
REGULATORY NEWSLETTER

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REGULATORY UPDATES

Circular to Licensed Corporations and Associated Entities on Anti-Money Laundering / Counter-Financing of Terrorism

10 Jul 2020

The Financial Action Task Force ("FATF") issued a statement on 30 June 2020 which advised its members to refer to the list of high-risk jurisdictions subject to a call for action adopted in February 2020, namely Iran and the Democratic People's Republic of Korea, and that the FATF's call for action on these high-risk jurisdictions remains in effect. The FATF's statement identifying high-risk jurisdictions subject to a call for action in February 2020 can be found on the website of the FATF. (<http://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/call-for-action-february-2020.html>)

In addition, the FATF issued an updated statement on the progress made by two of the jurisdictions under increased monitoring, namely Mongolia and Iceland in addressing the identified strategic deficiencies in their regimes to counter money laundering, terrorist financing and proliferation financing. The updated statement can be found on the website of the FATF. (<http://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-june-2020.html>)

The FATF also published various other outcomes of its recent Virtual Plenary which may be of interest to LCs and AEs. They include, for example, the publication of 12-Month Review of the Revised FATF Standards on Virtual Assets/VASPs report and FATF Report to the G20 on so-called 'Stablecoins' on the FATF website in July 2020.

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ENFORCEMENT NEWS

Court convicts and fines Brilliance Capital Management Limited and its director for unlicensed activities

The Eastern Magistrates' Court today convicted Brilliance Capital Management Limited (BCM) and its director Mr. Law Sai Hung in a prosecution brought by the Securities and Futures Commission (SFC) for holding out as carrying on a business in advising on corporate finance without an SFC licence.

They were fined a total of HKD30,000 and ordered to pay the SFC's investigation costs.

The Court found on or around 8 January 2013 BCM held itself out to a company as carrying on a business in advising on corporate finance, namely advising on listing application, by entering into an Advisor Engagement Agreement whilst unlicensed.

The Court also found Law, in his capacity as an officer of BCM, aided, abetted, counselled, procured, induced BCM to hold itself out to a company as carrying on a business in advising on corporate finance or that the offence by BCM was committed with the consent, connivance of or was attributable to the recklessness of Law.

The SFC reminds investors to check the SFC's Public Register of Licensed Persons and Registered Institutions on the SFC's website (www.sfc.hk) to ensure that people who provide advice on regulated activities are properly licensed.

SFC bans Lai Wing Fat for 20 months

The SFC has banned Mr Lai Wing Fat, a former licensed representative of Black Marble Securities Limited, from re-entering the industry for 20 months from 5 July 2020 to 4 March 2022 for breaches of the SFC's Code of Conduct.

The disciplinary action follows an SFC investigation which found that between August 2016 and June 2017, Lai effected transactions in a client's account on a discretionary basis without obtaining the client's prior written authorization. Lai also effected discretionary transactions in the accounts of three other clients without their prior written authorizations.

The SFC also found that Lai had failed to explain the Chinese account opening documents and risk disclosure statements to the client to ensure the client understood the content and relevant risks before signing the documents, even though Lai was aware that the client had difficulty understanding the Chinese documents.

The SFC considers that Lai had failed to act with due skill, care and diligence and in the best interests of the clients. The absence of written authorizations for discretionary transactions was prejudicial to clients' interests as Lai's employer was prevented from monitoring and supervising the operation of the accounts and the clients were deprived of protection against the risk of unauthorized trades carried out in their accounts.

In deciding the sanction, the SFC took into account all relevant circumstances, including Lai's otherwise clean disciplinary record.

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