

SFC Insider Dealing Reform Summary

On August 8, 2023, the Hong Kong Securities and Futures Commission ("SFC") [published](#) their consultation conclusions on proposed amendments to enforcement-related provisions of the Securities and Futures Ordinance ("SFO"). Currently, amendments to the SFO are being prepared.

The SFC has stated that a transition period will not be provided given that firms will have sufficient time to update their internal compliance policies and manuals once the legislative amendments have been published.

Who is Impacted?

Any person can fall foul of the insider dealing provisions, including those who are trading in the securities or derivatives in question, counselling or procuring another to trade, or disclosing inside information to another (if the elements of the misconduct are satisfied).

Nature of the change

Currently, both the civil and criminal insider dealing regimes apply to insider dealing with respect to:

- Hong Kong-listed securities (or their derivatives); and
- Securities dual-listed in Hong Kong and another jurisdiction (or their derivatives).

However, the regimes:

- Do not apply to insider dealing perpetrated in Hong Kong with respect to overseas-listed securities (or their derivatives); and
- Do not expressly apply to any acts constituting insider dealing perpetrated outside Hong Kong in respect of Hong Kong-listed securities (or their derivatives).

The SFC is in the process of amending the SFO to expand the territorial scope of the insider dealing regimes to include:

- Any acts of insider dealing involving Hong Kong-listed securities or their derivatives, regardless of where they occur; and
- Any acts of insider dealing involving overseas-listed securities or their derivatives, if any one or more of such acts occur in Hong Kong (provided the misconduct is also unlawful in the relevant overseas jurisdiction).

Key operational impacts/challenges

The enhancements to the insider dealing regime will, when implemented, enable the SFC to tackle cross-border insider dealing more effectively. Firms should bear in mind the extra-territorial impact of the new provisions, update their internal compliance policies and manuals, and provide relevant training to their staff.

In response to a comment raised during consultation regarding the obligation to self-report breaches under the SFC's main code of conduct – that data transfer restrictions may apply where the information is located overseas – the SFC has stated that firms should use their best endeavours to obtain the data for self-reporting when they become aware of suspected breaches.

Contact

If there are questions regarding these changes, contact Kher Sheng Lee (kslee@aima.org).

Acknowledgement

AIMA would like to thank Hannah Cassidy and the team at Herbert Smith Freehills for their assistance in putting this summary together.