HONG KONG MONETARY AUTHORITY
香港金融管理局

Circulars

12 Mar 2008

Thematic Examinations on Controls to Ensure Fitness and Propriety of Relevant Individuals

Our Ref.: B1/15C

12 March 2008

The Chief Executive
All Registered Institutions

Dear Sir/Madam,

Thematic Examinations on Controls to Ensure Fitness and Propriety of Relevant Individuals

The Hong Kong Monetary Authority (HKMA) has recently completed a round of thematic on-site examinations on selected Registered Institutions (RIs) which are active in regulated activities (RAs) and have engaged a substantial number of relevant individuals (RelS) in such activities. The objective of the examinations is to ascertain whether the selected RIs have put in place adequate controls for ensuring compliance with the regulatory requirements on registration of RelS.

In general, the RIs examined have implemented controls for ensuring compliance with the regulatory standards, including the following areas:

- the competency of proposed RelS by ascertaining the education / professional qualifications and industry experience;
- the fitness and propriety of RelS by obtaining self-declarations and conducting background checks;
- proper registration of the individuals before engaging them in any regulated function of any RA;
- prompt de-registration of RelS who cease to be engaged by the RI in any regulated function of any RA;
- accuracy and appropriateness of information for the HKMA Register; and
- compliance with the requirements related to the "six-month grace period" for passing local regulatory framework paper for certain eligible RelS and Continuous Professional Training (CPT) for all RelS.

Our on-site examinations have also identified certain good practices as well as some common issues. I would like to share such findings with all RIs which could take them into consideration when considering possible improvements to the RIs' own control environment. The details are set out in Annex 1 and Annex 2 respectively for your reference.

In the course of the thematic examinations, we have come across a number of cases where some RIs encountered difficulty when requesting information on the proposed RelS' previous employment, registration and grandfathering status from other RIs (as former employers). The difficulties include late and ambiguous responses or even refusal to provide the requested information from some RIs. Such practices would obviously hinder the industry's collective efforts to ensure that only fit and proper persons are engaged and registered for RAs. I therefore would like to draw your attention to our circular issued on 28 September 2006[1] about the requirement for RIs to provide information to the new / potential employer of their former employees when they receive request for verifying the relevant industry experience of such former employees. Please be reminded that all RIs should provide, within a reasonable period of time, a clear response to other RIs' request for information about former employees' employment, registration and "grandfathering" status.[2]

Should you have any questions about the content of this circular, please contact Ms Alice Lee at 2878-1603.

Yours faithfully,

Arthur Yuen
Executive Director
(Banking Supervision)

[1] Refer to control (4) in Annex 1 of the HKMA circular entitled "Controls to ensure the fitness and propriety of staff of authorized institutions" issued on 28 September 2006.

[2] Refer to paragraph 4.2.5 (for executive officers) and paragraph 4.2.6 (for other ReIs) of the HKMA Supervisory Policy Manual module SB-1 for details of "grandfather" arrangements

c.c. SFC (Attn: Mr Stephen Po, Senior Director, Intermediaries and Investment Products Division)

Encl. Annex 1 (PDF file, 80KB)
Annex 2 (PDF file, 137KB)

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