
REGULATORY NEWSLETTER

2023 Vol.7



As we step into the month of July, let us take a moment to acknowledge that half of the year has already passed. However, instead of dwelling on the time that has gone by, let us embrace the remaining months with optimism and enthusiasm. ComplianceDirect hopes that July brings you an abundance of wonderful experiences, including magnificent miracles, blissful blessings, and splendid surprises. May this month be filled with joy, success, and fulfilment in all aspects of your life.

In our monthly newsletter, ComplianceDirect is committed to keeping you up-to-date on the latest compliance news and regulations that are relevant to your business. We hope that the information we provide in this month's newsletter is informative. We wish you continued success in the months ahead and look forward to supporting your business in any way we can.

REGULATORY UPDATES

SFC concludes consultation on the position limit regime

5 June 2023

The SFC published conclusions to its further [consultation](#) on proposed changes to the position limit regime for the derivatives market. These include imposing obligations on asset managers who manage funds or sub-funds of umbrella funds and amending the Securities and Futures (Contracts Limits and Reportable Positions) Rules in response to HKEX's proposed enhancements to its position limit regime.

After considering market feedback, the SFC will implement the proposed changes to give more clarity on regulatory requirements in relation to funds to facilitate compliance and provide more flexibility to the market by increasing position limits for certain products. Subject to the legislative process, the SFC plans for the law changes to come into effect in December 2023.

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SFC updates guidance to prepare for HKD-RMB Dual Counter Model

6 June 2023

The SFC published revised guidance on short selling reporting and stock lending record keeping to prepare for the launch of the HKD-RMB Dual Counter Model in the Hong Kong securities market on 19 June 2023.

The [Guidance Note on Short Selling Reporting and Stock Lending Record Keeping Requirements](#) has been updated to cover inter-counter transactions of securities under the Dual Counter Model. Corresponding revisions have also been made to the SFC's [Frequently Asked Questions for Short Position Reporting](#).

The Guidance Note clarifies that as HKD and RMB counters for the same security are of the same class, the following inter-counter transactions fall within the current framework:

- (1) when an investor buys a security at one counter first and sells at another, the sale is considered an ordinary sale, and
- (2) when a Dual Counter Model market maker sells a security at one counter and buys it at another, the inter-counter transaction falls under the current exemption, subject to certain conditions.

"The SFC supports dual counter trading, which will help promote the renminbi's internationalisation and use as an investment currency," said Ms Julia Leung, the SFC's Chief Executive Officer. "An effective and efficient mechanism provided for market makers will help promote liquidity and minimise price differences between the two counters."

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ENFORCEMENT NEWS

SFC bans Xie Yangxiong for life

6 June 2023

The SFC banned Mr Xie Yangxiong, a director of Wansom Asset Management (Hong Kong) Limited (WAML) and Wansom Securities (Hong Kong) Limited (WSL), from the industry for life.

The disciplinary action follows an SFC investigation which found that Xie, who was the only person with control of and access to the bank accounts of WAML and WSL at the material time, was directly responsible for the provision of false and misleading financial information by both firms to the SFC in support of their licence applications in July and August 2018 and their failures to maintain sufficient liquid capital and notify the SFC of their insufficient liquid capital following the grant of their licences.

Specifically, the SFC found that Xie deposited funds into the bank accounts of WAML and WSL he solely controlled to meet their liquid capital requirements. He also provided this information to an external

consultant he had engaged to handle their licence applications, knowing the information would be provided to the SFC in support of their licence applications. Shortly afterwards, Xie withdrew the same funds from the bank accounts.

In the circumstances, had the withdrawn funds been excluded from the liquid capital calculation, both WAML and WSL would have been denied licences to carry on regulated activities due to their inability to fulfil the liquid capital requirements applicable to them at the time of their licence applications.

After obtaining the licences, Xie's withdrawal of funds from the bank accounts of WAML and WSL for his own use resulted in their liquid capital deficits varying from \$1.58 million to \$3 million from July to October 2018. Xie also failed to ensure that WAML and WSL notified the SFC of their liquid capital deficits within one business day of their liquid capital falling below the required level.

The SFC is of the view that the misconduct of WAML and WSL was the direct result of Xie's consent or connivance and should be regarded as misconduct on his part. As such, his conduct casts serious doubt on his fitness and propriety to be a regulated person.

In deciding the sanction, the SFC took into account all relevant circumstances, including:

- Xie's honesty and integrity had been impugned;
- a strong deterrent message to the industry on zero tolerance of attempt to mislead the SFC;
- WAML and WSL had not conducted any regulated activities before their licences were suspended and no clients were prejudiced by their regulatory failures; and
- Xie's otherwise clean disciplinary record.

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SFC reprimands and fines Taiping Securities (HK) Co Limited \$1.3 million for internal control failures over employee dealings

19 June 2023

The SFC reprimanded and fined Taiping Securities (HK) Co Limited (TSCL) \$1.3 million for internal control failings in relation to employee dealings between 1 January 2016 and 30 November 2018.

The SFC's investigation found that TSCL failed to put in place adequate and effective internal controls over monitoring of employee dealings. In this connection, the senior management, the compliance department and the responsible officer (RO) responsible for monitoring employee dealings did not have a clear and consistent understanding of their roles and duties, nor did TSCL maintain any record of their reviews on employees' transactions. There was no independent review and approval of the personal transactions of the RO, including 293 transactions that exceeded the trading limit prescribed for his personal account.

The SFC also found that TSCL failed to communicate its personal dealing policy applicable during the relevant period to all employees and ensure that they understood and followed its policy.

In deciding the disciplinary sanctions against TSCL, the SFC took into account all relevant circumstances, including TSCL's remedial measures to enhance its internal systems and controls on employee dealings and its otherwise clean disciplinary record.

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Four people charged following SFC and Police joint operation against securities fraud and illegal short selling

23 June 2023

Four suspects appeared at the Eastern Magistracy today charged with offences of fraud with alternative charge of illegal short selling following an earlier joint operation of the SFC and the Police against fraudulent activities in securities transactions and illegal short selling.

The SFC discovered the suspicious trading activities during an intensive investigation of suspected ramp-and-dump activities. While investigating market misconduct offences under the SFO, the SFC also referred the case which involves suspected money laundering and other fraudulent activities to the Police.

No plea was taken and the case was adjourned to 18 August 2023. The case will be transferred to District Court for trial.

The suspects were released on cash bail ranging from \$40,000 to \$150,000 on the following conditions: (i) not to leave Hong Kong; (ii) surrender all travel documents; (iii) report to police station on regular basis; (iv) not to contact prosecution witnesses either directly or indirectly; (v) to reside at address given; and (vi) to inform police 24 hours prior to change of residence.

No further comment will be made as legal proceedings have commenced.

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SFC obtains disqualification orders against former directors of National Agricultural Holdings Limited

23 June 2023

The SFC obtained disqualification orders in the Court of First Instance against a former executive director Mr Liu Yong, and two former independent non-executive directors, Ms Kathy Chiu Kam Hing and Mr William Fan Chung Yue of National Agricultural Holdings Limited (NAH).

Liu was disqualified for three years while Chiu and Fan for 20 months, from (i) being, or continuing to be, a director, liquidator, or receiver or manager of the property or business of any corporation in Hong Kong including NAH or any of its subsidiaries and affiliates and (ii) in any way, directly or indirectly, being concerned, or taking part, in the management of any corporation in Hong Kong. They

were also ordered to pay the SFC's costs in the proceedings.

The Court proceedings followed the SFC's investigations into allegations of a series of misconduct orchestrated by NAH's controlling shareholder Parko (Hong Kong) Limited (Parko), the former chairman Mr Chen Li-Jun and three other senior officers of NAH (Chen and others) from 2015 to 2017. As for Chung, he had failed to make sufficient enquiries about the relationships among Lau and his nominees and to take steps to prevent Luxey from acquiring Easy Time at a substantially higher price.

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