

REGULATORY UPDATES (FINANCIAL SERVICES) April 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 Mandatory Provident Fund Schemes Authority (MPFA) have the following updates:

Reform of Interest Rate Benchmarks

The HKMA has published a circular to urge authorized institutions (AIs) to make preparations for the transition in relation to the interest rate benchmark reform on 5 March 2019.

Since the Financial Stability Board has recommended to identify an alternative reference rates (ARR) to the Hong Kong Interbank Offered Rate, the HKMA reminds the AIs to begin making preparation for the transition to ARR (i.e. quantification and monitoring of affected exposures regularly, identification and evaluation of key risks arising from the reform under different scenarios, formulating an action plan to prudently manage the risks identified and monitoring closely the developments of the benchmark reform both in Hong Kong and internationally and updating the scenarios and action plan as appropriate). The Boards of Directors of the AIs are reminded to provide oversight and be kept informed of the preparatory work.

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

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BCBS Statement on Crypto-Assets

On 18 March 2019, the HKMA has issued a circular with respect to a statement on crypto-assets issued by the Basel Committee on Banking Supervision (BCBS).

As BCBS highlights that the continued growth of crypto-asset trading platforms and new financial products related to crypto-assets has the potential to raise financial stability concerns and increase risks faced by banks, AIs are reminded to take note of the issued statement and its prudential expectations and discuss with the HKMA and put in place appropriate systems and controls to identify and manage any risks associated with the engagement in activities relating to crypto-assets.

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

Updates on Supervisory Policy Manual (SPM) module CR-G-14

The HKMA has issued a circular regarding the updates of the SPM module CR-G-14 on (1) the comparability of the United Kingdom's standards after Brexit and (2) a recent statement published by the BCBS and the International Organization of Securities Commissions on the final implementation phases of the margin requirements on 18 March 2019.

The HKMA intends to maintain the United Kingdom's status as a deemed-comparable jurisdiction in the context of SPM module CR-G-14, independent of its EU membership status, thus Footnote 24 would be revised to specifically cover the UK once it withdraws from the EU. In addition, SPM module CR-G-14 does not specify a requirement for initial margin documentation, custodial or other related operational arrangements that must be in place if the HKD 375 million initial margin threshold is not exceeded. Yet, the HKMA reminds the covered entities to prepare the documentation and other related arrangements in advance to be in position to exchange initial margin when the threshold is exceeded and to protect exchanged initial margin with proper custodial arrangements.

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

Revisions to standard disclosure templates and tables

The HKMA has issued a circular regarding the revised standard disclosure templates and tables for making disclosures under the Banking (Disclosure) Rules (BDR) on 21 March 2019.

The revisions are in general related to credit risk disclosures, disclosures associated with the new standards introduced under the Banking (Capital) (Amendment) Rules 2018 (BCAR) as well as the names of the relevant banking return and guidance associated with the interest rate risk in the banking

book (IRRBB). The aforementioned revisions will apply to disclosures of an AI starting on or after 1 January 2019. For sovereign concentration risk associated with BCAR, the revision will apply to the quarterly Template OV1 as of 30 September 2019. For IRRBB, Template IRRBB1 will apply for any annual reporting period of an AI ending on or after 30 June 2019.

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

Implementation Arrangements on the Enhanced Investor Protection Measures for Sale and Distribution of Debt Instruments with Loss-absorption Features and Related Products

On 21 March 2019, the HKMA has issued a circular to provide an update on the implementation arrangements associated with the circular entitled "Sale and Distribution of Debt Instruments with Loss-absorption Features and Related Products".

The HKMA has extended the deadline to 6 July 2019 for registered institutions to implement the requirements in the HKMA Circular issued on 30 October 2018 in virtue of the industry feedback.

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

Granting of virtual banking licences

On 27 March 2019, the HKMA has granted virtual banking licences to Livi VB Limited, SC Digital Solutions Limited and ZhongAn Virtual Finance Limited with immediate effect.

After granting the three virtual banking licenses, the number of licensed banks in Hong Kong would be increased to 155 and the HKMA would continue to process the remaining 5 virtual bank applications.

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

Enhanced Competency Framework on Credit Risk Management (ECF-CRM)

The HKMA has published a circular regarding the launch of ECF-CRM on 29 March 2019.

The HKMA has established a Guide on the ECF-CRM including its scope of application, competency standards, qualification structure, continuing professional development requirements, etc. The HKMA recommends AIs to adopt the ECF-CRM as a benchmark for enhancing the level of professional competence of credit risk management practitioners as well as supporting the staff in relation to the fulfilment of CPD training under the ECF-CRM with relevant training records maintained.

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

Supplemental Circular on Leveraged and Inverse Products

On 14 March 2019, the SFC has issued a circular which is supplemental to the SFC's Circular on Leveraged and Inverse Products (the "L&I Products Circular").

The SFC is prepared to relax the leverage factor cap of Inverse Products to two-time (-2X) and accept applications for -2X Inverse Products. The SFC will continue to keep in view the eligible indices of L&I Products but, at this stage, the SFC will only accept applications for L&I Products tracking commodities indices on a case by case basis where there is no potentially outsized impact from roll costs on the performance of the products. In considering applications of L&I Products, the SFC will generally assess, among others, (i) liquidity of underlying assets; (ii) costs internalized by the products; and (iii) fairness of product design. In view of the above, paragraphs 9 and 10 of the L&I Products Circular will be amended.

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

Circular to Intermediaries - Implementation of online platform guidelines and offline requirements for complex products

The SFC has issued a circular on 19 March 2019 regarding to the implementation of online platform guidelines and offline requirements for complex products.

Guidelines on Online Distribution and Advisory Platforms and paragraph 5.5 of the Code of Conduct would be effective on 6 April 2019. The SFC considered feedback from the industry and agreed to extend the effective date for three months to 6 July 2019.

From the effective date, additional protection will be provided to investors when they purchase a complex product without a solicitation or recommendation. If an intermediary solicits the sale of or recommends a financial product to a client, it should comply with paragraph 5.2 of the SFC's Code of Conduct and ensure that the product is suitable for the client regardless of whether it is complex or non-complex.

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

Circular to Intermediaries - FAQs on implementation of additional protective measures for complex products

In light of queries from the industry regarding the classification of funds into complex and non-complex products for both online and offline transactions, the SFC has issued a circular on 22 March 2019 and provided further guidance by way of Frequently Asked Questions (FAQs) on the Guidelines on Online Distribution and Advisory Platforms (Guidelines). Intermediaries should also refer to these FAQs when implementing paragraph 5.5 of the Code of Conduct¹

for offline transactions.

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

SFC fines UBS \$375 million and suspends its licence for one year for sponsor failures

The SFC has reprimanded and fined UBS AG and UBS Securities Hong Kong Limited (UBS Securities Hong Kong) a sum of \$375 million on 14 March 2019 for failing to discharge their obligations as one of the joint sponsors of three listing applications, namely, China Forestry Holdings Company Limited (China Forestry), Tianhe Chemicals Group Limited (Tianhe), and another listing application.

The SFC also partially suspended UBS Securities Hong Kong's licence to advise on corporate finance for one year, to the extent that UBS Securities Hong Kong shall not act as a sponsor for listing application on the Stock Exchange of Hong Kong Limited of any securities.

The SFC has also suspended the licence of Mr Cen Tian for two years from 14 March 2019 to 13 March 2021 for failing to discharge his supervisory duties as a sponsor principal in charge of supervision of the execution of China Forestry's listing application.

The SFC has today also taken action against other joint sponsors involved in the listing applications of China Forestry and Tianhe.

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

Enhanced Competency Framework on Credit SFC reprimands and fines Standard Chartered Securities \$59.7 million for sponsor failures

The SFC has reprimanded and fined Standard Chartered Securities (Hong Kong) Limited (Standard Chartered Securities) \$59.7 million on 14 March 2019 for failing to discharge its obligations as one of the joint sponsors in relation to the listing application of China Forestry in 2009.

The SFC's considers that Standard Chartered Securities had failed to make reasonable due diligence enquiries in relation to several core aspects of China Forestry's business including;

1. Failure to verify the existence of China Forestry's forestry assets;
2. Failure to verify the Group's forestry rights;
3. Failure to verify China Forestry's compliance with relevant laws and regulations;
4. Inadequate due diligence on insurance coverage for the Group's forestry assets; and
5. Inadequate due diligence on China Forestry's customers.

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

SFC reprimands and fines Morgan Stanley Asia Limited \$224 million for sponsor failures

The SFC has reprimanded and fined Morgan Stanley Asia Limited (Morgan Stanley) on 14 March 2019 for failing to discharge its obligations as one of the joint sponsors in relation to the listing application of Tianhe in 2014.

The SFC's considers that Morgan Stanley had failed to follow the specific guidelines on due diligence interviews under paragraph 17.6 of the SFC's Code of Conduct including;

1. Involvement of Tianhe in due diligence interviews;
2. Failure to address red flags in an interview; and
3. Unclear interview questions.

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

SFC reprimands and fines Merrill Lynch Far East Limited \$128 million for sponsor failures

The SFC has reprimanded and fined Merrill Lynch Far East Limited (Merrill Lynch) on 14 March 2019 for failing to discharge its obligations as one of the joint sponsors in relation to the listing application of Tianhe in 2014.

The SFC's considers that Merrill Lynch had failed to follow the specific guidelines on due diligence interviews under paragraph 17.6 of the SFC's Code of Conduct including;

1. Involvement of Tianhe in due diligence interviews;
2. Failure to address red flags in an interview; and
3. Unclear interview questions.

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

SFC reprimands and fines BOCI Securities Limited HK\$10 million for regulatory breaches in selling investment product

The SFC has reprimanded and fined BOCI Securities Limited (BSL) HK\$10 million over BSL's internal system and control failures in its investment product selling practices on 18 March 2019.

The SFC's disciplinary action followed an investigation which found that BSL had failed to comply with various regulatory requirements concerning client profiling, product due diligence and suitability assessment in its sale and distribution of investment products, including bonds listed under Chapter 37 of the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (Chapter 37 Bonds).

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

Tax Deductible Voluntary Contributions (TVCs) and Related Issues

On 22 March 2019, the MPFA has issued a circular in relation to the Inland Revenue and MPF Schemes Legislation Bill 2018.

Members of MPF Schemes or MPF exempted ORSO schemes are eligible for tax reduction by making TVCs into TVC accounts starting from 1 April 2019. The MPFA has reminded the registered institutions to get prepared for the implementation of TVCs and ensure the internal controls and procedures are adequate. Salient points and good practices when dealing with clients in relation to TVCs are also shared in the circular while industry briefing sessions and training courses on TVCs would be provided starting from April 2019.

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

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