Welcome to our Regulatory Newsletter

March 2023

Executive Summary

This month in Hong Kong, the Securities and Futures Commission ("SFC") released a circular providing updates relating to the launch of the Hong Kong Investor Identification Regime (HKIDR). The circular acts as a reminder to the relevant intermediaries within the Hong Kong financial sector who are in scope for the HKIDR of the launch date, and the process of assigning each client a Broker-to-Client Assigned Number (BCAN) and subsequently submitting the required files promptly to The Stock Exchange of Hong Kong Limited (SEHK).

Meanwhile in Japan, the Kanto Local Finance Bureau issued a business improvement order to FTX Japan Corporation. The Bureau stated in the report that it is aware that the domestic holding order for the company's assets issued on 19 December 2022 had expired, however the parent company is still bound by the procedures of Chapter 11 of the U.S Bankruptcy Act. The Bureau stated that it is committed to ensuring that FTX Japan Corporation's assets do not flow out to affiliate companies outside of Japan, and it is committed to protecting Japanese investors.

Lastly in India, the Securities and Exchange Board of India ("SEBI") issued a circular regarding the usage of Cloud Services by Regulated Entities (REs). This has been released in response to the growing number of REs recognising the inherent benefits of Cloud Services and implementing them into their organisations.

Click onto a region of your interest to read the corresponding regulatory updates and enforcement actions:

Australia
China
Hong Kong
India
Japan
Malaysia
Singapore
South Korea
Taiwan

Australia

On 2 March 2023, the Reserve Bank of Australia ("RBA") announced it was entering a partnership with the Digital Finance Cooperative Research Centre (DFCRC) on a joint research project, in a search to explore potential use cases and economic benefits of a central bank digital currency (CBDC) in Australia. Digital assets will serve as a strong alternative to, or replacement for, fiat currencies in the next five to ten years. The entire financial market has been disrupted by digital assets and is generating market interest sufficient to influence strategy at many major financial institutions, The Reserve Bank of Australia have a responsibility to understand this dynamic new market to grasp the opportunities and risks that are swiftly evolving for the national landscape they oversee. For more information, please click here.

On 2 March 2023, Australian Securities and Investment Commission ("ASIC") released a report with updated measures to help entities improve their arrangements for handling whistle-blower disclosures. ASIC report emphasis on the vital role whistle blower programs play in alerting entities and boards to enforcing change to help overall corporate performance and governance. For more information, please click here.

On 3 March 2023, ASIC began a consultation period concerning remaking 'sunsetting' class orders that impose financial resource requirements on the managed funds industry. Entities that are licensees of the Australian financial services (AFC) must follow the financial resource requirement set out by class orders. For more information, please click here.

Enforcement

On 2 March 2023, ASIC permanently banned Sean Colville Niven, from providing financial services and engaging in credit activities. Mr Niven raised funds from the general public for property developments on behalf of Skyline Apartments Melbourne Pty Ltd and Seed Equity Group Pty Ltd. ASIC have the autonomy to permanently ban an individual if they are convicted of serious fraud. For more information, please click here.

On 3 March 2023, Southern Cross Media Group Limited re-adjusted their profit or loss statement by removing the non-IFRS profit measure previously added. The non-IFRS profit measure doesn't provide an accurate financial position of a firm and ASIC believe it is not in accordance with accounting standards. For more information, please click here.

On 3 March 2023, Mr Justin Edward Hampshire was permanently banned from providing any financial services. Mr Hampshire whilst an authorised representative of Ausure Pty Ltd and as sole director and shareholder of Balanced Risk Pty Ltd was engaged in dishonest conduct. Mr Hampshire instructed clients to deposit money into a business account he controlled instead of Ausure's trust account. For more information, please click here.

On 9 March 2023, court action was commenced against Green County Pty Ltd and Max Funding Pty Ltd by ASIC. These proceeding ensued due to alleged unlicensed credit activity and other breaches of consumer credit laws. Green County Pty Ltd and Max Funding Pty Ltd were negligent in understanding the purpose of loans for consumers. This led to vulnerable consumers not having the benefit of important protections under The National Consumer Credit Protection Act (the Credit Act) and the National Credit Code (the Code). For more information, please click here.

On 10 March 2023, AMP, ANZ, CBA, Macquire, NAB and Westpac agreed to pay a total of AU$4.7 billion in compensation. Six of Australia's largest banking and financial institutions were found to have failed to deliver ongoing advice and services to financial advice customers paying fees for such services. Moreover, there was a lack of supervision over financial advisers to identity and deal with 'non-compliant advice.' For more information, please click here.

On 10 March, the Federal Court penalised ANZ AU$10 million due to failures relating to its Home Loan Introducer Program. ANZ during the period of March 2017 and March 2018 were not compliant by the Consumer Credit Protection laws, as they accepted referrals supporting 50 home loan applications from unlicensed third parties. These third parties did not have requirements licenses to carry out these regulated activities. National Australia Bank were penalised AU$15 million in October 2020 for similar infractions. For more information, please click here.

On 13 March 2023, Lendfin Private Pty Ltd (Lendfin) had its Australian financial services (AFS) license suspended until 1 March 2024. Lendfin failed to meet its AFS license regulatory requirements regarding organisation competence and financial reporting obligations. For more information, please click here.

On 13 March 2023, Capital Capital Pty Ltd (Capital Capital) had its AFS license cancelled. Capital Capital failed to meet its AFS license regulatory requirements regarding its financial reporting obligations. For more information, please click here.

On 15 March, Mr Douglas Cecil Allen was banned by ASIC from providing financial services for three years. Mr Allen was found to be not acting in the best interests of his clients when providing advice. Mr Allen understood that he was misleading clients with false figures and that potential insurance premiums would likely be higher once insurance advice was provided. For more information, please click here.

On 16 March 2023, Mr Todd Karamian, of Sydney, New South Wales, was permanently banned by ASIC from providing financial services and carrying on a financial business after he falsified his financial adviser exam result. Mr Karamian provided a fake pass result to his principle, Bluepoint Consulting Pty Ltd, which was then provided to ASIC. Therefore, all personal advice given to clients was deemed not authorised. For more information, please click here

On 23 March 2023, Mr Kurt Schlosser former Tesla Motors Australia Pty Ltd, was sentenced the Sydney District Court following his guilty pleas to two counts insider trading offences. Mr Schlosser used confidential information and then attained shares within Piedmont Lithium Ltd shares. This position garnered a profit of AU$28,883.53. Mr Schlosser was sentenced to two years and six months imprisonment and disqualified from managing corporations for five years. For more information, please click here.

On 29 March 2023, ALT Financial Group Ltd (ALT) was convicted and fined $120,000 for failing to lodge financial reports. Between the period 2018 to 2021, ALT fell short of their reporting responsibilities owed to their stakeholders such as: shareholders, creditors, and members of the public to make informed decisions. For more information, please click here.

Mainland China

On 3 March 2023, the China Securities Regulatory Commission ("CSRC") issued the "Measures for the Administration of Network and Information Security in the Securities and Futures Industry" (the "Measures"), which will be officially implemented on May 1, 2023. The "Measures" comprehensively cover various entities including securities and futures key information infrastructure operators, core institutions, operating companies, information technology system providers, etc., taking security as the basic principle, raise the normative requirements on the network and information security management. For more information, please click here. (Chinese only)

On 3 March 2023, CSRC issued the "Guidelines for Asset Securitization Business of Insurance Asset Management Companies" (hereinafter referred to as the "Guidelines") to support insurance asset management companies in developing asset securitisation and REITs businesses. The guidelines clarify the system and mechanism arrangements for insurance asset management companies to apply for ABS and REITs business. For more information, please click here. (Chinese only)

On 3 March 2023, the Shanghai Stock Exchange ("SSE") issued the notice of "Shanghai Stock Exchange Membership Management Business Guide No.2 – Mandatory Terms of Risk Disclosure Statement (revised in March 2023)", which came into effect on March 13. Adjustments have been made to item 1.7 of the annex to the Guide, i.e. "Shanghai Stock Exchange's Hong Kong Stock Connect Trading Risk Disclosure Statement Mandatory Clauses". For for Investors who are apply for opening the relevant trading authority for the first time, securities companies shall require them to sign the new version of the risk disclosure statement in paper or electronic form and remind investors who have signed the old version of the risk disclosure statement about the relevant amendments. For more information, please click here. (Chinese only)

On 3 March 2023, the Asset Management Association of China ("AMAC") issued an announcement on the "Guidelines for the Content and Format of the Risk Disclosure Statement for Publicly Offered Securities Investment Fund Investment Advisory Services" and "Guidelines for the Content and Format of Publicly Offered Securities Investment Fund Investment Advisory Service Agreements". After 20 working days from the date of publication, those who provide fund investment advisory services to new customers or provide existing customers with new fund investment portfolio strategies shall conduct business in accordance with the "Risk Disclosure Statement" and "Service Agreement", the relevant content should be adjusted in a timely manner. For more information, please click here. (Chinese only)

On 8 March 2023, the State Council issued a statement on the institutional reform plan of the State Council. This reform plan focuses on optimising and adjusting institutional responsibilities in key areas such as science and technology, financial supervision, data management, rural revitalisation, intellectual property rights and labour ageing work transforming government functions and accelerating the establishment of a federal government. The main contents of finance-related reforms include, the formation of the State Administrative Bureau of Financial Supervision, a local financial supervision system, the CSRC will report directly to the State Council and the bond supervisory system will be streamlined, the county (city) sub-branches of the People's Bank of China will be dissolved and the relevant functions will be transferred to the central prefecture (city) branches, lastly, relevant state- owned financial assets will be assigned to state-owned financial capital custodian institutions. For more information, please click here. (Chinese only)

On 20 March 2023, the CSRC publicly solicited opinions on the "Measures for the Supervision and Administration of Derivatives Transactions". In order to strengthen the supervision of the derivatives market, promote the healthy development of the derivatives market and prevent and resolve financial risks, it is necessary to implement the "Futures and Derivatives Law" and issue a unified regulation of the derivatives market at the departmental level. On the basis of summarising practical experience, the CSRC has drafted and formed the "Measure for the Supervision and Administration of Derivatives Transactions (Draft for Comment)" (the "Measures") and drafting instructions, which is now open to the public for comments. The Measures consist of eight chapters and 52 articles dealing with derivative trading and settlement, prohibited trading activities, traders, derivatives operating institutions, derivatives market infrastructure, supervision management and legal responsibilities, and supplementary provisions. For more information, please click here. (Chinese only)

On 24 March 2023, the CSRC publicly solicited opinions on the "Measures for the Supervision and Administration of Futures Companies (Draft for Comment)". The Measures mainly focus on, clarifying the business that the futures company can conduct, moderately raise the threshold for business entry and enhance the ability of business risk prevention of futures companies; and strengthen the supervision of the actual controller, clarify the conditions and procedures for the change of the actual controller of the futures company, remove the industrial qualification as a condition for entering the industry, and strengthen account management. For more information, please click here. (Chinese only)

On 24 March 2023, the CSRC issued a notice on further promoting the normalisation of real estate investment trust funds (REITs) issuance in the infrastructure sector (hereinafter referred to as the "Notice"). The notice came into effect on the date of issuance (March 7, 2023). The Notice proposed a total of 12 measures in 4 aspects to further promote the normalisation of REITs issuance. For more information, please click here. (Chinese only)

On 24 March 2023, the China Banking and Insurance Regulatory Commission issued the Notice on Regulating the Classification of Trust Business of Trust Companies (the "Notice"), which will come into effect on June 1, 2023. The Notice mainly stipulates the following contents; clarification on the classification criteria, guiding different development, maintaining uniform standard, stricter compliance management, and improving the internal control mechanisms. For more information, please click here. (Chinese only)

Enforcement

On 17 March 2023, AMAC publicly criticised Shenzhen Runshi Asset Management Co., Ltd. by cancelling their membership and revoking their administrator registration. The violations included: failure to meet the duty of care and diligence; failure to report information to the regulator in a timely manner and failure to cooperate with on-site inspections. For more information, please click here. (Chinese only)

On 17 March 2023, AMAC imposed penalties on Beijing Lanhai Taihe Investment Management Co., Ltd., and cancelled its membership. The violations included: failure to report information on changes of legal representatives and shareholders to the regulator; loss of control of business management; and practitioners and office premises not complying with regulations. For more information, please click here. (Chinese only)

On 17 March 2023, AMAC imposed penalties and cancelled the membership of Beijing Qianyuan Taihe Asset Management Co., Ltd., revoking their administration registration as it was found there was no qualified condition for the basic operational facilities such as employees and the business premises. For more information, please click here. (Chinese only)

On 17 March 2023, AMAC imposed penalties and cancelled the membership of Shenzhen Tengbang Wutong Investment Co., Ltd., revoking their administration registration. The violations included: violation of the manager's duty of good faith; failure to cooperate with self-regulatory management; failure to report significant matters and update information to regulators; failure to accurately fill in the registration information of the administrator; and failure to meet the registration requirements for private equity fund managers. For more information, please click here. (Chinese only)

On 17 March 2023, AMAC publicly criticised Shanghai Nantu Asset Management Co., Ltd. and suspended to accept the filing of private fund products for 6 months. Violations included: failure to establish and implement effective internal controls; and failure to submit relevant reports or perform information disclosure business as required. For more information, please click here. (Chinese only)

On 24 March 2023, the CSRC disclosed 20 typical illegal cases in the CSRC inspection in 2020. The violations included, systematic fraud by listed companies, fraud instigated by the actual controller of a listed company, listed companies fabricating trade fraud, financial fraud in the restructuring target of a listed company, listed company's financial fraud and evasion of delisting, controlling shareholders infringing on the interests of listed companies, violation of affiliated transactions by actual controllers of listed companies, illegal occupation of funds by a controlling shareholder of a company listed on the Beijing Stock Exchange, illegal information disclosure by a corporate bond issuer, corporate bond market intermediaries failing to perform their due diligence, and ten more. For more information, please click here. (Chinese only)

Hong Kong

On 2 March 2023, the Securities and Futures Commission ("SFC") released a circular providing updates relating to the launch of the Hong Kong Investor Identification Regime (HKIDR) on 20 March 2023. The circular issues a reminder to the relevant intermediaries within the Hong Kong financial sector who are in scope for the HKIDR of the launch date, and the process of assigning each client a Broker-to-Client Assigned Number (BCAN) and subsequently submitting the required files promptly to The Stock Exchange of Hong Kong Limited (SEHK). The circular also reminds intermediaries of the conduction of a Post Release Test (PRT) for the Orion Trading Platform - Securities Market (OTP-C) and the Orion Central Gateway -Securities Market (OCG-C) to allow intermediaries to perform testing on their BCAN tagging process prior to the launch of the HKIDR. The introduction of the HKIDR follows a lengthy consultation process which has sought to improve the ability to track investor activity within the Hong Kong Stock Exchange. For more information, please click here.

On 10 March 2023, the SFC released a circular detailing AML/CFT updates from the Financial Action Task Force (FATF). The FATF is an intergovernmental organisation designed to create policies relating to the prevention of money laundering and terrorism financing. The circular initially summarises a recent FATF statement urging its members to apply enhanced due diligence, and in the most serious circumstances, countermeasures to High-Risk Jurisdictions (North Korea, Iran, and Myanmar). The circular also details FATF updates on jurisdictions under increased monitoring, Nigeria and South Africa have been added to that category whilst Cambodia and Morocco have been removed. Finally, the circular summarises the outcomes of the recent FATF Plenary in February 2023. Some of the key outcomes include the publishing of a guidance document designed to help countries implement revised AML/CTF requirements, enhancements to existing legislation, and the completion of research relating to ransomware attacks and the subsequent laundering of the proceeds. For more information, please click here.

On 10 March 2023, the Hong Kong Monetary Authority ("HKMA") announced that they would be launching a joint consultation with the SFC on proposed changes to which types of transactions will be subjected to clearing obligations for over-the-counter (OTC) derivatives. The proposed changes will be in line with global interest rate benchmark reforms. These involve the change away from the use of interbank offered rates (IBORs) to alternative reference rates (ARRs). For more information, please click here.

On 27 March 2023, the SFC issued a circular announcing that they would again waive the annual licensing fees for all intermediaries and licensed individuals for the period from 1 April 2023 to 31 March 2024. For more information, please click here.

On 30 March 2023, the SFC released a circular outlining the required standards for risk governance, controls and monitoring expected of licensed corporations (LCs) in their data risk management processes. Data risk management is a high priority topic for the SFC which led to a thematic review being conducted, culminating in a report being published on 30 March 2023. Data risk is a prevalent issue worldwide as a result of the rapidly increasing volumes of data being collected and stored as part of day-to-day business operations. The circular outlines the need to implement a robust data risk governance framework and provides some expected standards of what this should look like. The circular then details various expected standards of data lifecycle controls and monitoring. For more information, please click here.

On 30 March 2023, the SFC released a circular outlining the required standards for risk governance, controls and monitoring expected of licensed corporations (LCs) in their management of operational and remote booking risks arising from trading activities. This circular mirrors a thematic report also released on 30 March 2023 focusing on the aforementioned risks and how they relate to the current industry landscape. The circular provides the expected standards for different features of operational risk management in relation to trading activities such as operational risk governance and operational controls and monitoring. The circular also covers expected standards for remote booking risk management in relation to trading activities such as remote book risk governance as well as controls and monitoring. For more information, please click here.

Enforcement

On 1 March 2023, the SFC banned the former licensed representative (LR) of Convoy Asset Management Limited (CAML), Wong Kwun Shing, from the financial industry for life. This came as a result of an investigation which found that he had taken part in stock manipulation for a listed company. Wong was found to have arranged a scheme whereby his clients would buy the shares of a listed company from the stock manipulators for a period of time whilst they drove up the share price of said stock. They would then be entitled to sell the stock whilst returning a cash rebate to the manipulators. For more information, please click here.

On 6 March 2023, the SFC banned the former responsible officer (RO) of Citigroup Global Markets Asia Limited (CGMAL), Philip John Shaw, from re-entering the financial industry for ten years. This comes as a result of sanctions against CGMAL for regulatory breaches relating to internal control breaches which saw the company make false representations to clients and mislabeling Indications of Interest (IOIs). For more information, please click here.

On 9 March 2023, the SFC fined City International Futures (Hong Kong) Limited (CIFHKL), currently known as VERCAP Financial Services Limited, HK$ 100,000 for AML/CFT failures. The company was found to have failed to conduct the proper due diligence on the customer supplied systems (CSSs) used by 16 clients to place orders. This therefore prevented the company from properly assessing money laundering and terrorist financing risk. For more information, please click here.

On 14 March 2023, the SFC fined I-Access Investors Limited (I-Access) HK$ 600,000 for breaches of the Code of Conduct. The breaches relate to an internal system test conducted by Hong Kong Exchanges and Clearing Limited (HKEX) which simulated trades being transmitted to the market data system, I-Access were found to have incorrectly disseminated such data into their own system. The inclusion of such data was found to have triggered trade errors the following trading day and the company failed to properly notify their clients of this. For more information, please click here.

On 15 March 2023, the SFC and the Independent Commission Against Corruption (ICAC) announced that five more individuals had been arrested in relation to a ramp-and-dump operation which had yielded gains of HK$ 191 million. This follows the arrest of eight people in November 2022 who were involved in the same scheme. For more information, please click here.

India

On 6 March 2023, the Securities and Exchange Board of India ("SEBI") issued a circular regarding the usage of Cloud Services by Regulated Entities (REs). This has been released in response to the growing number of REs recognising the inherent benefits of Cloud Services and implementing them into their organisations. This circular has been created in order to inform REs of the minimum requirements with regards to security, so that the REs are aware and can work to mitigate/prevent these risks from affecting their business. This circular will come into effect immediately, but REs currently utilising Cloud Based Services will be given a grace period of up to 12 months to update their current measures to be in-line with the minimum requirements discussed in the circular. This circular is relevant as it shows SEBI's continued commitment to regulating the cyberspace aspect surrounding the Indian financial market, to best protect its participants. For more information, please click here.

On 8 March 2023, SEBI issued a circular amending the 'Buy-Back Regulations' with a specific focus on the Buy-back of Securities. The Circular states that these regulations will come into circulation 30 days after 9 March 2023. The buyback provisions will still be affected by the limitations placed on bids, price, and volume. There are several regulations listed that the companies must comply with in addition to the notes on the Escrow Accounts Deposit Margin Requirement. This circular is relevant as it shows the close attention that SEBI is paying to its new regulations, especially with regards to early teething issues. For more information please click here.

On 10 March 2023, SEBI issued a circular clarifying the requirements for an RTA to qualify as a QRTA. This will happen if at any point during the financial year, the RTA is responsible for the servicing of more than 2 crore of the combined number of demat and physical folios. If this should occur SEBI should be notified within five working days. This QRTA designation will expire after 3 years, however, during this period regardless of the adjustments in the folio. After qualifying to become a QRTA, and with respect to the more stringent requirements associated with this, a 60 day grace period will be given so that the recommendations can be fulfilled. For more information, please click here.

On 16 March 2023, SEBI issued a circular on how to improve the commonplace practises surrounding investor business decisions in the securities market through RTAs and the completion of the related Permanent Account Numbers (PAN), Know Your Client (KYC) and Nomination details. The Circular takes into account the comments raised on the difficulties that investors face in regards to the documentary evidence needed to process the investor's requests. The following pages of the circular list the new regulations. This circular is important as it shows SEBI's commitment to creating a user-friendly yet secure Indian Securities market. For more information, please click here.

On 23 March 2023, SEBI issued a circular relating to Mutual Funds with a focus on e-wallet investments. It states that e-wallets under the overarching limit of INR 50,000 must comply with the Reserve Bank of India's ("RBI") KYC norms. This is important as it shows SEBI understands that Mutual Funds may invest in e-wallets and is committed to protecting the investors in the mutual funds. For more information, please click here.

On 23 March 2023, SEBI issued a master circular in regard to the surveillance of the Securities Market. This has been released so that all relevant circulars can be located in one place. This is important as it relates to how SEBI conducts market surveillance on market participants. For more information, please click here.

On 27 March 2023, SEBI issued a circular to improve the integration of Foreign Portfolio Advisors. This has been done to limit the delays before an FPI becomes registered and is able to access its relevant accounts. The FPI will need to obtain a certificate stating it as such. The application will be submitted to a Designated Depository Participant (DDP). The updated list of regulations can be found in the circular. This circular is relevant as it shows that SEBI is continuing to attempt to increase the attractiveness of India to FPI's, by continuing to refine its practises to further improve its procedures. For more information, please click here.

On 27 March 2023, SEBI issued a circular on extending the timeline for nominating Eligible Trading and Demat Accounts. Given the lack of progress made with regards to the nomination for both Trading and Demat Accounts, the date has been extended to September 30 2023. As part of this extension, it is required that both the Depository Participants and Stockbrokers continue to remind their clients on a regular basis that they must amend their nomination. This is important as it shows that SEBI is accommodating to the issues that are being faced by Stockbrokers and Depositary Participants. It should be noted that this would be the third extension and as such the accounts will become suspended. For more information, please click here.

On 28 March 2023, SEBI issued a circular updating the Norms of Scheme Arrangement for unlisted Stock Exchanges, Clearing Corporations and Depositories. These will hereby be referred to as Market Infrastructure Institutions (MIIs). Previously, unlike listed MIIs, unlisted MIIs were not mandated to provide a draft scheme of arrangement in order to obtain an Observation letter or No-Objection Letter. However, this circular has been released in order to bring the requirements faced by unlisted MMIs into line with those of the listed MMIs. The specifics of the framework can be found in the circular. This is important as it shows SEBI committing to eliminating any potential confusion that may arise. For more information, please click here.

On 28 March 2023, SEBI issued a circular extending the nomination date for Mutual Fund Unit Holders to 30 September 2023. As part of this extension, AMC's and RTAs are required to send a fortnightly reminder to choose whether to nominate or opt out. This circular is relevant as it once again shows that SEBI is aware and willing to adjust policies to aid market participants. For more information, please click here.

On 29 March 2023, SEBI issued a circular reviewing the time limit in relation to the disclosure of Net Asset Value of Mutual Fund Schemes that invest overseas. This circular lays out the new reporting timelines in business days given the difficulties certain Mutual Funds had in calculating the NAV e.g. Time Zones. This circular is relevant as it shows that SEBI is continuing to address issues that certain market participants are facing in relation to their compliance requirements. For more information, please click here.

On 29 March 2023, SEBI issued a circular addressing Cyber Resilience and Security for Portfolio Managers. This circular is focused on asset managers who are responsible for AUM's in excess of INR 3000 crore, inclusive. The aim of this circular is to ensure the operational stability of these portfolio managers in relation to the protection of data and the guarantee of privacy. This is in relation to the position these Portfolio Managers have in the securities market. The requirements for Portfolio Managers can be found in the circular. This circular shows SEBI is concerned and wishes to prevent potential disruptions to the securities market within India. Cyber-Security is a global issue that all financial markets are to be cognizant of, and as such, SEBI is part of this. For more information, please click here.

On 31 March 2023, SEBI issued a circular relating to the extension of the compliance period for large corporations using debt securities in order to raise funds. This circular states that the current period of two years has been extended to three years. During this three-year period, it is expected that large corporations generate at least 25% of their incremental borrowings via debt securities. For more information, please click here.

Enforcement

On 3 March 2023, the RBI imposed a fine of ₹30,666,000 on Amazon Pay (India) Private Limited as they were found to have not complied with the Master Directions on Prepaid Payment Instruments (PPIs). Amazon Pay failed to fulfil the KYC Requirements associated with PPIs. For more information, please click here.

On 10 March 2023, the RBI imposed a fine of ₹9.60 lakh on Nuvama Wealth Finance Limited (formerly known as Edelweiss Finance and Investments Limited). The investigation revealed that Nuvama had failed to create sufficient procedures to monitor the identification of investors along with the supervision of suspicious transactions. For more information, please click here.

On 27 March 2023, the RBI imposed a fine of ₹2.10 lakh on Mehsana District Central Co-operative Bank Ltd. The investigation revealed that the bank did not have the relevant procedures in place to file data to three Credit Information Companies on 21 March 2023. In addition, the bank also failed to have the policies in place that would require the bank to update current customers KYC documents and review how they were categorised in relation to risk. For more information, please click here.

On 27 March 2023, the RBI imposed a fine of ₹2 lakh on Shri Ganesh Sahakari Bank Ltd., Navi Sangvi, Pune. The investigation revealed that instead of collecting proportionate penalties for shortfall relating to the supervision of a minimum balance in savings accounts, they were instead charging a fixed penalty. In addition, there were no policies or procedures in place with relation to the identification and subsequent escalation via reporting of suspicious transactions. For more information, please click here.

Japan

On 7 March 2023, the Financial Services Authority (henceforth referred to as "FSA") published an article titled "Facilitation of Financing for Businesses at the End of the Fiscal Year". The article details an outline plan for the Japanese economy to recover from the pandemic, including recommendations for Banks to lower interest rates and other more favourable loan conditions to businesses. For more information, please click here. (Japanese only)

On 14 March 2023 the FSA published an article titled "Legislation Related to the Financial Services Agency in the 211th Session of the Diet". The article outlines the minor amendments made to the Financial Instruments and Exchange Act. as well as the Act on Book-Entry Transfer of Company Bonds, Shares. These laws have had amendments made in response to the digitisation and development of Information Technology in the Financial Services Industry. For more information, please click here. (Japanese only)

On 17 March 2023, the Financial Services Authority ("FSA") released details regarding the "G7 Cybersecurity Seminar 2023". This will be a hybrid event held at ANA InterContinental Tokyo. The event will centre on a dialogue which will focus on two G7 Cyber Expert Group Fundamental Elements (Third Party Cyber Risk Management and Ransomware Resilience). For more information, please click here.

On 30 March 2023, the FSA released their response regarding solicited public comments on the "Partial Draft Amendments to the Comprehensive Guidelines for Supervision of Financial Instruments Business Operators", with respect to consideration of ESG. The FSA conducted a survey of publicly offered investment trusts managed by 37 asset managers in Japan and compiled "Seven Expectations" for asset management companies managing ESG investment trusts. This is to combat concerns over greenwashing in May 2022. Based on the "Seven Expectations", the FSA revised comprehensive supervisory guidelines for financial instruments business operators to ensure disclosure transparency and due diligence regarding ESG factors. Some of these amendments include checks to ensure that the name/nickname of investment trusts do not mislead investors, or where an investment trust tracks an ESG index, the prospectus is required to state how ESG factors are incorporated in the index etc. For more information, please click here. (Provisional English Translation)

Enforcement

On 9 March 2023, the Kanto Local Finance Bureau issued a business improvement order to FTX Japan Corporation. The Bureau stated in the report that it is aware that the domestic holding order for the company's assets issued on 19 December 2022 has expired, however the parent company is still bound by the procedures of Chapter 11 of the U.S Bankruptcy Act. The Bureau stated that it is committed to ensuring that FTX Japan Corporation's assets do not flow out to affiliate companies outside of Japan, and it is committed to protecting Japanese investors. For more information, please click here. (Japanese only)

On 15 March 2023, the Japan Securities Dealers Association took administrative action, pursuant to Article 28 paragraph 1 of the Articles of Incorporation, against SMBC Nikko Securities Corporation for the illegal purchase of the listed shares of 10 companies in an attempt to stabilise the market price of these securities during Block Offer transactions. This is in violation of the provisions set out in article 20 of the Enforcement Order of the Financial Instruments and Exchange Law. The administrative action taken consists of a fine totalling 300 million yen, and recommendations pursuant to Article 29 of the Articles of Incorporation, including strengthening the management control system, creating and implementing a business improvement plan, and ensuring senior management has a thorough understanding of the laws and regulations. For more information, please click here. (Japanese only)

On 31 March 2023, the FSA issued a warning to the following persons who are engaged in the crypto asset exchange business without registration, Bitforex Limited, MEXC Global, Bybit Fintech Limited and Bitget Limited. In all instances, these persons were found to be engaging with Japanese residents in virtual assets online. For more information, please click on the respective links above. (Japanese only)

Korea

On 2 March 2023, the Financial Services Commission ("FSC") announced that Korean financial authorities would plan to enhance banks' disclosure of the differences between interest rates on deposits and loans in order to improve the management and operating practices of banks and banking systems. The banks will provide comparative public disclosure on differences between interest rates on outstanding balance of deposits and loans among different banks; additional disclosure on the interest rates on *jeonse* loans for facilitating clear comparison of interest rates on *jeonse* loans and comparative disclosure individual banks' interest rates on household loans by subdividing them into base rate, spread, and preferential rate, which is to help customers to compare the respective characteristics of calculation of banks' interest rate. Finally, the banks will voluntarily add the webpage on the explanations of factors for the changes in interest rates for the expansion of loans to low and mid credit borrowers and ratio of short-term borrowing. For more information, please click here.

On 16 March 2023, the FSC and the Financial Supervisory Service ("FSS") discussed the plans for enhancing the capital adequacy and loan reserve requirements in the banking sector regarding the absorbing capacity of banks. The authorities planned to improve the regulations on banks for the capital adequacy and loan loss reserve requirements to ensure the sufficient loss absorbing capacity of the banks. For the improvement of capital adequacy requirement, the authorities will examine a measure to impose a duty on banks to set aside additional capital in the second or third quarter of this year. Also, the authorities planned to introduce the stress capital buffer by requiring banks to set aside the additional capital for the stress test and also overhauling the verification and ex-post management of the entire test process for improving the credibility of banks' stress test. For the requirement of allowance of bad debt, the FSC allowed banks to set aside additional loan loss reserve if the amount of allowance and reserve for bad debt are deemed insufficient against the estimated future loss, and the authorities will conduct the annual inspections on banks' models for forecasting estimated loss regularly. For more information, please click here.

On 29 March 2023, the FSC and the FSS held the first mutual finance policy council meeting of this year with relevant government authorities and mutual finance business representatives on March 29. During the meeting, the authorities discussed the current situations and ways to enhance the prudential management of mutual finance business by raising the loan reserve requirement on mutual finance business from 100% to 130% to improve their loss absorbing capacity. Also, they planned to seek submission of monthly reports on mutual finance business' real estate PF sites to ensure the prompt sharing of information for the default risk. For more information, please click here.

Enforcement

On 8 March 2023, the Securities and Futures Commission ("SFC"), a sub-commission of the FSC, imposed penalty surcharges of KRW3.87 billion and KRW2.18 billion on "Company A" and "Company B," respectively. Those 2 companies were found for their short selling activities, which is defined as the violation of short sales regulations under Financial Investment Services and Capital Markets Act (FSCMA). "Company A" was found as submitting the sell orders without consideration, which they do not have the ownership of. "Company B" erroneously entered the information of the borrowed stocks, which is similar to that of other stocks into their balance management system, and wrongly submitted the sell orders for other stocks which they actually had no ownership of by referring to the overstated balance. For more information, please click here.

Malaysia

On 22 March 2023, Bursa Malaysia, UMW Corporation, and Maybank signed a Memorandum of Collaboration to deploy a Centralised Sustainability Platform. The platform, developed by Bursa Malaysia with the London Stock Exchange Group ("LSEG"), will serve as a repository for listed companies' ESG disclosures and enable listed companies to reinforce their sustainability disclosures. The platform will also help banks develop green financing products and services that will incentivise and encourage the corporate sector's decarbonisation and supply chain. For more information, please click here .

On 27 March 2023, Bursa Malaysia announced enhancements to its Main Market Listing Requirements to facilitate the offering of listed Real Estate Investment Trusts and Exchange-traded Funds with the waqf feature. The move is part of an initiative to expand the Waqf-Featured Fund Framework to listed Islamic funds such as REITs and ETFs. Under the enhancements, the Exchange has reinforced the post-listing disclosure framework of Islamic REITs and ETFs to provide transparency on the waqf arrangement. The move will promote the growth of waqf and Sustainable and Responsible Investment assets, further cementing the Exchange's position as a leading global Islamic finance marketplace. For more information, please click here .

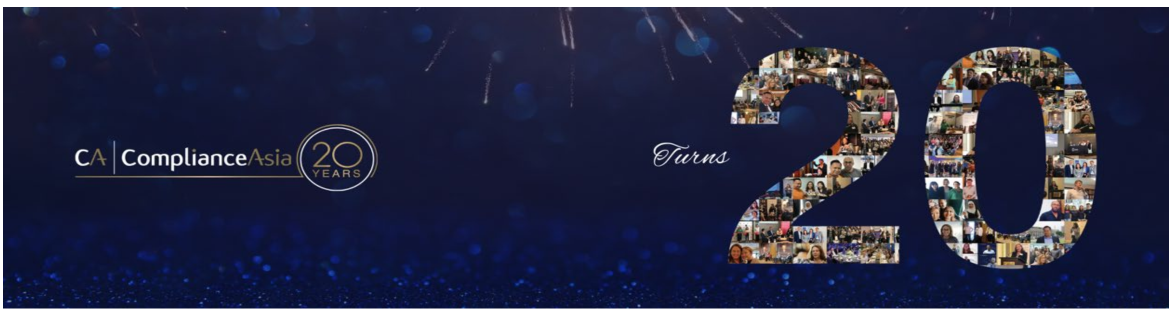
Enforcement

On 8 March 2023, Toyo Ventures Holdings Berhad (Toyoven) was publicly reprimanded by Bursa Malaysia Securities (BMS) for withdrawing a proposed final dividend, which contradicted the BMS Main Market Listing Requirements. Although none of Toyoven's directors were found to have caused the breach, they were reminded of their duty to ensure compliance. The breach violated the fundamental obligation for not making any subsequent alteration to the dividend entitlement, and BMS emphasised its importance in maintaining market integrity and shareholder and investor interests. Toyoven explained the proposed dividend as being due to sufficient retained earnings but withdrew it due to insufficient revenues. For more information, please click here .

On 20 March 2023, Datuk Chung Hon Cheong and Si Tho Yoke Meng entered into regulatory settlements with the Securities Commission Malaysia (“SC”) for communicating and trading on inside information, respectively, in relation to the proposed privatisation of Integrax Berhad by Tenaga Nasional Berhad. The settlements were reached without admission or denial of liability and required the disgorgement of RM508,408.02 each, equivalent to three times the difference between the acquisition price and the likely acquisition price if the information had been generally available. The recovered monies will be applied in accordance with section 201(7) of the Capital Markets and Services Act 2007. For more information, please click here .

On 22 March 2023, The SC settled with Ahilan Sumander a/l S.L Thevar for insider trading of shares in Integrax Berhad. Ahilan who acquired 300,000 units of Integrax shares while possessing inside information relating to the proposed privatisation of Integrax by Tenaga Nasional Berhad who were in breach of section 188(2)(b) of the Capital Markets and Services Act 2007. Ahilan settled the claim for RM508,408.02 without admission or denial of liability. The amount disgorged from Ahilan is equivalent to three times the difference between the acquisition price and the likely acquisition price if the information had been generally available. For more information, please click here .

On 29 March 2023, Charles Chua, a former Vice President of Debt Markets at Hong Leong Investment Bank Berhad, was sentenced to three years in prison and a fine of RM1 million after pleading guilty to one charge under section 179(b) of the Capital Markets and Services Act 2007 ("CMSA"). He was also charged with additional 16 counts under CMSA for deceiving 10 individuals between July 2017 and May 2019, who suffered losses amounting to RM1.73 million. The judge had considered the remaining 16 charges during sentencing. The Court ordered the imprisonment term to run from Chua's date of arrest, which was on 15 June 2022. For more information, please click here .



Singapore

On 13 March 2023, the Monetary Authority of Singapore ("MAS") released a statement detailing the soundness and resilience of the Singaporean banking system in the turbulent environment of the global financial markets. This statement comes in response to the closure of United States of America based banks. The MAS maintained that Singaporean banks have insignificant levels of exposure to the failed US banks and that they have sufficient capital to mitigate against the volatility. The MAS also stated that they would be monitoring the developments and would be prepared to support the Singaporean banking industry if required. For more information, please click here.

On 20 March 2023, the MAS announced that Credit Suisse Group AG (CS) would continue to operate in Singapore without any interruptions of restrictions following their announced takeover by UBS Group AG (UBS). The MAS stated that they had been in contact with the Swiss national regulator and had been fully briefed on the details of the proposed takeover. The MAS announced that they would continuously monitor the situation and would allow CS to continue to operate under its capital markets license in Singapore. The MAS also announced that it would be prepared to provide liquidity to the Singaporean financial system should it be required. For more information, please click here.

On 22 March 2023, the MAS released a statement on Additional Tier 1 Instruments which are issued by Singaporean banks. The MAS announced that during the process of resolving a financial institution (FI), it will adhere to the liquidation claims hierarchy which states that equity holders will absorb losses prior to Additional Tier 1 and Tier 2 instruments. Creditors will be eligible for compensation from a financial industry funded resolution fund provided they receive less than they would if the FI had been liquidated. For more information, please click here.

On 23 March 2023, the BIS Innovation Hub Singapore Centre and its partners announced the successful connection of the test versions of three domestic instant payment systems (IPS) to its Nexus model and announced the next stage of rolling out the project to different localities. The Eurosystem, Malaysia and Singapore were the first successful linkages into the system which allow payments to be sent across them using just a mobile phone number. The next phase will seek to integrate Indonesia, the Philippines, and Thailand into the system. The Nexus system seeks to improve the cost, speed and transparency of cross-border payments through the connection of IPS from multiple different countries. For more information, please click here.

On 31 March 2023, the MAS announced in collaboration with Bank Negara Malaysia that they had launched a cross-border QR code payment linkage between Singapore and Malaysia. This system will allow the customers of participating financial institutions to make retail payments using the generated QR codes. In-person payments with merchants displaying physical QR codes will be displayed by merchants as well as cross-border e-commerce transactions. The next stage of the project will be an expansion to allow for account-to-account cross-border transfers in real-time. This is expected to be introduced by the end of 2023. For more information, please click here.

Enforcement

On 22 March 2023, The MAS issued a 1-year prohibition order against Lee Ming Xia Jasmine, appointed representative of Prudential Assurance Company Singapore (Pte) Limited (PACS), for offences relating to the submission of false documents. Lee was found to have created a scheme whereby she sold company insurance policies to six other people using false documentation in order to bypass the product eligibility criteria for such products. For more information, please click here.

Taiwan

On 7 March 2023, the Financial Supervisory Commission ("FSC") stated that for the purpose of guiding financial institutions for outsourcing and reviewing application procedures and reporting contents, the FSC has proposed the "Regulations Governing Internal Operating Systems and Procedures for the Outsourcing of Financial Institution Operation". The goal is to strengthen resilience and to protect customer rights and interests. The main features of the regulations include the establishment of a management framework and to increase financial institutions' ability to deal with extraordinary events. For more information, please click here.

On 7 March 2023, the FSC imposed a penalty on Citibank Taiwan Ltd (Citibank) for violating the Banking Act. It was demonstrated that a former wealth manager of Citibank recommended customers to invest in other financial products that were not facilitated by Citibank. In addition, it is further proved that Citibank failed to establish a comprehensive internal control mechanism to protect their employees from high-risk transactions. As a result, the FSC imposed a penalty of NT$6 million on Citibank for violating the act. Accordingly, the FSC stated that banks are required to establish the complete ethical code of conduct and must also establish measures to monitor mechanisms for protecting employee's right. For more information, please click here.

On 10 March 2023, the FSC observed that the majority of FinTech companies have the opportunity to help with the development of the green finance agenda. To be specific, technology can be adapted to resolve pressure points of consumer needs, policies, and cooperative networks. In accordance, the FSC launched the Green FinTech campaign this year to help protect the environment. After holding a series of related events, it hopes to increase the opportunities to apply technology in the field of green finance. Not only may it raise public awareness of the need for sustainability, but also to encourage financial institutions to engage in green technology. For more information, please click here.

Enforcement

On 29 March 2023, Liu from Long Bon International Co., Ltd., violated the Regulations of Governing the Acquisition and Disposal of Assets by Public Companies. The violation is because Liu invested in Taisun Enterprise Co., Ltd, which has shares worth NT$300 million. However, FSC has determined that the declaration was not made within two days of the trade being placed as required, nor was the subsidiary's announcement made. Hence, the provisions of Paragraph 1, Article 31 and Paragraph 1, Article 34 of the Regulations Governing Acquisition and Disposal were violated. As a result, according to Article 178 and Article 179 of the Securities and Exchange Act, the party who commits the violation was punished with a fine of NT$240,000. For more information, please click here.

Suggestions

Please send any comments or suggestions or other information you would like included in the next issue to communications@complianceasia.com. In addition, if there are others in your organisation who you believe will benefit from this newsletter, please do let us know.

Contact Us

Philippa Allen
CEO and Founder
E: Philippa.allen@complianceasia.com

Alex Duperouzel
Managing Director
E: Alex.duperouzel@complianceasia.com

Susana Leung
Chief Operating Officer and Regional Head of Training
E: Susana.leung@complianceasia.com

Cherry Chan
Compliance Director- MNC
E: cherry.chan@complianceasia.com

Thiyiyah Malaravan
Head of Singapore Ongoing Support
E: thiviyah.malaravan@complianceasia.com

Fraser Leishman
Compliance Manager- Corporate Finance & Wealth Management
E: fraser.leishman@complianceasia.com

Ben Axten-Burrett
Compliance Manager- Broker Dealer
E: ben.axten-burrett@complianceasia.com

Spencer Yeung
Compliance Manager- Private Equity & Hedge Funds
E: spencer.yeung@complianceasia.com

Jasmine Tse
Compliance Manager- Private Equity & Hedge Funds
E: jasmine.tse@complianceasia.com

Hardy Hussain
Head of AML Services, South-East Asia
E: hardy.hussain@complianceasia.com

Justin Fletcher
Head of AML Services, North Asia
E: Justin.fletcher@complianceasia.com

Doris Li
Head of Licensing, North Asia
E: doris.li@complianceasia.com

Lachlan Chubb
Regional Head of Regulatory Advisory and Projects
E: Lachlan.chubb@complianceasia.com

Zi Jia Tan
Head of Internal Audit
E: zijia.tan@complianceasia.com

Rachel Wu
Regional Head of Business Development and Compliance Manager
E: Rachel.wu@complianceasia.com

Melissa Lyn
Regional Head of Marketing
E: Melissa.lyn@complianceasia.com

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