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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 annual report: Regulation for Quality Markets

The Securities and Futures Commission (SFC) published its 2012-13 annual report, themed Regulation for Quality Markets. "Quality in regulation signifies commitment to upholding integrity and transparency in the way markets operate, in the way firms conduct their businesses, in the way listed companies govern themselves and communicate with investors, and in the way investors trade in our markets," said Mr Carlson Tong, Chairman.

Going forward, the SFC's many initiatives include a new over-the-counter derivatives regime, introducing an Investor Protection Bill to the Legislative Council, a comprehensive review of the professional investor regime and facilitating development of Hong Kong both as an asset management centre and a premier offshore renminbi centre. The SFC continues to play an active role in global standard-setting, with Mr Alder chairing the Asia-Pacific Regional Committee of the International Organisation of Securities Commissions from May 2013. The newly launched Investor Education Centre now has a broad mandate covering the entire financial sector.

Read more:

http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=13PR61

HKMEx surrendered its ATS authorisation

Hong Kong Mercantile Exchange Limited (HKMEx) notified the Securities and Futures Commission (SFC) that it had decided to surrender its authorisation to provide automated trading services (ATS) after it considered that the trading revenues had not been sufficient to support its operating expenses. An authorised ATS provider must have financial resources sufficient for the proper performance of its functions and obligations. In the circumstances, the SFC issued a formal notice of withdrawal of HKMEx's ATS authorisation. The withdrawal took immediate effect and prohibited HKMEx from continuing to provide ATS.

According to HKMEx's market exit plan, positions remaining open as at the close of trading on 16 May 2013 would be financially settled at the settlement price determined by HKMEx and its designated clearinghouse. To ensure that this proceeds in an orderly manner, HKMEx was required to contact its members as soon as practicable. The SFC would maintain close contact with HKMEx to ensure that the final settlement process was conducted in an orderly manner.

Read more:

http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=13PR47

SFC proposed to enhance professional investor regime, client agreement requirements

The Securities and Futures Commission (SFC) began a three-month consultation on proposals concerning the professional investor regime and the client agreement requirements in the Code of Conduct. The key proposals were as follows: 1) requiring intermediaries to comply with all Code of Conduct requirements; 2) streamlining the criteria under the Code of Conduct in assessing the knowledge and experience of corporate professional investors by removing specific tests; 3) requiring (i) that the Suitability Requirement be incorporated in all client agreements as a contractual term, (ii) that client agreements should not contain provisions which are inconsistent with the Code of Conduct, and (iii) that client agreements should accurately set out in clear terms the actual services to be provided to the client.

"Our consultation aims to identify those investors who, we believe, require full protection under our Code of Conduct, and those who don't. The Suitability Requirement is a cornerstone of investor protection which is why we believe that no individuals, regardless of wealth, should be classified as Professional Investors under the Code, depriving them of this vital safeguard," said the SFC's Chief Executive Officer, Mr Ashley Alder.

Read more:

http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=13PR46

Circular to issuers of SFC-authorised Investment-Linked Assurance Schemes ("ILAS Schemes") - Enhanced disclosure requirements for ILAS Schemes

SFC issued a circular to introduce enhanced disclosure requirements applicable to the ILAS product key facts statement (the "Enhanced Disclosure Requirements") and to provide guidance on the implementation and compliance procedures.

The Enhanced Disclosure Requirements pertain to the following important disclosures to be made in an upfront manner in the KFS, details of which can be found in the Revised KFS Template: (a) a new statement of purpose of investing in the ILAS Scheme; (b) a new total fees and charges disclosure ("TFCD") setting out, amongst others, the total fees and charges in investing in the ILAS Scheme as a percentage of the total premium(s) to be paid by a policyholder under the ILAS Scheme; (c) more prominent disclosures on certain long-term features, including upfront charges, early surrender or withdrawal charges, and loyalty bonuses; and (d) a new disclosure about insurance intermediaries' remuneration.

Read more:

http://www.sfc.hk/edistributionWeb/gateway/EN/circular/doc?refNo=13EC17

HKMA

Implementation of Basel III

Further to the letter of 12 April 2013, HKMA wrote to inform AI that the 28-day period for the negative vetting by the Legislative Council of the Banking (Disclosure) (Amendment) Rules 2013 and the Banking (Capital) (Amendment) Rules 2013 expired without extension. As a result, the two pieces of subsidiary legislation, which were gazetted on 12 April 2013, would come into operation on 30 June 2013.

Read more:

http://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2013/20130524e1.pdf

HKMA updated the completion instructions for the regulatory return relating to the Capital Adequacy Ratio (MA(BS)3) (i) to align them with the technical changes introduced by the Banking (Capital) (Amendment) Rules 2013 ("BCAR 2013"), which took effect on 30 June 2013, and (ii) to address some issues which had been raised by authorised institutions. Institution was required to comply with the changes introduced by the BCAR 2013 in calculating its capital adequacy ratios starting from the position as of end-June 2013.

Read more:

http://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2013/20130624e1.pdf

Basel Committee on Banking Supervision ("BCBS") guidance on Monitoring Tools for Intraday Liquidity Management

HKMA issued a circular to introduce the Monitoring Tools for Intraday Liquidity Management published by the Basel Committee on Banking Supervision ("BCBS").

The "Monitoring Tools" are essentially a set of quantitative tools to enable banking supervisors to monitor banks' management of intraday liquidity risk and their ability to meet payment and settlement obligations on a timely basis under both normal and stressed conditions. The BCBS document covers the detailed design of the Monitoring Tools for banks' intraday liquidity risk, some stress scenarios that can be used to assess the impact of stressed conditions, key application issues, reporting regime etc.

The BCBS provided for the reporting of the Monitoring Tools to commence from 1 January 2015, with bank management being generally responsible for collating and submitting the monitoring data in respect of the tools to their banking supervisor.

Read more:

http://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2013/20130508e1.pdf

Consultation on the proposed regulatory regime for stored value facilities and retail payment systems began

The Financial Services and the Treasury Bureau (FSTB) and the Hong Kong Monetary Authority (HKMA) jointly issued a public consultation paper to propose enhancing the regulatory regime for stored value facilities (SVF) and retail payment systems (RPS) in Hong Kong. The Banking Ordinance (BO) currently contains a regulatory regime for multi-purpose stored value cards to regulate device-based stored value products. In light of the growing acceptance of innovative retail payment products and services, the Government considered it necessary to expand the current regulatory regime to cover stored value facilities which are non-device based (e.g. including mobile network-based accounts and computer network-based accounts) and important retail payment systems.

Having taken into account the practices adopted by major overseas jurisdictions and the market conditions in Hong Kong, the Government intended to amend the Clearing and Settlement Systems Ordinance (CSSO) to cater for the proposed new regulatory regime. Since the proposed licensing regime would adequately cover both device-based and non device-based SVF, the existing regulatory regime under the BO for multi-purpose stored value cards would be migrated to the CSSO to be amended.

Read more:

http://www.hkma.gov.hk/eng/key-information/press-releases/2013/20130522-3.shtml

Statements issued by Financial Action Task Force on Money Laundering

The Financial Action Task Force on Money Laundering (FATF) issued a public statement identifying a number of jurisdictions that had strategic deficiencies in their anti-money laundering and counter-terrorist financing (AML/CFT) regimes.

Iran was listed as a jurisdiction subject to a FATF call on its members and other jurisdictions to apply counter-measures to protect the international financial system from the on-going and substantial money laundering and terrorist financing risk emanating from the jurisdiction. DPRK was listed as a jurisdiction subject to a FATF call on its members and other jurisdictions to apply counter-measures to protect the international financial system from the on-going and substantial money laundering and terrorist financing risk emanating from the jurisdiction. The FATF called on its members to consider the risks arising from the deficiencies associated with these jurisdictions. Authorised Institutions (AIs) should therefore consider applying increased scrutiny to transactions associated with these jurisdictions, including enhanced due diligence and ongoing monitoring.

Read more:

http://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2013/20130627e1.pdf

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