Overview

The outbreak of COVID-19 and associated instability in the financial markets is continuing to present challenges for financial institutions in Hong Kong and Singapore. In light of this, there have been various government and regulatory initiatives to provide relief to alleviate the impact, and to enable firms to have more time to comply with regulatory reporting deadlines and capital requirements.

**Regulatory round-up: Key developments in Hong Kong and Singapore including:**

- Extension of SFC deadlines on meeting external electronic data storage measures, client asset protection matters and data standards for order life cycles;
- Easing of requirements to report results by Hong Kong listed issuers;
- Easing of capital buffer requirement for Hong Kong banks;
- Temporary measures in Singapore to ease pressure on SMEs across leases, construction contracts, supply contracts, event agreements, tourism-related contracts and secured loan facilities;
- Singapore establishment of US$60 billion swap facility with the US Federal Reserve to facilitate stable liquidity conditions.

We set out these key regulatory developments in detail below.
Hong Kong

In light of the global COVID-19 pandemic, the Securities and Futures Commission ("SFC") issued the Circular to Intermediaries – Extended Deadlines for Implementation of Regulatory Expectations and Reminder of Order Recording Requirements under COVID-19 Pandemic ("Circular on Extended Deadlines") on 31 March 2020 to inform the industry of its decision to extend the deadlines of three regulatory expectations that are due for implementation in 2020 by six months, namely (i) use of external electronic data storage, (ii) new measure to protect client assets and (iii) data standards for order life cycles.

Separately, to provide listed issuers with guidance on the publication of (i) preliminary results announcements due on 31 March 2020 and (ii) annual reports due on 31 March 2020 (GEM issuers) and 30 April 2020 (Main Board issuers), the SFC and The Stock Exchange of Hong Kong ("Exchange") published a Joint Statement in relation to Results Announcements in light of Travel Restrictions related to the Severe Respiratory Disease associated with a Novel Infectious Agent ("Joint Statement") on 4 February 2020 and a set of Frequently Asked Questions ("FAQs") on 28 February 2020. On 16 March 2020, the SFC further issued the Further Guidance on the Joint Statement in relation to Results Announcements in light of the COVID-19 Pandemic ("Further Guidance on Joint Statement").

The Hong Kong Monetary Authority ("HKMA") has also announced some prudential measures to deal with the stress on the banking sector.

Key Issues

Extended SFC deadlines for implementation of regulatory expectations

Under the Circular on Extended Deadlines, the deadlines for implementation of the following regulatory expectations will be extended by six months:

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We summarise below details of the three regulatory expectations to be implemented.

1. Use of external electronic data storage

Pursuant to paragraph 25 of the Circular to Licensed Corporations - Use of External Electronic Data Storage (“Circular on EDSP”), if a data centre of an external data storage provider (“EDSP”) used by a licensed corporation for exclusively keeping regulatory records has been approved under section 130 of the Securities and Futures Ordinance (Cap. 571) prior to 31 October 2019, the licensed corporation should provide the Licensing Department of the SFC with, no later than 30 June 2020, the following documents:

- a confirmation by the licensed corporation that requirements in paragraph 7(a) of the Circular on EDSP are satisfied;
- a copy of a notice from the licensed corporation to the EDSP, authorising and requesting the EDSP to provide the licensed corporation’s records to the SFC, countersigned by the EDSP; and
- a confirmation that the other requirements in the Circular on EDSP have been complied with.

The deadline of 30 June 2020 has now been extended to 31 December 2020.

It is expected that this extension will provide more time for licensed corporations, industry groups and cloud providers to coordinate a response for the necessary documentation and controls to be put into place to meet the SFC requirements. However, there continue to be challenges for licensed corporations to review and make any amendments to their storage arrangements, negotiate terms with their providers, and make decisions on appointments of Managers-in-charge / key contact persons during this period.

2. New measures to protect client assets

Under the Circular to Intermediaries – New Measure to Protect Client Assets issued by the SFC on 8 July 2019, a standardised acknowledgement letter is to be signed by both intermediaries and authorised institutions (“AIs”) with respect to the following types of client asset accounts which are opened with AIs in the name of intermediaries:

- accounts for holding client money;
- accounts for holding client securities; and
- accounts for holding non-repledged clients’ securities collateral (“Client Asset Accounts”).

Originally, intermediaries were required to have the countersigned acknowledgement letter in place before depositing any client money or securities into any new Client Asset Accounts by the end of July 2020. The deadline has now been extended to 31 January 2021.
3. Data standards for order life cycles

The SFC published the Circular to Licensed Corporations – Data Standards for Order Life Cycles on 31 July 2019 to notify the industry of in-scope brokers’ obligation to implement system changes and other arrangements required for compliance with the Data Standards for Order Life Cycles, which prescribes the minimum content and presentation format of trading-related data to be submitted to the SFC upon request, by the end of October 2020. The deadline has now been extended to 30 April 2021.

Guidance on publication of preliminary results announcements and annual reports by listed issuers

1. Publication of preliminary results announcements due on 31 March 2020

Under the Joint Statement, the FAQs and the Further Guidance on Joint Statement:

• if a listed issuer is able to publish a preliminary results announcement by 31 March 2020 without agreement with its auditors or management accounts, the Exchange will normally allow trading in the securities of the issuer to continue;

• the announcement should explain how and why the travel and other restrictions have affected the issuer’s ability to meet its reporting deadline of 31 March 2020;

• to allow trading in an issuer’s securities to continue, the issuer should publish material financial information, including but not limited to key financial figures (e.g. assets, liabilities, income and expenses, changes in shareholders’ equity) and narrative discussions of its financial position and performance during the year in support of the financial figures provided; and

• in all other cases, the issuer should consult the Exchange to discuss its individual circumstances as soon as possible.

2. Publication of annual reports due on 31 March 2020 (GEM issuers) and 30 April 2020 (Main Board issuers)

The Further Guidance on Joint Statement provides that an issuer may defer the publication of its annual report initially for up to 60 days from 16 March 2020 if it has published, on or before 31 March 2020, the following information:

• its preliminary results with its auditors’ agreement in compliance with the Main Board Rule 13.49 or GEM Rule 18.49 (as applicable);

• its preliminary results without its auditors’ agreement pursuant to the Joint Statement (as explained at paragraph 2A(i) above);

• its management accounts; or

• material financial information necessary to enable trading in the issuer’s securities to continue.
Issuers may apply for a further extension beyond the 60-day period by providing the Exchange with the following information:

- an explanation of why such further extension is necessary;
- the details of the issuer’s plans to prepare and publish its annual report; and
- the issuer’s proposed announcement in relation to such further extension.

The Exchange will consider applications for further extension on a case-by-case basis, taking into account, among others, (i) the need for the market to be adequately informed as to the issuer’s financial position and performance and (ii) the comparability of available information for traded stocks.

**Key capital-related measures**

Under the Banking (Capital) Rules (Cap. 155L), a specific countercyclical capital buffer (“CCyB”) requirement is applicable to authorised institutions (“AIs”), expressed as a percentage of their CET1 capital to its total risk-weighted assets. The CCyB requirement aims to increase the resilience of the banking sector in periods of excess credit growth. On 16 March, the HKMA noted that “economic indicators and other relevant evidence have signalled that the economic environment in Hong Kong has deteriorated further since the novel coronavirus outbreak” and reduced the applicable jurisdictional CCyB ratio from 2% to 1% with immediate effect.

In making this decision, the HKMA observed that “lowering the countercyclical capital buffer at this juncture will allow banks to be more supportive to the domestic economy, in particular those sectors and individuals that are expected to experience additional short-term stress due to the impact arising from the outbreak” and that “the banking sector can then act as a ‘shock absorber’ in times of stress, rather than as an amplifier of risk to the broader economy”.

The base rate is the interest rate forming the foundation upon which the discount rates for repurchase transactions through the discount window are computed. On 16 March, the HKMA adjusted the base rate downward to 0.86%, mirroring the slightly larger 1% cut by the US Federal Reserve.
Singapore

There have been various government and regulator efforts to give relief in light of Covid-19. The key development expected to take effect in mid-April is the passing of the Covid-19 (Temporary Measures) Bill, which seeks to provide temporary cash-flow relief for businesses and individuals who have been impacted by safe distancing measures and COVID-19, the Bill will suspend contractual obligations for an initial six months. However, this period may be extended to up to one year from the commencement of any Act that is passed. Banks and other financial institutions that service companies in Singapore should take note of this important development and how it will impact their financing arrangements.

The Singapore Deputy Prime Minister and Minister for Finance has announced the Resilience Budget where IRAS will be implementing a series of support measures to help businesses to cope with the impact of COVID-19. They include three-month deferment of corporate tax payments and Jobs Support Scheme (JSS) to help businesses retain their local employees during this period of uncertainty.

The Monetary Authority of Singapore ("MAS"), together with the Association of Banks in Singapore (ABS), the Life Insurance Association ("LIA"), the General Insurance Association ("GIA"), and the Finance Houses Association of Singapore ("FHAS"), have also on 31 March announced a package of measures to help ease the financial strain on individuals and SMEs caused by the COVID-19 pandemic. The package of financial measures complements the initiatives in the Government’s Unity Budget and Resilience Budget to preserve jobs and support enterprises and households.

MAS has also announced the establishment of a US$60 billion swap facility with the US Federal Reserve (Federal Reserve).

We expect more announcements ahead for regulatory forbearance or extension of key regulatory deadlines based on industry initiatives, and we will update as and when these are confirmed.

Key issues

Covid-19 (Temporary Measures) Bill (the “Bill”)

The COVID-19 (Temporary Measures) Bill (“Bill”) will cover agreements made before 25 March 2020 (when safe distancing measures were introduced) and is expected to take effect in mid-April. It will cover contractual obligations to be performed on or after 1 February 2020. The MAS has said that the proposed Bill will provide needed temporary protection for SMEs while being carefully scoped to avoid impairing the interests of banks and Singapore’s role in international financial transactions.

As part of the package of relief measures announced by MAS on 31 March 2020, banks have already undertaken to defer principal payments on secured loans to SMEs until the end of the year, subject to assessment of the quality of the security. The proposed Bill provides legal protection for the specific security and hence complements banks’ relief measures for SMEs.

The Bill will cover five categories of contracts: non-residential leases, construction or supply contracts, event agreements, tourism-related contracts and secured loan facilities.
Under the Bill, individuals or companies who cannot meet their contractual obligations and wish to be relieved from these obligations will have to notify the other contracting party. In particular, it will apply to loan facilities granted by a bank to SMEs, defined as business with a turnover of not more than S$100 million in the latest FY, and will apply as regards contract entered into / renewed before 25 March 2020 and as regards contractual obligations to be performed on or after 1 February 2020.

The Bill when passed will grant a temporary moratorium of six months for court and insolvency proceedings, as well as enforcement of security (where security is granted over real estate including via mortgages, plant, machinery, or other equipment used for business purposes), breach of which will amount to a criminal offence although the exact penalties have yet to be revealed.

Temporary relief will also be granted to distressed individuals and businesses: the threshold for bankruptcy will increase from S$15,000 to S$60,000 and the threshold for winding up will increase from S$10,000 to S$100,000. Parties will also have six months instead of 21 days to respond to statutory demands. Directors will also be relieved from possible offences as regards insolvency trading if debts are incurred in the ordinary course of business.

The Bill was submitted to Parliament on Wednesday, 1 April and is scheduled to be introduced, debated and passed in a single sitting on Tuesday next week (7 April). If Parliament and the President approves, the proposed law is expected to come into force mid-April and expire a year later.

The MAS has clarified that contractual rights of banks are not affected, other than the right to commence legal action for a default on a loan covered under the proposed Bill, which is put on hold during the prescribed six-month period. Banks’ contractual right to charge fees and interest for non-payment or late payment of loan obligations due is unaffected.

Financial institutions that act as creditor entities may wish to consider their existing security arrangements, and note that debtors may be providing written notices during this period, which should be assessed to determine if submitted notifications suffices to trigger the moratorium. As a creditor which enforces in spite of the moratorium could be subject to criminal penalties, it is imperative that financial institutions continue to monitor the moratoriums and insolvency landscape in Singapore and how the creditor’s position should be presented.

**Swap Facility with the US Federal Reserve**

The Monetary Authority of Singapore (MAS) announced the establishment of a US$60 billion swap facility with the US Federal Reserve (Federal Reserve). The swap line arrangements are expected to contribute significantly to ensuring stable liquidity conditions in the USD funding markets in Singapore and globally.

MAS intends to draw on this swap facility, which will be in place for at least six months, to provide USD liquidity to financial institutions in Singapore. MAS will work out the operationalisation of the facility in consultation with the Federal Reserve, and will provide details next week on how it will be implemented in Singapore.

The swap facility complements MAS’ management of the Singapore Dollar (SGD) market. Through its market operations, MAS will continue to provide ample SGD liquidity to support the needs of the banking system. In addition, the MAS Standing Facility is available for all eligible banks to deposit or borrow SGD funds against specified collateral.
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