

Client Alert

September 30, 2016

Key Points

- The SFC Enforcement Division is investigating several SFC-licensed brokerages for suspected inadequate AML internal controls.
- Reminder of SFC areas of concern.
- SFC licensees should ensure that proper internal AML measures are implemented.



SFC's Concerns Over Licensees' Anti-Money Laundering Internal Controls

Introduction

On 21 September 2016, the Hong Kong Securities and Futures Commission (SFC) issued an announcement concerning poor internal anti-money laundering (AML) controls amongst many SFC licensees.

The SFC's Enforcement Division is investigating several SFC licensed brokerages for suspected inadequate AML internal controls. It is expected that the SFC will bring a number of enforcement proceedings as a result of these investigations.

Background

The Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap. 615) (AMLO) and the SFC's Guideline on Anti-Money Laundering and Counter-Terrorist Financing (Guideline) came into effect on 1 April 2012.

The AMLO imposes customer due diligence and mandatory recordkeeping obligations on financial institutions and sets out penalties for breaches of such obligations. The Guideline, which is published to assist licensed corporations and their management in complying with the AMLO and other relevant legal and regulatory requirements, provides guidance in relation to the design and implementation of appropriate and effective AML policies, procedures and controls.

Areas of Concern

As a result of its on-site inspections of SFC licensees and AML investigations, the SFC has identified the following areas of concern amongst SFC licensees:

- failure to properly
- scrutinize cash and third-party deposits into customer accounts
- ineffective monitoring of transactions in customer accounts
- failure to take adequate measures to continuously monitor business relationships with customers who present a higher risk of money laundering
- inadequate enquiries made to assess potentially suspicious transactions to determine whether or not it is necessary to make a report to the Joint Financial Intelligence Unit, and lack of documentation of the assessment results
- failure to monitor and supervise the ongoing implementation of AML and counter-terrorist financing policies and procedures.

The SFC further noted that SFC licensees are often susceptible to being taken advantage of for money laundering purposes and emphasized the need for SFC licensees to be self-disciplined in terms of implementing effective AML measures.

Conclusion

The announcement is a reminder that the SFC is highly vigilant with respect to compliance with AML obligations and that SFC licensees can reasonably expect that the SFC will undertake further on-site inspection of licensees.

In light of the SFC's intensified focus on AML compliance, SFC licensees should ensure that proper AML measures are put in place both:

- at the establishment of the business relationship with each client
- for continuing client relationships, by conducting ongoing AML monitoring to avoid committing any subsequent AML breaches or offences.

SFC licensees, including Type 4 (advisory) and Type 9 (asset management) licensees, are reminded that AML obligations apply in connection with all counterparties.

Contact Information

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