

REGULATORY NEWSLETTER

2022 Vol.12



ComplianceDirect presents you the latest regulatory updates issued by the SFC. 'Woohoo!' So exciting right? We get that a lot. Making sure all of you are complying with the SFC rules is an ongoing commitment for us, and we'll continue to provide you with our professional services.

See you in 2023!

REGULATORY UPDATES

Anti-Money Laundering / Counter-Financing of Terrorism

(1) FATF Statement on High-Risk Jurisdictions subject to a Call for Action

(2) FATF Statement on Jurisdictions under Increased Monitoring

(3) Outcomes from the FATF Plenary, 20-21 October 2022

2 Nov 2022

(1) FATF Statement on High-Risk Jurisdictions subject to a Call for Action

For all countries identified as high-risk, the FATF calls on all members and urges all jurisdictions to apply enhanced due diligence, and, in the most serious cases, apply countermeasures to protect the international financial system from the money laundering, terrorist financing, and proliferation financing risks emanating from those countries.

(2) FATF Statement on Jurisdictions under Increased Monitoring

The FATF has issued an updated statement on Jurisdictions under Increased Monitoring with the addition of Democratic Republic of Congo, Mozambique and Tanzania, and removal of Nicaragua and

Pakistan from the list. The statement can be found at <https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-october-2022.html>.

The FATF will closely monitor and continue to assess the progress made by these jurisdictions in addressing the identified strategic deficiencies in their AML/CFT regimes and encourages its members and all jurisdictions to take into account the information presented in the statement in their risk analysis. Licensed corporations (LCs) and associated entities (AEs) are reminded to browse the website of the FATF for the relevant information, including any updated statements issued by the FATF from time to time.

(3) Outcomes from the FATF Plenary, 20-21 October 2022

The FATF also published various outcomes of its recent Plenary which may be of interest to LCs and AEs. They include:

(a) the release of a Guidance on Beneficial Ownership for public consultation which provides guidance to countries and the private sectors in implementing the new requirements to prevent the misuse of corporate structures, or legal persons, for money laundering or terrorist financing and to ensure that there is adequate, accurate and up-to-date information on the beneficial ownership and control of legal persons. The FATF expects finalising the guidance in February 2023; and

(b) the release of proposed revisions to strengthen the FATF standard on beneficial ownership information for trusts and other legal arrangements for public consultation. The FATF expects finalising these revisions in February 2023.

Further information on the FATF Plenary's outcomes can be found at <https://www.fatf-gafi.org/publications/fatfgeneral/documents/outcomes-fatf-plenary-october-2022.html>.

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Updated Technical Specifications for OTC Derivatives Trade Reporting

4 Nov 2022

The Hong Kong Monetary Authority issued a notice (the "Notice") about updated technical specifications for over-the-counter ("OTC") derivatives trade reporting under the Hong Kong Trade Repository ("HKTR"). The corresponding macro program of the Administration and Interface Development Guide (AIDG) version 2.0 is published on the HKTR website.

Licensed Corporations that may be subject to mandatory reporting obligation are advised to refer to the Notice.

The Notice can be found [here](#).

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Mutual Recognition of Funds (MRF) between Thailand and Hong Kong

15 Nov 2022

The Securities and Futures Commission (SFC) and the Securities and Exchange Commission of Thailand (SEC) signed a Memorandum of Understanding concerning Mutual Recognition of Covered Funds and Covered Management Companies and related cooperation (Memorandum) on 20 January 2021 (as amended from time to time).

General principles

MRF operates on the principles that, in respect of a Thai Covered Fund that has been approved by the SEC and is seeking or has received authorisation for offering to the public in Hong Kong:

- (a) the Thai Covered Fund shall meet the eligibility requirements in accordance with this circular and comply with all of the applicable requirements set out in this circular (see below);
- (b) the Thai Covered Fund shall remain approved by the SEC and be allowed to be offered, marketed and distributed to the retail investors in Thailand;
- (c) the Thai Covered Fund shall operate and be managed in accordance with the relevant laws and regulations in Thailand and its constitutive documents;
- (d) the sale and distribution of units of the Thai Covered Fund in Hong Kong shall comply with the applicable laws and regulations in Hong Kong;
- (e) where relevant, the Thai Covered Fund and the Thai Covered Management Company shall comply with the additional rules released by the SFC governing the authorisation, post-authorisation and ongoing compliance in the context of the offering, marketing and distribution of units of the Thai Covered Fund to the public in Hong Kong;
- (f) the Thai Covered Management Company of the Thai Covered Fund shall ensure investors in both Thailand and Hong Kong receive fair treatment, including in respect of investor protection, exercise of rights, compensation and disclosure of information; and there must be no arrangements which provide an advantage for investors in Hong Kong or Thailand that would result in prejudice to investors in the other jurisdiction, and vice versa; and
- (g) ongoing disclosure of information on the Thai Covered Fund shall be made available to investors in Thailand and Hong Kong at the same time (so far as is reasonably practicable given the different time zones and public holidays of the jurisdictions).

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ENFORCEMENT NEWS

SFC reprimands and fines Swiss-Asia Asset Management (HK) Limited \$3 million for regulatory breaches

8 Nov 2022

The SFC has reprimanded and fined Swiss-Asia Asset Management (HK) Limited ("Swiss-Asia") \$3 million for internal control failings and regulatory breaches in relation to the monitoring of trading activities in discretionary accounts and record keeping.

The disciplinary action follows an SFC investigation into the internal controls of Swiss-Asia after a client's complaint. The complaint centred on option trading by a former licensed representative of Swiss-Asia in the client's discretionary account. The client claimed that some of the trades were much riskier than agreed and fell outside the scope of her asset management mandate agreement with Swiss-Asia between April 2015 and August 2016.

The SFC's investigation found deficiencies in internal controls of Swiss-Asia, in that it failed to:

- properly monitor the trading activities in the client's discretionary account for around 15 months;
- have procedures in place to ensure proper supervision of the operation of discretionary accounts; and
- maintain proper records of its compliance checks on discretionary accounts.

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Wong King Hoi jailed for obstruction of SFC's search operation

10 Nov 2022

The Eastern Magistrates' Court today sentenced Mr Wong King Hoi to two weeks of imprisonment after his conviction of the offence of obstructing employees of the Securities and Futures Commission ("SFC") in the execution of a search warrant following a prosecution brought by the SFC. Wong was ordered to pay the SFC's investigation costs.

This is the first case that a person is convicted for obstructing the SFC's employees in performance of their functions empowered under the SFO.

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