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Financial Services Regulatory Update
金融服务监管资讯

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The Stock Exchange of Hong Kong Limited Updates Frequently Asked Questions Series 17 Regarding Corporate Governance Requirements

On December 28, 2018, The Stock Exchange of Hong Kong Limited issued revised Frequently Asked Questions (Series 17) regarding corporate governance requirements. A lot of significant clarifications have been made regarding the independence of independent non-executive directors, board practices, when a director should abstain from voting on a board resolution, timing of application of the new dividend policy adoption and disclosure requirements and other corporate governance requirements.

香港联合交易所有限公司更新有关企业管治规定的常问问题系列17

2018年12月28日，香港联合交易所有限公司就有关企业管治的要求发出经修订的常问问题（第17系列）。该修订就独立非执行董事的独立性，董事会操作的合规性，董事什么时候应对董事会决议放弃表决权，新股息政策采纳和披露要求的实施时间，以及其他一些公司治理要求，作出许多重要的澄清。

Source 來源:
http://en-rules.hkex.com.hk/net_file_store/new_rulebooks/h/k/HKEX_FAQ_17.pdf

Hong Kong Securities and Futures Commission Publishes Review of The Stock Exchange of Hong Kong Limited's Performance in Regulating Listing Matters

On December 21, 2018, the Hong Kong Securities and Futures Commission (SFC) released a report (Report) on its review of The Stock Exchange of Hong Kong Limited's (SEHK) performance in its regulation of listing matters.

The Report summarizes the findings and recommendations of the SFC's review, which covered 2016 and 2017. It also identifies certain areas for SEHK to enhance its performance.

The scope of the SFC's review is set out in Section 1 of the Report. The key areas reviewed were: (a) the Exchange's vetting of IPO applications and suitability for listing; (b) the Exchange's work in regulating reverse takeover transactions; (c) the Exchange's work in handling disclaimer audit opinions; and (d) the Exchange's policy on listing enforcement.

The SFC's full findings and recommendations in relation to this review are set out in Section 2 of the Report. The SFC has identified a number of areas for potential improvement and suggested recommendations for the Exchange to consider. In arriving at its recommendations, the SFC has taken into account the Exchange's initiatives and proposals undertaken after the review period.

The Report has been published on the SFC website: https://www.sfc.hk/web/EN/files/ER/PDF/17%20-%202018%20review%20report%20(English).pdf.

香港证券及期货事务监察委员会发表有关香港联合交易所有限公司规管上市事宜表现的检讨报告

2018年12月21日，香港证券及期货事务监察委员会 (证监会) 发表就香港联合交易所有限公司 (联交所) 规管上市事宜的表现，发表检讨报告 (该报告)。

证监会的检讨涵盖2016年及2017年，该报告撮述检讨结果及建议，亦提议联交所在某些范畴继续努力,提升表现。

是次檢討的範圍詳述於该报告第 1 節，而檢討的主要範疇為：(a) 交易所就首次公開招股申請及申請人是否適合上市進行的審核；(b) 交易所在規管反收購交易方面的工作；(c) 交易所在處理核數師無表示意見方面的工作；及 (d) 交易所有關上市規則執行的政策。

有關是次檢討的全部結果及建議載於该報告第 2 節。证监会已識別出多個可能須予改善的範疇，並提出了相關建

議供交易所考慮。证监会在達致有關建議時，已考慮到交易所在檢討期後採取的措施和提出的建議方案。

有关报告已登载于证监会的网站:
https://www.sfc.hk/web/TC/files/ER/PDF/17%20-%202018%20review%20report%20(Chinese).pdf。

Source 來源:
https://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=18PR144

Hong Kong Court of First Instance Grants Orders Sought by Hong Kong Securities and Futures Commission against Boiler Room Fraudsters to Compensate Investors

On December 24, 2018, the Hong Kong Court of First Instance (Court) has granted orders sought by the Hong Kong Securities and Futures Commission (SFC) against boiler room fraudsters to compensate 14 investors who fell victim to the scams following legal proceedings under section 213 of the Securities and Futures Ordinance (SFO).

The SFC told the Court that three unlicensed entities, which purported to be based in and operated from Hong Kong, solicited investors through emails and cold calls to open trading accounts and to invest in securities and futures products via their websites at various times in 2014.

The three entities involved in the boiler room scams are:

- Cardell Limited and/or Cardell Company Limited (Cardell) using the website www.cardell-limited.com
- Waldmann Asset Management (Waldmann) using the website www.waldmann- asset-management.com and/or www.waldmann-asset-management.net
- Doyle Hutton Associates (Doyle) using the website www.doyle-hutton- associates.com and/or http://doyle-hutton-associates.net

It emerged that none of the trades in securities and futures agreed with the affected investors were ever executed on any recognized exchange, nor have these investors been able to recover any of their monies.

The affected investors were also asked to deposit funds for their investments into various Hong Kong bank accounts held by the following companies:

- Cedan Limited (Cedan)
- Hamtron Limited (Hamtron)
- Cardan Limited (Cardan)
- Mutual Hope Limited (Mutual Hope)

To protect the monies in bank accounts held by Cedan, Hamtron, Cardan and Mutual Hope which apparently were the proceeds of the unlicensed and boiler room activities carried out by Cardell, Waldmann and Doyle, the SFC had obtained interim injunctions to freeze the monies in these four bank accounts in January 2016.

The Court has found Cardell, Waldmann and Doyle in contravention of sections 109 and 114 of the SFO as they held themselves out as being prepared to carry on regulated activities in securities and futures contracts advisory services and asset management services whilst unlicensed.

The Court also found that Cedan, Hamtron, Cardan and Mutual Hope have aided, abetted or assisted Cardell, Waldmann and Doyle in their contraventions of the SFO.

An administrator has been appointed to administer the process of distributing the proceeds of the boiler rooms frauds remaining in the four frozen Hong Kong bank accounts – approximately a sum of HK$600,000 – for the benefit of the 14 victims on a pro rata basis.

香港原讼法庭应香港证券及期货事务监察委员会的申请命令锅炉室骗徒向投资者作出赔偿

2018 年 12 月 24 日，继香港证券及期货事务监察委员会（证监会）先前提起的法律程序后，香港原讼法庭(原讼法庭)应证监会的申请根据《证券及期货条例》第 213 条对锅炉室骗徒作出命令，饬令他们向 14 名受骗投资者作出赔偿。

证监会向原讼法庭表示，三家据称总部设于香港并在香港营运的无牌实体于 2014 年不同时间，以电邮及电话自荐造访方式招揽投资者，以透过它们的网站开设交易帐户和投资证券及期货产品。

该三家涉及锅炉室骗案的实体是：

- Cardell Limited 及／或 Cardell Company Limited（Cardell），其使用的网站为 www.cardell-limited.com
- Waldmann Asset Management（Waldmann），其使用的网站为 www.waldmann-asset-management.com 及／或 www.waldmann-asset-management.net

- Doyle Hutton Associates（Doyle），其使用的网站为 www.doyle-hutton- associates.com 及 / 或 http://doyle-hutton-associates.net

资料显示, 三家实体与受影响的投资者所协定的证券及期货交易从未在任何认可交易所上执行, 而这些投资者亦未能取回属于他们的任何款项。

受影响的投资者亦被要求将他们投资所用的资金存入由以下公司持有的多个香港银行帐户内：

- Cedan Limited (Cedan)
- Hamtron Limited (Hamtron)
- Cardan Limited (Cardan)
- Mutual Hope Limited (Mutual Hope)

为了保障似乎是 Cardell、Waldmann 及 Doyle 进行无牌及锅炉室活动所取得并存放于 Cedan、Hamtron、Cardan 及 Mutual Hope 所持有的银行帐户内的款项, 证监会曾于 2016 年 1 月取得临时强制令, 以冻结在这四个银行帐户内的款项。

原讼法庭裁定 Cardell、Waldmann 及 Doyle 违反该条例第 109 及 114 条. 原因是他们在未领有牌照的情况下, 显示自己准备进行就证券及期货合约提供意见及资产管理服务的受规管活动。

原讼法庭亦裁定, Cedan、Hamtron、Cardan 及 Mutual Hope 曾协助、教唆或辅助 Cardell、Waldmann 及 Doyle 违反该条例。

原讼法庭已委任管理人执行发放程序, 将仍然存放在该四个已冻结的香港银行帐户中的锅炉室诈骗活动的所得收益 (大约 600,000 元), 按比例归还予 14 名受害人。

Source 來源:
https://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=18PR145

Hong Kong Securities and Futures Commission Reprimands and Fines Ardon Maroon Fund Management (Hong Kong) Limited HK$800,000 for Cross Trade Related Failures

December 27, 2018, the Securities and Futures Commission (SFC) has reprimanded and fined Ardon Maroon Fund Management (Hong Kong) Limited (Ardon Maroon) (now known as China Silver Asset Management (Hong Kong) Limited) HK$800,000 for cross-trade related failures in managing the Ardon Maroon Asia Master Fund (AM Fund).

The SFC found that Ardon Maroon gave instructions to a brokerage to execute a cross trade for 15 million shares of a listed company on the Stock Exchange of Hong Kong on 8 August 2014, which resulted in the AM Fund conducting a wash trade. Ardon Maroon then instructed another brokerage to deliver the relevant shares to settle the wash trade.

A cross trade that does not involve any change of beneficial ownership is a wash trade which is presumed to be manipulative under the Securities and Futures Ordinance (SFO) and is not in the best interests of market integrity. The wash trade conducted by the AM Fund was also not in the best interests of the holders of the fund because by doing so, the fund incurred undue transaction costs of over HK$133,000.

By instructing the cross trade, Ardon Maroon failed to exercise due skill, care and diligence in managing the AM Fund.

In deciding the disciplinary sanction, the SFC took into account:

- the Disciplinary Fining Guidelines;
- the cross trade was an isolated incident;
- Ardon Maroon has an otherwise clean disciplinary record with the SFC;
- Ardon Maroon did not benefit from the cross trade;
- a clear message needs to be sent to fund managers that the SFC would not tolerate conduct that is not in the best interests of the clients and market integrity; and
- Ardon Maroon's financial situation.

Ardon Maroon Fund Management (Hong Kong) Limited 因干犯交叉盘交易相关缺失而遭香港证券及期货事务监察委员会谴责及罚款 800,000 港元

2018 年 12 月 27 日, Ardon Maroon Fund Management (Hong Kong) Limited (Ardon Maroon, 现称为 China Silver Asset Management (Hong Kong) Limited) 在管理 Ardon Maroon Asia Master Fund (AM 基金) 时干犯有关交叉盘交易的缺失, 遭香港证券及期货事务监察委员会 (证监会) 谴责及罚款 800,000 港元。

证监会发现, Ardon Maroon 在 2014 年 8 月 8 日向一家经纪行发出指示, 在香港联合交易所就一家上市公司的 1,500 万股股份执行交叉盘交易, 以致 AM 基金作出了一项清洗交易。Ardon Maroon 其后指示另一家经纪行交付相关股份, 以结算该清洗交易。

交叉盘交易如不涉及实益拥有权的转变, 便属于清洗交易, 在《证券及期货条例》下被视为操纵行为, 并有损市场廉洁稳健。此外, AM 基金所进行的清洗交易亦令基金产生了逾 133,000 港元不必要的交易费用, 不符合基金持有人的最佳利益。

就发出该项交叉盘交易指示而言, Ardon Maroon 没有以适当的技能、小心审慎和勤勉尽责的态度管理 AM 基金。

证监会在决定上述纪律处分时, 已考虑到以下因素：

- 《证监会纪律处分罚款指引》；
- 该交叉盘交易是一宗个别事件；
- Ardon Maroon 过往并无遭受证监会纪律处分的纪录；
- Ardon Maroon 没有在该交叉盘交易中获利；
- 有必要向基金经理传达清晰的信息, 即证监会不会容忍没有维护客户的最佳利益及确保市场廉洁稳 健的行为；及
- Ardon Maroon 的财务状况。

Source 來源:
https://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=18PR146

Hong Kong Exchanges and Clearing Limited in 2018: Year in Review

On December 21, 2018, Hong Kong Exchanges and Clearing Limited (HKEX) published its annual review stating that it has had an exceptional year, reporting record January-September results, record high trading activity and a return to the top of the world's initial public offering (IPO) fundraising table. Other highlights have included the opening of the HKEX Innovation Lab, new rules that support the listing of more, and more varied companies in Hong Kong, and exciting and sustainable momentum in derivatives trading.

Financial, Corporate & Strategic Highlights

- Record revenues reported in January-September 2018, of HK$12,296 million, up 27 per cent.
- January-September 2018 profit attributable to shareholders up 35 per cent to HK$7,484 million
- Laura M Cha named HKEX Chairman in April
- Trading commenced on the Qianhai Mercantile Exchange, a brand new commodities trading bourse in Mainland China
- Opened HKEX Connect Hall, located in Central, Hong Kong, exemplifying HKEX's role in connecting markets and forging lasting relationships
- HKEX joined United Nations partnership proramme for sustainable capital markets
- HKEX joined The World Economic Forum as Strategic Partner Associate

Innovation

- HKEX Innovation Lab opened - pioneering the adoption of new technologies that support business needs across the firm, promoting collaboration with external fintech companies, and encouraging creativity and forward-thinking within HKEX
- Partnership with Digital Asset, a disrupter in distributed ledger technology, to explore the development of a blockchain-powered post-trade allocation and processing platform for Northbound trading through Stock Connect

IPOs and Listing

- New Listing Rules in Q2 2018 set the stage for welcoming a more diverse group of companies to Hong Kong. The new listing chapters have enhanced the range of opportunities available to investors and the diversity of companies that have sought, and are seeking, a listing on Hong Kong's public markets
- Hong Kong again became the world's premier IPO market, the sixth time in the last 10 years
- Amended Listing Rules rolled out to make the delisting framework more effective to address concerns about prolonged trading suspensions
- Market consultations launched on proposed changes to continuing listing criteria, rules on backdoor listings and other rules, part of HKEX's ongoing efforts to raise market quality

Products and Markets

- Introduction of new securities trading system: Orion Trading Platform – Securities Market
- 15 new Exchange Traded Fund listings welcomed to the market
- Introduced Long-dated Hang Seng Index (HSI) and Hang Seng China Enterprise Index (HSCEI) futures and options, HSI Gross and Net Total Return Index futures, HSCEI Gross and Net Total Return Index futures and MSCI AC Asia ex Japan Net Total Return Index Futures
- Introduced after-hours trading of stock index options
- The London Metal Exchange (LME), a wholly-owned subsidiary of HKEX, launched proposals for the responsible sourcing of metal in listed brands

Market Statistics

HKEX published market statistics for the period January 1, to December 14, 2018. Year-to-date highlights include:

- HK$277.85 billion raised through IPOs, the most since 2010
- Record high securities market turnover
- Record high derivatives market volume
- Several new all-time highs in single year trading volume, including Stock Options and HSI, HSCEI and USD-CNH futures
- Several new all-time highs in single day trading, including HSI futures and options and USD-CNH Futures
- Several new all-time highs in open interest, including HSCEI futures and options
- Separately, statistics from the LME are also available in the market statistics published. As of December 14, 2018, the LME's average daily volume for base and ferrous contracts combined was 733,895 lots, up 18 per cent on the average daily volume of 624,480 lots in 2017

香港交易及结算所有限公司 2018 年回顾

2018 年 12 月 21 日, 香港交易及结算所有限公司 (香港交易所) 发出其年度工作回顾，指出其 2018 年的工作取得多项成果, 包括创纪录的首三季业绩、新高成交额，以及重上首次公开招股集资额全球榜首。其他重点包括香港交易所创新实验室的成立、新增《上市规则》章节鼓励了更多不同类型公司来港上市、以及衍生品交易的持续增长动力。

财务、企业及战略摘要

- 2018 年首三季收入录得按年增长 27%至 122.96 亿港元
- 2018 年首三季股东应占溢利按年增长 35%至 74.84 亿港元
- 史美伦女士于 4 月获委任为香港交易所董事会主席
- 附属公司前海联合交易中心正式开业, 是中国内地的全新大宗商品交易所
- 位于香港中环的香港金融大会堂揭幕启用, 进一步突显香港交易所在连接不同市场及建立长远合作关系的角色
- 香港交易所加入联合国可持续发展证券交易所计划成为伙伴交易所
- 香港交易所加入世界经济论坛成为准战略合作伙伴

创新

- 设立创新实验室作为香港交易所使用新科技的先行者, 并逐步推展至交易所的其他业务, 探索与其他金融科技公司的合作机会, 以及鼓励员工具备勇于创新及前瞻性的思维
- 与领先的分布式分类账技术公司 Digital Asset 携手协作, 探讨为沪股通及深股通交易建立以区块链驱动的交易后分配和处理平台的可行性

首次公开招股及上市科

- 在 2018 年第二季实施的新《上市规则》章节, 欢迎更多不同类型的公司来港上市, 也为投资者、已来港上市或正寻求来港上市的发行人提供更多机遇
- 香港重夺首次公开招募集资额全球榜首, 在过去十年, 本港第六度称冠
- 修改《上市规则》, 使除牌程序将更有效应对发行人证券长时间停牌的问题
- 已就有关持续上市准则、借壳上市及其他条文提出

修订《上市规则》的建议征询市场意见, 是交易所为不断提高市场质素而进行的部份工作

产品及市场

- 推出全新证券交易系统「领航星交易平台——证券市场」
- 年内共有 15 只新的交易所买卖基金挂牌上市
- 新增恒生指数及恒生中国企业指数 (恒生国企指数) 远期期货及期权、恒生指数(总股息及净股息)累计指数期货, 以及 MSCI 亚洲除日本净总回报指数期货
- 于收市后交易时段引入股票指数期权
- 香港交易所全资附属公司伦敦金属交易所 (LME) 已发表意见书, 要求其金属注册品牌开展责任采购

统计数据

香港交易所公布 2018 年 1 月 1 日至 12 月 14 日的市场统计数据。2018 年重点包括：

- 首次公开招股集资额达 2,778.5 亿港元， 为 2010 年以来最高
- 证券市场成交额创新高
- 衍生产品市场成交量创新纪录
- 多项产品的全年成交创新纪录, 包括股票期权, 以及恒生指数、恒生国企指数及美元兑人民币(香港)期货
- 多项产品的单日成交创新高, 包括恒生指数期货及期权, 以及美元兑人民币(香港)期货
- 多项产品的未平仓合约亦创新高, 包括恒生国企指数期货及期权

另外, 公布的市场统计数据还包括伦敦金属交易所的数据。截至 2018 年 12 月 14 日, LME 基本及黑色金属合约的日均成交量为 733,895 手, 较去年全年的 624,480 手增加 18%。

Source 來源:
https://www.hkex.com.hk/News/News-Release/2018/181221news?sc_lang=en

Hong Kong Monetary Authority Reprimands and Fines JPMorgan Chase Bank, National Association, Hong Kong Branch for Contraventions of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance

On December 28, 2018, the Hong Kong Monetary Authority (HKMA):-

(a) reprimanded JPMorgan Chase Bank, National Association, Hong Kong Branch (JPMorgan Hong Kong) in respect of its contraventions of sections 19(2) and 19(3) of Schedule 2 to the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Chapter 615 of the Laws of Hong Kong) (AMLO) by failing to establish and maintain effective procedures (I) for identifying and handling wire transfers that did not comply with section 12(5) of Schedule 2 to the AMLO; and (II) for the purpose of carrying out its duties under sections 3 and 5 of Schedule 2 to the AMLO concerning customer due diligence (CDD) and continuous monitoring of business relationships respectively;

(b) ordered JPMorgan Hong Kong to submit to the HKMA, by a date and in a manner to be specified by the HKMA, a report prepared by an independent external advisor assessing: (I) whether the remedial measures taken by JPMorgan Hong Kong are sufficient to address the contraventions and other deficiencies identified by the HKMA; and (II) the effectiveness of the implementation of such measures to address the contraventions and other deficiencies identified by the HKMA; and

(c) ordered JPMorgan Hong Kong to pay a pecuniary penalty of HK$12,500,000.

The disciplinary action follows an investigation by the HKMA which found that, between April 2012 and February 2014, JPMorgan Hong Kong contravened six specified provisions of the AMLO as a result of deficiencies across several key control areas including CDD, periodic review of CDD information and wire transfers. In summary, JPMorgan Hong Kong did not establish and maintain effective procedures:

(a) for the purpose of carrying out its CDD duties. JPMorgan Hong Kong's CDD procedures for certain customers did not require (I) certificates of incumbency or comparable documents to be obtained to verify their existence, and (II) the identities of beneficial owners to be verified. JPMorgan Hong Kong failed to carry out all relevant CDD requirements before establishing business relationships with certain customers;

(b) for the purpose of carrying out its duties to continuously monitor business relationships. As

regards groups of related customers, JPMorgan Hong Kong's procedures did not require a periodic review to be conducted of a customer's CDD information if a periodic review had been conducted in respect of another customer in the same group. As a result, JPMorgan Hong Kong failed to carry out periodic reviews of certain customers within relationship groups to ensure that the documents, data and information obtained by JPMorgan Hong Kong were up-to-date and relevant. Among 495 high risk customers in such relationship groups, 259 customers were not subject to annual review; and

(c) for identifying and handling wire transfers which did not comply with the requirement to include the originator's name in the message or payment form accompanying the wire transfer. JPMorgan Hong Kong carried out a number of outgoing wire transfers without including the names of the originators in the relevant SWIFT messages.

In deciding the disciplinary action, the HKMA took into account all relevant circumstances and factors, including but not limited to:-

(a) the seriousness of the investigation findings, including the contraventions under section 19 of Schedule 2 to the AMLO which is concerned with the establishment and maintenance of effective procedures;

(b) the need to send a clear deterrent message to JPMorgan Hong Kong and the industry about the importance of effective controls and procedures to address money laundering and terrorist financing risks;

(c) JPMorgan Hong Kong had self-identified and reported certain deficiencies, and had taken positive and extensive remediation work in respect of such deficiencies and after it became aware of the contraventions and other deficiencies identified by the HKMA. In particular, it has enhanced its control functions to prevent similar contraventions from recurring; and

(d) JPMorgan Hong Kong has no previous disciplinary record in relation to the AMLO and co-operated with the HKMA during the investigation and enforcement proceedings.

The HKMA said that this case involved deficiencies across a number of key control areas including CDD, periodic reviews and wire transfers, stemming largely from ineffective procedures and resulting in multiple contraventions of specified provisions of the AMLO. A bank must have procedures that are effective for the purpose of carrying out its duties under the AMLO. Such procedures are essential to enable a bank to identify, understand and mitigate the risks to which it is exposed taking into account the nature, size and complexity of its business. Reference should be made to various guidance and resources provided by the HKMA, including the Guideline on Anti-Money Laundering and Counter-Financing of Terrorism (For Authorized Institutions).

A copy of the Statement of Disciplinary Action can be found on the HKMA website: https://www.hkma.gov.hk/media/eng/doc/key-information/press-release/2018/20181228e3a1.pdf.

香港金融管理局谴责摩根大通银行香港分行违反《打击洗钱及恐怖分子资金筹集条例》并处以罚款

2018 年 12 月 28 日, 香港金融管理局：-

(a) 谴责 JPMorgan Chase Bank, National Association, Hong Kong Branch (JPMorgan Hong Kong) 违反《打击洗钱及恐怖分子资金筹集条例》(香港法例第615章) (打击洗钱条例) 附表2第19(2)及19(3)条, 未有设立及维持有效措施, 以(I)识辨及处理不遵守《打击洗钱条例》附表2第12(5)条的电传转账；以及(II)履行《打击洗钱条例》附表2第3及5条下分别关于客户尽职审查及持续监察业务关系的责任；

(b) 命令 JPMorgan Hong Kong 在金融管理专员将指明的日期或之前, 采取金融管理专员将指明的方式向香港金融管理局 (金管局) 呈交一份由独立外聘顾问撰写的报告, 评估：(I) JPMorgan Hong Kong 所采取的补救措施是否足以解决金管局所指出的违反及其他缺失；以及(II)落实该等措施以解决金管局所指出的违反及其他缺失的成效；及

(c) 命令 JPMorgan Hong Kong 缴付12,500,000港元罚款。

是次纪律处分行动是根据金管局的调查结果而作出的。调查发现 JPMorgan Hong Kong 于 2012 年 4 月至 2014 年 2 月期间, 在数个主要管控范畴(包括客户尽职审查、定期复核客户尽职审查资料, 以及电传转账)存在缺失, 以致违反《打击洗钱条例》6项指明的条文。概括而言, JPMorgan Hong Kong 并没有设立及维持有效措施以：

(a) 履行其进行客户尽职审查的责任。JPMorgan Hong Kong就某些客户的尽职审查措施并没有规定 (I)取得注册资料证明书或等同文件以核实有

关客户的存在；以及(II)核实实益拥有人的身分。JPMorgan Hong Kong 未能在与某些客户建立业务关系前，执行所有有关的客户尽职审查规定；

(b) 履行其持续监察业务关系的责任。就关连客户组别而言，JPMorgan Hong Kong 若已就关连客户组别内的某客户进行了定期复核，其措施并没有规定必须就同一组别内的另一客户的尽职审查资料进行定期复核。因此，JPMorgan Hong Kong 未有就关连组别内的某些客户进行定期复核，以确保其所取得的文件、数据及资料反映现况及仍属相关。在该等关连组别的495位高风险客户中，有259位客户并没有接受年度复核；及

(c) 识辨及处理不遵守相关规定的电传转账。该规定要求在附随有关电传转账的信息或付款表格内须要 包括汇款人的姓名或名称。JPMorgan Hong Kong 进行了数宗汇出电传转账，而没有在有关的 SWIFT 信息中包括汇款人的姓名或名称。

在决定上述的纪律处分行动时，金融管理专员已考虑所有有关情况及因素，包括但不限于以下各项：

(a) 调查结果的严重性，包括违反《打击洗钱条例》附表2第19条下有关设立及维持有效措施的规定；

(b) 需要向 JPMorgan Hong Kong 及业界传递明确的阻吓讯息，以表明有效管控及措施在应付洗钱及 恐怖分子资金筹集风险方面的重要性；

(c) JPMorgan Hong Kong 自行找出及报告若干缺失，并就这些缺失采取积极及广泛的补救工作，以及在得悉金管局所指出的违反及其他缺失后采取补救措施。JPMorgan Hong Kong 已加强其管控 措施，以防止同类违反再发生；及

(d) JPMorgan Hong Kong 过往并无遭受与《打击洗钱条例》有关的纪律处分的纪录，并在金管局调查及执法程序中表现合作。

金管局表示：这个案涉及数个主要管控范畴的缺失，包括客户尽职审查、定期复核客户尽职审查资料，以及电传转账等方面，主要由于管控措施失效，以致违反数条《打击洗钱条例》下指明的条文。银行必须设立有效措施，以履行其在《打击洗钱条例》下的责任。相关措施使银行能在顾及其业务性质、规模及复杂程度的情况下，识别、了解及减低风险。银行应参阅金管局提供的各项指引及资源，包括《打击洗钱及恐怖分子资金筹集指引》(认可机构适用)。

纪律处分行动声明可于金管局的网站 https://www.hkma.gov.hk/media/gb_chi/doc/key-information/press-release/2018/20181228c3a1.pdf 浏览

Source 來源:
https://www.hkma.gov.hk/eng/key-information/press-releases/2018/20181228-3.shtml

Hong Kong Privacy Commissioner for Personal Data Releases Inspection Report on Personal Data Systems of Private Tutorial Services Industry to Encourage Organizations in Enhancing Data Stewardship and Sharing Mutual Fairness, Respect and Benefit with Customers

On December 28, 2018, the Hong Kong Privacy Commissioner for Personal Data (the Privacy Commissioner) Mr Stephen Kai-yi WONG released an inspection report (the Report) about the personal data systems of private tutorial services industry (the industry). The findings revealed that whilst personal data protection measures are generally acceptable, inadequacies were reflected in the functions of individual private tutorial institutions (the institutions). Inadequacies included unnecessary or excessive collection of personal data, indefinite data retention, improper use of personal data and inadequate personal data security. The Privacy Commissioner was of the view that there was still room for improvement in personal data protection in the industry. He also proposed a number of recommendations for the industry to improve its personal data protection policies and operation practices, and encourage the industry to extend privacy protection to corporate accountability and to establish mutual trust with customers.

Background

Private tutorial services industry in Hong Kong continues to thrive and provides a wide range of services. The institutions need to handle a vast quantity of personal data, and as their main service targets are children, it is believed that special privacy protection on personal data should be given to this group. The Privacy Commissioner considered that it would be in the public interest to examine the operation of the private tutorial services industry in relation to the protection of personal data privacy. He therefore carried out an inspection of the personal data systems of three private tutorial institutions in different business models under section 36 of the Personal Data (Privacy) Ordinance (the Ordinance).

Findings

As the business models of the three institutions were different (chain-run, franchise, and online platform), they had different understanding and perceptions about personal data handling, resulting in strengths and weaknesses at different aspects of their personal data systems. On the whole:

- The three institutions viewed the personal data of children, parents and tutors as important assets. They would not, as a matter of principle, handle or use the data indiscriminately. They were also committed to ensuring that the data was properly managed.

- An institution which used a mobile application as a service platform relied on its own advantages by making use of information technology tools to carefully segment and monitor access rights to its computer systems so as to reduce the risk of unauthorized or disclosure of personal data.

- The three institutions had taken measures to protect personal data in their operational procedures and practices. However, only fragmented measures were in place, and data privacy protection was not included as part of their corporate governance.

Recommendations

The Privacy Commissioner stated that as best practice organizations should formulate and maintain a comprehensive privacy management program (the PMP). He said that data stewardship should cover the overall business practices, operational processes, product and service design, physical architectures and network infrastructure. The PMP, supported by an effective ongoing review and monitoring process to facilitate its compliance with the requirements under the Ordinance, serves as a strategic framework to assist the organizations in building a robust privacy infrastructure and to share mutual fairness, respect and benefit with their customers.

The Privacy Commissioner, with reference to the requirements of a comprehensive PMP and the related requirements of the data protection principles under the Ordinance, proposed the following recommendations to institutions in the industry to enhance corporate accountability and establish mutual trust with customers so as to achieve a win-win situation in the process of handling personal data:

1. Integrate the ideas of data privacy protection into corporate governance; and to designate a data protection officer from top management to oversee data protection matters;

2. Incorporate privacy protection when designing new products and services; and assess the relevant impact on personal data privacy;

3. Formulate a comprehensive privacy policy (covering information technology security issues), and inform all staff members about the related measures;

4. Establish effective personal data reporting and monitoring mechanism, as well as data breach notification mechanism;

5. Provide regular education and training to all employees in order to raise their awareness of privacy protection;

6. Review personal data collection practices, and cease excessive or unnecessary data collection;

7. Establish personal data retention policies as well as the procedures and methods for destroying such data;

8. Conduct a comprehensive review on the use of personal data to ensure that such use is consistent with or directly related to the purpose for which the data was originally collected, or has obtained prescribed consent from the data subject concerned;

9. Develop a comprehensive information security policy (covering information technology systems and physical security measures);

10. Adopt contractual means to manage the personal data entrusted to data processors, and conduct regular monitoring and compliance procedures to ensure data processors' compliance with the requirements of privacy protection; and

11. To be held to a higher data ethical standard that meets stakeholders' expectation in actual operation.

香港个人资料私隐专员发表私营补习服务行业的个人资料系统视察报告鼓励机构提升数据管治与顾客共享公平、尊重和互惠

2018年12月28日，香港个人资料私隐专员（私隐专员）黄继儿就私营补习服务行业的个人资料系统发表视察报告，结果显示，视察所涵盖的三所私营补习服务机构（补习服务机构）所采取的保障个人资料措施大致上可以接受，但从个别机构的职能中仍反映不足之处。不足之处包括不必要或过量收集个人资料、无限期保留资料、不恰当使用资料和个人资料的保安做得不足够。私隐专员认为，视察结果反映该行业在保障个人资料私隐上仍有不少改善空间。报告向私营补习服务行业提出多项改善建议，让业界完善其个人资料保障的政策及运作常规，并鼓励业界将

私隐保障提升至企业问责层面，与顾客建立互信基础。

视察背景

香港私营补习服务持续兴旺，服务种类繁多；补习服务机构需要处理庞大数量的个人资料，加上其服务对象主要为学童，此群组人士的个人资料私隐尤其需要受到特别的保障。私隐专员认为，审视私营补习行业在保障个人资料私隐范畴中的运作符合公众利益，并根据《个人资料（私隐）条例》（私隐条例）第36条，对三所不同营商模式的补习服务机构的个人资料系统进行视察。

视察结果

由于三间补习服务机构的营运模式各有不同（连锁式、特许经营、网上平台），其处理个人资料方面亦存有不同的理念及认知，导致它们的个人资料系统在不同范畴各有长短。整体而言：

三所机构均视学童、家长及导师的个人资料为重要资产，原则上不会胡乱处理或滥用个人资料，亦 致力确保该等资料得到妥善管理。
其中以流动应用程式提供补习服务平台的机构，能靠其在资讯科技方面的优势，审慎利用资讯科技工 具分割及监控其电脑系统的存取权限，并将顾客私隐保障纳入其产品及服务设计中，减低未获授权查 阅或洩露个人资料的风险。
三所机构在营运过程及常规中均有采取保障个人资料的措施，但相关措施只在个别职能中体现，未能 将私隐保障纳入其企业管理中。

建议

私隐专员黄继儿认为，机构最佳的行事方式是建立及全面执行私隐管理系统 ：数据管治应涵盖整体业务常规、操作程序、产品和服务设计、实体建筑， 以至网络基础设施。在策略层面，机构可采用私隐管理系统作为框架，辅以行之有效的检讨及监察程，建立健全的私隐保障基建，借以配合机构遵从《私隐条例》的规定，与顾客共享公平、尊重和互惠。

参照全面的私隐管理系统的要求，及按《私隐条例》的保障资料原则的规定，私隐专员对私营补习市场的机构提出以下建议，以提升企业问责性，与顾客建立互信基础，在处理个人资料私隐范畴达致双赢：

1. 将私隐保障纳入企业管治，并从管理层中委任保障资料主任管理相关事务；

2. 将私隐保障纳入新产品及服务设计之中，并就个人资料私隐进行评估；

3. 制定全面的私隐政策(涵盖资讯科技保安方面)，并须适时通知所有僱员有关规定；

4. 建立有效的个人资料汇报及监控系统和资料外洩事故通报机制；

5. 定期提供教育及培训予所有员工以提供其对私隐保障的意识；

6. 检视其收集个人资料的情况，停止不必要或过量收集个人资料；

7. 订立保留个人资料期限的政策，以及销毁已超过保留期限的资料的程序及方式；

8. 就使用个人资料情况进行全面检视，确保其使用目的与当初收集资料的目的一致或直接有关，或已获 取资料当事人的订明同意；

9. 制定全面的资讯保安政策(包括资讯科技系统及实体保安措施)；

10. 以合约方式规范资料处理者在处理其委托的个人资料的情况，并需定期进行监控及审查程序，确保符 合有关私隐保障的要求；及

11. 恪守更高的数据道德标准，在实际营运上符合持份者的期望。

Source 來源:
https://www.pcpd.org.hk/english/news_events/media_statements/press_20181228.htm

JPMorgan Chase Bank N.A. to Pay More Than US$135 Million to Settle U.S. Securities and Exchange Commission's Charges for Improper Handling of American Depositary Receipts

On December 26, 2018, the U.S. Securities and Exchange Commission (SEC) announced that JPMorgan Chase Bank N.A. (JPMorgan) will pay more than US$135 million to settle charges of improper handling of “pre-released” American Depositary Receipts (ADRs).

The SEC’s order found that JPMorgan improperly provided ADRs to brokers in thousands of pre-release transactions when neither the broker nor its customers had the foreign shares needed to support those new ADRs. Such practices resulted in inflating the total

number of a foreign issuer's tradeable securities, which resulted in abusive practices like inappropriate short selling and dividend arbitrage that should not have been occurring.

This is the eighth action against a bank or broker, and fourth action against a depositary bank, resulting from the SEC's ongoing investigation into abusive ADR pre-release practices.

Without admitting or denying the SEC's findings, JPMorgan agreed to pay disgorgement of more than US$71 million in ill-gotten gains plus US$14.4 million in prejudgment interest and a US$49.7 million penalty for total monetary relief of more than US$135 million. The SEC's order acknowledges JPMorgan's cooperation in the investigation and remedial acts.

The SEC said that its investigation continues into brokerage firms that profited by making use of these improperly issued ADRs.

摩根大通银行就不当处理美国预托凭证的指控支付超过 1.35 亿美元与美国证券交易委员会达成和解

美国证券交易委员会 (美国证监会) 于 2018 年 12 月 26 日宣布摩根大通银行(摩根大通)将支付超过 1.35 亿美元; 以解决不当处理 "预发行"美国预托凭证(ADRs)的指控 。

美国证监会的命令发现, 当经纪商及其客户都没有支持这些新的 ADRs 所需的外国股票时, 摩根大通仍在上千次预发行交易中不正当地向经纪商提供了 ADRs。这种做法导致外国上市发行人的可交易证券总数膨胀, 导致发生不应存在的滥用行为如不恰当的卖空和股息套利之类。

这是由美国证监会正在对滥用ADRs行为进行的调查而造成; 对银行或经纪人的第八次诉讼; 以及针对存托银行的第四次诉讼。

在不承认或否认美国证监会的调查结果的情况下, 摩根大通同意交出超过 7100 万美元的非法收益, 加上支付 1440 万美元的判决前利息和 4970 万美元的罚款, 总金额超过 1.35 亿美元的罚款。 美国证监会的命令认同摩根大通在调查和补救措施作出的合作。

美国证监会表示: 其将继续调查利用不正当预发行 ADRs 牟利的经纪公司。

Source 來源:
https://www.sec.gov/news/press-release/2018-306

U.S. Securities and Exchange Commission Charges Two Robo-Advisers with False Disclosures

On December 21, 2018, the U.S. Securities and Exchange Commission (SEC) instituted settled proceedings against two robo-advisers for making false statements about investment products and publishing misleading advertising. The proceedings are the SEC's first enforcement actions against robo-advisers, which provide automated, software-based portfolio management services.

An SEC order found that Wealthfront Advisers LLC (formerly known as Wealthfront Inc.) (Wealthfront), a robo-adviser with over US$11 billion in client assets under management, made false statements about a tax-loss harvesting strategy it offered to clients. Wealthfront disclosed to clients employing its tax-loss harvesting strategy that it would monitor all client accounts for any transactions that might trigger a wash sale – which can diminish the benefits of the harvesting strategy – but failed to do so. Over a period of more than three years during which it made this disclosure, wash sales occurred in at least 31 percent of accounts enrolled in Wealthfront's tax loss harvesting strategy. The SEC's order also found that Wealthfront improperly re-tweeted prohibited client testimonials, paid bloggers for client referrals without the required disclosure and documentation, and failed to maintain a compliance program reasonably designed to prevent violations of the securities laws.

A separate SEC order found that Hedgeable Inc. (Hedgeable), a robo adviser which had approximately US$81 million in client assets under management, made a series of misleading statements about its investment performance. According to the order, from 2016 until April 2017, Hedgeable posted on its website and social media purported comparisons of the investment performance of Hedgeable's clients with those of two robo-adviser competitors. The performance comparisons were misleading because Hedgeable included less than 4 percent of its client accounts, which had higher-than-average returns. Hedgeable compared this with rates of return that were not based on competitors' actual trading models. The SEC's order also found that Hedgeable failed to maintain required documentation and failed to maintain a compliance program reasonably designed to prevent violations of the securities laws.

The SEC's order against Wealthfront found that the adviser violated the antifraud, advertising, compliance, and other provisions of the Investment Advisers Act of 1940. Without admitting or denying the SEC's findings, Wealthfront consented to the entry of the SEC's order censuring it, requiring it to cease and desist from further violations, and imposing a US$250,000 penalty.

The SEC's order against Hedgeable found that the adviser violated the antifraud, advertising, compliance, and books and records provisions of the Investment Advisers Act of 1940. Without admitting or denying the SEC's findings, Hedgeable consented to the entry of the SEC's order censuring it, requiring it to cease and desist from further violations, and imposing a US$80,000 penalty.

The SEC said that technology is rapidly changing the way investment advisers are able to advertise and deliver their services to clients. Regardless of their format, however, all advisers must take seriously their obligations to comply with the securities laws, which were put in place to protect investors.

美国证券交易委员会指控机器人投顾作出虚假披露

美国证券交易委员会 (美国证监会) 于2018年12月21日针对两名机器人投顾就投资产品作出虚假陈述及发布误导性广告提起诉讼。诉讼程序是美国证监会针对机器人投顾的首次执法行动, 机器人投顾提供基于软件的自动化投资组合管理服务。

美国证监会发布的一项命令是, Wealthfront Advisers LLC (前身为 Wealthfront Inc.) (Wealthfront)为一家管理客户资产超过110亿美元的机器人投顾; 向其客户的税务减免策略作出虚假陈述。Wealthfront 向使用其税务减免策略的客户披露, 它将监控所有客户账户中任何可能触发虚假销售的交易 – 这可能会限制税务减免策略的好处 – 但它卻又未能做到。在超过三年的时间里作出了这个披露, 参与了税务减免策略中, 至少有31%的账户出现了虚假销售。美国证监会的命令还发现, Wealthfront 不正当地转发被禁止的客户评价, 付费博客为客户作出推荐而没有作出必要的披露和文件记录, 并且未能维持合理设计的合规程序以防止违反证券法。

另一项美国证监会的命令发现, Hedgeable Inc. (Hedgeable) 是一家管理客户资产约为8100万美元的机器人投顾, 其就投资业绩发表了一系列误导性陈述。根据该命令, 从2016年到2017年4月, Hedgeable 在其网站和社交媒体上公布了 Hedgeable 客户与两个机器人投顾的竞争对手的投资表现的比较。比较表现是具有误导性的, 因为 Hedgeable 包含少于4%的客户账户, 其回报率高于平均水平。Hedgeable 将这些回报率与不是基于其竞争对手实际交易模型的数据进行比较。美国证监会的命令还发现, Hedgeable 未能保留所需的文件, 也未能维持合理设计的合规程序, 以防止违反证券法。

美国证监会对 Wealthfront 的命令发现该投顾违反了反欺诈, 广告, 合规以及《1940年美国投资顾问法》的其他条款。在不承认或否认美国证监会的调查结果的情况下, Wealthfront 已经同意对其提出的谴责命令, 要求其终止及停止进一步的违规行为, 并处以250,000美元的罚款。

美国证监会对 Hedgeable 的命令发现该投顾违反了《1940年美国投资顾问法》中的反欺诈, 广告, 合规以及账簿和记录条款。在不承认或否认美国证监会的调查结果的情况下, Hedgeable 已经同意美国证监会对其提出的谴责命令, 要求其终止及停止进一步的违规行为, 并处以80,000美元的罚款。

美国证监会表示: 科技正在迅速改变投资顾问向客户宣传和提供服务的方式。然而, 无论其形式如何, 所有顾问都必须认真履行其遵守证券法的责任, 这些法律是为保护投资者而制定的。

Source 來源:
https://www.sec.gov/news/press-release/2018-300

Financial Conduct Authority of the United Kingdom Fines Santander UK Plc £32.8 Million for Serious Failings in Its Probate and Bereavement Process

On December 19, 2018, the Financial Conduct Authority of the United Kingdom (FCA) fined Santander UK Plc (Santander) £32,817,800 for failing to effectively process the accounts and investments of deceased customers.

Santander did not transfer funds totaling over £183 million to beneficiaries when it should have done. 40,428 customers were directly affected. Santander also failed to disclose information relating to the issues with the probate and bereavement process to the FCA after it became aware of them.

Santander breached Principle 3 and Principle 6 of Principles for Business between January 1, 2013 and July 11, 2016 by failing to take reasonable care to organize and control its probate and bereavement process responsibly and effectively, with adequate risk management systems, and by failing to treat its customers and those who represented them on their death fairly.

Santander also breached Principle 11 of Principles for Business between November 26, 2013 (or reasonably soon thereafter) and May 1, 2015 by failing to disclose information relating to the issues with the probate and bereavement process to the FCA. Santander did not notify the FCA of the nature or extent of the issues it faced, including the numbers of potentially affected customers and assets, and was selective in the information it provided. Accordingly, Santander's conduct fell below the standards of openness and cooperation expected of an authorized firm.

Santander did not contest the FCA's findings and agreed to resolve the case and therefore qualified for a 30% (Stage 1) discount. Were it not for this discount, the FCA would have imposed a financial penalty of £46,882,500 on Santander.

The FCA said that firms must be able to identify and respond to problems more quickly especially when they are causing harm to customers. The FCA will continue to be on the lookout for firms with poor systems and controls and will take action to deter such failings to ensure customers are properly protected.

英国金融行为监管局就桑坦德银行处理客户遗嘱认证和丧亲程序存在重大缺失处以罚款3280万英镑

2018年12月19日, 英国金融行为监管局 (英国金管局) 就桑坦德银行因未能有效处理已故客户的账户和投资而处以罚款3280万英镑。

桑坦德银行没有向受益人转账总额超过1.83亿英镑的资金当其应该做的。 40,428名客户受到直接影响。桑坦德银行也未能在知悉这些问题后向英国金管局披露有关遗嘱认证和丧亲程序问题的信息。

桑坦德银行在2013年1月1日至2016年7月11日违反了企业营商原则的原则3和原则6, 没有采取合理的谨慎措施, 以足够的风险管理系统负责任和有效的方式组织和监控其遗嘱认证和丧亲程序; 并且未能公平对待其已故客户和代表他们的人。

桑坦德银行还在2013年11月26日 (或其后不久) 与2015年5月1日之间违反了企业营商原则的原则11, 未向英国金管局披露与遗嘱认证和丧亲程序有关的问题。桑坦德银行未向英国金管局通报其面临的问题的性质或程度, 包括可能受影响的客户和资产的数量, 并且对其提供的信息有选择性。因此, 桑坦德银行的行为低于认可公司的开诚布公与合作的标准。

桑坦德银行没有对英国金管局的调查结果提出异议并同意解决此案. 因此有资格获得30%(第一阶段)折扣。如果不是这个折扣, 英国金管局将对桑坦德银行征收46,882,500英镑的罚款。

英国金管局表示: 公司必须能够更快地识别和应对问题. 特别是当它们对客户造成伤害时。 英国金管局将继续关注系统和监控较差的公司, 并将采取措施阻止此类缺失, 以确保客户得到适当的保护。

Source 來源:
https://www.fca.org.uk/news/press-releases/santander-uk-plc-fined-serious-failings-its-probate-and-bereavement-process

Hong Kong Exchanges and Clearing Limited Enhances Designated Specialist Program for Exchange Traded Products

January 2, 2019, Hong Kong Exchanges and Clearing Limited (HKEX) enhanced the Designated Specialist (DS) programme for its Exchange Traded Products (ETPs), which include Exchange Traded Funds (ETFs) and Leveraged and Inverse (L&I) Products, to permit global liquidity providers that are not its Securities Market Makers (SMMs) to participate in ETP market making activities.

With expanded eligibility criteria and a more flexible structure, the enhanced DS programme opens up new opportunities for non-SMMs to enter Hong Kong's growing ETP market while increasing the range of potential liquidity providers.

To become a DS, participants must be a corporate client of an SMM and satisfy at least one of the following conditions:

1. it is an entity licensed by or registered with the Securities and Futures Commission (SFC) for Type 1 or Type 2 regulated activities under the Securities and Futures Ordinance, or licensed or registered for similar activity by an overseas authority having a memorandum of understanding with the SFC for the sharing of market surveillance information;

2. it is an entity which is a licensed bank regulated by an authority acceptable to HKEX;

3. it is an entity which has maintained a current long-term credit rating of A- or above (Standard & Poor's) or A3 or above (Moody's); or

4. it has maintained a paid-up capital of at least HK$50,000,000 and shareholders' funds of at least HK$100,000,000.

Further information on the DS registration process is available on the HKEX website: https://www.hkex.com.hk/Products/Securities/Exchange-Traded-Products/Securities-Market-Makers/Overview?sc_lang=en.

In addition to the enhancements to the DS program, the experience requirement as part of SMMs' eligibility for L&I Products is removed.

For details of the enhancements in the DS program and the relaxation of the experience requirement for SMMs for L&I Products, please refer to the circular on the HKEX website: https://www.hkex.com.hk/-/media/HKEX-Market/Services/Circulars-and-Notices/Participant-and-Members-Circulars/SEHK/2019/MKDETP00119_e.PDF?la=en .

香港交易及结算所有限公司优化交易所买卖产品特许证券商计划

2019年1月2日, 香港交易及结算所有限公司 (香港交易所) 推出优化交易所买卖基金(ETF) 以及杠杆及反向产品等交易所买卖产品的特许证券商计划, 容许非证券庄家的环球流通量提供者参与交易所买卖产品的庄家活动。

优化后的特许证券商计划放宽了申请资格及增加计划的弹性, 令非交易所参与者也有机会进入本港规模日增的交易所买卖产品市场, 增加潜在流通量提供者的数目。

特许证券商计划参与者必须为证券庄家的公司客户, 同时亦须符合下列至少一项条件：

1. 已就《证券及期货条例》所规管之第1类或第2类活动, 获证券及期货事务监察委员会 (证监会) 发牌或注册之持牌机构, 或获与证监会有共享市场监管信息谅解备忘录之海外监管机构发牌或注册, 以进行类近活动的机构；

2. 受香港交易所认可的监管机构所监管的持牌银行；

3. 维持标准普尔长期信用评级为 A-或以上, 或穆迪长期信用评级为 A3或以上；或

4. 持有已缴足股本不少于50,000,000港元及股东权益不少于100,000,000港元。

特许证券商注册流程的资料请参阅香港交易所网站: https://sc.hkex.com.hk/TuniS/www.hkex.com.hk/Products/Securities/Exchange-Traded-Products/Securities-Market-Makers/Overview?sc_lang=zh-CN 。

另外, 申请成为杠杆及反向产品的证券庄家的经验要求将于取消。

有关优化特许证券商计划及放宽成为杠杆及反向产品证券庄家的详情, 请参阅在香港交易所网站登载的通告 https://www.hkex.com.hk/-/media/HKEX-Market/Services/Circulars-and-Notices/Participant-and-Members-Circulars/SEHK/2019/MKDETP00119_c.pdf?la=zh-CN。

Source 來源:
https://www.hkex.com.hk/News/News-Release/2019/190102news?sc_lang=en

China Consults Public Opinion on Draft Foreign Investment Law

On December 26, 2018, China's top legislature published the full text of a draft foreign investment law (draft law) to consult public opinion.

The draft law, with 39 Articles, was submitted to the ongoing session of the National People's Congress (NPC) Standing Committee which opened on December 23, 2018. The draft law can be found on the NPC's website: http://www.npc.gov.cn/COBRS_LFYJNEW/user/UserIndex.jsp?ID=13126141.

Once adopted, the unified foreign investment law will replace three existing laws, namely the laws on Chinese-foreign equity joint ventures, non-equity joint ventures (or contractual joint ventures) and wholly foreign-owned enterprises.

Necessary mechanisms on the facilitation, protection and management of foreign investment are written into the draft law, such as the pre-establishment national treatment and negative list management, equal supportive policies and equal participation in government procurement.

The draft law has also proposed that conditions of technological cooperation concerning foreign investment should be decided by all parties of investment through negotiation, and government departments and officials shall not use administrative means for forced technology transfers.

The public can give their opinions through the NPC website or send their opinions by mail. The deadline for submitting opinions is February 24, 2019.

China has frequently denied accusations of unfair trade practices including intellectual property (IP) theft and forced IP transfer, while the draft law is expected to improve market access for foreign investors and better protect their interests.

中国就《中华人民共和国外商投资法(草案)》 公开征求意见

2018年12月26日, 中国最高立法机构公布了《中华人民共和国外商投资法(草案)》(法律草案), 以征求公众意见。

法律草案共有39条, 已提交2018年12月23日开幕的全国人民代表大会(全国人大)常务委员会。 法律草案载于全国人大网站：
http://www.npc.gov.cn/COBRS_LFYJNEW/user/UserIndex.jsp？ID = 13126141

一旦通过，统一的外国投资法将取代现有的三项法律，即中外合资经营企业法，中外合作经营企业法和外资企业法。

关于促进，保护和管理外国投资的必要机制被写入法律草案，如准入前国民待遇加负面清单管理制度，平等支持发展政策及平等参与政府采购活动。

法律草案还提出，外商投资技术合作的条件应由各方通过谈判决定，政府部门和官员不得使用行政手段进行强制技术转让。

公众可以通过全国人大网站发表意见或通过邮件发送意见。提交意见的截止日期是2019年2月24日。

中国经常否认对包括知识产权剽窃和强制知识产权转让在内的不公平贸易行为的指控，而法律草案有望改善外国投资者准入市场并更好地保护其利益。

Source 來源:
http://www.npc.gov.cn/englishnpc/news/Legislation/2018-12/27/content_2068862.htm

United Arab Emirates Issues Decree-Law on Foreign Direct Investment

On October 30, 2018, President His Highness Sheikh Khalifa bin Zayed Al Nahyan of United Arab Emirates (UAE), has issued a Decree-Law No. (19) of 2018 (Decree-Law) on Foreign Direct Investment (FDI) which aims to promote and develop the UAE's investment environment, and attract foreign direct investment in line with the UAE's development policies.

In accordance with Article II, the Decree-Law aims to consolidate the UAE's position as a major attraction for foreign direct investment at the regional and global levels, attract and encourage foreign investment, expand and diversify the production base, transfer and attract advanced technology, knowledge and training, in addition to increasing the flow of foreign direct investment in priority sectors to achieve balanced and sustainable development, providing job opportunities in various fields, achieving the best returns of available resources and high added value to the UAE's economy.

According to the law published in the latest issue of the Official Gazette, a “Foreign Direct Investment Unit” (the unit) is to be established in the Ministry of Economy, which is responsible for proposing foreign direct investment policies in the UAE and determining its priorities, and setting up associated plans and programs and work on their implementation following their approval by the UAE Cabinet.

Also in accordance with Article 5 of the Decree-Law, the unit will be responsible for establishing a comprehensive database for UAE investments, including data on existing FDI projects, and will review and update information on a periodical basis. Additionally, the relevant authorities shall provide the unit with data on approved investment projects.

The unit will also oversee the creation of an attractive environment for foreign direct investment, facilitate the procedures for registering and licensing foreign direct investment projects, as well as monitor and evaluate their performance in the UAE.

Licensed foreign investment companies shall - in accordance with Article 8 of the Decree-Law - be granted the same treatment as national companies, within the limits permitted by the legislation in force in the UAE and the international conventions to which the UAE is a party. Article 10 of the Decree-Law stipulates that the licensing authority and the responsible authority shall determine the conditions and procedures for the establishment and licensing of FDI projects based on the listed required documents of the Decree-law, and the laws of the UAE.

Foreign direct investment projects which exist before the provisions of the Decree-Law entry into force shall retain all the privileges given in accordance with former legislations, agreements and contracts within the specified period.

Sultan bin Saeed Al Mansouri, Minister of Economy, has pointed out that the new law stipulates that the ceiling of ownership will be raised to international investments, and mandates that licensed foreign investment companies shall consider national companies permitted by the country’s legislations and the international agreements, of which the country is a part. "This will constitute an addition to the ownership systems of companies and investments within the country and enhance its ability to meet sustainable development requirements by expanding and diversifying the production base and transferring and attracting advanced technology, which will in turn, consolidate the localization of knowledge and serve the country’s development agenda," he said.

阿拉伯联合酋长国发布外商直接投资法

2018年10月30日，阿拉伯联合酋长国(阿联酋)谢赫哈利法·本·扎耶德·阿勒纳哈扬殿下发布了关于外商直接投资的2018年第19号法令 (法令)，旨在促进和发展阿联酋的投资环境，并根据阿联酋发展政策吸引外商直接投资。

根据第二条，法令旨在巩固阿联酋作为区域和全球外国直接投资的主要吸引力的地位，吸引和鼓励外商投资，扩大和多样化生产基地，转让和吸引先进技术，知识和培训，除

了增加外商直接投资流入优先领域，实现均衡和可持续发展，提供各领域的就业机会，为阿联酋经济实现可用资源的最佳回报和高附加值。

根据最新一期的政府公报中公布的法律，经济部将牵头设立"外商直接投资委员会" (委员会)；该委员会将负责提出外商直接投资在阿联酋的政策并确定其优先事项，并确定在阿联酋内阁批准后，制定相关计划和方案并开展实施工作。

此外，根据法令第5条，委员会将负责建立在阿联酋投资的综合数据库，包括现有外商直接投资项目的数据，并将定期审查和更新信息。此外，有关当局应向委员会提供已批准投资项目的数据。

委员会还将监督为外商直接投资创造有吸引力的环境，促进外商直接投资项目的登记和许可程序，以及监测和评估其在阿联酋的业绩。

许可外国投资公司 - 根据法令第8条 – 在阿联酋现行法律以及阿联酋加入的国际公约的允许范围内，给予与国家公司相同的待遇。

法令第10条规定，发证机关和主管当局应根据法令所列文件和阿联酋法律确定外商直接投资项目的设立和许可的条件和程序。

在法令条款生效前存在的外商直接投资项目应在指定期限内；保留根据以前的立法，协议和合同赋予的所有权利。

经济部长 Sultan bin Saeed Al Mansouri 指出，新法令提高国际投资者于企业所有权的上限，并促使许可外国投资公司考虑适用国家法律和相关国际协议允许的国家公司。"这将成为国家公司和投资所有权制度的补充，通过扩大生产和增加产业的多样性，转移和吸引先进技术，提高可持续发展的能力，从而巩固知识的本地化并推进国家的发展里程，"他说。

Source 來源:
http://wam.ae/en/details/1395302716995
http://wam.ae/en/details/1395302717240