

SFC RELEASES FAQs SIMPLIFYING COMPLIANCE WITH ELECTRONIC DATA STORAGE REQUIREMENTS - BUT IS IT REALLY AS SIMPLE AS IT LOOKS?

14 December 2020 | Hong Kong

Legal Briefings - By **Hannah Cassidy** and **Emily Rumble**

The Hong Kong Securities and Futures Commission (SFC) has released its long awaited [FAQs](#) regarding its 31 October 2019 [circular on the use of external electronic data storage providers](#) (EDSP Circular). While there are some aspects of the FAQs which we anticipate will create practical challenges and will require some careful analysis to implement, we generally consider the FAQs to be a significant step forward and to provide much needed flexibility for the industry.

We have been leading the AIMA Working Group in relation to the EDSP Circular and have been heavily involved in the industry engagement with the SFC, including in relation to the development of the “access map” and the undertaking discussed below.

We will be hosting a **webinar** on **7 January 2021** from **12.30pm to 1.30pm** to discuss the FAQs in more detail and their implications for firms and senior managers. If you would like to attend please click [here](#) to RSVP.

In summary, the FAQs:

- provide licensed corporations (**LCs**) with a pathway for compliance with the EDSP Circular which does not require their electronic data storage providers (**EDSPs**) to

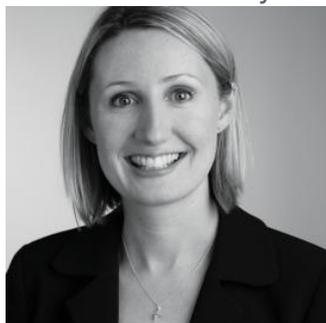
provide an undertaking or countersigned notice to the SFC. Instead, the SFC has indicated that it will accept the provision of an undertaking by LCs' designated managers in charge for the purpose of the EDSP Circular (**EDSP MICs**) (**MIC / RO Undertaking**), in addition to LCs maintaining an "access map" identifying the locations of electronic regulatory records stored with EDSPs and compliance with certain other conditions, including a daily backup of certain categories of records;

- clarify the SFC's position in relation to the use of intra-group affiliates, both within Hong Kong and offshore, for the storage of electronic regulatory records. The SFC will now approve the use of intra-group affiliates for the storage of such records, subject to the LC's EDSP MICs providing the same MIC / RO Undertaking as required for the use of non-affiliate EDSPs and meeting the same conditions for the use of the MIC / RO Undertaking with regards to maintenance of an "access map" and daily backups; and
- provide welcome flexibility to LCs in relation to the appointment of their EDSP MICs. The SFC will now accept, on a case-by-case basis, one MIC or responsible officer (RO) ordinarily resident in Hong Kong (in place of two EDSP MICs as required under the EDSP Circular), provided that the LC also identifies a delegate of the MIC or RO ordinarily resident in Hong Kong who can discharge the MIC or RO's responsibilities when they are not available.

The issues raised by the EDSP Circular and the FAQs are covered in further detail in our [full briefing](#).

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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