

Welcome to our Regulatory Newsletter

February 2024

Executive Summary

This month in Hong Kong, the SFC released a circular containing a guide detailing the disciplinary proceedings under Part 5B of the AML and CTF Ordinance. This guide is intended to outline the disciplinary process under the new licensing regime for virtual asset trading platforms (VATP). Furthermore, in Malaysia the new “Guidelines on Categories of Sophisticated Investors” became effective. The new guidelines introduce several key features including a new category that takes into account the knowledge and experience of sophisticated investors.

Click onto a region to read the corresponding regulatory updates and enforcement actions:



Australia



Hong Kong



Malaysia



South Korea



India



Japan



Australia

On 1 February 2024, Australian Securities and Investments Commission (ASIC) announced its 2024 enforcement priorities in the superannuation sector. The enforcement priorities run along three key themes (i) member services failures, (ii) misleading conduct including greenwashing, and (iii) failures to protect superannuation balances. These themes could be regarded as a call to action, serving as a fair warning to the sector as to where it needs to lift performance. For more information, please [click here](#).

On 6 February 2024, ASIC issued a final reminder to unregistered financial advisers (known as relevant providers) urging them to prioritize the registration of their relevant providers via ASIC Connect before 16 February 2024. Starting from 16 February 2024, if a relevant provider provides personal advice while not registered, they will be in breach of a restricted civil penalty provision and the relevant provider's authorising AFS licensee(s) will have committed an offence of strict liability and contravened a civil penalty provision. For more information, please [click here](#).

On 15 February 2024, ASIC published its consultation paper outlining proposed changes to the ASIC Derivative Transaction Rules (Reporting) 2024 and ASIC Derivative Transaction Rules (Clearing) 2015. The proposed changes are set to take effect on 21 October 2024, except for the changes to the scope of foreign entity reporting and removal of alternative reporting provisions, which would commence on 1 April 2025. For more information, please [click here](#).

Enforcement

On 6 February 2024, Joseph Cullia and Zoran Markovic, who were allegedly involved in a sophisticated self-managed super fund (SMSF) scam targeting Australian investors, were charged with various criminal offences by the Melbourne Magistrates Court. The charges following an ASIC investigation into suspected investment websites that operated between November 2020 and July 2021 under various names. The website operators used the Australian financial service licence of two legitimate companies without their knowledge or consent. For more information, please [click here](#).

On 6 February 2024, the Federal Court ordered Brite Advisors Pty Ltd be wound up on just and equitable grounds following an application by ASIC. In October 2023, ASIC commenced a court action against the Company because ASIC was concerned that the financial position of the Company and the value of client funds under its management were unknown. Based on the report submitted to the Federal Court by the appointed investigative accountants, there was a USD 69 million variance between the amount the Company told its clients and their beneficiaries that it held on their behalf, and the amount identified by the investigative accountants as being held by the Company in its financial institutions' accounts. For more information, please [click here](#).

On 7 February 2024, ASIC issued interim stop orders on four product disclosure statements (PDSs) for classes of units of the Shield Master Fund (ARSN 650112057), a registered managed fund promoted by Keystone Asset Management Ltd. The interim orders stop Keystone from offering, issuing, selling or transferring interests in the Balanced class, Growth class, High Growth class and Conservative class units of the Fund. ASIC made the interim orders to protect retail investors from acquiring products under PDSs that may be defective and not worded and presented in a clear, concise, and effective manner. For more information, please [click here](#).

On 9 February 2024, ASIC announced that the Federal Court found Block Earner engaged in unlicensed financial services conduct while offering its crypto-backed product, which allowed consumers to earn fixed yield returns from different crypto-assets. ASIC highlighted that this serves as a reminder for firms offering products with crypto-assets to carefully consider whether their offerings qualify as financial products under the existing regime. For more information, please [click here](#).



On 13 February 2024, ASIC made two orders permanently banning financial adviser Mark Raymond Sebo following his convictions of fraud. Mr Sebo was found guilty of stealing funds from his client's superannuation funds. Under the Corporations Act and National Consumer Credit Protection Act, ASIC may permanently ban a person from the financial services and credit industries if they are convicted of fraud. For more information, please [click here.](#)

On 13 February 2024, the former director of Reiwa-Capital, Russell Sandiford, has pleaded guilty to two counts of dishonest conduct in relation to a financial product contrary to section 1041G of the Corporations Act, following an ASIC investigation. Between January 2020 and June 2022, Mr Sandiford obtained \$440,909.71 from 74 clients on the basis of investing for trading activity that was to be undertaken by him. The money was not used for trading as represented and agreed but was primarily used for personal expenses or purposes unrelated to trading. At the time of the offering, he was not licensed to provide financial product advice. For more information, please [click here.](#)

On 15 February 2024, ASIC initiated legal proceedings in the Federal Court against David Paul Hodgson, MacroLend Pty Ltd and Great Southland Limited alleging unlicensed financial services and misrepresentations to investors. ASIC alleged that MacroLend, a registered Australian company that forms part of the Paladin Group, operated without the required license while raising funds from investors. Furthermore, ASIC alleged that MacroLend enticed investors using false information regarding its assets. For more information, please [click here.](#)

On 28 February 2024, ASIC announced that Melbourne Securities Corporation Limited has paid AU\$13,320 to comply with an infringement notice issued by ASIC in which ASIC alleged that the Company made misleading statements regarding its Bloom Climate Impact Fund. From March 2022 to June 2023, the Company acting as trustee and responsible entity of the Fund, made statements in the Fund's Product Disclosure Statement (PDS) that said the Fund would seek to avoid the investment of the Fund's assets in a range of excluded activities, including in fossil fuels. However, it was discovered that the Fund used revenue thresholds which allowed it to invest in companies that derived up to 33% revenue from excluded activities, such as fossil fuels. ASIC contends these revenue thresholds were not disclosed to investors and were contrary to the statements in the PDS. For more information, please [click here.](#)





Hong Kong

On 22 February 2024, the Securities and Futures Commission (SFC) issued a circular requesting that licensed corporations complete the annual Asset and Wealth Management Activities Survey. The deadline to submit the survey is 19 April 2024. For more information, please [click here](#).

On 28 February 2024, the SFC released a circular containing a guide detailing the disciplinary proceedings under Part 5B of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance. This guide is intended to outline the disciplinary process under the new licensing regime for virtual asset trading platforms (VATP). Under the new VATP licensing regime, regulated persons will be subject to similar disciplinary processes as those licensed by or registered with the SFC if they are found to be guilty of misconduct or are found to be not fit and proper. For more information, please [click here](#).

Enforcement

On 5 February 2024, the SFC reprimanded and fined PICC Asset Management (Hong Kong) Company Limited \$2.8 million. The SFC's investigation concluded that the Company had failed to properly manage funds under its investment management agreement, including failing to ensure investments were in line with the Company's stated investment strategy. The SFC found that contrary to the fund's investment strategy and objectives, there were only between one to three stocks in the fund's portfolio at any given point since the fund's inception 21 months ago. Further, the SFC found that one stock in the portfolio was a Hong Kong-listed company which was not on the permitted securities list approved by the Company's senior management. For more information, please [click here](#).

On 26 February 2024, the SFC commenced proceedings against the former chairman of Ding Yi Feng Holdings Group International Limited for allegedly manipulating shares of the Company. The SFC previously issued restriction notices on 17 brokers in order to freeze the assets of the defendants thereby preventing them from dealing with the assets related to the suspected market manipulation. The SFC is seeking compensation for affected counterparties to their pre-transaction positions. For more information, please [click here](#).

On 27 February 2024, the SFC obtained its first criminal conviction for securities fraud via illegal short selling. The Eastern Magistrates' Court found that Ms Christine Yeung Tak Sum, an unemployed retail trader, had engaged in illegal naked short selling by submitting a settlement instruction form to her broker Aristo Securities Limited showing that she had 15 million shares in Aurum Pacific (China) Group Limited with another brokerage firm when she in fact did not. The court found she misled the broker to obtain an illegal profit of around \$602,600. For more information, please [click here](#).





India

On 2 February 2024, The Reserve Bank of India (RBI) published a press release paper cautioning against fraud in the name of updating Know Your Client (KYC). The RBI advised that members of the public should lodge a complaint on the National Cyber Crime Reporting Portal if they receive unsolicited suspicious communication asking for these details. For more information, please [click here](#).

Enforcement

On 6 February 2024, the RBI cancelled the license of Jai Prakash Narayan Nagari Sahakari Bank Ltd., Basmathnagar, Maharashtra, ordering the bank to wind up operations and appoint a liquidator. The reason for the cancellation of the bank's license was due to insufficient capital and earning prospects, including the bank being unable to pay its present depositors in full. Each depositor is entitled to claim their deposits up to ₹500,000/- from the Deposit Insurance and Credit Guarantee Corporation. For more information, please [click here](#).

On 8 February 2024, the RBI imposed a monetary penalty equal to ₹43.30 lakh on Zoroastrian Co-operative Bank Ltd., Mumbai. The reason for the monetary penalty is due to findings of deficiencies in regulatory compliance. The RBI found that the bank had recovered penal charges from savings bank accounts of certain accounts without notifying the depositors and had not paid interest on balancing lying in the accounts of deceased individual depositors. The RBI also found that the bank had delayed in reporting a fraud case. For more information, please [click here](#).



On 8 February 2024, the RBI imposed a monetary penalty equal to ₹63.00 lakh on Bombay Mercantile Co-operative Bank Ltd. The reason for the monetary penalty is due to findings of deficiencies in regulatory compliance. The RBI found that the bank had distributed loans to nominal members exceeding the regulatory ceiling, and recovered charges for activation of inoperative accounts, claiming it to be reimbursement of expenses for such activation. For more information, please [click here](#).

On 16 February 2024, the RBI took administrative action against Paytm Payments Bank Ltd, a subsidiary of the fintech service provider Paytm due to an audit revealing "persistent non-compliances and continued material supervisory concerns in the bank". From 15 March 2024 the bank will no longer be permitted to provide banking services including deposits, credit transfers or top ups to customers. However, the bank will continue allowing withdrawal or utilisation of balances on customer accounts without restriction and has been ordered to facilitate a seamless withdrawal of customer deposits. For more information, please [click here](#).

On 22 February 2024, the RBI imposed a monetary penalty equal to ₹50.00 lakh on Janseva Co-operative Bank Limited, Nashik, Maharashtra due to deficiencies in regulatory compliance. The RBI found that the bank had (i) sanctioned a director related loan and (ii) sanctioned a loan where the director of the bank stood as a guarantor, presenting clear conflict of interest. For more information, please [click here](#).



On 22 February 2024, the RBI imposed a monetary penalty equal to ₹50.00 lakh on Hanamasagar Urban Co-operative Bank Ltd., Hanamasagar, Karnataka due to deficiencies in regulatory compliance. The RBI found that the bank had not reported a case of fraud within the stipulated timeline, and thus decided to impose the monetary penalty. For more information, please [click here](#).

On 26 February 2024, the RBI imposed a monetary penalty equal to ₹66.00 lakh on City Union Bank Limited due to deficiencies in regulatory compliance. The RBI found significant divergence between the Non-performing Assets disclosed during an inspection in 2022. Further, the RBI found that the bank did not have a system of periodic review of risk categorisation of customer accounts, creating the potential for customers to slide into new risk categories over time without the bank's knowledge. For more information, please [click here](#).

On 28 February 2024, the RBI cancelled the license of Sumerpur Mercantile Urban Cooperative Bank Limited, Sumerpur, Pali, Rajasthan. The RBI found that the bank did not have adequate capital and earnings prospects and would be unable to pay its present depositors in full. For more information, please [click here](#).





South Korea

On 1 February 2024, the Financial Services Commission (FSC) proposed a revision to the supervisory regulation on electronic financial services. The revision is intended to shift the current regulatory framework from rule-based to principle-based one, allowing more room to make autonomous decisions for financial companies, and bolster the resilience of electronic financial system to disasters and cyberthreats. The revision proposal (i) reduces the number of rules, (ii) introduces requirements for certain types of small- and medium-sized financial companies and electronic financial service providers, which have been in regulatory blind spots, to set up disaster response centers and establish specific goals, (iii) strengthens the role of chief executives and board of directors in the process of decision-making, and (iv) raises the minimum insurance level financial companies need to sign up. For more information, please [click here](#).

On 8 February 2024, the FSC announced that the Act on the Protection of Virtual Asset Users will take effect from July 19, 2024. The Act largely deals with (a) protection of assets held by users of virtual assets, (b) prohibition of unfair trading activities in the virtual asset market, and (c) supervision and sanctions authority over virtual asset service providers (VASPs) and related market activities. For more information, please [click here](#).

On 13 February 2024, the FSC issued a preliminary notice regarding a revision proposal for the enforcement decree of the Act on Corporate Governance of Financial Companies and its supervisory regulation. The revision proposal includes (i) dealing with specific details concerning how to write and submit responsibilities maps, (ii) establishing specific timelines for each financial sector in preparing and submitting responsibilities maps, and (iii) dealing with specific details concerning the internal control oversight duty of chief executives. The revised measures will go into effect on 3 July 2024. For more information, please [click here](#).

On 28 February 2024, the FSC issued a preliminary notice of rule changes being proposed concerning the ex-ante disclosure requirement for insider transactions under the Financial Investment Services and Capital Markets Act (FSCMA). The revision proposal specifies the entities that will be exempted from the disclosure duty, the volume and type of transactions that will be exempted from the disclosure duty, and the procedure and method for disclosure. The revision proposal will go into effect from 24 July 2024, along with the revised FSCMA. For more information, please [click here](#).

Enforcement

No enforcement actions in February 2024.



Japan

On 7 February 2024, the Financial Services Agency (FSA) published an article titled “Strengthening measures against illicit transfers to crypto-asset exchangers who can transfer funds to third parties”. In response to the increasing number of cases where money obtained from fraud is being transferred to crypto asset exchangers, the FSA has requested that several organizations, in collaboration with the National Police Agency to strengthen their measures for user protection and further enhance their countermeasures against various types of fraud, including fraudulent fund transfers related to internet banking, refund scams, and fictitious fee billing scams. For more information, please [click here \(Japanese only\)](#).

Enforcement

No enforcement actions in February 2024.



Malaysia

On 5 February 2024, the new “Guidelines on Categories of Sophisticated Investors” became effective. The new guidelines introduce several key features, including a new category that takes into account the knowledge and experience of sophisticated investors. This category benefits individuals who do not meet financial tests but are able to demonstrate financial knowledge sophistication to participate in relevant market offerings. Another key change is the inclusion of an investor’s primary residence value, up to a cap of RM1 million, in assessing their qualification as a sophisticated investor. For more information, please [click here](#).

On 6 February 2024, the SC introduced the Focused Scope Assessment (FSA) for new eligible Capital Market Intermediaries (CMIs) and Recognised Market Operators (RMOs). The FSA will immediately take effect via amendments to the Guidelines on Recognised Markets. The SC recognizes the crucial role played by businesses such as equity crowdfunding (ECF) and peer-to-peer (P2P) platforms in driving the nation’s growth and development. The FSA evaluates the applicant’s operational and regulatory readiness in a more targeted and efficient manner. For more information, please [click here](#).

Enforcement

On 13 February 2024, the High Court ruled in favour of the SC in an insider trading civil suit filed against a former CEO of Perbadanan Kemajuan Negeri Perak (PKNP) and Perak Corporation Bhd (PCB). The court had found that the CEO had breached section 188(2)(a) of the Capital Markets and Services Act 2007 (CMSA) by acquiring 1,412,700 PCB shares between October 2013 and January 2014 while in possession of inside information regarding PKNP’s proposed privatisation of PCB. As a result, the CEO is required to pay civil penalties and costs to the SC. The High Court ordered the CEO to pay the SC RM2.46 million, which is three times the profits gained as a result of the insider trading breach. For more information, please [click here](#).

On 20 February 2024, the SC announced that Peter Chuah Hock Heng, a former remisier, was charged with defrauding an investor and engaging in unlicensed capital market activities. Chuah was charged for allegedly making a false representation of a purported investment scheme involving the purchase of securities as well as faced two charges for holding himself out as carrying on a business in dealing in securities without a licence. For more information, please [click here](#).

On 22 February 2024, the SC imposed a penalty of RM4,000.00 on JIA Asset Management Sdn Bhd. The penalty was issued due to a delay of four business days in the submission of the monthly statistical returns for its wholesale fund known as JIAAM Durian Growth Opportunities Fund to the SC. This delayed submission was a violation of Paragraph 4.17 and Paragraph 4.18(e) Section B, Part 1 of the LOLA Guidelines. For more information, please [click here](#).

On 26 February 2024, the SC filed charges against three individuals in the Kuala Lumpur Sessions Court for four offences related to unlicensed capital market activities. In separate courts, Chin Wai Lan and Ang Jen Chuen were charged for one offence respectively, under section 58(1) read together with section 367(1) of the Capital Markets and Services Act 2007 (CMSA). They were each charged for Pixelvest Sdn Bhd’s act of carrying on a business in fund management without a licence in their respective capacities as director and former director. Separately, Syaiful Riezal Ahmad was charged for committing two offences under section 58(1) read together with sections 370(b) and 367(1) of the CMSA in his capacity as former CEO of Infinity Trustee Berhad. For more information, please [click here](#).



Our Team



Philippa Allen
Managing Director
Regulatory Compliance



Susana Leung
Director
Regulatory Compliance



Hardy Hussain
Associate Director
AML Services
Regulatory Compliance



Justin Fletcher
Associate Director
AML Services
Regulatory Compliance



Cherry Chan
Associate Director
Client Services
Regulatory Compliance



Doris Li
Associate Director
Licensing
Regulatory Compliance



Ben Axten-Burrett
Associate Director
Client Services
Regulatory Compliance



Thiyiyah Malaravan
Senior Manager
Client Services
Regulatory Compliance



Spencer Yeung
Senior Manager
Client Services
Regulatory Compliance



Jasmine Tse
Senior Manager
Client Services
Regulatory Compliance



Zi Jia Tan
Senior Manager
Internal Audit
Regulatory Compliance



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