

REGULATORY UPDATES (FINANCIAL SERVICES) May 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:

Guideline issued by the Insurance Authority on Qualifying Deferred Annuity Policy

The HKMA has issued a circular on 2 April 2019 regarding the Guideline on Qualifying Deferred Annuity Policy (GL19) issued by the Insurance Authority (IA) on 29 March 2019, which sets out, among others, requirements in respect of the promotion, advising and arranging of qualifying deferred annuity policies (QDAPs).

Annex A to GL19 covers information that should be disclosed to policy holders or potential policy holders of QDAPs. Authorized institutions (AIs) selling QDAPs are reminded that they should adequately disclose and explain the nature, key features and risks of QDAPs to customers during the selling process. AIs should also put in place adequate policies and procedures as well as controls and monitoring, and provide sufficient staff training to ensure the compliance with all applicable regulatory requirements in the selling of QDAPs.

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

CONTENTS

- ▶ **Guideline issued by the Insurance Authority on Qualifying Deferred Annuity Policy**
- ▶ **Granting of virtual banking licence**
- ▶ **Introduction of Tiered Account Services**
- ▶ **HKMA and SFC adopt a coordinated approach to supervise banks and licensed corporations**
- ▶ **Circular to management companies (managers) of SFC-authorized unit trusts and mutual funds - Green or environmental, social and governance (ESG) funds**
- ▶ **SFC reprimands and fines Nine Masts Capital Limited (Nine Masts) \$1.2 million over naked short selling**
- ▶ **SFC bans former responsible officer (RO) of Guosen Securities (HK) Brokerage Company, Limited (Guosen) for 10 months**

Granting of virtual banking licence

On 10 April 2019, the HKMA has granted virtual banking licence to Welab Digital Limited (WDL) with immediate effect.

This is the 4th virtual banking licence granted by the HKMA. After granting the three virtual banking licenses, the number of licensed banks in Hong Kong would be increased to 156 and the HKMA would continue to process the remaining 4 virtual bank applications.

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

Introduction of Tiered Account Services

On 12 April 2019, the HKMA has issued a circular regarding the introduction of tiered account services by some retail banks and the related supervisory expectation of the HKMA.

The HKMA has been exploring with banks the introduction of a new tier of bank accounts ("Simple Bank Accounts" or "SBAs") which offer a narrower set of banking services, and correspondingly, require less extensive customer due diligence (CDD) measures to be carried out at account opening. SBAs follow the overarching principles of the risk-based approach in that the extent of CDD measures undertaken should be commensurate with the assessed risk level of the business relationship. The narrower scope of banking services offered by SBAs would correspond to lower levels of risk (compared with traditional accounts) and thus less extensive CDD measures required.

Tiered accounts may transition to accounts offering a wider range of services, and in such cases AIs would conduct any further necessary CDD measures commensurate with the risks involved.

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

HKMA and SFC adopt a coordinated approach to supervise banks and licensed corporations

The HKMA and the SFC has published a circular regarding the coordinated inspections of a bank within a Mainland-based banking group and a licensed corporation (LC) owned by a subsidiary (Group) on 24 April 2019. The HKMA and the SFC found that the Group, one of many Mainland-based groups operating banks, licensed corporations and other affiliates in Hong Kong, had entered into a series of complex transactions via a private fund and other entities which give rise to a number of serious concerns.

The findings from the coordinated inspections are illustrative of complex structures which appear to have been adopted by other Mainland financial institutions in Hong Kong together with complex, opaque financing arrangements which may conceal embedded financial risks and make it difficult to conduct rigorous risk assessment.

The coordinated inspections highlighted three areas for the considerations of AIs and LCs, which were (i) Complex arrangement to finance risky investments, (ii) Deficient lending practices and (iii) Coordinated supervision.

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

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

Circular to management companies (managers) of SFC-authorized unit trusts and mutual funds - Green or environmental, social and governance (ESG) funds

The SFC has issued a circular to set out how the existing Code on Unit Trusts and Mutual Funds and disclosure guidelines for SFC-authorized funds apply to green or ESG funds as well as providing guidance to narrow the disclosure gap among these funds on 11 April 2019.

The SFC's review highlighted that the quality of disclosure on the features of green or ESG-related investment products varies widely and majority of these funds do not specifically disclose how the managers incorporate such green or ESG factors in their investment selection process. Thereupon, the SFC has listed the disclosure requirements and reminded the managers of the Green or ESG fund to regularly monitor and evaluate the underlying investments to ensure compliance with investment objective and requirements. New ESG funds seeking the SFC's authorisation are required to follow the newly established requirements while the existing authorised ESG funds are expected to make updates pursuant to the requirements before 31 December 2019.

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

SFC reprimands and fines Nine Masts Capital Limited (Nine Masts) \$1.2 million over naked short selling

The SFC reprimands and fines Nine Masts \$1.2 million on 18 April 2019 for failures relating to the short selling of Yuzhou Properties Company Limited shares in May 2015.

The SFC considers that Nine Masts failed to act with due skill, care and diligence in dealing in the placing shares. It also failed to implement adequate and effective systems and controls to ensure compliance with the short selling requirements.

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

SFC bans former responsible officer (RO) of Guosen Securities (HK) Brokerage Company, Limited (Guosen) for 10 months

The SFC has prohibited Mr Su Xiqiang (Su), former head of retail brokerage and RO of Guosen, from re-entering the industry for 10 months on 23 April 2019.

The SFC considers that the sanctions against Guosen over its failures to comply with anti-money laundering (AML) and counter financing of terrorism (CFT) regulatory requirements when handling third party fund were attributable to Su's failure to discharge his duties as an RO and a member of Guosen's senior management. He also failed to supervise staff members diligently to ensure they adhered to Guosen's AML/CFT policies.

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

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

BDO Limited, a Hong Kong limited company, is a member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms.

BDO is the brand name for the BDO network and for each of the BDO Member Firms.

This publication has been carefully prepared, but it has been written in general terms and should be seen as broad guidance only. The publication cannot be relied upon to cover specific situations and you should not act, or refrain from acting, upon the information contained therein without obtaining specific professional advice. Please contact BDO to discuss these matters in the context of your particular circumstances. BDO, its directors, employees and agents do not accept or assume any liability or duty of care for any loss arising from any action taken or not taken by anyone in reliance on the information in this publication or for any decision based on it.