

# REGULATORY NEWSLETTER



2022 Vol.1



## Happy New Year!

As we step into 2022, ComplianceDirect will invariably put great effort into providing you with professional consultation and compliance advice, like we always do. On that note, apart from the heartwarming, positive and lovely greetings, wishes and messages we all have been sharing among each other, how could we embrace this new year without Regulatory Updates from the SFC which you can share with your friends, co-workers and compliance buddies to celebrate the new beginnings, virtually!

## REGULATORY UPDATES

### **Clearing and Record Keeping Rules for the OTC derivatives regime – changes to the list of persons designated as financial services providers**

03 Dec 2021

The revised list of persons designated as financial services providers (FSPs) for the purposes of the Securities and Futures (OTC Derivative Transactions—Clearing and Record Keeping Obligations and Designation of Central Counterparties) Rules (Clearing Rules) was gazetted, and became effective on 1 January 2022.

Licensed Persons are reminded that if their average total position in OTC derivatives during a Calculation Period reaches the corresponding Clearing Threshold, relevant OTC derivative transactions they enter into on and after the corresponding Prescribed Day, including those with FSPs must be centrally cleared in accordance with the Clearing Rules.

The gazette notice listing out the revised FSPs can be found [here](#)

[View Circular](#)

## SFC and HKMA joint product survey 2021

10 Dec 2021

The Securities and Futures Commission (SFC) and the Hong Kong Monetary Authority (HKMA) issued a joint [circular](#) in December 2021 to announce the launch of a joint annual survey on the sale of non-exchange traded investment products by licensed corporations (LCs) and registered institutions (RIs). This circular reminds intermediaries to submit the survey questionnaire for the first reporting period, which covers 1 January to 31 December 2021.

All LCs and RIs licensed or registered for Type 1 or 4 regulated activity should submit the completed questionnaires to the SFC electronically through [WINGS](#) by the due dates set out below:

<b>Selling activities of LCs and RIs during the reporting period</b>	<b>Parts of the survey questionnaire to be completed</b>	<b>Due date for submission</b>
Firms which did not sell any non-exchange traded investment products	Part A only	28 January 2022
Firms which sold non-exchange traded investment products with total transaction amounts below the thresholds <sup>1</sup>	Parts A and B only	25 February 2022
Firms which sold non-exchange traded investment products with total transaction amounts at or above the thresholds <sup>1</sup>	Parts A, B and C	11 March 2022

[View Circular](#)

## Scheme for quarantine-free travel to Mainland China

13 Dec 2021

The SFC has issued a circular to set out the eligibility criteria and pre-registration procedures for executives of LCs to participate in the Government's Phase 1 scheme for quarantine-free travel to the Guangdong Province.

The eligibility criteria would be staff or directors (i) who have "a regional role" and (ii) whose

purpose in travelling would be to go to Guangdong province for the management of the firm's mainland businesses.

The Maximum monthly quota would be a maximum of two staff or directors of each LC.

LCs will have to submit copies of information including an executive's Hong Kong identity card or visa and Mainland Travel Permit, residence permit or valid Chinese visa, along with supporting documents on the executives' duties and business on the mainland.

Subject to the submission of accurate and complete information, the SFC will hand on the executive's details to the Financial Services and Treasury Bureau for registration as an "eligible individual" by the Office of the Government Chief Information Officer.

[View Circular](#)

## **Launch of fully digitalised licensing functions on WINGS**

**15 Dec 2021**

On 3 January 2022, the SFC has launched WINGS where fully digitalised licensing functions were available.

In order to facilitate a paperless licensing process, WINGS includes web-based licensing forms with auto-fill and pre-set validation features, electronic signatures, expanded administration capabilities and more electronic payment methods. WINGS Mail also allows the industry to conveniently interact with the SFC.

Additionally, WINGS Mobile App, a companion mobile app, will be available for download on Google Play and the Apple App Store in late January 2022

To provide the industry with sufficient time to become familiar with the new functions on WINGS, the SFC will continue to accept paper corporate application forms until 31 March 2022.

A [video](#), [user guides](#) and [online demo clips](#) are available on the SFC website to help the industry understand the new features.

[View Circular](#)

## **Anti-Money Laundering / Counter-Financing of Terrorism**

### **Webinar Materials**

**16 Dec 2021**

The SFC has uploaded the presentation slides of the recent Anti-Money Laundering and Counter-Financing of Terrorism (AML/CFT) Webinar held on 6 and 7 December 2021 under the heading "Training materials - Presented by SFC staff" and under the heading "Training materials - Presented by external parties" respectively.

LCs are encouraged to download the aforesaid presentation materials for reference and internal training as appropriate.

The aforesaid presentation materials can be found [here](#).

[View Circular](#)

## Revised financial return form and new electronic submission platform

15 Dec 2021

The SFC has published a revised version of the financial return form which is required to be submitted by LCs under section 56 of the Securities and Futures (Financial Resources) Rules (FRR). A Gazette notice was also published to specify that, with effect from 1 February 2022, the electronic version of the revised form shall be used for submitting a return in respect of any period ending on or after 24 January 2022. However, the SFC will accept financial returns submitted by LCs using the superseded form for periods ending on or before 7 January 2022.

Starting from 1 February 2022, the electronic submission of financial returns will migrate to WINGS. Pursuant to section 58(8) of the FRR, the SFC publishes the following directions and instructions for this purpose:

(a) A submission of a return shall be made via WINGS and signed by attaching an electronic signature of a responsible officer or another officer of the LC approved under section 58(5)(e) of the FRR;

(b) To submit a return via WINGS, the responsible officer or approved officer signing the return on behalf of the LC shall first register and log in to his or her individual account on WINGS (to upload the return); and then register and log in to his or her account using the WINGS mobile app (to sign the return electronically); and

(c) The responsible officer or approved officer can electronically sign the return by using the WINGS mobile app to scan the QR code which will be displayed on WINGS when the return is successfully uploaded.

[View Circular](#)

## ENFORCEMENT NEWS

### SFC bans Poon Chun Hing for life

2 Dec 2021

An SFC's investigation found that, between May 2015 and September 2017, Mr Poon Chun Hing offered to invest in securities and futures for two students of financial planning or accounting courses that he taught. They accepted Poon's offer and deposited an aggregate sum of \$160,000 into his personal bank account after entering into agreements with him.

Following the expiry of the agreed investment periods in January 2019, they requested Poon for immediate repayment of their original investment and profits, but he did not respond to their requests.

### SFC reprimands and fines Mason Securities Limited \$3.6 million for breaches of anti-money laundering regulatory requirements

15 Dec 2021

The SFC has reprimanded Mason Securities Limited (MSL), formerly known as GuocoCapital Limited (GCL), and fined it \$3.6 million for failing to ensure proper certification of client identity before approving account opening and have in place controls for the identification of third party deposits, contrary to anti-money laundering and counter-terrorist financing regulatory requirements.

The SFC found that between December 2014 and January 2015, GCL failed to conduct proper customer due diligence before approving the opening of six clients' accounts via a non-face-to-face approach

<p>The SFC's investigation found Poon had misappropriated the funds for his personal use and the SFC has banned him from re-entering the industry for life.</p>	<p>because no controls were in place to ensure that proper certification of client identity documents was carried out</p> <p>MSL also failed to take reasonable measures to ensure that proper safeguards exist to mitigate the risks of money laundering and terrorist financing when identifying and handling third party deposits as it failed to identify 15 cheques issued by third parties were deposited into five client accounts between May and July 2016 until the SFC requested for the relevant cheque copies. This was due to GCL and MSL's lack of policies and procedures for the identification of third party deposits prior to June 2017.</p>
<p style="text-align: center;"><a href="#">View News</a></p>	<p style="text-align: center;"><a href="#">View News</a></p>
<p><b>Hong Kong-Singapore joint operation against suspected cross-border ramp-and-dump syndicate</b></p> <p><b>16 Dec 2021</b></p>	<p><b>SFC bans Chu Chun Wai for seven months for supervisory failures</b></p> <p><b>30 Dec 2021</b></p>
<p>The SFC, the Hong Kong Police Force (Hong Kong Police), the Monetary Authority of Singapore (MAS) and the Singapore Police Force (Singapore Police) have conducted a joint operation against an active and sophisticated syndicate suspected of operating ramp-and-dump manipulation schemes in Hong Kong and Singapore.</p> <p>The simultaneous joint operation involving securities regulators and law enforcement agencies in Hong Kong and Singapore is the first-of-its-kind in tackling cross border ramp-and-dump scams.</p> <p>A total of 10 people – including individuals believed to be the key members of the syndicate and their associates and some senior executives of Hong Kong listed companies – were arrested yesterday during searches of 33 premises in Hong Kong and Singapore by more than 190 officers of the SFC, the Hong Kong Police, the MAS and the Singapore Police.</p>	<p>The SFC found that between May 2017 and July 2018, Mr Chu Chun Wai, a former responsible officer (RO) and executive director failed to discharge his duties as an RO and a member of the senior management of Zhonghui International Futures Company Limited. Specifically, he failed to ensure ZIFC's maintenance of appropriate standards of conduct and adherence to proper procedures and to properly manage the risks associated with ZIFC's business.</p> <p>Chu's failures were related to the:</p> <ul style="list-style-type: none"> <li>- use of client supplied systems (CSSs) by ZIFC clients for placing orders;</li> <li>- approval of client requests for setting up third party operated accounts; and</li> <li>- monitoring of suspicious transactions in client accounts.</li> </ul> <p>The SFC has prohibited Chu for seven months from</p>

<p>The Hong Kong-Singapore joint operation came after the SFC, which first discovered suspicious trading activities of the syndicate, referred the case to the MAS and the Hong Kong Police because of a cross-border element and the scale of suspected money laundering offences, in addition to specific market misconduct offences under the Securities and Futures Ordinance (SFO).</p>	<p>29 December 2021 to 28 July 2022.</p>
<p style="text-align: center;"><a href="#">View News</a></p>	<p style="text-align: center;"><a href="#">View News</a></p>
<p><b>SFC reprimands and fines Grand International Futures Co., Limited \$8 million and suspends its responsible officer for regulatory breaches</b></p> <p><b>30 Dec 2021</b></p>	<p><b>Court convicts Wai Chun Holdings Group Limited and its director of Disclosure of Interests Offences</b></p> <p><b>30 Dec 2021</b></p>
<p>The SFC has reprimanded and fined Grand International Futures Co., Limited (GIFCL) \$8 million for failures in complying with anti-money laundering and counter-terrorist financing (AML/CFT) and other regulatory requirements between October 2017 and October 2018. The SFC has also suspended the licence of GIFCL's responsible officer, Mr Liang Benyou, for eight months from 28 December 2021 to 27 August 2022.</p> <p>The SFC's investigation found that GIFCL did not conduct any due diligence on the customer supplied systems (CSSs) used by 103 clients for placing orders. GIFCL was therefore not in a position to properly assess and manage the money laundering and terrorist financing (ML/TF) and other risks associated with the use of such CSSs by its clients.</p> <p>Additionally, the SFC identified that the amounts of deposits made into four client accounts were incommensurate with their declared financial profiles. Although GIFCL claimed that it was aware of these anomalies, it failed to demonstrate that it had conducted proper enquiries on the deposits and satisfactorily addressed the associated ML/TF risks.</p> <p>Further, the SFC found that GIFCL's failure to put in place an effective ongoing monitoring system to detect suspicious trading patterns in client accounts resulted in its failure to detect 100,989 self-matched trades in nine client accounts.</p>	<p>The Eastern Magistrates' Court convicted Wai Chun Holdings Group Limited (Wai Chun) and its director, Mr Lam Ching Kui, of disclosure of interests-related offences in prosecutions brought by the SFC.</p> <p>The defendants pleaded guilty to 10 summonses in relation to their failure to make timely disclosures to the Stock Exchange of Hong Kong Limited the acquisition of their interests in Chinese Strategic on five occasions in 2017, contravening Part XV of the SFO.</p> <p>They were fined a total of \$20,000 and ordered to pay the SFC's investigation costs.</p>

The SFC is of the view that GIFCL's systems and controls were inadequate and ineffective, and failed to ensure compliance with the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, the Guideline on Anti-Money Laundering and Counter-Terrorist Financing (AML Guideline) and the Code of Conduct. The SFC also considers that GIFCL's failures were attributable to Liang's failure to discharge his duties as a responsible officer and a member of GIFCL's senior management.

[View News](#)

[View News](#)



**ComplianceDirect Consulting Limited**

Address: Unit 2, 10/F, Cheong K. Building, 84 & 86 Des Voeux Road Central, Central, Hong Kong

Phone: 2606 1800

Website: [www.compliancedirecthk.com](http://www.compliancedirecthk.com)