

Outline of the respective roles of the HKMA and the SFC regarding securities related business of banks

Under the Securities and Futures Ordinance (SFO), the ultimate responsibility for regulation of intermediaries in the securities market rests with the Securities and Futures Commission (SFC).

The SFC also makes rules, codes and guidelines governing intermediaries in carrying on their regulated activities as defined under the SFO¹.

Registration

Banks carrying on regulated activities in Hong Kong require registration with the SFC as “registered institutions”². The SFC is responsible for granting or refusing applications by banks to be registered to carry on a regulated activity. All such applications will be referred to the Hong Kong Monetary Authority (HKMA) for consideration first.

Every registered institution has to appoint at least two executive officers to be responsible for supervising the conduct of each regulated activity. Such appointment needs the consent of the HKMA.

The SFC maintains an on-line register which includes, among other things, specified particulars of registered institutions and their executive officers.

Individuals engaged by banks in the conduct of regulated activities, who are called “relevant individuals”, are required to have their names and specified particulars entered in an on-line register established by the HKMA.

Ongoing supervision

In general, banks as well as their executive officers and relevant individuals are subject to the legal and regulatory requirements under the SFO in the same way as SFC-licensed persons in respect of their regulated activities.

The HKMA is the frontline supervisor of banks and their executive officers and relevant individuals. It is responsible for day-to-day supervision of the performance by them of regulated activities, including on-site inspections, review of information submitted by banks and handling of complaints.

If the SFC receives complaints concerning the manner in which banks, their executive officers or relevant individuals carry on regulated activities, it will refer them to the HKMA for assessment first. The HKMA will look into these complaints and consult

¹ Regulated activities are defined under Schedule 5 of the SFO, including dealing in / advising on securities, dealing in / advising on futures contracts, leveraged foreign exchange trading, advising on corporate finance, providing automated trading services, securities margin financing and asset management.

² However, banks do not require registration with the SFC for leveraged foreign exchange trading and securities margin financing as these regulated activities are parts of conventional banking business.

the SFC as appropriate. Action if necessary will be taken in line with the HKMA's established procedures.

Investigations and disciplinary actions

If the HKMA opens a case for investigation into the manner in which banks, executive officers or relevant individuals carry on regulated activities, it will notify the SFC, keep the SFC informed of the progress of the investigation and forward a copy of its concluded investigation report to the SFC.

Registered institutions, their executive officers and relevant individuals are subject to the same range of disciplinary sanctions as those applicable to SFC-licensed persons. Each of the HKMA and the SFC will consult the other before exercising its disciplinary power over a registered institution, an executive officer or a relevant individual.

The co-operation between the HKMA and the SFC in supervising regulated activities of banks is underpinned by a Memorandum of Understanding, which sets out the operational details relating to the respective roles and responsibilities of the two regulators, and aims to achieve the regulatory objective that all securities intermediaries in Hong Kong are essentially subject to uniform regulatory measures.