Upcoming Changes in the SFC's Business Risk Management Questionnaire (BRMQ)

The Securities and Futures Commission ("SFC" or "the Commission") recognizes the need for continuous improvement in compliance practices.

As a result, on 23rd December 2022, the Commission announced forthcoming changes to the Business Risk Management Questionnaire ("BRMQ"); its supervisory tool used to gather data from licensed corporations ("LCs") on an annual basis for the Commission's industry analysis, monitoring of market trends and identifying emerging issues.

This article provides an overview of the anticipated changes and their potential impact in subsequent submissions within the BRMQs from LCs.

Introduction

The new changes to the BRMQ focus on key areas such as:

In light of these changes which will be used for financial years ending on or after **30th November 2023**, it is in the interest of LCs to proactively gather the newly required information ahead of their financial year end.

1. General Compliance

Under the revised questionnaire, the scope of activities which LCs will have to provide information on has been increased to include **virtual assets**.

Additionally, LCs will now be required to provide the **total number of staff**, both **licensed and unlicensed**, along with information regarding controls in place to ensure staff integrity.

LCs must also disclose whether they have received requests of any sort from **law enforcement agencies** and, if so, provide details about the agency and the type of request.

2. Shareholders and Group Structure

For LCs that are part of a group with **overseas affiliates**, the updated questionnaire demands additional information regarding these affiliates.

This includes details about the **financial status** of overseas shareholders, their **commitment** to Hong Kong, and any existing **revenue/funding** arrangements.

Furthermore, the LC will need to state whether it has an **'exit plan'** in place.

3. Online Banking & Internet Trading

The forthcoming changes emphasize the importance of online banking and internet trading controls.

LCs will be required to provide detailed information about the **use of online banking** for both house and client accounts.

This includes disclosing the percentage of revenue generated from internet trading and specifying the internet trading platforms used, or if provided by a third party, etc.

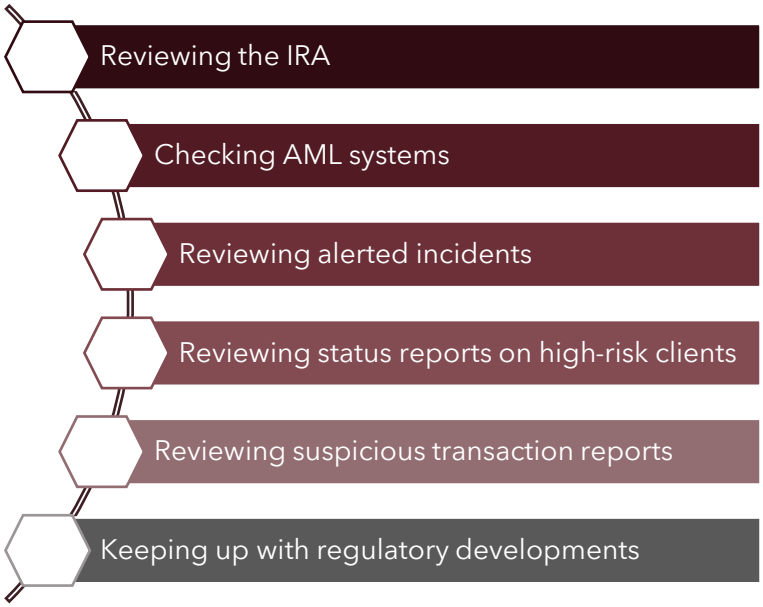
LCs must also provide information about arrangements towards **monitoring and detection** of **suspicious trading** activities such as spoofing, false trading, ramp and dump schemes, etc.

4. Anti-Money Laundering

To strengthen AML practices, the revised questionnaire includes several additional requirements, including inquisitions about LC's branches/subsidiaries, their location, activity, and **AML controls**.

LCs will need to provide extensive information about their **Institutional Risk Assessment** ("**IRA**"), such as the existence of the assessment, **frequency**, **date** of the last assessment, **key risk factors** considered, and potential **future risk areas**.

Senior management responsibilities:



Furthermore, LCs will need to disclose information about:

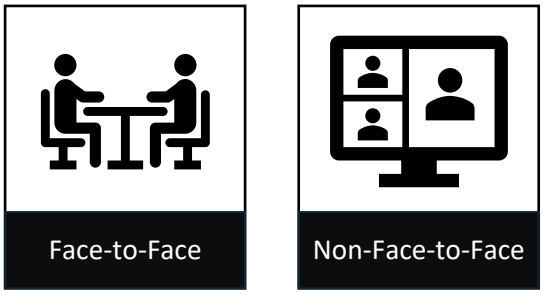
AML training provided to staff	Outsourcing of AML arrangements	Independent reviews of AML systems	Compliance checking of AML systems
Clients and controls in its cross-border correspondent relationships	Clients classified as politically exposed persons (PEPs)	Whether the LC has refused or terminated any business relationships due to AML risks	Changes (if any) of its Money Laundering Reporting Officer(s) ("MLRO")
Reliance on third-party intermediaries for AML matters	Enhanced due diligence (EDD) processes	Virtual asset business operations	Sanctions screening controls

LCs shall further provide more details relating to its **transaction monitoring program** such as frequency, adopted processes, date of most recent review as well as and controls for preventing the use of nominee shareholders in securities transactions (e.g., monitoring of trading activities and third-party operated accounts, identification of cross-trades, etc.).

5. Client Onboarding

LCs will be required to provide comprehensive **information on their clients**, including the total number, categorization (individual vs. non-individual), country of residence/domicile, and any new client engagements.

Onboarding Methods



Details about the **onboarding method** (face-to-face vs. non-face-to-face) and the adopted approach for onboarding non-face-to-face clients will also be required.

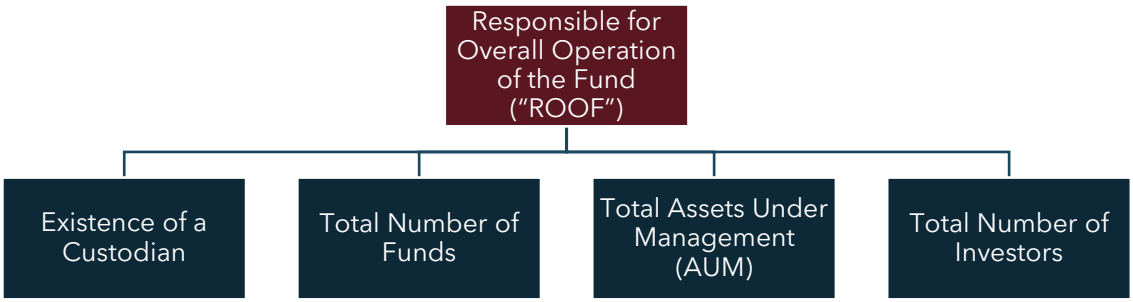
6. Asset Management

The updated questionnaire includes additional information requirements for LCs engaged in **asset management** activities.

This encompasses the number of discretionary accounts vs private funds under its management, controls around cross-border transfers, and identification and acceptance procedures for deposits into clients' accounts.

Unauthorized funds where the LC is **Responsible for Overall Operation of the fund ("ROOF")** receive **additional** inquisitions.

Additional disclosure requirements for ROOFs:



Moreover, applicable LCs will need to provide details about fund and discretionary account management activities such as **primary strategy**, geographical **location** of underlying investments, annualized **returns**, gross **fees**, common **exposures** between funds and discretionary accounts, and mainland China exposure by asset type.

7. Securities Brokerage

The oncoming changes will require LCs to provide additional information on **exchanges**, **brokers**, and **custodians** it deals with, including names, countries of operation, and transaction values.

LCs, where applicable, shall also provide more information about its **margin financing activities**, including basis for determining margin limits, incident reports, credit limit controls, and the frequency of credit reviews.

The frequency of review of **haircuts** for securities collateral and client concentration risk management **disclosures** will also be required.

Additionally, such LCs will need to provide information regarding **margin calls** and the **triggers** and **basis** for such calls.

8. Bookbuilding, Placing, Distribution & Advisory

LCs involved in bookbuilding, placing, distribution, and advisory activities will face additional reporting requirements.

This includes providing detailed information such as the number and value of transactions, income received, number of completed IPOs, etc…

Additionally, the applicable LCs will need to also provide information about their **distribution/investment advisory services**, including:

9. Corporate Finance

The revised BRMQ seeks additional information related to corporate finance activities.

This includes details about the **types of mandates** the LC has been involved in (e.g., IPOs, financial advisory, SPACs, etc.) and the **frequency of advice provided** in the syndicate composition.

Conclusion

Coming into effect with submissions from financial year ending **30th November 2023 onwards**, LCs are required to continue to submit the annual BRMQ via the **SFC WINGS** platform.

At **Peak Compliance Associates (PCA),** we have a proven track record of successful engagement with regulators such as the **SFC** and the **Hong Kong Monetary Authority ("HKMA")**. With **our expertise and experience** with **ongoing compliance advisory and support**, LCs can entrust us to help successfully navigate the complexities of the regulatory landscape and achieve your business objectives of conducting regulated activities.

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