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Hong Kong Financial Regulatory Newsletter.

Hong Kong Financial Regulatory Newsletter is the latest initiative of Deloitte Global Financial Services Industry (GFSI) practice. This Issue highlights some significant regulatory developments of the SFC, HKMA, HKEx, OCI, HKFI and MPFA since our last edition.

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SFC

SFC welcomed the expansion of RQFII pilot scheme

The Securities and Futures Commission (SFC) welcomed the announcement by the Mainland authorities in amending the rules relating to Renminbi Qualified Foreign Institutional Investors (RQFII). The amendments would, among other things, increase the types of qualified RQFII holders as well as relax investment restrictions of RQFII funds.

"We are pleased to see the expansion of the RQFII pilot scheme, which provides new opportunities for the industry and the investors in Hong Kong. The changes will allow more market players to participate in the RQFII scheme, promote the development of a broader range of Renminbi investment products, and strengthen Hong Kong's status as a premier offshore Renminbi centre," the SFC's Deputy Chief

Executive Officer, Mrs. Alexa Lam said. The SFC would continue to maintain close dialogue with the Mainland authorities to facilitate the development and implementation of the RQFII regime.

Read more:

http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=13PR4

SFC released consultation conclusions on regulation of electronic trading

The Securities and Futures Commission (SFC) published a consultation conclusions paper on proposals to enhance the regulatory framework for electronic trading on 22 Mar 2013. The SFC received 34 written submissions from industry associations, brokerage firms, investment banks and individuals in response to the proposals contained in the consultation paper. Respondents generally supported the proposals. Most of the initiatives were adopted in the conclusions.

Key aspects of the regulatory regime included: management and supervision (The responsibility to ensure compliance rests with the responsible officers or executive officers and the management of the intermediaries), adequacy of system (Intermediaries should ensure their electronic trading systems were subject to testing and meet regulatory standards with respect to reliability, controls, security and capacity and that contingency measures in place), record keeping (Intermediaries should keep, or cause to be kept, proper records on the design, development, deployment and operation of their electronic trading systems.) and risk management (Intermediaries should put in place risk management and supervisory controls to monitor orders and trades, including automated pre-trade controls and regular post-trade monitoring).

Read more:

http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=13PR22

SFC concluded consultation on proposals to enhance regulation of non-corporate listed entities

The Securities and Futures Commission (SFC) published conclusions on proposals to enhance the regulatory regime for non-corporate entities that are listed on The Stock Exchange of Hong Kong Ltd (SEHK). Respondents in general supported the proposals, with comments on technical issues. They agreed that the proposals would help enhance investor protection as well as market transparency for all listed entities.

The SFC would proceed with the proposals and make appropriate recommendations on the legislative amendments to the Government.

Read more:

http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=13PR24

Hong Kong committed to global regulatory standards on financial market infrastructures

The Hong Kong Monetary Authority (HKMA) and the Securities and Futures Commission (SFC) jointly announced their commitment to comply with the new international regulatory standards on financial market infrastructures (FMIs). The new standards were contained in a report "Principles for financial market infrastructures" (PFMIs), issued jointly by the Committee on Payment and Settlement Systems (CPSS) of the Bank for International Settlements and the International Organization of Securities Commissions (IOSCO) in April 2012. The report contained 24 principles for FMIs and five responsibilities of regulatory authorities to provide for the effective regulation, supervision and oversight of FMIs. The PFMIs replace, harmonise and strengthen various earlier standards on FMIs, and aim at making the FMIs more resilient to financial crisis and fostering their safety and efficiency. All CPSS-IOSCO member jurisdictions, including Hong Kong, were expected to apply the PFMIs to FMIs which are systemically important as soon as practicable.

Both the HKMA and the SFC would implement the PFMIs within their respective regulatory frameworks through their regulatory guidelines. The HKMA and the SFC would continue to monitor the compliance of their FMIs against the international standards.

Read more:

http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=13PR28

New statutory regime for inside information drove increase in disclosures

The new statutory regime on disclosure of inside information, which aimed to cultivate and encourage an enduring culture of disclosure by listed companies, spurred a significant increase in corporate announcements on inside information, according to the Securities and Futures Commission (SFC). The total number of corporate announcemented on inside information in the first three months of 2013 was up 43% compared to that of the corresponding period last year. The SFC were working closely with Hong Kong Exchanges and Clearing Limited in monitoring the compliance of listed companies with the new statutory regime, including reviewing companies' disclosures, raising pertinent issues with companies, and giving guidance where disclosure appeared to be inadequate or anomalies were detected.

"We believe the new statutory regime on disclosure of inside information has certainly raised awareness among listed companies of the importance of making disclosures to the investing public in a timely manner. We will nevertheless continue to maintain rigorous monitoring of listed companies' compliance with the regime, with a view to promoting enhanced disclosure, fostering a positive change in corporate culture and facilitating more timely regulatory actions on cases involving non-compliance," the SFC's Chief Executive Officer Mr Ashley Alder said.

Read more:

http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=13PR29

Circular to Corporate Finance Advisers - Corporate Finance Adviser Code of Conduct: Frequently Asked Questions on Corporate Finance Adviser Code of Conduct ("CFA Code") Paragraph 4.3 – Chinese Walls

The Commission posted on its website a set of Frequently Asked Questions ("FAQs") which aimed to clarify the meaning of Chinese Walls in the context of paragraph 4.3 of the CFA Code. Corporate Finance Advisers were encouraged to download the FAQs for reference.

Read more:

http://www.sfc.hk/edistributionWeb/gateway/EN/circular/doc?refNo=13EC11

HKMA

Advance activation of overseas ATM cash withdrawal capability

To further enhance the security of ATM services, the overseas ATM cash withdrawal capability for all ATM cards (including debit cards and credit cards) issued by authorized institutions (AIs) in Hong Kong was pre-set as "deactivated" with effect from 1 March 2013. This was to prevent fraudsters from withdrawing cash from a cardholder's account at ATMs outside Hong Kong using counterfeit magnetic-stripe cards with the card data obtained from card skimming. Cardholders were reminded to activate the overseas cash withdrawal capability (through ATMs, online banking, phone banking or bank branches as provided by the relevant card issuing banks) before travelling, if they think they may need to withdraw cash from ATMs outside Hong Kong (including those in Mainland, Taiwan and Macau). They could specify an expiry date for the activation period and set an overseas ATM cash withdrawal limit that is lower than the limit for local cash withdrawal. Cardholders were reminded not to set the valid period longer than needed to avoid reducing the effectiveness of such security measure. Cardholders should contact their own card issuing banks for details if in doubt. The Hong Kong Monetary Authority would continue to work with the banking industry to monitor the latest technological developments, and would review from time to time the need to introduce additional security measures where necessary.

Read more:

http://www.hkma.gov.hk/eng/key-information/press-releases/2013/20130301-3.shtml

Mystery Shopping Programme (MSP) in respect of sale of investment and insurance products

The Hong Kong Monetary Authority (HKMA) would institute a MSP to assist it in understanding the sale practices of Authorized Institutions (AIs) with respect to investment and insurance products. The MSP would be used to complement the HKMA's regulatory work. The objective of the MSP was to assess the extent of AIs' compliance with the relevant regulatory requirements, including those relating to the "Know-Your-Client" procedures, risks disclosure and suitability of recommendations. AIs which engage in selling investment and/ or insurance products would be subject to the MSP.

The HKMA engaged a service provider to undertake the MSP. The service provider would recruit and provide training to mystery shoppers who would then pose as potential buyers of investment and/ or insurance products. The mystery shoppers would be of various age groups and with different investment experience and financial position. To facilitate an objective review and assessment of the results of the MSP, the service provider would ask the mystery shoppers to audio-record their interviews with staff members of AIs. The service provider was required to implement appropriate controls and measures to properly handle the data collected. Subject to the completion of all the preparatory work, the MSP would commence shortly. Depending on the findings, certain cases might necessitate follow-up action with the AIs concerned. Any industry-wide issues identified through the MSP would be shared with the industry as appropriate. AIs were required to communicate to their relevant staff the contents of the circular.

Read more:

http://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2013/20130304e1.pdf

Implementation of Basel III: Revision of Capital Adequacy Ratio Return

Following recent consultation with the industry, HKMA finalized the revised Capital Adequacy Ratio ("CAR") regulatory return (MA(BS)3) and its completion instructions. The final version of the return and the completion instructions incorporated clarifications made in response to the comments raised by the industry during the consultation. To accommodate the additional time which some authorized institutions ("AIs") might require to compile information in the format of the revised CAR return, the HKMA introduced a special reporting arrangement for the position as of end-March 2013. Reflecting the coming into force of certain provisions of the Banking (Amendment) Ordinance 2012 ("BAO 2012"), the Certificate of Compliance (MA(BS)1F(a)) for locally incorporated AIs were updated to replace obsolete references to the Banking Ordinance with the updated references incorporated from the BAO 2012.

Read more:

http://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2013/20130410e1.pdf

Implementation of Basel III

The Banking (Disclosure) (Amendment) Rules 2013 and the Banking (Capital) (Amendment) Rules 2013 were published in the Gazette. The amendments to the Banking (Disclosure) Rules (Cap. 155, sub. leg. M) were mainly to (i) implement the Basel III disclosure standards associated with the first phase of the new Basel III capital framework which came into operation on 1 January 2013; (ii) specify disclosure requirements relating to the internal models approach to the calculation of capital requirements for counterparty credit risks; and (iii) incorporate some consequential amendments arising from the Banking (Amendment) Ordinance 2012 and the Banking (Capital) (Amendment) Rules 2012. The amendments to the Banking (Capital) Rules (Cap. 155 sub. leg. L) were to align the Rules with the latest technical guidance documents on counterparty credit risk and exposures to central counterparties ("CCPs") issued by the Basel Committee on Banking Supervision in November and December 2012. The opportunity was also taken to introduce technical refinements to clarify the operation of certain provisions of the Rules in relation to (i) the treatment of credit risk mitigation in the calculation of the capital charge for credit valuation adjustment risk and exposures to CCPs; and (ii) the calculation of the market risk capital charge for credit derivative contracts booked in AIs' trading books, as well as a few related miscellaneous amendments.

Read more:

http://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2013/20130412e1.pdf

Renminbi (RMB) Net Open Position (NOP) and liquidity ratio

With the offshore RMB foreign exchange and money markets becoming mature, as suggested by a broad range of market participants and stable transaction volume, the HKMA decided to make the following changes with immediate effect.

The requirement for authorized institutions (AIs) to observe RMB NOP limit would be removed. The HKMA expected AIs to treat offshore RMB in the same way as other currencies in respect of managing their foreign exchange risk, including compliance with the guidance set out in the Supervisory Policy Manual module TA-2 on Foreign Exchange Risk Management.

The conditions regarding the application of RMB liquefiable assets for the calculation of statutory liquidity ratio as set out in the circular of 9 February 2012 would be uplifted. Also, the requirement on RMB liquidity ratio as set out in the circular of 14 June 2012 would be removed.

Read more:

http://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2013/20130425e2.pdf

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