HKMA

Mandatory Reference Checking

What You Need To Know

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ARE YOU READY FOR THE HKMA'S MANDATORY REFERENCE CHECKING ("MRC") SCHEME IN 2023?

According to the Guidelines on the Mandatory Reference Checking ("MRC") Scheme issued by the Hong Kong Association of Banks ("HKAB") and the DTC Association on May 5, 2022, Phase 1 of HKMA's Mandatory Reference Checking ("MRC") will be Effective on May 2, 2023.

The purpose of the MRC is to address the "rolling bad apples" phenomenon in the banking sector in Hong Kong where individuals who have misconduct related issues are moving from job to job because of the lack of reference check information sharing among employers in the sector.

SUMMARY CHART

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Phase 1 Effective Date:

May 2, 2023

Organization Coverage

All AIs registered at HKMA

Reference Check Coverage:

7 Years

Reference Check Request Response time:

1 Month

Misconduct information to be reported:

"(i) breach of legal or regulatory requirements;

(ii) incidents which cast doubt on an individual's honesty and integrity;

(iii) misconduct reports filed with the HKMA;

(iv) internal or external disciplinary actions arising from conduct matters; and

(v) ongoing internal investigations."

Phase 2 Effective Date:

Mid-2025 (2 years after implementation of Phase 1)

PHASE 1

In Phase 1, the positions to be covered include: directors, chief executives, alternate chief executives and managers as defined under the Banking Ordinance, as well as executive officers and responsible officers for securities, insurance and Mandatory Provident Fund ("MPF") regulated activities.

Phase 1 Role Coverage:

- Directors approved under §71 of the Banking Ordinance ("BO")
- Chief executives and alternate chief executives approved under §71 of the BO
- Managers notified to the HKMA under §72B of the BO
- Executive officers approved under §71C of the BO
- Responsible officers ("ROs") approved by the Insurance Authority ("IA") under §64ZE of the Insurance Ordinance ("IO")
- ROs approved by the Mandatory Provident Fund Schemes Authority ("MPFA") under §34W of the Mandatory Provident Fund Schemes Ordinance ("MPFSO")

PHASE 2

A review of the Scheme will be conducted two years after the implementation of Phase 1 (i.e. in mid-2025). The findings of the review will help refine the Scheme in its Phase 2, which is expected to be expanded to also cover individuals licensed or registered to carry out regulated activities.

Phase 2 Role Coverage

- All personnel already covered in Phase 1
- Staff licensed to carry out securities related regulated activities under the Securities and Futures Ordinance (i.e. Relevant Individuals, or "ReIs")
- Staff licensed to carry out insurance related regulated activities under the IO (i.e. Technical Representatives licensed by the IA under §64Y or §64ZC of the IO, or "TRs")
- Staff registered to carry out regulated activities under the MPFSO (i.e. subsidiary intermediaries registered with the MPFA under §34U(4) of the MPFSO

KEY IMPLICATIONS

1. As a requesting AI, it is crucial to prepare for the MRC process by designing an MRC request template, internal policies and workflows that are aligned with the HKMA's regulatory requirements. The request template should include all the necessary information and documentation required by the HKMA for the MRC process mentioned in previous consultative papers and announcements.

2. As a responding AI, it is important to have protocols in place and have the data release process ready to ensure that the information provided to the requesting AI is accurate and in compliance with the HKMA's regulations. This includes ensuring that all data sources are reliable and up to date, and that data is released in accordance with the HKMA's guidelines and the proposed timeline (one month) and if not be able to proceed, have justifications and the corresponding documentation as per mentioned by HKMA.

3. To ensure compliance with the HKMA's regulations, it is important to read over all situations/scenarios in previous HKMA papers to handle the MRC process, including current job and adverse reporting. This will help to ensure that any potential issues are identified and addressed before the MRC process is initiated.

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KEY IMPLICATIONS

4. With Phase 1 of the MRC process set to begin on May 2, 2023, it is important to be ready for compliance with the new regulatory requirements by the deadline plus studying and be ready for the requirements for Phase 2. It is important to stay agile and be prepared for any additional changes in process that may be announced by the HKMA, especially for Phase 2 of the MRC process. This will help to ensure that all requirements are met timely and that the MRC process is conducted in compliance with the HKMA's regulations.

5. To comply with the "Fit and Proper" guidelines as well as regulatory requirements for other countries, if applicable, it is important to integrate the MRC process with the entire background check process. This will help to ensure that all relevant information is gathered and evaluated as part of the MRC process. Furthermore, this makes sure the MRC process would not harm but add value to the entire candidate experience.

6. Working with an experienced employment screening vendor like eeVoices can help to set up the entire MRC process and ensure compliance with the HKMA's regulations. An experienced vendor can provide guidance and support throughout the MRC process, including designing the MRC request template, setting up the data release process, and ensuring compliance with all relevant regulations.

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"HELPING ORGANIZATIONS TAKE THE RISK OUT OF PEOPLE DECISIONS" IS OUR VISION AND, AT ITS MOST BASIC, IT IS WHAT WE DO FOR OUR CUSTOMERS - IT IS OUR MISSION.