



SFC issues Consultation Conclusion on the Proposed Regulatory Requirements for Trustees and Custodians of Public Funds (New Type 13 Regulated Activities)

On 24 March 2023, the Securities and Futures Commission (the “SFC”) gazetted amendments to Schedule 5 of the Securities and Futures Ordinance (the “SFO”) for the implementation of a new type 13 regulated activity (“RA 13”) regime to regulate top-level trustees and custodians (“depositories”) who perform an activity of “providing depository services for a SFC-authorized Collective Investment Scheme (the “Relevant CIS”)” with reference to two core functions, which means:

- (a) **providing custody and safekeeping of Relevant CIS property;** and
- (b) **providing oversight of the Relevant CIS** to ensure that it is operated in accordance with the provisions of its constitutive documents .

The new RA 13 regime will come into effect on 2 October 2024, firms are required to be licensed or registered for RA 13 if they carry on an activity of providing depository services in Hong Kong for one or more Relevant CIS. Individuals who perform regulated functions for licensed depositories are also required to be approved as executive officers, responsible officers or representatives for RA 13.

Conduct and internal controls requirements

A depository licensed or registered for RA 13 is reminded to comply with all relevant regulatory requirements, including but not limited to maintenance of sufficient liquid capital and submission of monthly financial returns (FRR Form) and other periodic statutory returns as required under the SFO.

Key amendments and additions to the existing relevant requirements for depositories including the following:

Schedule 11 of the Code of Conduct



The internal control requirements as set out in Appendix G of the existing Code on Unit Trusts and Mutual Funds (the “UT Code”) will be codified in the SFC’s new Schedule 11 under the Code of Conduct for Persons Licensed by or Registered with the SFC (the “Code of Conduct”).

Financial resources requirement



A RA 13 depository will be required to maintain a minimum paid-up share capital of HK\$10,000,000 and a minimum liquid capital of HK\$3,000,000.

Professional indemnity insurance



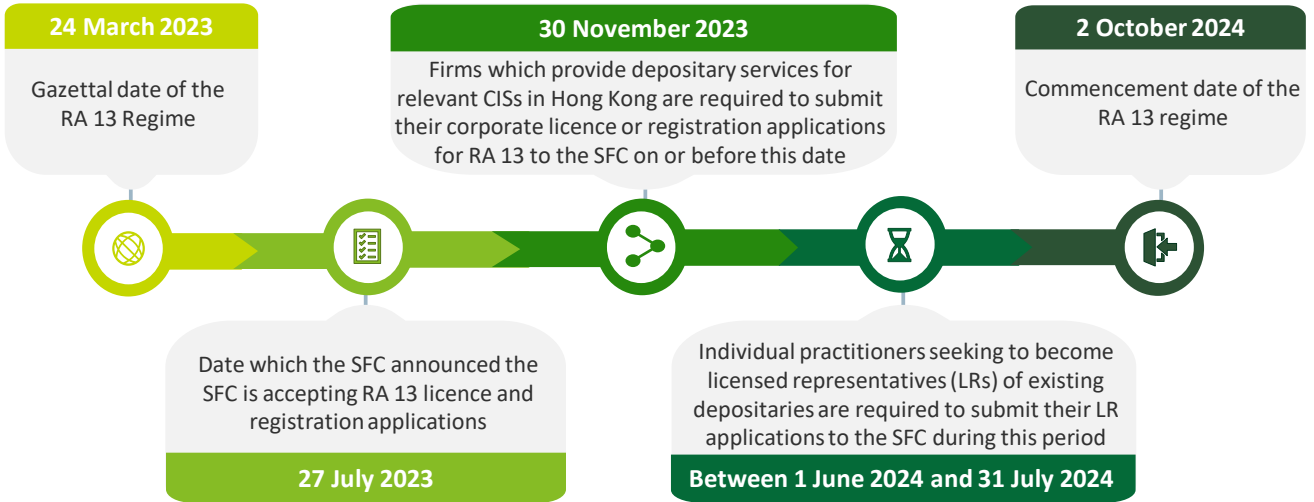
The SFC has introduced the requirement for depository to maintain adequate professional indemnity insurance coverage commensurate with its business.

Internal control review



The SFC has removed the requirement for submission of annual internal control reports by RA 13 depositories under the existing UT Code.

Timeline and Key Dates



How Deloitte can help

To accommodate the new RA 13 regime, it is important for trustees and custodians to start planning well in advance. Our team of dedicated regulatory compliance specialists are ready to support you on the following:



Gap Analysis / Health Check

Assessment on identifying required compliance infrastructures



Licensing Application Advisory

Assistance in applying for the SFC RA 13 license



Regulatory Advisory

Provision of advice over regulatory requirements, liquid capital and FRR Form

Contact us

Feel free to get in touch with our professionals to assist your firm on all matters relating to the above.

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