intermediaries

On 14 May 2019, the IA has issued a circular about the commencement date for the new regulatory regime for insurance intermediaries.

The IA will take over from the three Self-Regulatory Organizations (SROs) on 23 September 2019 and be responsible for all aspects of the regulation of insurance intermediaries in Hong Kong, including granting licences, conducting inspections and investigations, and imposing disciplinary sanctions. On the commencement date, the remaining provisions of the Insurance Companies (Amendment) Ordinance 2015 will come into operation and the IA would work closely with the SROs to prepare for the necessary handover arrangements.

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

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