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Financial Services Regulatory Update 金融服务监管资讯

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Hong Kong Monetary Authority's Revised Guideline on Authorization of Virtual Banks

On May 30, 2018, the Hong Kong Monetary Authority (HKMA) published its revised Guideline on Authorization of Virtual Banks (the Guideline) following the completion of a public consultation.

The Guideline, which is not very different from the proposals contained in the earlier consultation document of February 6, 2018, has provided updated guidance on the operational and risk management of a virtual bank. A summary of the HKMA's responses to the comments made by the respondents are of the following:

Main areas of concern	HKMA's response
Account balance requirement	As the key objective of introducing virtual banks in Hong Kong is to help promote universal finance, virtual banks should not impose any minimum balance requirements or low-balance fees on customers.
Ownership	Virtual banks should operate in the form of a locally-incorporated entity for the HKMA to perform its supervisory policy. If a locally-incorporated virtual bank applicant is not owned by a bank or financial institution, the applicant should be held through an intermediate holding company incorporated in Hong Kong.
Capital requirement	As virtual banks and conventional banks should comply with the same regulatory requirements as stipulated in the Banking Ordinance and the Banking (Capital) Rules, the minimum paid-up capital requirement of HK\$300 million is applicable to virtual banks.
On-going supervision	Some supervisory requirements will need to be adapted to suit the business models of virtual banks under

	a risk-based and technology-neutral approach.
Physical presence	A virtual bank must maintain a physical presence in Hong Kong, however, the books and records of the virtual bank may be located outside Hong Kong so long as the HKMA has adequate access to them to perform its regulatory and supervisory function.
Technology risk	A virtual bank should maintain proper management on technology related risk in particular information security, system resilience and business continuity management. When applying for a license, a virtual bank applicant can submit a preliminary independent assessment report and then submit a detailed version before the commencement of operation.
Risk management	A virtual bank should also implement system to identify, measure, monitor and control risks of liquidity, operational (including protection of customer data) and reputation.
Exit plan	As virtual bank is a new business model, the HKMA considers that an exit plan is to ensure that a virtual bank can unwind its business operations in an orderly manner without causing disruption to the customers and the financial system.

In processing applications, priority will be given by the HKMA to those applicants which can demonstrate that (i) they have sufficient financial, technology and other relevant resources to operate a virtual bank; (ii) they have a credible and viable business plan that would provide new customer experience and promote financial inclusion and fintech development; (iii) they have developed or can develop an appropriate IT platform to support their business plan; and (iv) they are ready to commence operation soon after a license is granted.

HKMA is expected to issue the first license before the end of this year or the first quarter of next year.

香港金融管理局修订虚拟银行的认可指引

香港金融管理局（金管局）于2018年5月30日，在完成公众咨询后发出《虚拟银行的认可》指引（指引）修订本。指引与2018年2月6日开始进行咨询的提案没有太大差别；它为虚拟银行的营运和风险管理提供了指引。金管局对回应者的意见作出回应的摘要如下：

主要关注事项	金管局的回应
帐户结余要求	由于引入虚拟银行在香港的主要目的是为了促进普及金融，虚拟银行不应设立最低户口结余要求或征收低户口结余收费。
所有权	虚拟银行应以在本地成立为法团的银行形式经营以便金管局履行其监管政策。如果虚拟银行申请人并非由此类银行或金融机构所拥有，申请人须由在香港成立为法团的中间控股公司持有。
资本规定	由于虚拟银行和传统银行应遵守《银行业条例》及《银行业（资本）规则》内订明的相同监管要求，最低缴足款股本要求3亿港元适用于虚拟银行。
持续监管	一些监管要求需要根据风险为本及科技中立的方法进行调整，以适应虚拟银行的业务模式。
实体办事处	虚拟银行必须在香港设有实体办事处，然而，只要金管局能够查阅该等帐目及记录以履行其职能，虚拟银行的帐目及记录可存放在香港以外地方。
科技风险	虚拟银行应当对科技相关风险尤其是涉及信息安全，系统稳定性和业务持续运作管理等方面进行适当管理。在提交申请时，虚拟银行申请人可以提交初步独立评估报告，然后在开始营运前提交详细后续报告。
风险管理	虚拟银行应建立适当制度以辨别，评估，监察及管控流动资金，业务运作（包括保障客户资料）以及信誉风险
退场计划	鉴于虚拟银行在香港是新的商业模式，金管局认为退场计划是确保虚拟银行一旦需要结束业务运作，相关过程能有秩序地进行，不会影响客户及金融体系。

在审批发牌申请时，金管局会优先处理能证明具备以下条件的申请人的个案：(i) 申请人具备足够的财务、科技及其他相关资源经营虚拟银行；(ii) 申请人的业务计划是可信和可行的，能提供新客户体验，并有助促进普及金融和金融科技发展；(iii) 申请人已经建立或有能力建立合适的资讯科技平台支持其业务计划；及(iv) 申请人获发牌后能较早开始营运。金管局希望可以在今年年底或明年首季开始向虚拟银行发出牌照。

Source 来源：

<http://www.hkma.gov.hk/eng/key-information/press-releases/2018/20180530-3.shtml>

Hong Kong Listing Rules Amended to Make Delisting Framework More Effective

On May 25, 2018, The Stock Exchange of Hong Kong Limited (HKSE) published its conclusions from responses to its Consultation Paper on Delisting and Other Listing Rule Amendments. The changes to the Listing Rules include the following:

Main Board Listing Rules

- allowing HKSE to delist a Main Board issuer after a trading suspension of 18 continuous months

- allowing HKSE to (i) publish a delisting notice stating its right to delist an issuer if the issuer fails to resume trading within the period specified in the notice, or (ii) delist the issuer immediately in appropriate circumstances

- issuers without sufficient operations or assets that will no longer be needed to undergo the three stage delisting procedure

GEM Listing Rules

- allowing HKSE to delist a GEM issuer after a trading suspension of 12 continuous months

- making changes to align with the delisting process under Main Board

The Listing Rules' amendments will become effective on August 1, 2018 (Effective Date). Transitional arrangements will be provided for issuers whose securities are under a trading suspension immediately before the Effective Date. The current Listing Rules will continue to apply for issuers currently having been subject to the delisting procedures or having been given a notice period before delisting. Other Main Board issuers suspended for 12 continuous months or more may be delisted if they fail to resume trading within 12 months from the Effective Date.

There are other Listing Rules amendments to (i) remove a bright line trading halt requirement where a major (or above) transaction has not been announced by an issuer, in which case a trading suspension may still be required if the transaction is inside information, and (ii) expedite the process for HKSE directing resumption of trading, with a view to keeping any trading suspension to a minimum.

By the Listing Rules' amendments, HKSE aims to establish a framework to facilitate timely delisting of issuers that no longer meet the continuing listing criteria and provide certainty to the market on the delisting process in order to maintain the quality and reputation of Hong Kong's securities market.

香港上市规则修订使除牌程序更有效率

香港联合交易所有限公司(联交所)于2018年5月25日刊发除牌及《上市规则》其他修订的咨询总结。《上市规则》的修订包括以下内容：

主板上市规则

- 让联交所可在发行人持续停牌18个月后将除牌
- 容许联交所可(i) 刊发除牌通知，表明发行人如未能在通知所指定的时间内恢复股份买卖，联交所有权将其除牌，或(ii) 于适当情况下即时将发行人除牌
- 没有足够业务运作或资产的发行人将不再需要经过三个阶段的除牌程序

GEM上市规则

- 联交所可于GEM发行人持续停牌12个月后将除牌将GEM除牌
- 程序与主板除牌程序划一

新修订《上市规则》将于2018年8月1日(生效日期)生效。生效日期前已停牌的证券发行人将可获过渡安排。现行《上市规则》将继续适用于现时已進入除牌程序或已处于除牌通知期的发行人。其他已连续停牌12个月或以上的主板发行人，若未能在生效日期起计的12个月内复牌或会被除牌。所有其他主板及GEM发行人则须遵守新的《上市规则》条文。

其他有关《上市规则》修订包括：(i) 删除若发行人未有公布主要(或以上级别)交易协议而需短暂停牌的明线规定，但若交易涉及内幕消息，发行人可能仍需申请停牌；及(ii) 加快由联交所指令恢复股份买卖的程序，目的是将停牌时间缩减至最短。

联交所修订《上市规则》旨在针对不再符合持续上市准则的发行人，建立有效率的除牌程序，并让市场更了解除牌的过程，维持香港证券市场质素及信誉。

Source 来源：

http://www.hkex.com.hk/News/News-Release/2018/180525news?sc_lang=en

Hong Kong Stock Exchange Publishes Results on its Review of Listed Issuers' Financial Reports

On June 1, 2018, The Stock Exchange of Hong Kong Limited (HKSE) published a report summarizing key findings from its review of 100 periodic financial reports released by listed issuers between February 2017 and April 2018.

Key findings of the review by HKSE are as follows:

1. Providing investors with a meaningful management commentary

HKSE expects that in addition to their comments stated in previous review reports about (i) adequate explanation of performance; (ii) commentary on significant balances and transactions; (iii) explanation of principal risks facing the businesses; and (iv) using key performance indicators, issuers are required to note the following:

a. Cyber risk and security: Issuers should elaborate on how the cyber risk and security to be dealt with;

b. Data fraud or theft: Issuers should elaborate on how the internal controls are implemented to prevent critical information from being misused through data fraud or theft; and

c. Environmental and social risks: Issuers should evaluate how such risks affect their businesses across different segments and geographical locations.

2. Judgements and estimates

HKSE recommended that issuers should ensure that their management has held a thorough discussion each year with the Audit Committee and auditors regarding the key assumptions underlying critical accounting estimates;

3. Assessing impairment of tangible and intangible assets (including goodwill)

HKSE recommended Directors and management to perform proper analysis and exercising judgement to assess the reasonableness of key assumptions applied in impairment testing;

4. Accounting for acquisitions

HKSE recommended that issuers should consider carefully whether the acquisition transaction constitutes

a business combination or an asset acquisition and issuers should properly identify and recognize all identifiable assets so that goodwill or a gain on a bargain purchase is accurately measured;

5. Impact of applying Hong Kong Financial Reporting Standard Nos. 9 and 15 (HKFRSs)

HKSE recommended that HKFRSs did not apply to the annual reports for the year ended December 31, 2017, nevertheless, issuers should have disclosed in those reports more entity-specific qualitative and quantitative information; and

6. New auditors' reporting

HKSE recommended that issuers should communicate early with their auditors about which documents comprise the annual reports and will be within the scope of "Other information" in Hong Kong Standards on Auditing and ensure that such information is provided to their auditors for consideration.

The objective of HKSE's review of financial reports is to increase issuers' awareness of possible pitfalls and improve the quality of their future financial reports in particular the importance of providing further information, in addition to the requirements set out in the Listing Rules and applicable accounting standards, that is relevant to shareholders and investors in accordance with its own circumstances.

香港联交所刊发审阅上市发行人财务报告的结果

香港联合交易所有限公司（联交所）2018年6月1日刊发有关上市发行人（发行人）定期财务报告之审阅报告，总结了联交所审阅发行人于2017年2月至2018年4月期间发布的其中100份定期财务报告后得出的结果。

联交所刊发的报告中特别指出以下范畴的重要性：

1 向投资者提供有意义的管理层评论 — 除了继续留意联交所上年度报告提出有关 (i) 充分解释其表现；(ii) 评论重大结余及交易；(iii) 阐释业务面对的主要风险；及 (iv) 运用关键表现指标等建议外，发行人亦应注意今天刊发的报告中提及的事项：

a. 网络风险及安全：发行人应详细阐述他们如何评估网络风险，及就网络风险及安全曾进行过的讨论；

b. 资料诈骗及盗窃：发行人应详细阐述他们如何评估内部监控程序，以防止资料诈骗及盗窃以致机密资料被盗用；及

c. 环境及社会风险：发行人应审慎考虑是否涉及该等风险；若涉及相关风险，应详细阐述该等风险如何影响其不同分部及地理区域的业务。

2 判断及估计 — 发行人应确保其管理层每年均与审核委员会和核数师进行详细讨论，阐释重要的会计估计背后各项主要假设所涉及的判断；

3 评估有形及无形资产（包括商誉）的减值 — 董事及管理层有责任恰当地分析及判断评估减值测试所用的主要假设是否合理，令所用的假设（如增长率及折现率）不会过份乐观。他们不应只依赖专业估值师或其他专家的意见而不作充分的尽职审查；

4 收购的会计处理 — 完成收购后，发行人应审慎考量有关交易构成企业合并还是购买资产，因为两者的会计处理方式完全不同。此外，进行企业合并的会计处理时，发行人亦应确保所有可辨认资产均妥为辨认和确认，以准确计量商誉或低价收购的收益；

5 采用已发布但尚未生效的主要 HKFRS 所带来的影响 — 发行人发布截至 2017 年 12 月 31 日止年度的年报时，《香港财务报告准则》（HKFRS）9「金融工具」及 HKFRS 15「客户合同收入」两大准则经已生效但并未适用于该等年报。发行人应已在该等年报内提供更多针对其本身情况的定性及定量资料，例如：他们目前实施相关准则的阶段；管理层预期将会采用的会计政策选择；及预期对财务报表项目之影响的金额和性质。如发行人尚未有提供上述资料，应立即咨询专业顾问的意见及详细研究该等主要 HKFRS，原因是他们编备下一份中期财务报表时须采用该等准则；及

6 新审计报告 — 发行人应及早与核数师讨论哪些文件将纳入年报，并按照《香港审计准则》的定义属于「其他信息」，亦应确保其核数师可于审计报告日期前取得该等资料，并完成所需的程序。

联交所审阅发行人财务报告的目的是鼓励发行人作出高水平的财务披露；报告载述主要审阅结果及建议，使发行人编制定期财务报告时能对潜在的问题提高警觉，尤其在《上市规则》、会计准则相关披露规定的合规情况方面，透过汲取别人的经验，提升其日后的报告质量。

Source 来源：

http://www.hkex.com.hk/News/News-Release/2018/1806012news?sc_lang=en

Hong Kong Securities and Futures Commission Reprimands and Fines Hang Seng Investment Management Limited HK\$3 Million for Regulatory Breaches over Funds' Cash Management

The Securities and Futures Commission (SFC) of Hong Kong has taken disciplinary action against Hang Seng Investment Management Limited (HSIM) for its failure to comply with regulatory requirements on cash management involving SFC-authorized funds.

SFC announced on May 31, 2018 that HSIM has been publicly reprimanded and fined HK\$3 million.

Summary of facts

The SFC's disciplinary action followed an independent review jointly agreed by the SFC and HSIM. The review found that, from 2010 to 2016, these HSIM-managed funds maintained substantial cash deposits with connected persons, but the interest received on some of these cash deposits was at a rate lower than the prevailing commercial rate.

The amount of interest involved was approximately \$875,648. HSIM has agreed to make a voluntary payment of the equivalent amount to the affected funds.

The review also found that although HSIM had procedures in place to check the interest rate offered by other banks, it did not apply the procedures to deposits placed in the funds' current accounts maintained with The Hongkong and Shanghai Banking Corporation Limited as it had inadvertently and mistakenly presumed that those accounts were non-interest bearing.

SFC's findings

The SFC considers that HSIM's internal controls and procedures on cash management of the funds at the relevant period were inadequate and it failed to manage and minimize the conflicting interests between the funds' investors and its connected persons.

In deciding the sanctions, the SFC took into account all the circumstances, including that HSIM:

- engaged an independent reviewer to conduct the review;
- agreed to make a voluntary payment equivalent to the amount of interest involved to the affected funds to rectify the financial impact of its failures;
- took remedial actions to strengthen its internal systems and controls;
- undertook to provide the SFC with a report prepared by an independent reviewer within nine months confirming all the identified concerns are properly rectified;
- cooperated with the SFC in resolving its concerns; and
- had no previous disciplinary record with the SFC.

恒生投资管理有限公司因违反与基金现金管理有关的监管规定遭香港证券及期货事务监察委员会谴责及罚款港币 300 万元

香港证券及期货事务监察委员会(证监会)对恒生投资管理有限公司(恒生投资)未有符合管理证监会认可基金的现金监管规定采取纪律处分措施。

证监会于 2018 年 5 月 31 日公布恒生投资遭公开谴责并被罚款港币 300 万元。

事实摘要

证监会在与恒生投资进行了一次共同协定的独立检讨后，采取了上述纪律处分行动。该检讨发现，在 2010 年至 2016 年期间，恒生投资管理的基金在关连人士存放大量现金，但当中有部分现金存款所收取的息率却低于当时可获得的商业利率。

有关利息所涉及的金额约为 875,648 元，而 HSIM 已同意向受影响的基金作出同等金额的自愿性付款。

该检讨亦发现，虽然恒生投资已设有程序规定须查看其他银行所提供的利率，但并没有将上述程序应用于该等基金在香港上海汇丰银行有限公司开立的往来帐户内的存款，原因是恒生投资不慎及错误地推定该等帐户是不计息的。

证监会的调查结果

证监会认为，恒生投资在有关期间就该等基金的现金管理所制订的内部监控措施及程序并不充足，而且未能管理及尽量减少该等基金投资者与其关连人士之间的利益冲突。

证监会决定上述处分时，已考虑到所有情况，包括恒生投资：

- 委聘了独立检讨机构进行上述检讨；
- 同意自愿向受影响的基金支付相等于所涉利息的款项，以纠正因其缺失而造成的财务影响；
- 采取了补救行动，以加强其内部系统及监控措施；
- 承诺在九个月内向证监会提供由独立检讨机构拟备的报告，确认所有已识别出的关注事项已妥为纠正；
- 与证监会合作解决其提出的关注事项；及
- 过往并无遭受证监会纪律处分的纪录。

Source 来源：

<http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=18PR58>

The People's Bank of China has Decided to Expand the Scope of Medium-term Lending Facility Collaterals to Include, Among Others, High-quality Small and Micro Enterprise Loans and Green Loans

In order to further increase the support for small and micro enterprises, green economy and other areas, and promote the healthy development of the credit bond market, the People's Bank of China (PBOC) recently decided to appropriately expand the scope of medium-term lending facility (MLF) collaterals.

MLF is a monetary policy tool of the PBOC towards increasing the medium-term currency base. It releases funds to recognized commercial banks or policy banks that meet the requirements of macro-prudential monetary supervision, and can be provided through tender. MLF uses collaterals as a way of distribution and generally accepts high-quality bonds such as government bonds, central bank bills, policy financial bonds, and high-grade credit bonds to be eligible collaterals.

The new MLF collaterals include: micro-enterprise, green, and agricultural/rural investment bonds not below AA grade, AA+ and AA grade corporate credit bonds (giving priority to accepting bonds of small and micro enterprises and green bonds), and high-quality small and micro enterprise loans and green loans.

The PBOC will continue to implement a stable and neutral monetary policy, maintain a reasonable and stable liquidity, and guide the stable and moderate growth of money and credit and social financing scale, and create a suitable monetary and financial environment for high-quality development and supply-side structural reforms.

中国人民银行决定适当扩大中期借贷便利的担保品范围以包括优质的小微企业贷款和绿色贷款等担保品

为进一步加大对小微企业、绿色经济等领域的支持力度，并促进信用债市场健康发展，中国人民银行近日决定适当扩大中期借贷便利（Medium-term Lending Facility, MLF）担保品范围。

“中期借贷便利”是中国人民银行提供中期基础货币的货币政策工具，对象为符合宏观审慎管理要求的商业银行、政策性银行，可通过招标方式开展。其以质押作为发放方式，并需有国债、央行票据、政策性金融债、高等级信用债等优质债券作为合格的质押品。

根据中国人民银行的介绍，新纳入 MLF 担保品范围的有：不低于 AA 级的小微企业、绿色和“三农”金融债券，AA+、AA 级公司信用类债券（优先接受涉及小微企业、绿色经济的债券），以及优质的小微企业贷款和绿色贷款。

中国人民银行将继续实施稳健中性的货币政策，保持流动性合理稳定，引导货币信贷和社会融资规模平稳适度增长，为高质量发展和供给侧结构性改革营造适宜的货币金融环境。

Source 来源：

<http://www.pbc.gov.cn/goutongjiaoliu/113456/113469/3549913/index.html>

<http://www.pbc.gov.cn/goutongjiaoliu/113456/113469/3549916/index.html>

China's Guiding Opinions on Further Regulating Services Concerning Sale and Redemption of Money Market Funds on the Internet

To mitigate and control relevant financial risks effectively, China Securities Regulatory Commission (CSRC) and the People's Bank of China (PBOC) have recently published the Guiding Opinions on Further Regulating Services Concerning Sale and Redemption of Money Market Funds on the Internet (Guiding Opinions) jointly, which came into effect on June 1, 2018.

CSRC and PBOC jointly pointed out that, due to the intervention and promotion of internet sales platforms, the scale of money market has grown rapidly, providing numerous investment channels to investors. However, there are also some issues, such as over-emphasis on the profitability and convenience in the promotion of funds without adequate disclosure on the risks; the multiple roles of the participating institutions making it difficult for investors to effectively identify the main items of the services and their contents; regulatory arbitrage; institutions not qualified for fund sales business engaging in the sale of funds; and some funds engaging in discriminative sales activities and unfair competition practices. There is acute need to regulate the relevant business, mitigate market risks and promote and standardize its development.

The Guiding Opinions set out the relevant requirements in five aspects as follows:

- During the process of selling money market funds on the internet, funds should reinforce their licensed operations, ensure the closed-loop settlement operations of fund sales (such the requirement for same-card entry and exit) and strictly comply with the requirements for fair competition in fund sales activities. Non-licensed institutions are prohibited from engaging in fund sales. Funds shall not retain sales information of investors. The Guiding Opinions also prohibit any institution or individual from misappropriation of settlement capital related to fund sales, the use of such settlement capital for “T+0 redemption and withdrawal” business, illegal transfer of fund units, and discriminatory, exclusive

or bundling sales activities in relation to sales of funds.

- An upper limit on “T+0 redemption and withdrawal” transactions will be implemented. The normal redemption by investors according to fund contracts will not be affected.
- Institutions or individuals without the qualification for fund sales are prohibited from providing advance capital for “T+0 redemption and withdrawal” business in any manner.
- The promotion and information disclosure activities of “T+0 redemption and withdrawal” business are to be standardized to reinforce the disclosure of risks and prohibit the provision of misleading information to investors.
- Non-bank payment institutions shall not provide the value-added service of making direct payment upon money market fund units trading transactions, engage directly or indirectly in money market fund sales, or provide advance capital for “T+0 redemption and withdrawal” business in any manner.

中国内地发布《关于进一步规范货币市场基金互联网销售、赎回相关服务的指导意见》

为有效防控金融风险，中国证监会与中国人民银行近日联合发布《关于进一步规范货币市场基金互联网销售、赎回相关服务的指导意见》（《指导意见》），自2018年6月1日起正式施行。

中国证监会与中国人民银行指出，由于互联网销售平台的介入及推广，货币市场基金规模快速增长，为投资者提供了许多投资渠道。但其中也存在一些问题，例如在基金宣传推介中片面强调收益性和便利性而对风险揭示不足、参与机构角色多导致投资者难以对服务主体、服务具体内容进行有效辨别、监管套利现象、机构不具备基金销售业务资格而从事基金销售业务、个别基金进行排他性销售及非公平竞争行为等。为此亟须对相关业务加以规制，防范风险，促进规范发展。

《指导意见》主要从以下五个方面提出要求：

一是货币市场基金互联网销售过程中，强化持牌经营要求，强化基金销售结算资金闭环运作与同卡进出要求，强化基金销售活动的公平竞争要求；严禁非持牌机构开展基金销售活动，严禁其留存投资者基金销售信息，严禁任何机构或个人挪用基金销售结算资金，严禁基金销售结算资金用于“T+0赎回提现”业务，严禁基金份额违规转让，严禁对基金实施歧视性、排他性、绑定性销售。

二是对“T+0赎回提现”实施限额管理。投资者按合同约定的正常赎回不受影响。

三是禁止无基金销售业务资格的机构或个人以任何方式为“T+0赎回提现”业务提供垫支。

四是规范基金管理人和基金销售机构“T+0赎回提现”业务的宣传推介和信息披露活动，加强风险揭示，严禁误导投资者。

五是要求非银行支付机构不得提供以货币市场基金份额直接进行支付的增值服务，不得从事或变相从事货币市场基金销售业务，不得为“T+0赎回提现”业务提供垫支等。

Source 来源：

<http://www.pbc.gov.cn/goutongjiaoliu/113456/113469/3549299/index.html>

<http://www.pbc.gov.cn/goutongjiaoliu/113456/113469/3549304/index.html>

European Securities and Markets Authority Issues Final Guidelines on MiFID II Suitability Requirements

On May 28, 2018, the European Securities and Markets Authority (ESMA) published a final report on guidelines on certain aspects of the Markets in Financial Instruments Directive (MiFID II) suitability requirements (Guidelines).

The assessment of suitability remains unchanged as one of the most important requirements for investor protection in the MiFID framework. The Guidelines served to update existing guidelines to reflect technological change and provide greater depth into the responsibilities of investment firms (firms) providing investment advice or portfolio management regarding the suitability requirements.

The key requirements of the Guidelines are as follows:

1. Information to clients about the purpose of the suitability assessment

ESMA required that firms should inform their clients clearly and simply about the suitability assessment and its purpose which is to enable the firm to act in the client's best interest and ask their clients to provide up-to-date, accurate and complete information.

2. Arrangements necessary to understand clients

ESMA required firms to establish, implement and maintain adequate policies and procedures (including appropriate tools) to enable them to understand the essential facts and characteristics about their clients.

3. Extent of information to be collected from clients

ESMA required firms to collect all 'necessary information', which is necessary to comply with the suitability requirements, about the client's knowledge and experience, financial situation and investment objectives before providing investment advice or portfolio management services.

4. Reliability of client information

ESMA required that firms should take reasonable steps and have appropriate tools to ensure that the information collected about their clients is reliable and consistent, without unduly relying on clients' self-assessment.

5. Updating client information

ESMA required that where a firm has an ongoing relationship with the client, in order to be able to perform the suitability assessment, it should adopt procedures defining: (a) what part of the client information collected should be subject to updating and at which frequency; and (b) how the updating should be done and what action should be undertaken by the firm when additional or updated information is received or when the client fails to provide the information requested.

6. Client information for legal entities or groups

ESMA required firms to have a policy defining on an ex ante basis, how to conduct the suitability assessment in situations where a client is a legal person or a group of two or more natural persons or where one or more natural persons are represented by another natural person.

7. Arrangements necessary to understand investment products

ESMA required that firms should ensure that the policies and procedures implemented to understand the characteristics, nature and features (including costs and risks) of investment products allow them to recommend suitable investments, or invest into suitable products on behalf of their clients.

8. Arrangements necessary to ensure the suitability of an investment

ESMA required that in order to match clients with suitable investments, firms should establish policies and procedures to ensure that they consistently take into account: (a) all available information about the client necessary to assess whether an investment is suitable, including the client's current portfolio of investments; and (b) all material characteristics of the investments considered in the suitability assessment, including all relevant risks and any direct or indirect costs to the client.

9. Costs and complexity of equivalent products

ESMA required that suitability policies and procedures should ensure that, before a firm makes a decision on the investment product(s) that will be recommended, or invested in the portfolio managed on behalf of the client, a thorough assessment of the possible investment alternatives is undertaken, taking into account products' cost and complexity.

10. Costs and benefits of switching investments

ESMA required firms to have adequate policies and procedures in place to ensure that an analysis of the costs and benefits of a switch is undertaken such that firms are reasonably able to demonstrate that the expected benefits of switching are greater than the costs.

11. Qualifications of firm staff

ESMA required firms to ensure that staff involved in material aspects of the suitability process have an adequate level of skills, knowledge and expertise.

12. Record-keeping

ESMA required firms to maintain adequate record-keeping regarding the suitability assessment including the suitability reports provided to clients.

In considering technological developments of the advisory market, MiFID II places a heavy emphasis on improving investor protection with an explicit reference to that the use of electronic systems in making personal recommendations or decisions to trade shall not reduce the responsibility of firms. ESMA expects that the implementation of the Guidelines will ensure that MiFID II's objectives are achieved.

欧洲证券和市场管理局发布关于 MiFID II 适合性要求的最终指令

欧洲证券和市场管理局 (ESMA) 于 2018 年 5 月 28 日发布了关于欧盟金融工具市场规则 II (MiFID II) 适合性要求的某些内容指令(指令)的最终报告。

适合性的评估仍然是 MiFID 框架中对投资者保护的最重要的目标之一。指令旨在更新现有准则,以反映科技变化,并增加那些提供投资建议或投资组合管理的投资公司(公司)在适合性要求方面的责任。

指令的主要内容如下:

1. 向客户提供有关适合性评估目的的信息

ESMA 要求公司应该清楚而简单地告知客户适合性评估及其目的,使公司能够以客户的最佳利益行事,并要求客户提供最新,准确和完整的信息。

2. 必要的安排以了解客户

ESMA 要求公司制定,实施和维持适当的政策和程序(包括适当的工具),以便了解客户的基本事实和特点。

3. 从客户收集信息的范围

ESMA 要求公司在提供投资建议或投资组合管理服务前,需要收集所有关于客户知识和经验,财务状况和投资目标的“必要信息”,以遵守适用性评估的要求。

4. 客户信息的可靠性

ESMA 要求公司应该采取合理的措施,并有适当的工具来确保收集到的有关其客户的信息是可靠和一致的,而不会不当地依赖客户的自我评估。

5. 更新客户信息

ESMA 要求如果公司与客户保持持续的关系,为了能够进行适合性评估,应该采用以下程序:(a) 收集客户信息的哪部分应该更新以及次数;(b) 当收到更多或更新的信息或当客户未能提供所要求的信息时,应如何进行更新以及应采取何种行动。

6. 法人或团体的客户信息

ESMA 要求公司事先制定政策,如何在客户是法人或两个或以上自然人的团体或一个或多个自然人由另一个自然人代表的情况下进行适合性评估。

7. 必要的安排以了解投资产品

ESMA 要求公司确保执行政策和程序以了解投资产品的特性,性质和特征(包括成本和风险),以便向客户推荐合适的投资,或代表其客户投资合适的产品。

8. 必要的安排以确保投资的适合性

ESMA 要求为了满足客户提供合适的投资,公司应制定政策和程序,以确保他们始终考虑到:(a) 评估投资是否合适的必要信息,包括客户当前的投资组合;(b) 适合性评估中考虑所有投资的重要特质,包括所有相关风险以及客户承担的任何直接或间接成本。

9. 同等产品的成本和复杂性

ESMA 要求适合性政策和程序应确保公司在决定推荐投资产品或代表客户投资于管理的投资组合前;在考虑到产品的成本和复杂性,对可能的投资选择进行全面评估。

10. 转换投资的成本和收益

ESMA 要求公司制定适当的政策和程序,以确保对转换投资的成本和收益进行分析,以便公司合理地证明转换投资的预期收益高于成本。

11. 公司员工的资历

ESMA 要求公司确保参与适合性评估过程中重要事项的工作人员具备足够的技能,知识和专业知识水平。

12. 记录保存

ESMA 要求公司保持适合性评估的适当记录,包括向客户提供的适合性报告。

在考虑科技发展时, MiFID II 高度重视改善投资者保护,明确提到使用电子系统提出个人建议或交易决策不应减少公司的责任。ESMA 期望指令的实施将确保 MiFID II 的目标得以实现。

Source 来源:

<https://www.esma.europa.eu/press-news/esma-news/esma-publishes-final-guidelines-mifid-ii-suitability-requirements>

Singapore and India Advance in FinTech Cooperation

During the official visit of Prime Minister Narendra Modi of the Republic of India (India) to Singapore from May 31 to June 2, 2018, India and Singapore signed an agreement to strengthen cooperation in fintech services. India's Department of Economic Affairs and Monetary Authority of Singapore will set up a Joint Working Group which comprises representatives of key stakeholders from both countries.

Singapore and India have already partnered to offer fintech services, in particular, in the payment system and services. Singapore's payment services provider Network for Electronic Transfers of Singapore (NETS) and National Payments Corporation of India (NPCI) had established a cross-border payment linkage between Singapore's PayNow and India's Immediate Payment Service to support real-time fund transfer between accounts in both countries.

Both NETS and NPCI were also working on a payment linkage to allow NETS cardholders to make payments at any RuPay merchant in India and conversely for RuPay cardholders to make payments at NETS terminals in Singapore.

NETS and NPCI were further exploring the possible use of India's national mobile wallet, Bharat Interface for Money, to make payments at NETS terminals.

The enhanced cooperation of Singapore and India have embarked on a digitalization journey to boost fintech services.

Facing such international trend, there is a growing need for Hong Kong to strengthen regional cooperation leveraging new technologies, in particular with China and other regional jurisdictions, in order to maintain Hong Kong's position as an international center for provision of financial services, especially fintech services.

新加坡和印度在金融科技合作方面的进展

2018年5月31日至6月2日，印度共和国（印度）总理纳伦德拉莫迪正式访问新加坡期间，印度和新加坡签署了加强金融科技服务合作的协议。印度经济事务部和新加坡金融管理局将成立一个由两国关键利益相关方代表组成的联合工作组。

新加坡和印度已经合作提供金融科技服务，特别是支付系统和服务。新加坡支付服务提供商新加坡电子转账网络（NETS）和印度国家支付公司（NPCI）已经在新加坡的 PayNow 和印度的即时支付服务之间建立了跨境支付链接，以支持两国账户之间的实时资金转账。

NETS 和 NPCI 都在开展支付联动工作，以允许 NETS 持卡人在印度的任何 RuPay 商户进行支付；同时，RuPay 持卡人可以在新加坡的 NETS 终端进行支付。

NETS 和 NPCI 正在进一步探索使用印度的国家手机钱包 Bharat Interface for Money 在 NETS 终端进行支付的可能性。

新加坡和印度的加强合作正开始推动两国的金融科技服务的数字化之旅。

面对这国际新形势，香港有必要加强与中国及其他周边区域在新科技方面的合作，以维持香港作为提供优质金融服务（包括金融科技服务）的国际金融中心的地位。

Source 来源：

<http://www.mas.gov.sg/News-and-Publications/Media-Releases/2018/Singapore-and-India-advance-in-FinTech-cooperation.aspx>

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