

Our Ref : G4/26/5C
B1/15C

27 February 2003

The Chief Executive
All Authorized Institutions

Dear Sir / Madam,

**New securities supervisory regime
Register to be maintained by the HKMA and
Specific guidance in relation to relevant individuals**

You will be aware from my letters of 12 September and 20 December 2002 that a web-based online system (Online System) will be established to facilitate submission of the specified particulars of relevant individuals¹ for the purpose of the register to be maintained by the HKMA (HKMA Register) under the new securities supervisory regime. This letter sets out the basic online submission arrangements before and after the commencement of the new regime scheduled for 1 April 2003. In addition, this letter provides specific guidance on various matters relating to relevant individuals.

Online submission mechanism for the HKMA Register

The Online System is incorporated within the existing HKMA Private Website with a view to ensuring an efficient and secure communication channel for submitting to the HKMA the required information in respect of relevant individuals. In order to access the Online System, every registered institution² (RI) has to first collect a User Package (which contains a log-in account, an Installation Manual and a User Manual for the system) from the HKMA³. The User Package will be available for collection starting from **28 February 2003** by presenting the attached bearer letter at **Annex 1**. Details of the hardware and software requirements for accessing the Online System are given at **Annex 2**.

Arrangements before the commencement of the new regime

As mentioned in my letter of 20 December 2002, all deemed RIs need to submit a list of their deemed relevant individuals as of 28 February 2003 by 3 March 2003 using a standard template which was issued to you via electronic mail on 29 January 2003. This list should then be updated by each deemed RI through the Online System, which will be made available for access by deemed RIs **from 10 March 2003 (9:00 am) to 31 March 2003 (12:00 noon)**.

You are reminded that the updated position as of 31 March 2003 12:00 noon will form the HKMA database of deemed relevant individuals and the relevant records will be included in the HKMA Register on 1 April 2003. The HKMA registration number assigned to the deemed relevant individuals will be notified to the respective RI by electronic mail.

The particulars of non-deemed relevant individuals (i.e. those who are not engaged by a deemed RI in any regulated activity immediately before the commencement of the new regime) should **not** be submitted to the HKMA through the Online System before 1 April 2003.

Arrangements after the commencement of the new regime

Starting from 1 April 2003 (9:00 am) onwards, RIs should submit to the HKMA, through the Online System, the specified particulars of each of the following relevant individuals:

- any deemed relevant individual to be engaged in any regulated activity for which the individual does not have a deemed status; or
- any non-deemed relevant individual to be engaged in any regulated activity.

There are some other important points that you should note in particular:

- Notification of changes of information submitted for the purpose of the HKMA Register should be made through the Online System to the HKMA within seven business days of such changes.
- Submissions for executive officers⁴ (including subsequent changes) must be made in writing to the HKMA. Details of the relevant arrangements will be given in a separate letter in due course.
- Every RI should ensure that a relevant individual does not engage in any regulated activity unless the individual's name is first placed on the HKMA Register. The RI will be notified by electronic mail of the HKMA registration number assigned to the relevant individual (you may refer to the User Manual for details).
- It is envisaged that, under normal circumstances, entries submitted through the Online System will be effected on the HKMA Register within five business days after submission to the HKMA.

Specific guidance in relation to relevant individuals***Automated trading services, marketing of investment-linked insurance products and Mandatory Provident Fund (MPF) schemes***

We have received enquiries regarding whether it is necessary for staff providing automated trading services or engaging in the marketing of investment-linked insurance products or MPF schemes to be registered with the HKMA as relevant individuals. Clarification has been sought from the SFC in this regard.

As automated trading services (Type 7 regulated activity) are basically part of the securities dealing services of a RI, we expect that any relevant individual engaged in a regulated function consisting of the provision of automated trading services will always be regarded as being engaged in dealing in securities (Type 1 regulated activity⁵) as well. This includes for example staff who provide clients with an explanation and / or account opening services in relation to a RI's automated trading services such as internet or WAP phone trading. There will be **no** additional initial and on-going competence requirements for relevant individuals engaged in Type 7 regulated activity.

Where a staff engages in the marketing of investment-linked insurance products or MPF schemes, he basically offers to enter into an agreement with the client with a view to (ultimately) acquiring the underlying securities of the product or scheme, or otherwise advises on such underlying securities. As a result the staff is engaged in a regulated function of dealing in securities (Type 1 regulated

activity) or advising on securities (Type 4 regulated activity), and therefore his details need to be entered in the HKMA Register as a relevant individual. You may also wish to note that the Code of Conduct for MPF Intermediaries issued by the Mandatory Provident Fund Schemes Authority (MPFA) requires that upon 1 April 2003, every MPF individual intermediary who is an employee of an authorized institution should ensure at all times that he would not carry on the business of advising clients on securities (including unit trusts) unless his name has been entered / deemed to have been entered in the HKMA Register for the purpose of carrying on Type 1 and / or Type 4 regulated activity. The rationale is that MPF schemes may consist of underlying investment products that are securities⁶.

Identification of relevant individuals

According to paragraph 8.1 of the Code of Conduct for Persons Registered with the SFC⁷, a registered person is required to provide clients with, among other things, the identity and status of employees acting on its behalf with whom the client may have contact. As such, we expect that RIs implement effective measures to enable clients to identify staff who are relevant individuals, particularly at retail branches. Set out below are some suggested ways in which a RI can achieve this:

Issuing "information card"

RIs may issue an "information card" to each relevant individual with clear identification on the card specifying (preferably in both English and Chinese) the following information:

- Name of the relevant individual;
- Registration number assigned to the relevant individual by the HKMA; and
- Name of regulated activities in which the relevant individual is engaging.

A relevant individual may identify himself to a client by presenting the "information card" if so requested. Alternatively, the information can be included in the relevant individual's business card.

Designated counters at branches for conducting regulated activities

RIs may establish designated counters at branches to conduct regulated activities (e.g. securities dealing services). There should be clear and prominent indication at such counters showing the designated services which can be rendered. RIs should ensure that only relevant individuals are permitted to man these counters.

It should be noted that the above examples are by no means exhaustive. Different RIs may have different ways of enhancing transparency and complying with the Code of Conduct requirement. The HKMA will adopt a pragmatic approach and take into account the practical aspects when considering the adequacy of measures adopted by RIs.

Should you have any questions relating to this letter, please contact Mr. Neville Ng at 2878-8283, Mr. Samuel Leung at 2878-1541 or Miss Alice Lee at 2878-1603. You are also advised that there will be a feature article in the forthcoming (March 2003) issue of the HKMA Quarterly Bulletin, which sets out the key issues regarding the initial and on-going competence requirements of relevant individuals. This will provide useful information for the relevant staff as well as

your compliance personnel.

Yours faithfully,

D T R Carse
Deputy Chief Executive

Encl. Annex 1 (Available only to authorized institutions)
Annex 2 (Available only to authorized institutions)

c.c. The Chairman, HKAB
The Chairman, DTCA
SFC (Attn: Mrs Alexa Lam)
FSTB (Attn: Miss Emmy Wong)

¹ The meaning of relevant individuals is set out in our circular "Register of relevant individuals to be maintained by the HKMA under the Banking (Amendment) Ordinance 2002" of 12 September 2002. The term includes deemed relevant individuals, i.e. those registered under transitional arrangements.

² This includes deemed registered institutions. Refer to our circular "Register of relevant individuals to be maintained by the HKMA under the Banking (Amendment) Ordinance 2002" of 12 September 2002 for details.

³ By approaching the Banking Policy and Supervision Support Section of the IT Division at 29/F, Asia Pacific Finance Tower, 3 Garden Road, Central.

⁴ The meaning of executive officers and the relevant arrangements for individuals acting in such capacity are provided in our circular "Banking (Amendment) Ordinance 2002 and Securities and Futures Ordinance" of 5 July 2002.

⁵ Where the automated trading services are for trading in futures contracts, the relevant individual should be registered in both Type 2 (dealing in futures contracts) and Type 7 regulated activities.

⁶ See section C of the Guide to Registration as MPF Intermediaries issued by the MPFA.

⁷ This code will be renamed as "Code of Conduct for Persons Licensed by or Registered with the SFC" in the light of the new regime.

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