# NEW HONG KONG SECURITIES AND FUTURES COMMISSION ANTI-MONEY LAUNDERING RULES FOR SFC LICENSED CORPORATIONS

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**Investment Management Alert**

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At its recent plenary meeting in the United States on 20 June 2019, the Financial Action Task Force ("FATF") commended Hong Kong for its strong legal foundation and effective systems regarding anti-money laundering and counter-terrorist financing ("AML/CTF"). It assessed Hong Kong's AML/CTF regime as compliant and effective in comparison with international standards.

The news served as a timely reminder to Hong Kong Securities and Futures Commission ("SFC") licensed corporations and associated entities to evaluate their compliance with the relevant SFC Guideline, which was updated in anticipation of an FATF onsite evaluation and took effect from 1 November 2018 ("Updated Guideline").

In general, the Updated Guideline reflects strengthened FATF minimum standards in several high-risk areas. However, it also gives SFC licensed corporations more flexibility under the risk-based approach to determine how to conduct ongoing customer due diligence ("CDD") and monitoring in general, as long as the minimum standards are met.

The following amendments are particularly notable:

(1) As an area identified as high risk, the requirements regarding Politically Exposed Persons ("PEPs") are now expanded to include persons who have been entrusted with a prominent function by an international organization.

Further, the special requirements in respect of high-risk business relationships with foreign PEPs are now required to be considered for all domestic, foreign and international organisation PEPs. Such special requirements include, for example, taking measures to obtain substantive information to establish the source of wealth and source of funds of the customer and its beneficial owner(s).

(2) For SFC licensed corporations incorporated in Hong Kong with overseas branches or subsidiaries that carry on the same business as a financial institution as defined in the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap.615) ("HK Incorporated Groups"), a group-wide AML/CFT system should be implemented that applies on a group-wide basis to all clients. In particular, the SFC emphasized that, at a minimum, these should extend to :

- compliance management arrangements, including oversight by senior management and the specific appointment of a compliance officer and money laundering reporting officer;
- independent audit functions;

- employee screening procedures;
- ongoing employee training programs; and
- sharing and provision of information required for the purpose of client due diligence and money-laundering/terrorist financing risk management.

Compared to the previous requirements, which did not detail the extent of such group-wide systems, the Updated Guideline requires HK Incorporated Groups to establish specific procedures and controls and, in particular, for group companies to share information on clients.

(3) For a HK Incorporated Group, if the AML/CFT requirements in a jurisdiction where its overseas branch/subsidiary is located differ from those in the Updated Guideline, the branch/subsidiary should apply the more onerous of the two sets of requirements, to the extent permitted by the host jurisdiction's laws and regulations.

(4) For all SFC licensed institutions, the Updated Guideline requires assessment of the money-laundering/terrorist financing risks in relation to the use of new or developing technologies for both new and pre-existing products, such as use of facial recognition technology and biometric readers. Appropriate measures should be taken to mitigate and manage the risks identified.

In the light of the SFC's emphasis that primary responsibility for AML verification lies with senior management, SFC licensed institutions especially HK Incorporated Groups should critically review, consider and, where necessary, upgrade their existing AML/CFT verification and client onboarding procedures, systems and processes.