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Hong Kong SFC Report on Selling Practices

On October 24, 2012, the Hong Kong Securities and Futures Commission issued a "Report on the Thematic Inspection of Selling Practices of Licensed Corporations", examining the selling practices of 10 licensed corporations (including independent financial advisers, wealth management affiliates of global financial institutions and stock brokers) that are involved in the sale of investment products. The SFC identified varying degrees of deficiencies and shortcomings within the 10 LCs. It is timely for LCs to review their selling practices now, and ensure that they meet the standards referred to in the Report.
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Mandatory Clearing of OTC Derivatives: Intersections Between U.S. and Hong Kong Law

When the G20 agreed at their 2009 Pittsburgh meeting to mandate central clearing of standardized OTC derivatives by 2012, the goal was to achieve a common approach to derivatives reform. Since then, the U.S. Commodity Futures Trading Commission has promulgated an expansive, one-size-fits-all approach to cross-border regulation—one that is not a good fit for Hong Kong. This article explores what is at stake in this regulatory tug-of-war and reviews the latest developments.
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New EU Transparency Regime for Short Positions

In 2008, supervisory authorities in several EU Member States and elsewhere, including the United States and Japan, adopted emergency measures to restrict or ban short selling, either in some or all financial instruments, with a focus on financial instruments issued by banks and other financial services providers. These actions were based on

concerns that, at a time of continued financial instability as a consequence of the financial crisis, short selling could aggravate the downward spiral in the prices of certain financial instruments in a way that could ultimately threaten issuers' existence and create systemic risks.
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Oversight Council Pursued U.S. Financial Stability in 2012

A key aspect of the Dodd-Frank Wall Street Reform and Consumer Protection Act was the establishment of a new entity—the Financial Stability Oversight Council—with the responsibility to address potential threats to U.S. financial stability. In taking this action, Congress was responding to the perception that the financial crisis of 2008 revealed an absence of focused responsibility and authority in the U.S. government for protecting the nation against significant systemic problems in the financial services sector. Under the Dodd-Frank Act, the Council was given the responsibility to identify and monitor potential threats to U.S. financial stability and the power to take certain actions to mitigate such threats.
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Malta: Recognised Incorporated Cell Companies

Regulatory changes at an EU level have led many EU Member States to introduce new investment structures that may be of benefit to fund sponsors. A recent development in Malta is the creation of an incorporated cell company that, while established primarily as an alternative risk transfer vehicle for the insurance industry, does appear to offer a further option particularly where a fund sponsor is seeking to launch a number of regulated fund products. In this article, the Director of the Regulatory Development Unit of the Malta Financial Services Authority outlines this new structure.
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With U.S. SEC Chairman Schapiro Stepping Down, the Path Toward Future Money Market Reform Could Be Uncertain

On November 26, 2012, U.S. Securities and Exchange Commission Chairman Mary Schapiro announced that she would step down on December 14, 2012. That same day, President Obama announced that he was designating current SEC Commissioner Elisse Walter as SEC Chairman upon Chairman Schapiro's departure. Chairman Schapiro's departure leaves the Commission evenly split between Democratic Commissioners Walter and Luis Aguilar and Republican Commissioners Daniel Gallagher and Troy Paredes. Until another Commissioner is appointed, this divide could impact the ability of the SEC to consider and adopt additional regulatory reforms relating to money market funds.
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