



Our Ref: B1/15C
G16/1C

3 December 2013

The Chief Executive
All Authorized Institutions

Dear Sir / Madam,

Cross-border business activities

In view of the potential regulatory risk that may arise from cross-border business activities of authorized institutions (AIs), I am writing to remind AIs that they should comply with, and have appropriate procedures and internal controls to ensure compliance with, the requirements of any regulatory authority that apply to them. The Securities and Futures Commission has reiterated in a circular issued on 1 April 2010¹ that licensed/ registered intermediaries and individuals are required to ensure relevant legal and regulatory requirements of other jurisdictions are fully complied with when conducting business activities outside Hong Kong.

In general, before carrying out cross-border activities that are likely to be regulated under the laws of other jurisdictions (for example, solicitation of opening of banking or investment accounts; signing of account agreements or mandates; marketing or selling of investment or insurance products; entering into transactions of investment or insurance products; and giving investment advice), AIs should enquire into applicable local laws and regulations to ensure that they would not breach any such laws and requirements by engaging in such activities. If AIs and their staff or agents are not licensed under the laws of other jurisdictions when they should be, or they otherwise conduct themselves in an improper manner, this may call into question their fitness and propriety to remain authorized/ registered in Hong Kong.

¹ “Circular clarifying the licensing obligations of corporations and individuals and more particularly those conducting business outside Hong Kong”

The examples above are not meant to be exhaustive. AIs should procure proper legal or professional advice, provide clear guidance to staff and agents, and put in place adequate and effective procedures and controls to monitor their cross-border activities, so as to ensure compliance with applicable legal and regulatory requirements.

Yours faithfully,

Meena Datwani
Executive Director (Banking Conduct)

cc Securities and Futures Commission (Attn: Mr James Shipton, Executive Director of Intermediaries Supervision and Licensing)