HONG KONG MONETARY AUTHORITY
香港金融管理局

Our Ref.: B1/15C
B1/4C

8 October 2018

The Chief Executive
All Authorized Institutions

Dear Sir/Madam,

Contraventions of the Banking Ordinance

The Monetary Authority (MA) continues to observe regular contraventions by Authorized Institutions (AIs) of certain provisions of the Banking Ordinance (the Ordinance).

The provisions which appear to be most often the subject of recurrent contravention are:

section 20(4)(b) - requirement to notify the MA within the prescribed time of changes in relation to particulars of "relevant individuals" involved in AIs' regulated activities under the Securities and Futures Ordinance;

section 65 - requirement to notify the MA within the prescribed time of alterations to an AI's memorandum of association, articles of association or other instrument under which the AI is incorporated;

section 72A(2A) - requirement to submit information within the prescribed time regarding persons becoming, or ceasing to be, "specified persons" – including controllers, directors, chief executives, executive officers or relevant individuals; and

section 72B - requirement to notify the MA within the prescribed time regarding the appointment/cessation of appointment or change in responsibilities of "managers" as defined in section 2(1) of the Ordinance.

Please draw the contents of this letter to the attention of your relevant staff (including those in Compliance and Human Resources Departments) so that they can consider whether it may be necessary to take, or whether there is merit in taking, any steps to enhance internal systems and processes with a view to ensuring that contraventions of this nature do not recur. In this regard, please be reminded that the Hong Kong Monetary Authority Supervisory Policy Manual module IC-1 "Risk Management Framework" stipulates that AIs should have in place internal control systems to ensure compliance with relevant laws, regulations and internal policies. You may also wish to note that contravention of the provisions listed above can amount to an offence on the part of the directors, chief executive and responsible managers of the AI concerned. If necessary, the MA may commission an auditor's report under section 59(2) of the Ordinance on the adequacy of the AI's internal systems and processes for the purpose of enabling the AI to comply with its duties under the Ordinance.

Yours faithfully,

Raymond Chan
Executive Director (Banking Supervision)