

Welcome to our Regulatory Newsletter

January 2024

Executive Summary

This month in Hong Kong, the SFC issued a circular that outlines the eligibility criteria and guidance for licensed corporations to participate in the Cross-boundary Wealth Management Connect Pilot Scheme (WMC Scheme) in the Guangdong-Hong Kong-Macao Greater Bay Area (GBA). Meanwhile in Japan, the FSA published an article titled “Call for proposals and comments regarding Special Zones for Financial and Asset Management”. The original concept for ‘special financial and asset management zones’ was published in December and aims to create special zones designed to lower the barrier to entry for foreign fund and asset management companies.

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



Australia



Hong Kong



Malaysia



Singapore



India



Japan



South Korea



Taiwan



China



Australia

As of 18 January 2024, 26% of financial advisers have yet to register with Australian Securities and Investments Commission (ASIC), to provide personal advice to retail clients on relevant products. ASIC has extended the deadline for registration to 16 February 2024. After this date, unregistered advisers will be in breach of a restricted civil penalty provision, and their authorizing AFS licensees will have committed an offence of strict liability and contravened a civil penalty provision. ASIC will focus on ensuring compliance with the registration regime and taking regulatory action where required. For more information, please [click here](#).

On 19 January 2024, ASIC announced that it is seeking feedback on the proposal to renew five class orders related to managed investment schemes set to expire on 1 April 2024. These class orders, which include provisions for periodic statements relief for AQUA quoted and listed managed investment scheme managers, minimum land holding standards that a responsible entity must meet in relation to the holding of interests in land required for the operation of a registered managed investment scheme, minimum asset holding standards for responsible entities and custodial services, and exemptions and declarations for the operation of mFund Settlement Service, have been deemed effective and necessary by ASIC. ASIC suggests extending these orders for another five years, during which they will continue to evaluate their effectiveness in light of stakeholder feedback and the outcomes of the Government's review of the managed investment scheme regulatory framework. For more information, please [click here](#).



Enforcement

On 10 January 2024, the Federal Court imposed penalties totalling AU\$390,000 on four current and former directors for breaching their duties as officers of a responsible entity of a registered managed investment scheme and not acting in members' best interests. According to ASIC Deputy Chair's comment, "ASIC took this case because we believed reasonable steps were not being taken by the directors to comply with their own compliance plan and obtain member approval for loans. "This ruling underscore the accountability of directors to operate in the best interests of their members and the consequences of failing to do so. For more information, please [click here](#).

On 22 January 2024, ASIC announced that Penta Capital Pty Ltd has agreed to pay a penalty of AU\$53,280 after ASIC issued four infringement notices for false and misleading statements on the company's website. ASIC's allegations include claims by Penta Capital Pty Ltd of managing AU\$6.9 billion on behalf of retail, wholesale and institutional investors, holding AU\$350 million in assets under management, operating for 25 years between 1997 and 2022, and having received sponsorship or approval, or otherwise affiliated with the Financial Services Council, Australian Investment Council, Property Council Australia and Australian Investment Council, all of which were misleading because Penta Capital Pty Ltd did not manage any assets on behalf of retail, wholesale or institutional clients, held no assets under management and had only been in operation since around 5 May 2022. Furthermore, it did not have any sponsorships, approvals or affiliations from the Financial Services Council, Australian Investment Council, Property Council Australia and Australian Investment Council. For more information, please [click here](#).



On 24 January 2024, ASIC announced that former corporate adviser Cameron Waugh has pleaded guilty to insider trading. ASIC alleged that Mr. Waugh applied to acquire, and did subsequently acquire, shares of a gold exploration and mine development company while in possession of inside information. It is alleged that, through his role at Omnia Company Pty Ltd, Mr. Waugh became aware of a funding proposal that included a multi-million-dollar placement of Genesis Minerals Limited's shares and a board restructuring. For more information, please [click here](#).

On 25 January 2024, ASIC announced that it had filed a contempt application in the Federal Court against Joshua David Fuoco, a former director of Wealth & Risk Management Pty Ltd. Despite being previously ordered by the Federal Court not to carry on or be involved in a financial services business for ten years starting from 5 February 2018 for unconscionable conduct ASIC alleges that Mr. Fuoco had been involved in carrying on a financial services business between March 2019 and April 2023. For more information, please [click here](#).

On 31 January 2024, the Federal Court declared that Westpac Banking Corporation had engaged in unconscionable conduct in October 2016 when executing an AU\$12 billion interest rate swap transaction, the largest of its kind in Australian financial market history. Westpac's unconscionable conduct arose when it engaged in trading activities prior to the swap transaction (pre-hedging) despite being aware of its client's concern about the potential adverse effect of pre-hedging on the price of the swap transaction. Additionally, Westpac failed to obtain client consent or give clear and full disclosure about the extent of its intended pre-hedging. The Federal Court declared that Westpac failed to establish adequate arrangements to manage the conflict of interests between itself and the client and did not do all things necessary to ensure that the swap transaction was provided efficiently, honestly, and fairly to the client. For more information, please [click here](#).





Hong Kong

On 15 January 2024, the Securities and Futures Commission (SFC) issued a circular to inform licensed corporations (LCs) that it is deferring the effective date of its margin requirements for non-centrally cleared single-stock options, equity basket options, and equity index options by two years to 4 January 2026 to align with the latest global developments. As a result, paragraph 7(e) of Part III of Schedule 10 to the Code of Conduct will be amended accordingly and will be gazetted in due course. For more information, please [click here](#).

On 23 January 2024, the SFC issued a circular to inform LCs about its plan to commence a circularisation exercise on clients' accounts of selected securities brokers and an internal control review of these brokers' safeguarding of client assets in February 2024. The circularisation exercise is to identify any potential misconduct, such as unauthorised trading and misappropriation of client assets, by obtaining direct confirmation on account positions from selected clients of the securities brokers in question. The purpose of the internal control review is to assess the brokers' internal control systems that are designed to protect client assets and ensure compliance with expected regulatory standards. For more information, please [click here](#).

On 24 January 2024, the SFC issued a circular that outlines the eligibility criteria and guidance for licensed corporations to participate in the Cross-boundary Wealth Management Connect Pilot Scheme (WMC Scheme) in the Guangdong-Hong Kong-Macao Greater Bay Area (GBA). This circular is in response to the revised Implementation Arrangements for Cross-boundary WMC Pilot Scheme in the GBA ("Implementation Rules") published by the People's Bank of China. The enhancements include allowing eligible LCs to participate in the Cross-boundary WMC Scheme, expanding the eligible investment product scope, and clarifying the promotion and sales arrangements. The revised Implementation Rules will come into effect on 26 February 2024. For more information, please [click here](#).



Enforcement

On 9 January 2024, the SFC announced the suspension of Mr. Andy Wong Yeung, a former responsible officer (RO), manager-in-charge of key business line and overall management oversight, and director of City International Futures (Hong Kong) Limited (CIFHKL), for a period of 10 months. CIFHKL had previously been reprimanded and fined by the SFC for its failures in complying with AML/CFT and other regulatory requirements. The SFC's investigation found that CIFHKL had failed to properly assess and manage the ML and TF and other risks associated with permitting its clients to use client supplied systems in placing orders, conduct proper inquiries into client deposits, and establish an effective ongoing monitoring system to detect and assess suspicious trading patterns in client accounts. For more information, please [click here](#).



India

No relevant press releases in January 2024.

Enforcement

On 12 January 2024, the Reserve Bank of India (RBI) issued an order imposing monetary penalty of ₹6 lakh on Sakthi Finance Limited for non-compliance with Know Your Customer requirements. In a statutory inspection on 31 March 2023, it was uncovered that the Company did not undertake risk categorization of its customers did not carry out periodic checks for high-risk clients during the financial year 2021-2022. For more information, please [click here](#).

On 12 January 2024, the RBI issued an order imposing monetary penalty of ₹120.47 lakh on Dhanlaxmi Bank Ltd for non-compliance with Know Your Customer requirements, and for interest rate on despot directions. The bank was found to have sanctioned loans to certain borrowers using only gold or jewellery as collateral, and offered lower interest rates applicable to normal term deposits on certain senior citizen deposits instead of normal higher interest rates which should have been applied to these. The RBI also found that the Company assigned multiple customer identification codes to some customers rather than using a Unique Customer Identification Code (UCIC). For more information, please [click here](#).



On 12 January 2024, the RBI issued an order imposing monetary penalty of ₹1 crore on Punjab and Sind Bank for issues uncovered during a statutory inspection on March 31, 2022. The bank was found to have deficiencies in regulatory compliance, including failure to conduct proper due diligence of the viability and bankability of certain projects, failing to ensure that revenue generated from these projects would be sufficient to cover the debt servicing obligations. Further, the bank granted a term loan to a corporation that was intended to substitute budgetary resources allocated for certain projects. For more information, please [click here](#).

On 18 January 2024, the RBI issued an order imposing monetary penalty of ₹15 lakh on New India Co-operative Bank Limited, Mumbai for issues uncovered during a statutory inspection on March 31, 2021. The RBI found issuing relating to donations for charitable purposes out of profits of UCBs, finding that the bank had exceeded the prescribed ceiling on donations in the financial year 2020-2021. For more information, please [click here](#).





On 18 January 2024, the RBI issued an order imposing monetary penalty of ₹50 lakh on NKGSB Co-operative Bank Ltd for issues uncovered during a statutory inspection on March 31, 2021, and upon examination of its Risk Assessment Report. The RBI found issuing relating to Know Your Customer regulations, finding that the bank opened and allowed transactions in current accounts of a company without undergoing proper due diligence. For more information, please [click here](#).

On 29 January 2024, the RBI issued an order imposing monetary penalty of ₹50 lakh on Dr. Panjabrao Deshmukh Urban Co-operative Bank Limited, Amravati, Maharashtra for issues uncovered during a statutory inspection on March 31, 2022. The RBI found deficiencies in Know Your Customer regulations, and loan issuances, including the issuance of loans with risk weighting exceeding 100%, gold loans exceeding the regulatory limit, failure to periodically update Know Your Customer information based on risk categorisation, and not implementing robust software to generate alerts for effective reporting of suspicious transactions. For more information, please [click here](#).

On 29 January 2024, the RBI issued an order imposing monetary penalty of ₹50 lakh on Bhilai Nagrik Sahakari Bank Maryadit, Bhilai, Chhattisgarh for issues uncovered during a statutory inspection on March 31, 2022. The RBI found issuing relating to Know Your Customer regulations, finding that the bank failed to perform the required periodic updating of Know Your Customer information. For more information, please [click here](#).

On 29 January 2024, the RBI issued an order imposing monetary penalty of ₹50 lakh on Krushiseva Urban Co-operative Bank Limited, Kole, Solapur, Maharashtra for issues uncovered during a statutory inspection on March 31, 2022. The RBI found issues relating to loan issuance and conflict of interest, particularly that the bank had issued loans to directors and their relatives. For more information, please [click here](#).

On 29 January 2024, the RBI issued an order imposing monetary penalty of ₹75 lakh on Jila Sahakari Kendriya Bank Maryadit, Shahdol, Madhya Pradesh for issues uncovered during a statutory inspection on March 31, 2022. The RBI found that the bank had failed to transfer the eligible amount to the Depositor Education and Awareness Fund, as required by statutory provisions and directions. For more information, please [click here](#).





South Korea

On 19 January 2024, The FSC announced that the revised Financial Investment Services and Capital Markets Act (FSCMA) and its subordinate statutes will go into effect. The revision deals with (a) introducing a penalty surcharge system on unfair trading activities, (b) legislating a method for calculating the amount of unfairly gained profits, and (c) providing a leniency to those reporting violations committed by oneself or others. For more information, please [click here](#).

On 23 January 2024, the FSC announced a plan to bolster the soundness of the convertible bond (CB) market. The measures included in the plan are intended to strengthen rules on disclosure of information on the issuance and distribution of convertible bonds, making improvements to the current refixing rules and procedure, and strengthening investigation over unfair trading activities involving CBs. The FSC expects that these measures will help to address the following three oft-cited problems regarding the CB market—the lack of transparency in the issuance and circulation of CBs, the arbitrariness in the refixing of convertible prices, and the potential misuse in unfair trading activities. For more information, please [click here](#).

Enforcement

No enforcement actions in January 2024.



Taiwan

On 16 January 2024, The FSC has made an amendment to the “Regulations Governing the Declaration of Acquisition of Shares in Accordance with Article 43-1, Paragraph 1 of the Securities and Exchange Act” (“Regulations”) in response to an amendment to Articles 43-1 and 183 of the Securities and Exchange Act promulgated on 10 May 2023, which lowers the threshold for reporting substantial shareholding from 10% to 5% and will take effect one year after promulgation. The advance notice procedure for the draft amendments has been completed and the amended regulations will be released soon and take effect on 10 May 2024. For more information, please [click here](#).

Enforcement

No enforcement actions in January 2024.



Malaysia

No relevant press releases in January 2024.

Enforcement

On 10 January 2024, the Securities Commission Malaysia (SC) filed charges against two individuals in the Kuala Lumpur Sessions Court with 11 offences of money laundering involving over RM119 million. The charges were made under section 4(1)(b) of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities 2001 (AMLATFPUAA), which pertains to receiving proceeds of unlawful activity. If convicted, these individuals shall be liable to imprisonment for up to 15 years and shall also be liable to a fine of not less than five times the sum or value of the proceeds of the unlawful activities at the time the offence was committed or RM5 million, whichever is higher. For more information, please [click here](#).

On 11 January 2024, the SC filed charges against Chin Wai Lan (Sophia Chin), a director of Pixelvest Sdn Bhd (Pixelvest), with money laundering offences involving more than RM164.5 million. According to the charges, Sophia Chin received the illegal proceeds in her personal bank accounts as well as in several companies of which she is a director/partner. If convicted, the accused shall be liable to imprisonment for up to 15 years and shall also be liable to a fine of not less than five times the sum or value of the proceeds of the unlawful activities at the time the offence was committed or RM5 million, whichever is higher. For more information, please [click here](#).

On 24 January 2024, the SC filed charges against Mohd Arif Fadzlee bin Mohd Arifin (Arif), a former bank analyst and business owner, with two offences relating to unlicensed capital market activities and the misuse of the "unit trust consultant" title. Under the first charge, Arif was charged under section 59(1) of the Capital Markets and Services Act 2007 (CMSA) for holding himself out as a representative of CIMB Wealth Advisors Berhad in dealing in securities without a licence. For the second charge, Arif was charged under section 362(3) of the CMSA for using the title 'unit trust consultant', which created the belief that he was licensed to deal in securities when he in fact was not. For more information, please [click here](#).



Japan

On 16 January 2024, the FSA published an article titled “Call for proposals and comments regarding Special Zones for Financial and Asset Management”. The original concept for ‘special financial and asset management zones’ was published in December and aims to create special zones designed to lower the barrier to entry for foreign fund and asset management companies. This is aimed to be achieved through enhanced support from local governments in for example administration, tax, and accounting, and is aimed to also include English language support for these. The FSA is currently seeking proposals and comments on the plan. Proposals and comments regarding sections 1 to 3 of the guidelines should be submitted before 16 February 2024, and proposals or comments regarding section 4 should be submitted before 8 March 2024. For more information, please [click here \(Japanese only\)](#).

On 26 January 2024, the FSA published the “Draft Cabinet Office Ordinance Partially Amending the Cabinet Office Ordinance on Crypto Asset Exchangers”. The draft amendment aims to impose information and publication obligations on crypto-asset exchangers regarding crypto-assets with transfer restrictions. For more information, please [click here \(Japanese only\)](#).



Enforcement

On 12 January 2024, the Kanto Local Finance Bureau (KLFB) took administrative action against Active Box K.K for conducting Investment Management Business activities without registration. Active Box is a registered Type II Financial Instruments Business, but it does not hold an Investment Management registration. In December 2022, it was found to have solicited investment in a fund, from 132 customers totaling 250 million yen, as well as a separate foreign fund. Active Box then managed the money invested by customers which falls under Investment Management business activities. The KLFB found that Active Box made false statements to customers in solicitation materials by calling the funds ‘investment trusts’ even though they do not have the structure of investment trusts. The KLFB also found Active Box did not have sufficient human resources to properly carry out Type II Financial Instruments business activity, and necessary systems to carry out business were not in place. Active Box was lacking understanding of compliance and the law, as well as having insufficient human resources. The KLFB has therefore cancelled the registration and has issued a business improvement order including obligations to provide customers with an explanation of the content of the administrative action, and to formulate a policy to return all client assets while taking all possible measures to protect investors. For more information, please [click here \(Japanese only\)](#).



On 12 January 2024, the FSA issued administrative sanctions against SBI Securities Co. Ltd (SBI) under the recommendation by the Securities and Exchange Surveillance Commission (SESC) on 15 December 2023. The recommendations were made due to finding that SBI was manipulating the share prices of securities at initial public offerings from December 2020 to September 2021. The investigation found that SBI knowingly solicited clients to place artificial buy orders which would not be followed through on, even telling clients that there was no need to actually buy the security. SBI then accepted these buy orders, thereby manipulating the price knowing that these orders would be cancelled on the day of listing. The FSA has issued a business suspension order relating to initially publicly offered securities from 12 January until 18 January 2024, as well as a business improvement order including obligations to implement measures to clarify where responsibilities lie for the incident, and to develop a business improvement plan including the strengthening of business management framework and internal controls. For more information, please [click here](#).

On 25 January 2024, the FSA issued administrative penalties against Sompo Japan Insurance K.K, and Sompo Holdings (Sompo) due to issues identified during an inspection. The companies were found to have a relationship with Big Motor Co. which was found to have been involved in numerous cases of insurance fraud last year, such as intentionally encouraging employees to damage vehicles to extend the scope of repairs, and inflating insurance claims. Sompo was found to have been actively introducing vehicles involved in accidents and being negligent in investigating damage insurance claims by not including technical staff in investigations. After the fraudulent claims were discovered Sompo and other major non-life insurers investigated Big Motors, but while the other three large issuers suspended referrals from June 2022, only Sompo resumed referrals in July 2022. The FSA's investigation found that there were management deficiencies and internal controls caused them to continue making referrals which may have led Big Motors to committing further fraud. The investigation concluded that management was aware there was a high probability that fraudulent claims were being made at Big Motors, but they prioritised business performance over consumer protection. As such, Sompo has been issued a business improvement order, including being required to clarify management responsibilities regarding this disciplinary action, the establishment of an appropriate claims management system, a system to prevent fraudulent claims, and a system to ensure effective compliance and customer protection. For more information, please [click here \(Japanese only\)](#).





China

No relevant press releases in January 2024.

Enforcement

On 29 January 2024, the China Securities Regulatory Commission (CSRC) reported on the progress of the phased investigation of Zuojiang Technology Co., Ltd. (*ST Zuojiang)'s financial fraud case. The CSRC initiated an investigation into *ST Zuojiang on 24 November 2023. It has been preliminarily found that the financial information disclosed by *ST Zuojiang in 2023 was seriously untrue and suspected of major financial fraud. The case is currently under investigation. For more information, please [click here \(Chinese only\)](#).



Singapore

On 22 January 2024, the Monetary Authority of Singapore (MAS) released a circular informing of the 2023 Asset Management Survey, the deadline for submission of the survey is 1 March 2024. For more information, please [click here](#).

Enforcement

No enforcement actions in January 2024.



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