

Hong Kong: Regulatory Update Newsletter – April 2024

In brief

Welcome to the April edition of Baker McKenzie's Hong Kong Financial Services Regulatory Newsletter. Our Newsletter is curated and written by our experts in Hong Kong and designed to provide a snapshot of key regulatory developments in the financial services sector. In this edition, we highlight the developments of the Hong Kong Securities and Futures Commission (SFC) and the Hong Kong Monetary Authority (HKMA) during March.

SFC Circulars / Consultations / Guidelines and Press Releases

SFC and HKMA further consult on enhancements to Hong Kong's OTC derivatives reporting regime

On 22 March 2024, the HKMA and SFC launched the "Joint further consultation on enhancements to the OTC derivatives reporting regime for Hong Kong to mandate – (1) the use of Unique Transaction Identifier, (2) the use of Unique Product Identifier and (3) the reporting of Critical Data Elements ("**2024 Consultation**") and Joint consultation conclusions on revising the list of designated jurisdictions for the masking relief" ("**2024 Conclusions**").

2024 Consultations

In April 2019, the HKMA and SFC issued a joint consultation paper on mandating the use of Unique Transaction Identifier (UTI) in Hong Kong and other proposals ("**2019 Consultation**"). However, the HKMA and SFC have noted at that time that there was insufficient consensus internationally and among market participants on the proposals. The HKMA and SFC have now revisited the current situation. They note that since the 2019 Consultation, major jurisdictions have made progress, including amongst other steps, implementing UTI, Unique Product Identifier (UPI) and Critical Data Elements (CDE). In view of such developments, the HKMA and SFC propose enhancements to Hong Kong's OTC derivatives reporting regime in the 2024 Consultation, with the policy objective of aligning with the latest international standards. The key areas under consultation in the 2024 Consultation include:

- Mandating the use of the UTI¹ for the reporting of new trades (including their subsequent life-cycle events and valuation) that take place on or after the implementation date, and full adoption of the UTI Technical Guidance in the approaches to, as well as the format, structure and generation logic of the UTI.
- Mandating the use of the UPI² for the underlying derivatives of each submitted reportable transaction to the Hong Kong Trade Repository (HKTR) on a mandatory basis from 29 September 2025 and fully adopting the

In this issue

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SFC reminds public VATP application period has ended under transitional arrangements

SFC Enforcement News

Retail trader jailed for securities fraud via illegal short selling

HKMA Circulars / Press Releases / Consultations

HKMA launches the stablecoin issuer sandbox arrangement
HKMA unveils Project Ensemble to support the development of the Hong Kong tokenisation market

Contact Us

¹ As set out in the Technical Guidance on Harmonisation of the Unique Transaction Identifier issued by the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) in February 2017.

² As set out in the Technical Guidance on Harmonisation of the Unique Product Identifier issued by the CPMI and IOSCO in September 2017.

UPI Technical Guidance and the International Organization for Standardization (ISO) 4914 standard for the structure and format of the UPI.

- Mandating the reporting of CDE³ as far as practicable by adopting a scope that serves Hong Kong's regulatory purposes while maximising the data elements common to other jurisdictions and minimising the data elements unique to Hong Kong.
- Mandating the adoption of the ISO 20022 XML message format: (i) for OTC derivatives reporting to the HKTR; and (ii) at the same time as implementing the UTI, UPI and CDE in a "big bang" approach on the implementation date.

Comments on the 2024 Consultation should be submitted to the HKMA or the SFC no later than 17 May 2024.

2024 Conclusions

In the 2019 Consultation, the HKMA and SFC sought feedback on potentially revising the relief enabling reporting entities to mask counterparty information when reporting a transaction to the HKTR if they encounter reporting barriers in a jurisdiction that is designated by the SFC ("**Designated List**"). The HKMA and SFC have now confirmed that as uncertainty continues whether reporting barriers remain for certain jurisdictions, especially non-Financial Stability Board jurisdictions, no changes will be made to the current Designated List for masking relief.

SFC reminds public VATP application period has ended under transitional arrangements

On 1 March 2024, the SFC issued a press release reminding industry participants and investors of the passing of the 29 February 2024 deadline ("**February Deadline**") for virtual asset trading platforms (VATPs) to submit licensing applications to the SFC to continue operating in Hong Kong on or after 1 June 2024. VATPs operating in Hong Kong which did not submit a licence application to the SFC by the February Deadline must close down their businesses in Hong Kong by 31 May 2024 and obtain the requisite SFC licence to resume business activities in Hong Kong, or actively market their virtual asset services to Hong Kong investors.

The SFC also urged investors to check the regulatory status of VATPs on the [Lists of virtual asset trading platforms](#) on the SFC's website. Investors dealing with VATPs in Hong Kong not on the "List of licensed virtual asset trading platforms" or the "List of virtual asset trading platform applicants" are urged by the SFC to close their accounts with these VATPs or transfer to SFC-licensed VATPs. The SFC further reminded the public that the applications on the "List of virtual asset trading platform applicants" are still being processed and may, or may not, be approved and trading on these platforms carries a risk. The SFC strongly urges investors to trade virtual assets only on SFC-licensed VATPs.

SFC Enforcement News

Retail trader jailed for securities fraud via illegal short selling

On 20 March 2024, the SFC announced that the Eastern Magistrates Court had sentenced a retail trader to 18 months imprisonment following their conviction for securities fraud involving illegal short selling. This was the first case where an individual was convicted for the offence of employing a fraudulent or deceptive scheme with intent to defraud in transactions involving securities under section 300 of the Securities and Futures Ordinance in the context of illegal short selling. The SFC noted that the case stemmed from a complex ramp-and-dump investigation in which the SFC discovered suspected securities fraud by way of illegal short selling immediately before the collapse of the share price.

³ A standard set of OTC derivatives transaction data elements (other than Unique Transaction Identifier and Unique Product Identifier), formats and allowable values published by the CPMI and IOSCO in April 2018 and by the Regulatory Oversight Committee of the Global Legal Entity Identifier Foundation in September 2021 and September 2023.

HKMA Circulars / Press Releases / Consultations

HKMA launches the stablecoin issuer sandbox arrangement

On 12 March 2024, the HKMA issued a press release announcing the launch of its new stablecoin issuer sandbox arrangement ("**Stablecoin Sandbox**"). The Stablecoin Sandbox is another step following the legislative proposal to implement a new regulatory regime for stablecoin issuers. The Stablecoin Sandbox will facilitate communications between the HKMA and interested stablecoin issuers to gauge the expected regulatory standards.

The HKMA has noted that successful admission to the Stablecoin Sandbox:

- does not constitute endorsement by the HKMA as being qualified to be subject to the current or future regulation of the HKMA or other financial regulators in Hong Kong; and
- does not replace the licensing process.

Stablecoin Sandbox participants will need to submit a separate licensing application in accordance with the requirements determined by the licensing authority once the regime is implemented.

The HKMA will consider various factors in evaluating applications which include demonstrating the following:

- genuine interest in, and a reasonable plan on, issuing fiat-referenced stablecoins in Hong Kong;
- concrete plan on participating in the Stablecoin Sandbox; and
- reasonable prospect of complying with the proposed regulatory requirements.

Interested parties should contact the HKMA via stablecoin_sandbox@hkma.gov.hk. The processing time will depend on factors such as the complexity of the proposed business model and the sufficiency and quality of information provided.

Please refer to our separate client [alert](#) for a more detailed discussion on the Stablecoin Sandbox requirements and our separate client [alert](#) regarding the proposed fiat-referenced stablecoin issuer regulatory regime.

HKMA unveils Project Ensemble to support the development of the Hong Kong tokenisation market

On 7 March 2024, the HKMA issued a press release announcing the commencement of Project Ensemble, a new wholesale central bank digital currency (wCBDC) project to render support to the development of the tokenisation market in Hong Kong. The project will explore innovative financial market infrastructure (FMI) to facilitate seamless interbank settlement of tokenised money through wCBDC. The initial focus will be on tokenised deposits, which are a digital representation of commercial bank deposits issued by commercial banks and made available to the public. The Project Ensemble core is a wCBDC Sandbox to be launched by the HKMA this year to further research and test tokenisation use cases including settlement of tokenised real-world assets .

The HKMA will form a wCBDC Architecture Community consisting of local and multinational banks, key players in the digital asset industry, technology companies and the CBDC Expert Group⁴ to help set industry standards and a future-proof strategy. It will also continue existing partnerships to foster the development of asset tokenisation and support homegrown fintech innovation.

Project Ensemble forms a key part of the HKMA's broader portfolio of initiatives to facilitate development of the tokenisation market, comprising e-HKD and collaboration with the BIS Innovation Hub Hong Kong Centre on projects such as mBridge⁵, Dynamo⁶ and Genesis⁷. It will also build on the experimentation of tokenised deposit use cases that the HKMA conducted in 2023. The HKMA proposes to engage relevant international stakeholders, including other central banks and organisations, to join future experiments and exploration in the wCBDC Sandbox. If the wCBDC

⁴ <https://www.hkma.gov.hk/eng/key-functions/international-financial-centre/fintech/research-and-applications/central-bank-digital-currency/#cbdc-expert-group>

⁵ https://www.bis.org/about/bisih/topics/cbdc/mcbdc_bridge.htm

⁶ <https://www.bis.org/publ/othp68.htm>

⁷ <https://www.bis.org/publ/othp43.htm>

Sandbox generates sufficient interest from the industry, the HKMA will conduct a "live" issuance of the wCBDC at the appropriate time.

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