

REGULATORY NEWSLETTER



2021 Vol.7



A quarter of a century after Lee Lai Shan won a historic gold medal for Hong Kong at the Atlanta Olympics, fencer Edgar Cheung Ka Long won the gold at the 2021 Tokyo Olympics on 27th July. After winning, Edgar told young athletes: "if you work hard and do not give up, being an Olympic champion is not just a dream." Edgar's words of encouragement should be heeded not just by athletes, but also apply to all Hongkongers who are struggling at a time of adversity to tackle the menace of Covid-19 and a faltering economy.

Welcome back to our monthly newsletter highlighting the best coverage of SFC's latest regulatory updates and enforcement news. ComplianceDirect, as being your Compliance Consultant, will always be at your service, devotedly, diligently and duly providing our professional consultation and be your strongest support among any updates and changes of SFC regulations.

REGULATORY UPDATES

Further Updates to the Exemption Scheme

19 Jul 2021

The Chief Secretary for Administration of the HKSAR Government has approved revisions of the conditions under the Exemption Scheme. In particular, inbound travelers, who have stayed in high or medium risk places specified in Group B or Group C or Taiwan and China during the 14 days prior to their arrival in HK and who possess a positive result of a recognized serology antibody test, will be subject to itinerary and point-to-point transportation requirements for the first seven days instead of the entire 14-day medical surveillance period.

The requirement for the submission of attestation forms to the SFC is also adjusted. Sponsoring licensed corporations should submit a signed attestation form:

- For a return executive, on his or her third and seventh days in HK;

- For a visiting executive,
 - On the last day of his or her trip if he or she stays in HK for less than 3 days
 - On his or her 3rd day in HK, and on the seventh day in Hong Kong or the last day of his or her trip, whichever is earlier, if he or she stays in Hong Kong for more than 3 days.

Please refer to the updated attestation form at Appendix II of the Circular.

The antibody testing and COVID-19 testing (post-arrival test) requirements of the Exemption Scheme are also updated:

- The list of recognised laboratories and criteria;
- The specification that specimens must be collected for an antibody test on day of arrival or the following day has been removed;
- The post-arrival test on the 7th day will be advanced to the 5th day in HK.

Please refer to Appendix I of the Circular for the corresponding revisions.

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Warning statement on unregulated virtual asset platforms

16 Jul 2021

The SFC is aware that Binance has offered trading services in stock tokens in a number of jurisdictions and is concerned that these services may also be offered to Hong Kong investors. The SFC wishes to make it clear that no entity in the Binance group is licensed or registered to conduct regulated activity in Hong Kong.

The SFC stated that stock tokens are likely to be “securities” under the SFO and warns that where the stock tokens are “securities”, marketing and/or distributing such tokens – whether in Hong Kong or targeting Hong Kong investors – constitute a “regulated activity” and require a license from the SFC unless an applicable exemption applies.

The SFC also warns that it may be an offence for any person to offer such tokens to the Hong Kong public without the SFC’s authorization or registration.

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ENFORCEMENT NEWS

SFC and ICAC search a listed company and an underwriter

7 July 2021

A senior executive of a listed company has been arrested in a joint operation of the SFC and the ICBC.

SFC sanctions Sino-Rich Securities & Futures Limited’s responsible officers

19 July 2021

The SFC has suspended the licence of the two responsible officer of Sino-Rich for seven to ten months.

The operation also involved a search of the offices of the listed company and one of its underwriters in its initial public offering. The SFC conducted the search for the offences related to a suspected ramp-and-dump market manipulation scheme and other market misconduct under the SFO.

The joint operation demonstrated the close collaboration between the SFC and the ICAC to tackle complex and serious financial crimes in order to maintain the integrity of HK's financial markets.

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SFC reprimands and fines Raymond Leung Tak Shing \$400,000 for breaches of anti-money laundering regulatory requirements

5 July 2021

The SFC has reprimanded Mr Raymond Leung Tak Shing, CEO, director, compliance officer and money laundering reporting officer of Yardley Securities Limited ("YSL"), and fined him \$400,000 for failures in complying with AML regulatory requirements.

The SFC found that, Leung, who was responsible for handling and approving third party fund transfers at YSL, approved such transfers in two client accounts between February and May 2016 without sufficient scrutiny, nor documenting the enquiries he claimed to have made at the relevant time, despite numerous indicators suggesting that some of them were unusual or suspicious.

The disciplinary actions follow the SFC'S sanctions against Sino-Rich for failing to comply with anti-money laundering and counter-terrorist financing regulatory requirements between April 2015 and October 2017.

The SFC found that they failed to:

- ensure that Sino-Rich established and implemented adequate and effective internal policies and procedures to detect, process and approve cash deposits and third-party fund transfers;
- diligently supervise staff members of Sino-Rich to ensure that followed Sino-Rich's policies and procedures in relation to cash deposits and third-party transfers; and
- ensure that Sino-Rich conducted proper enquiries on suspicious cash deposits and third-party fund transfers and/or reported them to the JFIU.

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SFC bans Lau Kwo for 12 months

5 July 2021

An SFC investigation found that Mr Lau Kwo, former licensed representative of Mason Securities Limited ("MSL"), in his capacity as an account executive of MSL, falsely represented that he had provided risk disclosure statements to six clients when they opened accounts with MSL via a non-face-to-face approach.

Lau also conducted trades in the internet trading accounts of his mother and wife by utilizing their usernames and passwords. The SFC has banned Lau from re-entering the industry for 12 months from 3 July 2021 to 2 July 2022.

Leung also failed to ensure that YSL had adequate system in place to mitigate the risks of money laundering and terrorist financing during the relevant period.

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SFC obtains court order to disqualify former executive director of Anxin-China Holdings Limited for eight years

13 July 2021

The SFC has obtained a disqualification order in the Court of First Instance against the former executive director of Anxin-China Holdings Limited (“Anxin”), Mr Lin Supeng. He was disqualified from being a director and being involved in the management of any listed or unlisted corporation in Hong Kong, without the leave of the court, for a period of eight years.

The SFC’s investigation found that Anxin grossly overstated its cash position between 2011 and 2015. To cover up the overstated cash position, Anxin provided false bank records to its then auditors for its 2014 audit. In addition, Anxin informed the public of the false findings that its internal special investigation team fabricated to cover up the discrepancies over the company’s cash position.

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