

Securities Related Business

Overall supervisory framework

The enactment of the Securities and Futures Ordinance and the Banking (Amendment) Ordinance 2002 has created a new supervisory regime for the securities industry. Under this new regime, which has commenced operation on 1 April 2003, the ultimate responsibility for the regulation of intermediaries in the securities market rests with the Securities and Futures Commission (SFC). The new supervisory framework nevertheless recognises the principle that as a bank regulator, the HKMA exercises consolidated supervision over all types of business carried on by authorized institutions (AIs). The HKMA will therefore remain responsible for the day-to-day supervision of AIs' securities related business – i.e. dealing in / advising on securities, dealing in / advising on futures contracts, advising on corporate finance, providing automated trading services, and asset management. These activities are known as regulated activities under the Securities and Futures Ordinance.

AIs require registration with the SFC as registered institutions in order to carry on regulated activities. Individuals engaged by AIs in the conduct of regulated activities (“relevant individuals”) will be required to have their names and specified particulars entered in an on-line public register established by the HKMA under the revised section 20 of the Banking Ordinance.

Under new sections 71C and 71D of the Banking Ordinance, every registered institution will have to appoint at least two executive officers to be responsible for directly supervising the conduct of each regulated activity. Such appointment will need the consent of the Monetary Authority. It is a minimum authorization criterion under paragraph 4 of the Seventh Schedule to the Banking Ordinance for the Monetary Authority to be satisfied that an AI has adequate systems of control to ensure that each person who is, or is to be, an executive officer is fit and proper to hold that particular position.

Supervisory standards

In so far as applicable, AIs will be subject to the legal and regulatory requirements under the Securities and Futures Ordinance in the same way as licensed corporations (i.e. intermediaries that are licensed and directly supervised by the SFC) in respect of their regulated activities. The consistency of supervisory standards imposed on licensed corporations and registered institutions will be maintained in the supervisory process through a number of ways, including the following –

- the HKMA will apply the SFC’s statutory and regulatory standards upon advising the SFC whether an AI applicant is fit and proper to become a registered institution and upon considering whether to grant consent to an executive officer of an AI;
- the HKMA and the SFC will consult each other before publishing any statutory or regulatory requirements that will apply to AIs in relation to the latter’s regulated activities; and
- registered institutions and their relevant individuals will be subject to the same range of disciplinary sanctions as those applicable to persons licensed by the SFC.

The HKMA will take into account an AI’s compliance with the applicable legal and regulatory requirements in considering whether that AI satisfies the continuing authorization criterion in respect of adequate systems of internal control under paragraph 10 of the Seventh Schedule to the Banking Ordinance.

Please refer to the Supervisory Policy Manual module “[Supervision of Regulated Activities of SFC-Registered Authorized Institutions](#)” for details of the HKMA’s approach to supervising AIs’ regulated activities.

Continuous supervision

The HKMA has set up dedicated examination teams to conduct special on-site examinations of the regulated activities of registered institutions. The objectives of the examinations are to understand the way in which regulated activities of the relevant registered institution are being conducted and to determine whether it has established appropriate and effective policies, procedures and controls to ensure compliance with the relevant legal and regulatory requirements. The HKMA will also monitor the quality and competence of relevant individuals in its on-site examinations, taking into account the SFC’s fit and proper requirements.

To facilitate the supervision of AIs’ regulated activities, the HKMA requires all registered institutions to submit periodically the information specified in the “[Return of Securities Related Activities](#)”.

Supervisory co-operation with the SFC

The supervisory co-operation between the HKMA and the SFC under the new regime is underpinned by a [Memorandum of Understanding](#) (MOU). This MOU, which sets out the operational details relating to the respective roles and responsibilities of the two regulators, aims to achieve the regulatory objective

that all securities intermediaries in Hong Kong are essentially subject to uniform regulatory measures, irrespective of whether they are supervised by the HKMA or the SFC.