

Cleaning House



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As it clears its backlog of cases, the SFC is beginning to look ahead to bigger cases and increased action against individuals.

With a new head of enforcement, Tom Atkinson, who was appointed last May, there was a flurry of activity from Hong Kong's SFC in the latter half of 2016. A number of organisations saw enforcement action addressing a wide range of issues across a number of years, with a number of big banks hard hit.¹

In part this reflected the new head's desire to clear a long-standing backlog, which has seen cases drag on for years in many instances. It's also probably a reflection of Hong Kong's inspection by the Financial Action Task Force (FATF) next year.

The FATF's assessment of Singapore's anti-money laundering and counter-terrorist financing systems last year identified a number of weaknesses in understanding and investigations.² Hong Kong, a

long-time rival as a financial jurisdiction, will be keen to avoid similar criticism.

Already, a couple of recent issuances from the SFC have reminded firms of their responsibilities around AML. We've also seen the regulator increasingly prone to issue fines for systems and control failings even where there is no proof of illegality or losses as a result³ – infractions that in the past would have resulted in little more than a private warning.

Making Enforcement Count

AML is just one area that's likely to see continued activity in the coming year. Atkinson has announced specialised teams to investigate cases across eight key areas. As well as AML, these will cover corporate fraud, corporate misfeasance, insider dealing and market manipulation, intermediary misconduct, sponsors, the growth enterprise market and specific products.

¹ <http://www.globallegalpost.com/corporate-counsel/hsbc-slapped-with-fine-from-hong-kong-securities-regulator-78894031/>

² <http://www.fatf-gafi.org/countries/s-t/singapore/documents/mer-singapore-2016.html>

³ <http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/enforcement-news/doc?refNo=17PR48>
<http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/enforcement-news/doc?refNo=17PR32>

This should ensure a continuing stream of cases from the SFC, but two other key developments are likely to be increasingly apparent as well. First, the SFC is keen to focus on high-impact cases that send clear messages to the industry. That may mean fewer, but bigger cases in the future.

Second, we're likely to see increased enforcement activity against individuals. The Manager in Charge (MIC) Regime is now fully in operation, and July sees the deadline for licensed corporations to submit MIC information and management organisational charts to the regulator. It may still be some time before the fruit of the new regime is seen in enforcement, but – sooner or later – there is little doubt that its impact will be felt.