Cooperation among the regulators

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Competition between the hubs coexists with cooperation among their regulators, and a client who structures across them should know how much the regulators tell each other. MAS and FINMA signed a cooperation agreement on financial technology on 12 September 2016, one of the first of its kind, under which each refers innovative firms to the other and shares information on regulatory developments. MAS has similar agreements with the Hong Kong Securities and Futures Commission, with the Japan Financial Services Agency and with the Abu Dhabi and Dubai authorities, and all of them sit together in the Financial Action Task Force, the Financial Stability Board and IOSCO.[1] On enforcement the channels are the memoranda of understanding under the IOSCO Multilateral Memorandum, the mutual legal assistance treaties and, for anti-money-laundering intelligence, the Egmont Group of financial intelligence units to which both STRO and the Swiss Money Laundering Reporting Office belong.

The consequence is that a group licensed in two of these places cannot tell each regulator a different story. A licence application in Singapore asks for the group structure, the licences held elsewhere and any regulatory action taken against any group entity anywhere. The same question appears in a FINMA application and in an SFC application. The answers are compared. In my practice I have seen an

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application delayed by a year because a group's Singapore filing described a Swiss affiliate as unregulated while the affiliate was in fact under SRO supervision, a discrepancy MAS discovered by asking FINMA. The lesson is to prepare one group narrative, checked by counsel in each jurisdiction, before the first application is filed.

Notes

1. MAS and FINMA, Cooperation Agreement on FinTech, signed 12 September 2016; MAS's FinTech cooperation agreements are listed on the MAS website; on supervisory cooperation in enforcement see Part H, Chapter VI and Part N, Chapter II. ↩

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