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Hong Kong implements licensing requirement for virtual asset exchanges

Scott Carnachan

As part of its drive to become a leading centre for virtual assets, Hong Kong has implemented licensing requirements for virtual asset service providers. The licensing requirements will apply to (i) virtual asset exchanges established in Hong Kong and (ii) virtual asset exchanges established outside Hong Kong that actively market their services to the public in Hong Kong.

The licence regime comes into effect on **1 June 2023**. It is set out in the Anti-Money Laundering and Counter-Terrorist Financing (Amendment) Ordinance 2022 (**AML Amendment Ordinance**), which was gazetted on 16 December 2022.

The AML Amendment Ordinance also introduces specific offences for fraudulent activities relating to dealing in virtual assets.

Regulation of virtual assets market misconduct

The AML Amendment Ordinance includes offences for market misconduct related to virtual assets:

1. Offence involving fraudulent or deceptive devices in transactions in virtual assets – this offence is subject to a fine of up to HK\$10 million and to imprisonment for up to 10 years;
2. Offence to fraudulently or recklessly induce others to invest in virtual assets – this offence is subject to a fine of up to HK\$1 million and to imprisonment for up to 7 years.

Licensing regime

The licence regime is modelled on the regime for participants in the securities and futures markets under the Securities and Futures Ordinance (**SFO**).

When will the licence regime come into effect?

The licence regime comes into effect on **1 June 2023**. There are transitional provisions for virtual asset exchanges that have been carrying on the business of providing VA services in Hong Kong immediately before 1 June 2023 – see “Transitional provisions” below for further details.

Who is affected?

The following will need to be licensed:

1. Any person in Hong Kong that carries on a business of providing any VA service or holds themselves out as carrying on a business of providing any VA service;
2. Any person outside Hong Kong that (i) actively markets to the public in Hong Kong any services the person provides or purports to provide, and (ii) the provision of such services, if done in Hong Kong, would constitute providing a “VA service”.

Existing providers of VA services will either need to apply for a licence or will need to wind down their business in Hong Kong and their marketing activities directed at Hong Kong – see “Transitional provisions” below for further details.

What are the consequences if a provider of VA services is not licensed?

Providing a VA service without a licence (and without reasonable excuse) is a criminal offence subject to a fine of up to HK\$7 million, plus HK\$100,000 for every day during which the offence continues, and to imprisonment for up to 7 years.

Any individual that acts on behalf of a VA service provider in connection with the provision of VA services, including marketing the VA services, without a licence (and without reasonable excuse) also commits a criminal offence. Such offence is subject to a fine of up to HK\$1 million, plus HK\$20,000 for every day during which the offence continues, and to imprisonment for up to 2 years.

The Securities and Futures Commission (**SFC**) issued a statement on 13 December 2022 warning investors that the vast majority of VA service providers are unregulated. The statement also notes the SFC will, where appropriate, take robust enforcement action promptly to safeguard investors’ interests. The statement is available [here](#).

What are “VA services”?

“VA service” is defined to mean:

“operating a VA exchange, that is to say, providing services through means of electronic facilities-

- (a) whereby-
 - (i) offers to sell or purchase virtual assets are regularly made or accepted in a way that forms or results in a binding transaction; or
 - (ii) persons are regularly introduced, or identified to other persons in order that they may negotiate or conclude, or with the reasonable expectation that they will negotiate or conclude sales or purchases of virtual assets in a way that forms or results in a binding transaction; and
- (b) where client money or client virtual assets comes into direct or indirect possession of the person providing such service.”

Given the definition of “VA service”, virtual asset payment systems and virtual asset custodian services will be out of scope for licensing purposes, as will be services that match buyers and sellers but are not involved in settlement of such transactions.

What are “virtual assets”?

“Virtual asset” is defined to mean:

- “(a) a cryptographically secured digital representation of value that-
 - (i) is expressed as a unit of account or a store of economic value;
 - (ii) either-
 - (A) is used, or is intended to be used, as a medium of exchange accepted by the public, for any one or more of the following purposes-
 - (I) payment for goods or services;
 - (II) discharge of a debt;
 - (III) investment; or
 - (B) provides rights, eligibility or access to vote on the management, administration or governance of the affairs in connection with, or to vote on any change of the terms of any arrangement applicable to, any cryptographically secured digital representation of value;

- (iii) can be transferred, stored or traded electronically; and
- (iv) satisfies other characteristics prescribed by the Commission under subsection 3(a); or
- (b) a digital representation of value prescribed as a virtual asset by notice published under subsection 4(a).”

There are various exclusions from the definition of “virtual assets”, including:

- digital currencies issued by central banks;
- “limited purpose digital tokens”, which include customer loyalty or reward points (e.g. air miles, credit card rewards, gift cards, customer loyalty programmes) and in-game assets that can only be used within or in relation to the relevant game;
- securities and futures contracts, which are regulated under the SFO.

There is power for the Secretary for Financial Services and the Treasury to prescribe by notice any digital representation of value to be a virtual asset or not to be a virtual asset, either generally or in any particular case.

It is an open question whether non-fungible tokens are “virtual assets”, although it is reasonably arguable that non-fungible tokens are not intended to be “representations of value” and not intended to be used as a medium of exchange.

Who is the regulator?

The regulator is the SFC. Applicants for a licence must apply to the SFC and, in addition to complying with the statutory requirements in the AML Amendment Ordinance, must comply with SFC codes, guidelines and circulars relating to VA licensees.

Overview of licence regime

The features of the licence regime include the following:

1. The applicant must be either a Hong Kong incorporated company or an overseas company that is registered as a non-Hong Kong company under the Companies Ordinance.
2. The SFC must be satisfied that the applicant is “fit and proper”. Factors the SFC must have regard to for this purpose include:
 - (a) The financial status or solvency of the applicant;
 - (b) The educational or other qualifications or experience of the applicant;
 - (c) The ability of the applicant to provide the VA service competently, honestly and fairly;
 - (d) The reputation, character, reliability and financial integrity of the applicant;
 - (e) Whether the applicant has been convicted of an offence, either in Hong Kong or elsewhere, relating to money laundering, terrorist financing, fraud, corruption or dishonesty.

The SFC can also take into account information relating to, amongst others, employees, other companies within the same group as the applicant and the ultimate owner of the applicant in determining whether the SFC considers the applicant to be fit and proper.

3. The applicant must have at least 2 persons who will act as “responsible officers” of the applicant. The SFC must be satisfied that each such person is a fit and proper person to be associated with the business of providing the relevant VA services. Every executive director of the applicant must apply for approval as a responsible officer. At least one responsible officer must ordinarily reside in Hong Kong. In addition, at least one responsible officer must be available at all times to supervise the business of the relevant VA services.
4. The SFC must be satisfied that each director of the applicant is a fit and proper person to be associated with the business of providing the relevant VA services.
5. The SFC must be satisfied that the “ultimate owner” (if any) of the applicant is a fit and proper person to be associated with the business of providing the relevant VA services. The “ultimate owner” of the applicant is “an individual who-
 - (a) owns or controls, directly or indirectly, including through a trust or bearer share holding, more than 25% of the issued share capital of the corporation;
 - (b) is, directly or indirectly, entitled to exercise or control the exercise of more than 25% of the voting rights at general meetings of the corporation; or

(c) exercises ultimate control over the management of the corporation”.

A person may not become the ultimate owner of a licensed provider unless the SFC has given its approval to such person.

6. The SFC must approve the premises to be used by the applicant for keeping records and documents required under the licensing regime.

The SFC may impose conditions on a licence when approving an application. It is likely that the conditions will be similar to those the SFC has published for corporations licensed under the SFO that wish to offer virtual asset dealing services and virtual asset advisory services. These conditions can be found in Appendix 6 to the joint circular on intermediaries’ virtual asset-related activities issued by the SFC and the Hong Kong Monetary Authority on 22 January 2022, which is available [here](#).

Each individual that will provide a VA service on behalf of the applicant must also be licensed as a licensed representative of the applicant. The SFC must be satisfied that each such individual is a fit and proper person to be so licensed for the relevant VA services.

Once licensed, a licensed provider will be subject to a number of ongoing obligations, including:

1. Various notifications, including: (a) notifications of changes in information relating to the licensed provider and its ultimate owner (if any), (b) notification of any change to its business address or its directors and of any intention to cease business, and (c) notification of a licensed representative ceasing to act for or on behalf of the licensed provider;
2. Payment of annual fees and filing of annual returns; and
3. Preparation and filing of audited accounts.

The AML Amendment Ordinance includes powers for the SFC to discipline current and former “regulated persons”, which include a licensed provider, a licensed representative, a responsible officer of a licensed provider and a person involved in the management of the business of a licensed provider. The SFC’s disciplinary powers include power to (i) publicly or privately reprimand the person; (ii) require the person to take specified action by a specified date to remedy any contravention, act or omission; (iii) order the person to pay a penalty not exceeding the greater of HK\$10 million and 3 times the amount of the profit gained or loss avoided by the person; (iv) suspend or revoke the licence of the person, in whole or in part; (v) suspend or revoke the approval of the person as a responsible officer, in whole or in part; (vi) prohibit the person from applying to be licensed or from applying to be approved as a responsible officer for a specified period.

Will retail investors be able to trade on licensed virtual asset exchanges?

The conditions the SFC has published for corporations licensed under the SFO that wish to offer virtual asset dealing services and virtual asset advisory services require that such services are only provided to professional investors (as defined in the SFO).

In a speech on 31 October 2022 Ms. Julia Leung, the chief executive designate of the SFC said “the SFC is minded to consult the public on whether the professional investor-only requirement could be relaxed; and if so, what should be the governance procedures and listing criteria for the VASP to admit tokens for secondary market trading by retail investors. The SFC’s Fintech unit is now intensively soft consulting the industry and stakeholders on this and other issues before finalising the proposals”.

Transitional provisions

The AML Amendment Ordinance contains transitional provisions for existing providers of VA services who have been carrying on the business of providing VA services in Hong Kong immediately before 1 June 2023.

1. Existing providers can continue to provide VA services for up to 12 months i.e. until 31 May 2024 (the **first 12 months**) without being licensed;
2. An existing provider that has been carrying on the business of providing VA services in Hong Kong immediately before 1 June 2023 and that wishes to continue to provide VA services after the first 12 months must make an application to the SFC for a licence not later than **29 February 2024**. The applicant will be deemed licensed,

and so will be able to continue providing VA services, until the later of (i) the end of the first 12 months, (ii) withdrawal of the application, (iii) refusal of the application by the SFC, and (iv) grant of a licence by the SFC.

3. If an existing provider withdraws its application or the SFC refuses its application, the existing provider has a period of 3 months (or, if later, until the end of the first 12 months) to close down its provision of VA services in Hong Kong. During this period, the provider is only permitted to do acts solely for the purpose of closing down its VA services. The provider may apply to the SFC for an extension of the closing down period for such further period as the SFC considers appropriate, having regard to the circumstances of the provider's business and activities.

Similar transitional provisions apply in respect of individuals who are proposed as responsible officers or who provide VA services for or on behalf of existing providers.

How Deacons can help

The Deacons Licensing and Compliance Team has many years of experience in assisting clients with applications to the SFC for licences under the SFO. More recently, the Deacons Licensing and Compliance Team has assisted clients with current SFC licences who wish to expand their business to include the management of virtual assets.

Proposals to enhance regulation of crowdfunding activities in Hong Kong

Ming Chiu Li and Alan Lo

The Financial Services and the Treasury Bureau (**FSTB**) has recently issued a [consultation paper](#) on proposals to enhance regulation of crowdfunding activities.

In the absence of a specific piece of legislation targeted at crowdfunding activities, these activities are currently subject to existing regulations in Hong Kong insofar as such regulations are relevant. For example, equity or debt crowdfunding activities are covered by the regulatory framework governing the offer of "securities" including the Securities and Futures Ordinance (Cap. 571) (**SFO**) and the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32). As such, to regulate crowdfunding activities, the FSTB recommends new measures, which in its view will increase the transparency and accountability of these activities and prevent unlawful acts and safeguard the interests of those involved.

The key points of the proposals are:

1. A Crowdfunding Affairs Office (**CAO**) will be set up to centrally process and coordinate regulatory and administrative matters related to crowdfunding activities, and monitor the conduct of such activities.
2. Any person conducting public fundraising activities targeting individuals or entities of Hong Kong, or individuals or entities located in Hong Kong, will be required to make an application in advance to the CAO, regardless of their purpose or location.
3. The applicant will need to disclose information such as the personal data of the applicant, crowdfunding purposes, target beneficiaries, target fund size, use of proceeds raised, and the set-up and arrangement of the activities.
4. The CAO will consider the honesty, reputation and reliability of the applicant, as well as the potential risks brought by the fundraising to the public interests and national security.
5. There will be facilitation measures for widely recognised fundraisers and charitable crowdfunding projects which address urgent needs. Activities such as donations to religious bodies by their followers and recognised associations soliciting funds from members are also exempted from the proposed regulatory regime.
6. Further, the proposed regulatory regime will not apply to: (1) typical fundraising activities that fall within the ambit of the SFO, such as issuance of equity or debt securities, P2P lending involving collective investment schemes, fundraising activities that amount to "regulated activities" (as defined in the SFO) and private fundraising activities; and (2) banking activities such as deposit-taking and the making of loans and advances.

7. It will be a requirement for funds collected by crowdfunding in Hong Kong to be paid into a designated account with a local bank such that the bank will be responsible for matters such as reporting suspicious transactions, conducting due diligence on customers and record-keeping under applicable laws and regulations.
8. Law enforcement agencies will be empowered to cease unlawful crowdfunding activities and prosecute offenders.

These proposals may be seen as a step to add to the existing measures to safeguard public interest and national security. When these proposals become effective, some activities may become “unlawful crowdfunding activities”, for example, when no prior consent is obtained from the CAO, or the CAO and relevant law enforcement agencies have reasons to believe that the continued conduct of such activities will jeopardise public interests, public safety or national security.

The FSTB is inviting comments on the proposals, to be received no later than 20 March 2023.

Hong Kong open-ended fund company - a year in review

Fiona Fong and Iris Yeung

Overview

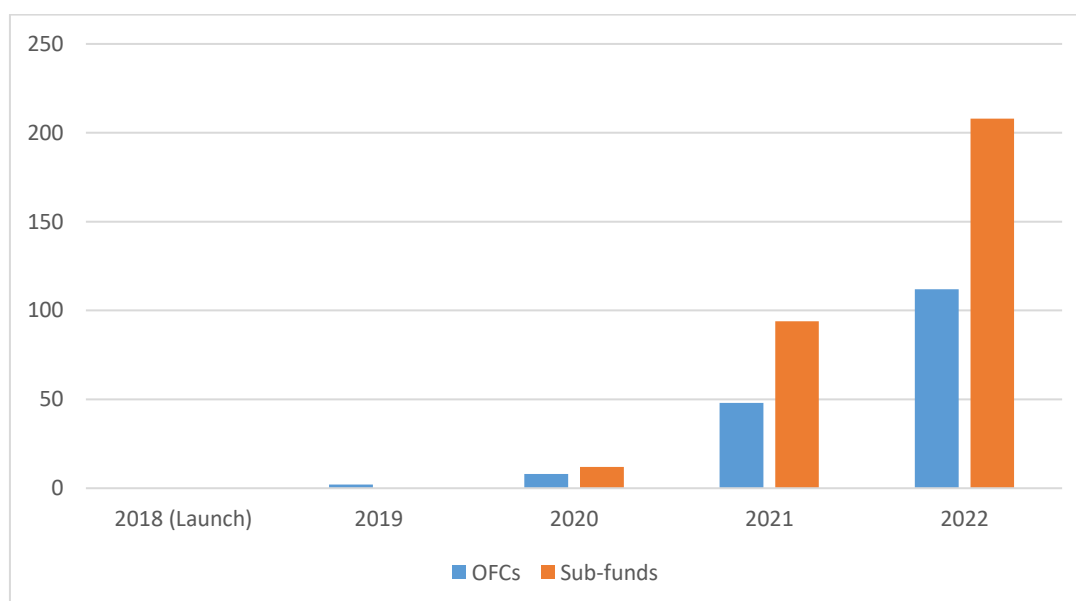
The open-ended fund companies (**OFC**) is a Hong Kong-domiciled fund structure. It is an important part of the Hong Kong Government’s proactive policy strategy to strengthen the city’s competitiveness in the international asset management market.

Strong growth in 2022

The OFC was introduced in July 2018 and has experienced momentous growth since 2021.

As of 31 December 2022:

- 112 OFCs (including umbrella and standalone funds) and 208 sub-funds were registered with the Securities and Futures Commission (**SFC**), being the primary regulator of this local fund structure;
- approximately 9% are authorised to be offered to the public;
- approximately 12% are listed as ETFs for trading on the Hong Kong Stock Exchange;
- approximately 79% are private OFCs.



While there were only eight OFCs established between 2019 and 2020, the number of OFCs set up in 2021 grew significantly (48 OFCs) and reached a new high (112 OFCs) by the end of 2022, representing a growth of approximately 133% in 2022.

Amongst the OFCs in existence, eight umbrella OFCs are authorised to be offered to the public, nine umbrella OFCs are ETFs and 95 are private OFCs (including a mix of umbrella and standalone funds). During 2022, there were a few high-profile OFC launches, including a blockchain-themed ETF by Pando Finance and Philip Capital's ETF tracking an innovative index that represents the performance of Hong Kong newly listed equities. Deacons acted for the investment manager on both these products.

As of 31 December 2022, the majority of OFCs were set up as an umbrella structure rather than standalone. There are, in aggregate, 96 umbrella OFCs with 208 sub-funds, returning an average of around two sub-funds per umbrella. Fund managers tend to set up two or more sub-funds at the initial incorporation of an OFC.

In terms of investment themes, a look at the names of the OFCs and sub-funds established over the course of 2022 shows that the investment universe has expanded from traditional equities and fixed incomes to cover technology, healthcare, tele-communication, mining, ESG and AI-usage. The geographical span of investments is widely spread across the U.S., Europe, the Mainland and Hong Kong, Asia and various emerging markets.

OFC grant scheme

The grant scheme for open-ended fund companies and real estate investment trusts (**Grant Scheme**) has been running for 18 months. It was introduced in May 2020 by the Hong Kong Government in an effort to promote the OFC regime. The Government has made available HK\$270 million for the Grant Scheme, which covers eligible expenses paid to Hong Kong-based service providers incurred in relation to the incorporation or re-domiciliation of an OFC. The grant amount for each application is equivalent to 70% of the eligible expenses, subject to a cap of HK\$1 million per OFC and a maximum of three OFCs per investment manager.

More than half of the Grant Scheme has already been committed and paid to fund managers in Hong Kong. As of 30 September 2022, around HK\$140 million remained available. The Grant Scheme will expire in 16 months (9 May 2024) unless it is otherwise committed in full earlier.

Highlights in 2022

November 2022

The SFC clarified exemptions in relation to preparing and publishing annual reports. Any unlaunched OFCs or sub-funds without any investors can apply to the SFC for an exemption. An OFC or its sub-fund is generally considered not to have been launched if no subscription proceeds for participating shares (excluding management shares) have been received. Our November [newsletter](#) provides further details.

September 2022

The SFC updated the OFC Frequently Asked Questions to clarify that authorised Islamic OFCs are eligible under the scope of the mutual fund recognition arrangement entered into by the SFC and the Securities Commission of Malaysia. Other jurisdictions which recognise SFC authorised OFCs include Switzerland, France, the United Kingdom, Luxembourg and the Netherlands.

April 2022

In April 2022, Deacons led the first ever case of re-domiciliation, successfully bringing a standalone fund domiciled in the Cayman Islands to Hong Kong as a standalone OFC. The re-domiciliation scheme is attractive to fund managers who are managing existing offshore Cayman funds. Under the scheme, there is no change in the legal entity of the fund upon re-domiciliation, and any contracts, rights and obligations the fund has entered into will not be affected by making the move to Hong Kong; accordingly, the track records of existing offshore funds can be maintained and continued. It is also worth noting that the Government's Grant Scheme referred to above equally applies to re-domiciliation.

Our April [newsletter](#) provides further insight into the re-domiciliation process.

For 2023, we look forward to another active OFC year.

Hong Kong SFC licensing and compliance hints – January 2023

Lavita Pong

Amendments to the AMLO

On 16 December 2022, the Securities and Futures Commission (**SFC**) issued a circular ([link](#)) announcing that the Anti-Money Laundering and Counter-Terrorist Financing (Amendment) Ordinance 2022 (**Amendment Ordinance**) had been gazetted ([link](#)).

In this article, we summarise the key changes relating to customer due diligence (**CDD**) measures which are particularly relevant to the securities industry. These changes were made in response to the technical issues identified in the Mutual Evaluation report on Hong Kong by the Financial Action Task Force (**FATF**) and other FATF standards and will come into effect on 1 June 2023.

Definition of a Politically Exposed Person (PEP)

The definition of a PEP is amended to mean an individual who is or has been entrusted with a prominent public function in a place outside Hong Kong. As a result, the special requirements relating to a PEP in section 10 of Schedule 2 to the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (**AMLO**) apply not only to a PEP from a place outside the People's Republic of China but also to a PEP from outside Hong Kong. Note that the Amendment Ordinance (and the AMLO) only refers to foreign PEPs whereas the current SFC AML Guideline covers domestic PEPs and international organization PEPs which involve different requirements.

A new term "former politically exposed person" has been added in section 1 of Part 1 of Schedule 2 to the AMLO (**former PEP**). This new term, together with the related amendments discussed below, allow licensees to be exempted from taking all the special requirements / additional measures in relation to a former PEP provided that they have done an appropriate risk assessment and concluded that such former PEP does not present a high risk of money laundering or terrorist financing (**risk-sensitive approach**).

A risk-sensitive approach is currently not possible for any of the situations below, but note the underlined changes which will apply after the amendments take effect:

- (a) onboarding a customer or its beneficial owner who is or has been a PEP (section 10(1) of Sch. 2 of the AMLO mandates special requirements to be undertaken; from 1 June 2023 section 10(3) permits a risk-sensitive approach);
- (b) an existing customer or its beneficial owner who is or has become a PEP (section 10(2) of Sch. 2 of the AMLO mandates special requirements to be undertaken; from 1 June 2023 section 10(3) permits a risk-sensitive approach); and
- (c) during ongoing monitoring an existing customer or its beneficial owner who is a PEP (section 5(3)(b) mandates additional measures to be taken and does not allow a risk-sensitive approach; from 1 June 2023 section 5(5) permits a risk-sensitive approach).

Recognized digital identification system

A new term "recognized digital identification system" has been added in section 1 of Part 1 of Schedule 2 to the AMLO (**Recognized System**).

The relevant consultation paper and conclusions do not expand on how this will work in practice and do not provide any examples of a Recognized System. Asset managers should watch this space closely because once the amendments are implemented, the current mandatory additional requirements for non-face-to-face onboarding of a customer can only be waived if the onboarding CDD measures are conducted based on data and information provided by a Recognized System.

The SFC may give guidance as to what systems will be considered as being "recognized". See the definition extracted below. For example, the iAM Smart application may qualify because the SFC refers to it as an example of non-face-to-

face onboarding using digital identification system recognized by the relevant authority in Question 15(c) of Section A12 of the revised BRMQ for licensed corporations.

“recognized digital identification system means - in relation to a financial institution [...], a digital identification system that is a reliable and independent source that is recognized by the relevant authority”

Compliance challenges during non-face-to-face onboarding of corporate clients

When onboarding corporate investors, the majority of cases are likely to be non-face-to-face (**NFTF**) because the employee of the licensed entity is unlikely to be physically present to witness the representative sign the account opening documents. The SFC AML FAQ #7 discusses this ([link](#)).

For further information, you can go to the SFC’s “Acceptable account opening approaches” dedicated webpage [here](#), and specifically, see paragraph 5.1 of the SFC’s Code of Conduct.

Challenges arise when dealing with a Corporate Professional Investor (**CPI**) that does not give consent to waive investor protections including suitability obligations or does not pass the relevant CPI assessment, because other related KYC obligations will apply in addition to AMLO’s CDD requirements (such as the NFTF requirements discussed above). The KYC requirements overlap with the CDD requirements.

Examples of KYC requirements under the Code of Conduct include the obligation to provide the above CPI with relevant risk disclosure statements and the employee signing a declaration that they provided the statements and explained the risks to the investor.

In a case reported on 15 December 2022, a licensed representative falsely declared that she had met with the representatives of three corporate clients in person, witnessed their signatures, and provided them with risk disclosure statements. This misled her firm to treat such onboarding as having been carried out “face-to-face” and the respective clients were at risk of having their accounts operated without their authorisation. Following SFC disciplinary action the licensed representative was suspended for ten months.

In this case, this breach could have been avoided by adopting a simple approach: using a qualified certifier such as a licensed individual of an affiliate which is a regulated financial institution or a lawyer (see paragraph 1 “Certified by other persons” at the dedicated webpage) to verify the identity and sign as a witness.

In the statement of disciplinary action, the SFC referred to the provisions in the Code of Conduct but not the overlapping requirements to verify the client’s true identity in the AMLO and the AML Guideline (see 4.10). In practice however licensed firms need to comply with both the NFTF requirement of the Code of Conduct, as well as the AMLO and the AML Guideline (see 4.10.5 at this [link](#)).

Is your compliance manual up-to-date?

The SFC continues to conduct routine inspections of licensed entities. Over the last three years a significant number of routine inspections have been undertaken remotely but we are beginning to see the return of onsite inspections. According to the SFC Annual Report 2021-2022, the SFC conducted 883 inspections over the past three years.

During the year from 1 April 2021 to 31 March 2022, the SFC carried out 262 routine inspections (as disclosed in the “Intermediaries” section of the SFC Annual Report 2021-2022 ([link](#))).

Based on our experience of assisting asset managers to prepare for SFC inspections, we have highlighted below a number of areas which we often find require updating in compliance manuals and which you should revisit going into 2023:

1. Complaints handling policies and procedures (for example, must acknowledge a complaint within 7 days and issue a final response within 2 months)
2. Climate-related risks
3. House bank account and client bank accounts (if applicable)
4. Annual review of business contingency plan
5. Institutional Risk Assessment (at least once every two years)

6. Customer Risk Assessment
7. Ongoing review of customers (at least annual review of customers classified as high risk)
8. Prevention of financing of proliferation of weapons of mass destruction
9. Notification to the SFC in connection with internal investigation of licensed representative before or after departure
10. Conduct requirements relating to complex products
11. New Suitability FAQs
12. Disclosure of benefits relating to discretionary segregated accounts

Finally, licensees should also consider the new AMLO amendments when updating their compliance manuals.

The SFC has posted materials of AML webinars

The SFC has posted the following webinar materials and licensees are encouraged to download them for reference and internal training purposes (see SFC circular of 15 December 2022 [here](#)).

- Anti-Money Laundering and Counter-Financing of Terrorism Webinar 2022 by the SFC ([link](#))
 - The SFC covers the HK Risk Assessment of July 2022, update on major AML regulatory developments and related inspection findings.
 - The inspection findings relate to third party fund transfers across online brokerage, distribution and advisory services.
- Proliferation Financing: Risk Assessment and Mitigation by the Commerce and Economic Development Bureau ([link](#))
 - It provides useful guidance generally to the level of the risk which Hong Kong is exposed to the risk of proliferation financing.
- Suspicious Transaction Reporting by the Financial Intelligence and Investigation Bureau ([link](#))
 - Its content includes an overview of the reporting obligations as well as case studies relating to insider dealing and market manipulation.
 - It also give guidance on how to make a suspicious transaction report to the Joint Financial Intelligence Unit.

Revised Business and Risk Management Questionnaire (BRMQ)

On 23 December 2022, the SFC issued a circular ([link](#)) informing licensees of revisions to the BRMQ. The SFC has amended the BRMQ to collect additional information on a variety of functions and business activities to enhance the effectiveness of the SFC's risk-based supervision.

- Business and Risk Management Questionnaire for Licensed Corporation (Annex 1 of the above circular and click [here](#))
 - Business and Risk Management Questionnaire for Associated Entity (Annex 2 and click [here](#))
- (The additional content is underlined in the revised versions.)

For example, many new questions have been included in Section A12 (page 48 to 79) to collect more client and transaction data to help identify and analyse the money laundering and terrorist financing risk exposures of licensees. In the AML section of the revised BRMQ for Licensed Corporation, there are 35 questions (currently 15 questions); and 15 sub-sections (currently 8 sections). Examples of new areas include institutional risk assessment, independent review of AML systems, outsourcing of CDD measures and staff integrity.

Licensees should familiarise themselves with the revised BRMQ which need to be completed in relation to financial years ending on or after 30 November 2023.

Recent publications

[FSIE Regime enacted](#)

[The Anti-unfair Competition Law Is to Be Amended the Third Time](#)

[Development of the Personal Data \(Privacy\) Ordinance](#)

[The Implementation of Basel III Final Reform Package](#)

[Guidance on Anti-DDoS Protection](#)

[Updates to HKMA Supervisory Policy Manual modules](#)

[Passage of Anti-Money Laundering and Counter-Terrorist Financing \(Amendment\) Bill 2022](#)

[Implementation Arrangements for the Lowering of Statutory Limits of Effective Rates of Interests under the Money Lenders Ordinance](#)

[Holding of Virtual General Meetings](#)

[Observations on the Catalogue of Encouraged Industries for Foreign Investment](#)

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