

31 March 2020

Circular to intermediaries

Extended deadlines for implementation of regulatory expectations and reminder of order recording requirements under COVID-19 pandemic

The Securities and Futures Commission (“SFC”) is closely monitoring the development of the global COVID-19 pandemic. The SFC is aware of concerns from the industry that staff performing different functions locally and overseas may encounter difficulties in working from their usual place of business due to recent government policies such as travel bans, regional lockdowns and mandatory quarantine periods. Further, some intermediaries have decided to reconfigure their staffing arrangements to limit COVID-19 infection risks.

As communicated previously¹, intermediaries are generally expected to make all reasonable efforts to comply with regulatory obligations. At a time of unprecedented market activity and volatility, intermediaries are expected to remain focused on internal controls and risk management to ensure financial and operational resilience.

The SFC appreciates that intermediaries face operational and “business as usual” challenges, which differ between intermediaries depending, among other factors, on their individual sizes and the types of regulated activity they carry out. The SFC would continue ongoing dialogue with the industry and provide regulatory flexibility to help intermediaries cope with COVID-19 challenges while ensuring that market integrity and investor protection principles are maintained.

This circular informs the industry that the SFC has decided to extend the deadlines of three regulatory expectations that are due for implementation in 2020 by six months in light of the pandemic and the disruptions it causes. It also reminds intermediaries of the alternative order recording options under the existing regulatory framework that may be adopted during the pandemic.

Separately, the SFC has issued [FAQs](#) today to address a number of licensing related matters arising from firms reconfiguring staffing arrangements.

¹ [“Arrangements relating to SFC’s public services”, SFC Press Release, 5 February 2020.](#)

1. Extended deadlines for implementation of regulatory expectations

The SFC has decided to extend the deadlines for implementation of the following regulatory expectations by six months:

Upcoming regulatory expectations for implementation	Original implementation deadline	Extended implementation deadline
Use of external electronic data storage (“EDSP”) – Where a data centre of an EDSP used by a licensed corporation has been approved under section 130 of the SFO before 31 October 2019, the licensed corporation’s provision of the documents to the SFC’s Licensing Department set out in paragraph 25 of the Circular ²	30 June 2020	31 December 2020 ³
New measure to protect client assets – Where intermediaries are required to have the countersigned acknowledgement letters from relevant banks in place before depositing any client money or securities into any new client asset accounts ⁴	31 July 2020	31 January 2021
Data standards for order life cycles – Where in-scope brokers are expected to implement system changes and make other arrangements needed for compliance with the data standards ⁵	31 October 2020	30 April 2021

2. Compliance with order recording requirements

In light of the global COVID-19 pandemic, intermediaries’ staff may not work from their usual place of business. The SFC understands that many intermediaries have provided their staff with remote access to order management systems, which are capable of centralised order recording for orders placed from a remote location.

However, some intermediaries may encounter challenges in ensuring compliance with the order recording requirements set out in paragraph 3.9 of the Code of Conduct⁶, which provides that a licensed or registered person should:

² [Circular to licensed corporations – Use of external electronic data storage, 31 October 2019 \[SFO/IS/048/2019\]](#).

³ Licensed corporations that are already keeping records exclusively with electronic data storage providers, whether in Hong Kong or overseas, are reminded to notify the SFC without delay.

⁴ [Circular to intermediaries – New measure to protect client assets, 8 July 2019 \[SFO/IS/038/2019\]](#).

⁵ [Circular to licensed corporations – Data standards for order life cycles, 31 July 2019 \[SFO/IS/040/2019\]](#).

⁶ Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (“Code of Conduct”).

- (a) Record and immediately time stamp records of the particulars of the instructions for agency orders and internally generated orders.
- (b) Use a telephone recording system, where order instructions are received from clients through the telephone, to record the instructions and maintain telephone recordings as part of its records for at least six months.

The SFC wishes to remind intermediaries that alternative order receiving and recording options are available to comply with the regulatory requirements, which can be adopted by intermediaries as appropriate to meet the needs of their current circumstances:

- (a) The notes to paragraph 3.9 of the Code of Conduct explain how orders should be recorded when, exceptionally, they are not recorded by the intermediaries' telephone recording or order management systems. Specifically,
 - (i) Where orders are accepted by mobile phones outside the trading floor, trading room, usual place of business where orders are received or usual place where business is conducted, intermediaries' staff members should immediately call back to the intermediaries' telephone system and record the time of receipt and the order details.
 - (ii) The use of other formats (e.g. in writing by hand) to record details of clients' order instructions and time of receipt can be used if the intermediaries' telephone recording system cannot be accessed.
- (b) Intermediaries may receive client orders through instant messaging where the requirements set out in the SFC's circular dated 4 May 2018⁷ in relation to record keeping, security and reliability, compliance monitoring and establishing internal policies and procedures are observed.

When considering order placing and recording alternatives, intermediaries should have in place appropriate control measures for ensuring that the alternatives are properly implemented in compliance with the order recording requirements.

As explained previously⁸, complete and accurate records are an integral part of the audit trail. They ensure that reliable evidence is available to assess disputes with clients about the particulars of a trade order. This protects the interests of both the intermediary and the client. Proper records also serve as a useful supervisory tool to detect irregularities and potential malpractices for intermediaries and the SFC.

Should you have any questions regarding this circular, please contact your case officer.

Intermediaries Division
Securities and Futures Commission

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SFO/IS/012/2020

⁷ [Circular to intermediaries – Receiving client orders through instant messaging, 4 May 2018 \[SFO/IS/025/2018\]](#).

⁸ The explanation can be found most recently in Circular to intermediaries – Receiving client orders through instant messaging, 4 May 2018.