
REGULATORY NEWSLETTER

2023 Vol.10



Welcome to the tenth edition of our Regulatory Newsletter, in which we look back over the last month at key developments affecting the financial industry and risks professionals face, summarizing regulatory updates that have happened in Hong Kong.

REGULATORY UPDATES

Circular to intermediaries Cybersecurity review of selected licensed corporations

15 September 2023

This circular announces that the SFC will commence a cybersecurity review of selected licensed corporations with a focus on assessing their cybersecurity management and compliance as well as the resilience of their information systems against cybersecurity threats.

To better assess the industry's preparedness for and resilience to cyber risks, the SFC will commence a cybersecurity review in September 2023. As part of this review:

- a) the SFC will conduct a survey of selected LCs of different sizes and business types, including securities and futures brokers, leveraged foreign exchange traders, global financial institutions and firms which provide online product distribution platforms. The survey will generally cover:
- (i) cybersecurity management and incident reporting;
 - (ii) cybersecurity controls to ensure the confidentiality, integrity and availability of systems and data;
 - (iii) cloud security controls and governance;
 - (iv) remote access controls;
 - (v) lifecycle management for information technology assets; and
 - (vi) the management of cybersecurity risks from systems outsourced to third-party technology vendors;

b) the SFC will meet with selected LCs to better understand their cybersecurity governance and controls; and

c) the SFC will perform on-site inspections of some of the selected LCs for a deep dive review of their information technology and related management controls and an assessment of their compliance with the Cybersecurity Guidelines and other expected standards.

The findings of the cybersecurity review would form the basis for the SFC to issue further guidance to the industry. Where appropriate, the SFC will also share the observations and findings of the cybersecurity review with the industry.

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ENFORCEMENT NEWS

SFC revokes Axial Capital Management Limited's licence and suspends its RO for five years for FRR issues

11 September 2023

The SFC revoked the licence of Axial Capital Management Limited (Axial) for repeated failures to comply with the Securities and Futures (Financial Resources) Rules (FRR), the Securities and Futures Ordinance (SFO) and the Code of Conduct.

The SFC has also suspended the licence of Axial's responsible officer (RO), Mr Eugene Chung, for five years from 7 September 2023 to 6 September 2028.

The investigation of the SFC found that Axial failed to maintain its required liquid capital of \$100,000 for a consecutive period of 19 months, from 28 March 2019 to 16 October 2020. Despite becoming aware that its liquid capital had fallen below the required level shortly after the situation arose, Axial only notified the SFC 18 months later.

In addition, the SFC found that Axial failed to submit within the prescribed periods its semi-annual FRR returns for June 2019, December 2019, June 2020, June 2021, June 2022 and December 2022, as well as the audited financial

SFC reprimands and fines Chee Tak Securities Limited \$2 million and sanctions its responsible officer for regulatory breaches

18 September 2023

The SFC reprimanded and fined Chee Tak Securities Limited (CTSL) \$2 million for internal control deficiencies and a host of regulatory breaches.

The SFC has also suspended the licence of its responsible officer Kevin Chiu Koon Yu for 10 months from 15 September 2023 to 14 July 2024.

The disciplinary actions followed the SFC's investigation which found that, between 1 July 2018 and 5 March 2020, CTSL failed to:

- have in place an order recording policy and observe the order recording requirements;
- implement effective internal controls to monitor cross trades between staff members and clients and to ensure fair treatment of clients;
- establish and maintain an adequate and effective monitoring system to detect and assess suspicious transactions in client accounts;

statements and other documents that a licensed corporation is required to submit under the SFO for the years ended 31 December 2019 and 31 December 2021 (Annual Documents), despite repeated reminders from the SFC to do so.

The SFC is of the view that Axial's conduct was not only in breach of the SFO, the FRR and the Code of Conduct, but also amounted to flouting the FRR regime. Under the circumstances, the conduct of Axial fell far short of the standards expected of licensed intermediaries.

The SFC considers that Axial's failures were attributable to the failure of Chung in discharging his duty as the firm's senior management and RO, including his failure to ensure the maintenance of appropriate standards of conduct and adherence to proper procedures by Axial, in breach of General Principle 9 of the Code of Conduct, which provides that the senior management of a licensed corporation should bear primary responsibility for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures by the firm.

- set up systems and controls to identify and assess third-party deposits into client accounts;
- require or obtain written third-party authorisation for the operation of client accounts; and
- institute internal controls to monitor employee dealings.

The failures of CTSL constituted breaches of the Code of Conduct, the Internal Control Guidelines and the Circular to licensed corporations and associated entities – Third-party deposits and payments issued by the SFC on 31 May 2019.

In deciding the disciplinary sanction, the SFC has taken into account all relevant circumstances, including CTSL's financial situation, CTSL's cessation of business, CTSL and Chiu's cooperation in resolving the SFC's concerns, and their otherwise clean disciplinary record with the SFC.

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SFC bans Lo Wai Ming for seven months

18 September 2023

The SFC prohibited Mr Lo Wai Ming, a former responsible officer (RO) of Taiping Securities (HK) Co Limited (TSCL), from re-entering the industry for seven months from 16 September 2023 to 15 April 2024.

The disciplinary action follows an SFC investigation which found that between 2 January 2018 and 28 September 2018, Lo had, unbeknownst to TSCL, logged into two clients' internet trading accounts and placed orders for them. As a result, trades in the clients' accounts were effectively disguised as if they have been

SFAT affirms SFC decision to ban Calvin Choi Chi Kin for two years

29 September 2023

The Securities and Futures Appeals Tribunal (SFAT) handed down a determination today and upheld the SFC's disciplinary action against Mr Calvin Choi Chi Kin, a former managing director of UBS AG, from re-entering the industry for two years from 29 September 2023 to 28 September 2025 for breaches of the SFC's Code of Conduct and the CFA Code of Conduct.

Mr Christopher Wilson, the SFC's Executive Director of Enforcement, said: "I am pleased that the SFAT has re-affirmed the SFC's decision to sanction Mr Choi. The SFAT's determination sends

placed by the clients themselves.

Lo had also failed to maintain proper records of the order instructions from the two clients.

By doing so, his conduct circumvented TSCL's internal policies and prevented it from properly monitoring the operation of the two clients' accounts.

In deciding on the sanction, the SFC has taken into account all relevant circumstances, including the duration of Lo's misconduct and his otherwise clean disciplinary record.

a clear message to the market that it is a fundamental duty of licensed persons to avoid conflicts of interest and ensure that clients are treated fairly in carrying out their business activities."

The disciplinary action followed the SFC's investigation which found that between November 2014 and December 2015, when Choi was the project sponsor or a deal team member on two transactions for which UBS AG was mandated, he was involved in the business of the counterparties of the transactions by providing them with assistance that exceeded the scope of his role as a typical coverage banker. In doing so, Choi potentially placed himself in a position of conflict of interest with UBS AG and/or its clients.

The SFC also found that Choi failed to disclose the actual or potential conflicts of interest to UBS AG.

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