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Financial Services Regulatory Update 金融服务监管资讯

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Market Misconduct Tribunal Fines Fujikon, its Chief Executive Officer and Chief Financial Officer HK\$1.5 Million in Total for Late Disclosure of Inside Information Following Proceedings Brought by Hong Kong Securities and Futures Commission

On April 12, 2019, the Market Misconduct Tribunal (MMT) has found that Fujikon Industrial Holdings Limited (Fujikon), the company's chairman and chief executive officer, Mr Yeung Chi Hung (Yeung), and its chief financial officer and company secretary, Ms Chow Lai Fung (Chow), had failed to make timely disclosure of inside information following proceedings brought by the Hong Kong Securities and Futures Commission (SFC).

The MMT ordered Fujikon, Yeung and Chow to pay fines of HK\$1,000,000, HK\$300,000 and HK\$200,000, respectively, after they admitted that they had been late in disclosing inside information on the discontinuance of headphone production for one of the company's top customers. Yeung and Chow also admitted that they had been negligent which resulted in Fujikon's breach of the requirements of the corporate disclosure regime.

The headphone was the only product that Fujikon manufactured for that customer and generated revenue of about HK\$157 million and HK\$210 million for Fujikon in the years ended March 31, 2013 and March 31, 2014, representing about 10 per cent and 14 per cent of its revenue in the period. Although Fujikon became aware on April 16, 2014 about the discontinuance of the headphone production, Fujikon did not disclose the inside information until June 6, 2014 – a more than seven-week delay in disclosure.

In addition to the fines, the MMT ordered:

- Fujikon, Yeung and Chow to pay the SFC's investigation and legal costs, as well as the costs of the MMT proceedings;
- Fujikon to appoint an SFC-approved independent professional adviser to review its procedures for compliance with the corporate disclosure regime; and

- Yeung and Chow to attend SFC-approved training program on corporate disclosure regime, directors' duties and corporate governance.

市场失当行为审裁处就香港证券及期货事务监察委员会提起的研讯程序对富士高实业控股有限公司、其行政总裁及首席财务总监因未有及时披露内幕消息处罚款合共150万港元

2019年4月12日,市场失当行为审裁处(审裁处)在完成早前由香港证券及期货事务监察委员会(证监会)提起的研讯程序后,裁定富士高实业控股有限公司(富士高)、其主席兼行政总裁杨志雄(杨)及首席财务总监兼公司秘书周丽凤(周)未有及时披露内幕消息。

审裁处在富士高、杨及周承认他们未有及时披露有关为该公司其中一名主要客户制造的音响耳机停产的内幕消息后,裁定他们分别须缴付罚款1,000,000港元、300,000港元及200,000港元。杨及周亦承认,他们的疏忽行为导致富士高违反企业披露制度下的规定。

该音响耳机是富士高为该客户制造的唯一产品,并于截至2013年3月31日及2014年3月31日止年度分别为富士高带来了大约1.57亿港元及2.1亿港元的收入,相当于该公司在有关期间约10%及14%的收入。虽然富士高在2014年4月16日已知悉该款音响耳机停产一事,但该公司直至2014年6月6日才披露有关内幕消息,即延迟披露超过七个星期。

除了处以罚款外,审裁处亦命令:

- 富士高、杨及周支付证监会的调查及法律费用,以及审裁处研讯程序的讼费;
- 富士高委任一名经证监会认可的独立专业顾问,就其遵守企业披露制度的程序进行检讨;及
- 杨及周参加经证监会核准有关企业披露制度、董事职责及企业管治的培训课程。

Source 來源:

sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=19PR27

Hong Kong Securities and Futures Commission Reprimands and Fines Nine Masts Capital Limited HK\$1.2 million over Naked Short Selling

On April 18, 2019, the Hong Kong Securities and Futures Commission (SFC) has reprimanded and fined Nine Masts Capital Limited (Nine Masts) HK\$1.2 million for failures relating to the short selling of Yuzhou Properties Company Limited (Yuzhou Properties) shares in May 2015.

On May 12, 2015, Yuzhou Properties announced its proposed placing of new shares, subject to the fulfillment of certain conditions. Yuzhou Properties subsequently made a further announcement after market close on May 21, 2015 that the conditions had been fulfilled and the placing was completed on the same day. Nine Masts was one of the placees in the placement of Yuzhou Properties shares.

The SFC found that Nine Masts received confirmation on May 13, 2015 from a placing agent that it would be allotted 32 million placing shares of Yuzhou Properties. Shortly after receiving the verbal confirmation, Nine Masts sold 10,633,000 Yuzhou Properties shares. At the time of placing the sell order, Nine Masts had no existing Yuzhou Properties shares and the placing had not been completed. As a result, Nine Masts short sold 10,633,000 shares in Yuzhou Properties.

The SFC considers that Nine Masts failed to act with due skill, care and diligence in dealing in the placing shares, and to implement adequate and effective systems and controls to ensure compliance with the short selling requirements.

In deciding the penalty, the SFC took into account all relevant circumstances of the case, including:

- This incident is the second occurrence of a similar kind – Nine Masts' systems and controls for preventing naked short selling did not improve despite an advisory letter by the SFC in August 2013 for a similar incident whereby placing shares were sold before the completion of a placement in June 2010;
- the dealing in Yuzhou Properties shares involved a single, unintentional short sale;
- Nine Masts self-reported the regulatory breach to the SFC;
- the costs relating to the settlement failure were borne by Nine Masts;
- Nine Masts had taken remedial measures to strengthen its internal controls and systems following this incident;

- Nine Masts' cooperation with the SFC in resolving its regulatory concerns and in accepting the disciplinary action and the SFC's findings; and
- Nine Masts has an otherwise clean disciplinary record.

天元资本有限公司因无抵押卖空而遭香港证券及期货事务监察委员会谴责及罚款 120 万港元

2019 年 4 月 18 日, 香港证券及期货事务监察委员会 (证监会) 因天元资本有限公司 (天元) 在 2015 年 5 月干犯有关卖空禹洲地产股份有限公司 (禹洲地产) 股份的缺失, 对其作出谴责及罚款 120 万港元。

2015 年 5 月 12 日, 禹洲地产宣布配售新股份的建议, 而有关配售事项须待达成若干条件后方可作实。禹洲地产其后在 2015 年 5 月 21 日收市后发出另一份公告, 表示已在同日达成有关条件及完成该配售事项。天元是禹洲地产股份配售的其中一名承配人。

证监会发现, 天元在 2015 年 5 月 13 日收到一名配售代理的确认, 表示该公司将获配发 3,200 万股禹洲地产的配售股份。在收到口头确认后不久, 天元便出售 10,633,000 股禹洲地产股份。在发出卖盘指示时, 天元并无任何禹洲地产股份, 而该配售事项亦尚未完成。天元因此卖空了 10,633,000 股禹洲地产股份。

证监会认为, 天元在买卖有关配售股份时没有以适当的技能、小心审慎和勤勉尽责的态度行事, 亦没有实施充足和有效的系统及监控措施, 以确保其遵从有关卖空的规定。

证监会厘定罚则时, 已考虑到这宗个案的所有相关情况, 包括:

- 这是第二次发生的类似事件 – 虽然证监会已在 2013 年 8 月就类似事件 (配售股份在 2010 年 6 月于完成配售之前售出) 发出劝诫信, 但天元没有改善其系统及监控措施, 以防止无抵押卖空活动;
- 就禹洲地产股份所进行的买卖涉及单一项及非蓄意的卖空活动;
- 天元自行向证监会汇报违规行为;
- 天元承担因无法进行交收所涉及的费用;
- 天元已在有关事件发生后采取补救措施加强其内部监控措施及系统;
- 天元在解决证监会提出的关注事项, 以及在接受纪律行动和证监会的调查发现方面表现合作; 及
- 天元过往并无遭受纪律处分的纪录。

Source 來源:

sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=19PR32

Hong Kong Securities and Futures Commission Bans Former Responsible Officer of Guosen Securities (HK) Brokerage Company Limited for 10 Months

On April 23, 2019, the Hong Kong Securities and Futures Commission (SFC) has prohibited Mr. Su Xiqiang (Su), former head of retail brokerage and responsible officer (RO) of Guosen Securities (HK) Brokerage Company, Limited (Guosen), from re-entering the industry for 10 months from April 17, 2019 to February 16, 2020.

The disciplinary action follows the SFC's sanctions against Guosen over its failures to comply with anti-money laundering (AML) and counter financing of terrorism (CFT) regulatory requirements when handling third party fund deposits between November 2014 and December 2015.

The SFC found that Guosen's breaches were attributable to Su's failure to discharge his duties as an RO and a member of Guosen's senior management.

In particular, Su, who was the most senior person overseeing Guosen's retail brokerage business during the relevant time, failed to ensure that Guosen had:

- put in place effective policies to scrutinize and approve third party deposits received by retail clients;
- implemented adequate systems and controls to identify and monitor third party deposits made into its bank sub-accounts;
- communicated and enforced its internal AML/CFT policies effectively; and
- put in place proper procedures for reporting suspicious transactions.

Su also failed to supervise staff members diligently to ensure they adhered to Guosen's AML/CFT policies by:

- documenting the assessment of retail clients' level of risk on money laundering and terrorist financing at account opening; and
- regularly reviewing and updating existing records of retail clients.

In deciding the disciplinary sanction, the SFC took into account all relevant circumstances, including Su's cooperation with the SFC in resolving its concerns and accepting the disciplinary action, as well as Su's otherwise clean disciplinary record.

香港证券及期货事务监察委员会禁止国信证券(香港)经纪有限公司前负责人员重投业界十个月

2019年4月23日,香港证券及期货事务监察委员会(证监会)禁止国信证券(香港)经纪有限公司(国信)前零售经

纪业务主管及负责人员苏细强(苏)重投业界,为期十个月,由2019年4月17日起至2020年2月16日止。

上述纪律行动源于证监会早前就国信于2014年11月至2015年12月期间,在处理第三者存款时违反了打击洗钱及恐怖分子资金筹集的监管规定而对其作出的处分。

证监会发现,国信的违规行为可归因于苏没有履行其作为负责人员及国信高级管理人员的职责所致。

具体而言,苏在有关期间内身为负责监督国信零售经纪业务的最高级人员,没有确保国信已:

- 制定有效政策,以审查和批准零售客户所收取的第三者存款;
- 实施充分的制度及监控措施,以识别及监察存入其银行子帐户的第三者存款;
- 有效地传达及执行其内部打击洗钱及恐怖分子资金筹集政策;及
- 制定妥善的可疑交易汇报程序。

苏亦没有勤勉尽责地监督职员,以确保他们遵从国信的打击洗钱及恐怖分子资金筹集政策,包括:

- 以文件记录在开户时就零售客户的洗钱及恐怖分子资金筹集风险水平所作的评估;及
- 定期复核及更新零售客户的现有纪录。

证监会在决定上述纪律处分时,已考虑到所有相关情况,包括苏在解决证监会的关注事项及接受纪律行动时表现合作,以及苏过往并无遭受证监会纪律处分的纪录。

Source 来源:

sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=19PR33

Hong Kong Monetary Authority and Securities and Futures Commission Adopt a Coordinated Approach to Supervise Banks and Licensed Corporations

The Hong Kong Monetary Authority (HKMA) and the Securities and Futures Commission (SFC) recently conducted coordinated inspections of a bank within a Mainland-based banking group and a licensed corporation (LC) owned by a subsidiary (Group). The HKMA and the SFC found that the Group, one of many Mainland-based groups operating banks, licensed corporations and other affiliates in Hong Kong, had entered into a series of complex transactions via a private fund and other entities which give rise to a number of serious concerns.

The findings from the coordinated inspections are illustrative of complex structures which appear to have

been adopted by other Mainland financial institutions in Hong Kong together with complex, opaque financing arrangements which may conceal embedded financial risks and make it difficult to conduct rigorous risk assessment.

On April 24, 2019, the HKMA and the SFC are issuing a Circular in order to encourage all institutions which may have adopted similar financing arrangements involving subsidiaries or affiliates of licensed entities to review them urgently and take all necessary steps to address all untoward risks.

Complex arrangements to finance risky investments

The regulators found that the subsidiary within the Group obtained a credit facility from the bank for general business and working capital purposes. The subsidiary then made a large investment in a private fund set up by a licensed asset manager. The sole purpose of the fund was to provide a loan (Loan A) to a special purpose vehicle (SPV) owned by a substantial shareholder of a listed company against a pool of collateral which was mainly composed of the listed company's shares.

Loan A was used to repay part of a loan of another SPV owned by the substantial shareholder which had financed projects in an emerging market. It was subject to a margin call arrangement whereby additional cash or securities collateral would be required when the loan-to-collateral ratio exceeded an agreed level.

In a circular dated August 3, 2018, the SFC expressed concerns about arrangements which effectively provide margin financing in the guise of investments; it is of the view that the arrangement put in place by the Group, which was accounted for as an investment in a private fund by its subsidiary, was in substance a margin loan leveraging on the funding support from the bank.

Deficient lending practices

The HKMA's inspection identified deficiencies in the bank's lending practices. Banks should ensure that credit facilities granted to their subsidiaries and affiliated companies or those of their holding company are granted on an arm's length basis and subject to a prudent credit assessment which should be at least as stringent as that performed on unrelated companies. The assessment should include an evaluation of the borrowing company's ability to repay and how the facility is intended to be used.

Banks should also ensure that there is an effective post-lending monitoring framework to identify and follow-up on any major adverse developments of a borrower in a timely manner. If the borrower is engaging in high-risk activities (in this case a margin loan to finance high risk investments) or activities that deviate from its normal

scope of business, the bank should critically assess the risk implications, including whether and how such activities may affect the repayment ability of the borrower as well as the reputation of the bank. The bank should take appropriate risk mitigation measures to reduce the risks identified. The HKMA will review the effectiveness of controls of banks as part of its ongoing supervisory work.

Coordinated supervision

The SFC also found that the Group's subsidiary, via a separate subsidiary holding a money lender license, also had provided lending to other listed companies secured by collateral provided by major shareholders. Some borrowers had pledged a significant proportion of the listed companies' total issued shares (up to 70%). These were illiquid stocks of doubtful quality.

The SFC wishes to remind all holding companies or controllers of LCs to prudently manage the overall group financial risks to ensure it has the ability to provide financial support to the LCs and to contain contagion risks to the LCs that may affect their financial integrity.

The HKMA and the SFC will continue to enhance regulatory cooperation and are also closely coordinating with Mainland regulators to share information and observations derived from their supervisory work.

香港金融管理局与证券及期货事务监察委员会采取协调方法监管银行及持牌法团

香港金融管理局(金管局)与证券及期货事务监察委员会(证监会)最近对一个内地银行集团所属的一家银行及由该集团的一家附属公司所拥有的持牌法团(该集团)进行了经协调的现场检查。金管局及证监会发现,作为其中一家在香港经营银行、持牌法团及其他附属公司的内地银行集团,该集团透过私募基金及其他实体,进行了一连串引起严重关注的复杂交易。

这次协调检查有助说明其他在港的内地金融机构可能也有透过复杂架构,进行复杂且欠缺透明度的融资安排,以致可能隐藏交易所带来的金融风险,从而难以为相关交易进行审慎的风险评估。

2019年4月24日,金管局及证监会发出通函,鼓励所有透过持牌实体附属公司或附属公司进行类似融资安排的机构,对相关的情况进行即时检讨,及采取一切必要的措施处理所有相关风险。

为高风险投资项目进行融资的复杂安排

监管机构发现,该集团的附属公司从集团所属的银行取得

一笔信用借贷作一般业务及营运资金用途。该附属公司其后向一家由持牌资产管理公司成立的私募基金作出大额投资。该基金的唯一目的是向由一家上市公司的大股东所拥有的一家特定目的公司提供一笔贷款（贷款 A），而这笔贷款的抵押品主要为该上市公司的股份。

贷款 A 被用作偿还部分该名大股东拥有的另一家特定目的公司所欠的贷款，而该笔贷款是为新兴市场的项目进行融资。贷款 A 备有追缴保证金的安排；根据有关安排，当贷款与抵押品比率超过某个议定水平，借款人须提供额外的现金或证券抵押品。

证监会在 2018 年 8 月 3 日的通函中，曾对于以投资作掩饰而实际上是提供保证金融资的安排表示关注。证监会认为，该集团设立的有关安排，表面上虽然为其附属公司于私募基金的投资，但实质上是一项以该银行提供的资金作支援的保证金融资贷款。

未尽完善的贷款经营手法

金管局的现场检查发现该银行的贷款审批及贷后监控手法未尽完善。银行须确保向其本身拥有或其控股公司拥有的附属公司及联属公司所授予的贷款都是经过审慎的风险评估，及按照公平原则授出。有关评估须至少与对没有关连的公司所进行的评估同样严谨，其中须包括对借款公司的还款能力及该笔贷款拟定用途的评核。

银行亦须确保一套有效的贷后监控架构，以便及时识别和跟进借款人任何重大的不利发展。若借款人参与高风险活动（在本个案中是为高风险投资项目融资所进行的保证金融资贷款）或进行偏离其正常业务范围的活动，银行须重新严谨地进行风险评估，包括有关活动会如何影响借款人的还款能力及银行的信誉。银行亦须采取适当的风险缓减措施，以降低所识别的风险。金管局将透过对银行的持续监管工作审视银行风险管控措施的成效。

协调监管

证监会亦发现该集团的有关附属公司，透过其一家持有放债人牌照的附属公司，同时向其他上市公司提供贷款，并由相关上市公司的大股东提供抵押品。某些借款人所质押的股份占相关上市公司已发行股份总额的比例非常高（高达 70%），并属欠缺流通性且质素成疑的股份。

证监会希望提醒所有持牌法团的控股公司或控制人应审慎管理集团的整体财务风险，以确保集团有能力为持牌法团提供财政支持，及遏制可能影响持牌法团财务稳健性的连锁风险。

金管局与证监会将继续加强监管合作，并与内地监管机构进行密切协调，以分享彼此在监管工作中取得的资料及观察到的事项。

Source 来源：

sfc.hk/edistributionWeb/gateway/EN/circular/intermediaries/supervision/doc?refNo=19EC28

Hong Kong Monetary Authority Issues Circular on Introduction of Tiered Account Services

On April 12, 2019, the Hong Kong Monetary Authority (HKMA) issued a circular on the introduction of tiered account services by some retail banks.

The HKMA expects Authorized Institutions (AIs) to adopt a risk-based approach in Anti-Money Laundering and Counter-Financing of Terrorism efforts, thereby enhancing the accessibility of banking services to bona fide businesses and individuals and improving customer experience.

Based on feedback from the business community, the HKMA has been exploring with banks the introduction of a new tier of bank accounts (Simple Bank Accounts or SBAs) which offer a narrower set of banking services, and correspondingly, require less extensive customer due diligence (CDD) measures to be carried out at account opening. SBAs follow the overarching principles of the risk-based approach in that the extent of CDD measures undertaken should be commensurate with the assessed risk level of the business relationship. The narrower scope of banking services offered by SBAs would correspond to lower levels of risk (compared with traditional accounts) and thus less extensive CDD measures required. Banks are expected to clearly communicate the scope of services of SBAs to the customers during the account opening process.

Some retail banks have already launched SBAs for corporate customers. The HKMA strongly encourages AIs to support the initiative and introduce SBAs that fit their individual circumstances to further facilitate access to banking services in Hong Kong.

香港金融管理局就推出分层帐户服务发出通函

2019 年 4 月 12 日，香港金融管理局（金管局）就部分零售银行推出分层帐户服务发出通函。

金管局希望认可机构在打击洗钱及恐怖分子资金筹集方面的工作；采取以风险为本的方式，让更多真诚的企业和个人获得银行服务，并改善客户体验。

根据商界的意见，金管局一直在探索引入新银行账户层级（简单银行账户或 SBAs），提供范围较窄的银行服务，并相

应地在开户时要求进行没有那么广泛的客户尽职调查措施。SBAs 遵循基于以风险为本的总体原则，即客户尽职调查措施的范围应与评估的业务关系风险水平相称。SBAs 提供的银行服务范围较窄，故相当于较低的风险水平（与传统账户相比），因此没有那么需要广泛的客户尽职调查措施。银行必须在开户过程中向客户明确传达 SBAs 的服务范围。

一些零售银行已经为企业客户推出了 SBAs。金管局强烈鼓励认可机构支持这项措施，并引入符合其本身情况的 SBAs，以进一步促进香港的银行服务。

Source 来源:

hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2019/20190412e1.pdf

Hong Kong Monetary Authority and China Export & Credit Insurance Corporation Sign Memorandum of Understanding on Infrastructure Financing Facilitation

On April 24, 2019, the Hong Kong Monetary Authority and China Export & Credit Insurance Corporation (Sinasure) signed a Memorandum of Understanding (MoU) with respect to establishing a strategic framework of co-operation to facilitate the financing and investments of infrastructure projects via the Infrastructure Financing Facilitation Office (IFFO) platform.

As the official Export Credit Agency of the Chinese Government, Sinasure has been an active player in the Hong Kong infrastructure financing market. With closer collaborations between Sinasure and IFFO under the MoU framework, Sinasure will continue to develop its full range of product offerings, including project financing insurance, overseas investment insurance, guarantee, and credit rating, with a view to facilitating infrastructure financing activities by Hong Kong-based financial institutions. Sinasure and IFFO will also work closely together in reaching out to more Mainland Chinese corporates and encourage them to make greater use of Hong Kong's platform for their investments in overseas infrastructure projects.

香港金融管理局与中国出口信用保险公司签署促进基建融资谅解备忘录

2019年4月24日，香港金融管理局与中国出口信用保险公司（中国信保）签署《谅解备忘录》，透过基建融资促进办公室（IFFO）平台建立策略性合作框架以促进基建项目投融资。

作为中国的官方出口信用机构，中国信保一直是香港基建融资市场的积极参与者。在《谅解备忘录》的框架下，中

国信保将更紧密地与 IFFO 合作，继续开拓包括项目融资保险、海外投资保险、担保、资信评估在内的一系列产品，以进一步促进在港金融机构参与基建融资活动。中国信保和 IFFO 还将密切接触更多内地企业，鼓励它们积极利用香港平台投资海外基建项目。

Source 来源:

hkma.gov.hk/eng/key-information/press-releases/2019/20190424-3.shtml

U.S. Securities and Exchange Commission Charges Former Woodbridge Group of Companies LLC Directors of Investment with Fraud

On April 11, 2019, the U.S. Securities and Exchange Commission (SEC) charged two former directors of investments at Woodbridge Group of Companies LLC (Woodbridge) for their roles in its massive Ponzi scheme. The defendants, Ivan Acevedo (Acevedo) and Dane R. Roseman (Roseman), were charged with violating the anti-fraud provisions of the federal securities laws and broker-dealer registration laws, along with Woodbridge owner Robert H. Shapiro (Shapiro).

In this January, a federal court in Florida ordered Woodbridge, related companies, and Shapiro together to pay US\$1 billion for operating this Ponzi scheme.

According to the SEC's complaint, although Acevedo and Roseman were not registered in any capacity with the SEC, they were responsible for fraudulently raising at least US\$1.2 billion from more than 8,400 retail investors, many of them seniors, and together received more than US\$3 million in transaction-based and other compensation.

The SEC's complaint seeks disgorgement of allegedly ill-gotten gains, with interest, and financial penalties.

The SEC's investigation is continuing.

美国证券交易委员会指控前 Woodbridge Group of Companies LLC 投资董事欺诈

2019年4月11日，美国证券交易委员会（美国证监会）指控 Woodbridge Group of Companies LLC (Woodbridge) 的两名前投资董事在庞大的庞氏骗局中所扮演的角色。偕同对 Woodbridge 的老板 Robert H. Shapiro (Shapiro) 的指控，被告 Ivan Acevedo (Acevedo) 和 Dane R. Roseman (Roseman) 被指控违反了联邦证券法规的反欺诈条款和经纪-交易商登记法规。

在今年1月，就操作这个庞氏骗局，佛罗里达联邦法院下令 Woodbridge，相关公司和 Shapiro 一起支付 10 亿美元。

根据美国证监会的起诉书称, 虽然 Acevedo 和 Roseman 没有以任何身份在其注册, 他们对超过 8,400 名零售投资者 (其中许多是老年人) 欺诈性筹集至少 12 亿美元负有责任, 并且共同获得超过 3 百万美元以交易为基础和其他的报酬。

美国证监会的起诉书寻求交出指称的不法所得连同利息和经济罚款。

美国证监会的调查仍在继续中。

Source 来源:
sec.gov/litigation/litreleases/2019/lr24450.htm

Silicon Valley Company Settles U.S. Securities and Exchange Commission's Fraud Charge for Misstating Returns to Investors

On April 19, 2019, the U.S. Securities and Exchange Commission (SEC) announced that Prosper Funding LLC (Prosper) will pay a US\$3 million penalty for miscalculating and materially overstating annualized net returns to retail and other investors.

San Francisco-based Prosper is a marketplace lender that, through its website, offers and sells securities linked to the performance of its consumer credit loans. According to the SEC's order, from approximately July 2015 until May 2017, Prosper excluded certain non-performing charged off loans from its calculation of annualized net returns that it reported to investors. The order finds that Prosper reported overstated annualized net returns to more than 30,000 investors on individual account pages on Prosper's website and in emails soliciting additional investments from investors. Many investors decided to make additional investments based on the overstated annualized net returns. The order also finds that Prosper failed to identify and correct the error despite Prosper's knowledge that it no longer understood how annualized net returns were calculated and despite investor complaints about the calculation.

Without admitting or denying the findings, Prosper consented to the entry of an SEC order finding that it violated the antifraud provision contained in Section 17(a)(2) of the Securities Act of 1933. In addition to the penalty, the SEC's order requires Prosper to cease and desist from future violations of Section 17(a) of the Securities Act.

一家硅谷公司就美国证券交易委员会对其向投资者虚报收益的欺诈指控达成和解

2019 年 4 月 19 日, 美国证券交易委员会 (美国证监会) 宣布, Prosper Funding LLC (Prosper) 将因错误计算并严重高估零售和其他投资者的年度化净回报率而支付 300 万美元的罚款。

总部位于旧金山的 Prosper 是一家市场贷款公司, 通过其网站提供和销售与其消费信贷相关的证券。根据美国证监会的命令, 从 2015 年 7 月至 2017 年 5 月左右, Prosper 在其向投资者报告的年度净回报率计算中排除了某些不良的撇帐贷款。该命令认为, Prosper 在其网站的个人账户页面和电子邮件中向超过 30,000 名投资者报告了高估的年度净回报率, 以招揽投资者的额外投资。许多投资者基于高估的年度净回报率, 决定进行额外投资。该命令还认为 Prosper 未能识别并纠正错误, 尽管 Prosper 知道它不再充分掌握年度化净回报率的计算方式以及投资者对计算提出的投诉。

在不承认或否认调查结果的情况下, Prosper 同意接受美国证监会的命令; 认为其违反了 1933 年《证券法》第 17(a)(2) 节的反欺诈条款。除了罚款, 美国证监会的命令要求停止和终止未来违反《证券法》第 17(a) 节的规定。

Source 来源:
sec.gov/news/press-release/2019-58

Monetary Authority of Singapore Reprimands Mr Tan Choon Wee for the Omission of Information in a Capital Markets Services License Application and Failing to Discharge his Duty and Function as Chief Executive Officer and Director

On April 12, 2019, the Monetary Authority of Singapore (MAS) reprimanded Mr Tan Choon Wee (Mr Tan), the Chief Executive Officer (CEO) and a director of a registered fund management company, Advance Capital Partners Asset Management Private Limited (ACPAM), under section 334 of the Securities and Futures Act, for the following misconduct:

- (a) omitting information in a capital markets services (CMS) license application to MAS, which made the application misleading in a material respect; and/or
- (b) failing to discharge his duty and function as CEO and director.

In July 2018, MAS had reprimanded ACPAM, among other things, for being repeatedly late in its regulatory submissions.

Despite the reprimand, ACPAM continued to be late in its submissions to MAS. As the CEO and a director of ACPAM, Mr Tan was primarily responsible for ensuring that ACPAM complied with the regulatory requirements. Mr Tan had reviewed and signed off on ACPAM's

application to MAS for a CMS license, which contained various omissions. These omissions, which related to ACPAM's assessment of the fitness and propriety of its directors and shareholders, made the application misleading in a material respect.

MAS expects CEOs and directors to carry out the duties and functions of their offices effectively, including ensuring that financial institutions comply with regulatory requirements and providing complete and accurate information to MAS. Where appropriate, MAS has taken, and will continue to take, regulatory action against CEOs and directors of financial institutions that fail to comply with regulatory requirements.

新加坡金融管理局谴责 Tan Choon Wee 先生在资本市场服务牌照申请中遗漏资料及未能履行其职责及担任行政总裁及董事职务

2019年4月11日,新加坡金融管理局(新金局)根据《证券及期货条例》第334条的规定,谴责注册基金管理公司 Advance Capital Partners Asset Management Private Limited (ACPAM)的首席执行官和董事 Tan Choon Wee 先生(Tan 先生)的下列不当行为:

- (a) 在向新金局申请资本市场服务牌照时遗漏信息, 这使申请在重大方面具有误导性; 和/或
- (b) 未履行其担任首席执行官兼董事的职责及职能。

2018年7月,新金局曾谴责 ACPAM (其中包括) 屡次延迟提交监管文件。

尽管受到谴责, ACPAM 在向新金局提交文件仍有延迟。作为 ACPAM 的首席执行官和董事, Tan 先生主要负责确保 ACPAM 符合监管要求。Tan 先生还审阅并签署 ACPAM 向新金局申请资本市场服务牌照, 其中包含各种遗漏。这些遗漏与 ACPAM 对其董事和股东是否符合适当人选条件的评估有关, 使该申请在重大方面具有误导性。

新金局希望首席执行官和董事能有效履行其职责和职能, 包括确保金融机构遵守监管要求, 并向新金局提供完整和准确的信息。在适当情况下, 新金局已采取并将继续采取针对不符合监管要求的金融机构的首席执行官和董事的监管行动。

Source 来源:
mas.gov.sg/News-and-Publications/Enforcement-Actions/2019/Reprimand-of-Advance-Capital-Partners-Asset-Management.aspx

Monetary Authority of Singapore Responses to Inquiries on Retail Bonds

On April 17, 2019, the Monetary Authority of Singapore (MAS) responded to the inquiries on retail bonds.

Timely to encourage retail bond market

In 2016, MAS introduced two frameworks to make it easier for eligible corporations to offer bonds to retail investors.

When investing in bonds, investors must exercise care as the credit profiles of bond issuers can vary greatly. Investors should look beyond yield or name-familiarity and seek to understand the issuer's financial strength before committing to investments.

Take extra step to help laymen with investment decisions

Regarding the suggestion that credit ratings be made mandatory for bonds issued to retail investors, MAS introduced a grant scheme in 2017 to encourage and incentivize issuers to offer rated bonds instead of making ratings mandatory.

The best way to help investors is to enable them to make informed investment decisions by requiring issuers to disclose material information. MAS requires issuers to set out clearly in their offering documents their financial position and prospects as well as key risks and salient terms of the instruments offered. In addition, to help investors better understand disclosures, MAS has required issuers to furnish in a product highlight sheet, a summary of key information in easy-to-understand language.

新加坡金融管理局对零售债券的查询作出回应

2019年4月17日,新加坡金融管理局(新金局)就零售债券的查询作出回应。

适时鼓励零售债券市场

2016年,新金局推出了两个框架,使符合条件的公司更容易向散户投资者发行债券。

在投资债券时,投资者必须谨慎行事,因为债券发行人的信用状况可能差别很大。投资者不仅是关注收益率或知名度,应在投资前了解发行人的财务实力。

采取额外措施帮助非专业人士做出投资决策

关于向散户投资者发行的债券应强制进行信用评级的建议,新金局在2017年推出了一项补助计划,以鼓励和激励发行人发行评级债券而不是采取强制评级要求。

帮助投资者的最佳方式是通过要求发行人披露重要信息,使他们能够做出明智的投资决策。新金局要求发行人在其发行文件中清楚列明其财务状况和前景,以及要约认购的金融工具的主要风险和主要条款。此外,为帮助投资者更好地理解有关的披露,新金局要求发行人提供产品说明书,以易于理解的语言撰写关键信息的摘要。

Source 来源:

mas.gov.sg/News-and-Publications/Letters-to-Editor/2019/Response-to-two-letters-on-retail-bonds.aspx

Institute of Banking and Finance Singapore-Monetary Authority of Singapore Study Identifies Skills for More Competitive Financial Sector Workforce

On April 23, 2019, a study commissioned by the Institute of Banking and Finance Singapore (IBF) and the Monetary Authority of Singapore (MAS) has set out how data analytics and automation are likely to augment or transform 121 job roles in Singapore's financial sector over the next 3 to 5 years.

The IBF-MAS study found that about half of the 121 job roles analyzed would be augmented as individuals leverage these technologies to amplify their performance. Another one third of job roles would be transformed, as technology substitutes a significant proportion of job tasks, and remaining tasks across synergistic job roles converge into new roles. Across all job roles, individuals would be required to take on new or expanded tasks that have a higher element of judgement and creativity, while tasks of a more repetitive and rules-based nature are automated. The study also identified emerging job roles that would grow in demand with the adoption of data analytics and automation in the sector.

A copy of the study report is available on the IBF and MAS websites: ibf.org.sg/newsroom/Documents/IBF%20MAS%20Data%20and%20Automation%20Study%202019%20Web.pdf.

新加坡银行金融学院-新加坡金融管理局研究确定更具竞争力的金融业工作人员所需的技能

2019年4月23日,由新加坡银行金融学院(IBF)和新加坡金融管理局(MAS)委托进行的一项调查阐述数据分析和自动化,在未来3到5年内如何增强或改变新加坡金融业的121个工作职务。

IBF-MAS 调查发现,随着个人利用各种技术来提升其表现,所分析的121个工作职务中约有一半会得到增强。另外三分之一的工作职务将被转变,因为技术替代了很大比例

的工作职务,而协同工作角色中的剩余任务也会转变为新的职务。在所有工作职务中,个人将被要求承担具有更高判断力和创造力的新任务或扩展任务,而具有更多重复性和基于规则性质的任务则实现自动化。该调查还通过采用该行业的数据分析和自动化,确定了需求增长的新兴工作职务。

IBF 和 MAS 网站上提供了调查报告的副本:

ibf.org.sg/newsroom/Documents/IBF%20MAS%20Data%20and%20Automation%20Study%202019%20Web.pdf。

Source 来源:

mas.gov.sg/News-and-Publications/Media-Releases/2019/IBF-MAS-study-identifies-skills-for-more-competitive-financial-sector-workforce.aspx

Financial Conduct Authority of the United Kingdom Updates on Brexit Delay

On April 11, 2019, the Financial Conduct Authority (FCA) of the United Kingdom (UK) will not implement its preparations for Brexit in light that it has been confirmed the UK will not leave the European Union on April 12, 2019. The new no-deal Brexit date should be read as referring to October 31, 2019.

Firms do not need to take any action or implement any contingency plans. The FCA will provide updates when necessary on its website and through other channels.

英国金融行为监管局更新英国延后脱离欧洲联盟

2019年4月11日,英国金融行为监管局(英国金管局)将不会执行其英国脱离欧洲联盟(欧盟)的准备工作,因为已经确认英国将不会在2019年4月12日脱离欧盟。新的没有退出协脱离欧盟的日期应理解为2019年10月31日。

公司不需要采取任何行动或实施任何应急计划。英国金管局将在必要时在其网站和其他渠道提供最新信息。

Source 来源:

fca.org.uk/news/statements/update-brexit-delay

Financial Conduct Authority of the United Kingdom Sets out its Priorities for 2019/20

On April 17, 2019, the Financial Conduct Authority (FCA) of the United Kingdom (UK) has published its Business Plan for 2019/20 (Plan), which outlines the key priorities for the coming year.

As the UK finalizes preparations to leave the European Union, the immediate priority will remain supporting an orderly transition post-exit. The FCA will also continue to play a leading role in shaping the global regulatory

framework working with other national regulators and international bodies.

The Plan outlines four ongoing cross-sector priorities:

- work on firms' culture and governance, including extending the Senior Managers and Certification Regime to all firms
- ensuring the fair treatment of firms' existing customers by monitoring firms' practices, including the information they give prospective and current customers
- developing the work being done on operational resilience, which will play a vital role in protecting the UK's financial system
- combating financial crime and improving anti-money laundering practices, by enhancing the use of technology and data, as well as engaging with multiple agencies and government bodies

The Plan also sets out three additional cross-sector priorities:

- the future of regulation
- ensuring innovation and the use of data work in consumers' interests
- examining the intergenerational challenge in financial services

英国金融行为监管局制定 2019/20 年度的优先事项

2019 年 4 月 17 日, 英国金融行为监管局 (英国金管局) 发布了 2019/20 年度的工作计划 (该计划), 其中概述来年的主要优先事项。

随着英国完成脱离欧盟的准备工作, 当务之急将继续支持脱欧后的有序过渡。英国金管局还将继续在与其他国家监管机构和国际机构合作, 在制定全球监管框架方面发挥主导作用。

该计划概述了四个正在进行的跨部门优先事项:

- 开展公司的文化和管治工作, 包括将高级管理人员和认证制度扩展到所有公司
- 通过监控公司的营商手法, 包括其为潜在客户和现有客户提供的信息, 确保公司现有客户的公平待遇
- 开展有关营运应变能力的工作, 这将在保护英国金融体系方面发挥至关重要的作用
- 通过加强技术和数据的使用, 以及与多个机构和政府机构合作, 打击金融犯罪和改善反洗钱实践

该计划还提出了三个额外的跨部门优先事项

- 未来的监管工作
- 确保创新和数据使用符合消费者的利益
- 研究金融服务业的跨代挑战

Source 来源:

[fca.org.uk/news/press-releases/fca-sets-out-its-priorities-2019-20](https://www.fca.org.uk/news/press-releases/fca-sets-out-its-priorities-2019-20)

Highlights of Speech by Andrew Bailey, Chief Executive of Financial Conduct Authority of United Kingdom, at Bloomberg, London on the Future of Financial Conduct Regulation

A speech at Bloomberg, London was given by Andrew Bailey, Chief Executive of the Financial Conduct Authority (FCA) of the United Kingdom on the future of financial conduct regulation on April 23, 2019. The key issues of the speech are summarized as follows:

The FCA is going to use the following four lenses to look at the approach to conduct regulation.

Regulating in the public interest

The first lens involves taking a closer look at their regulation in the public interest.

The FCA has a single overarching objective, namely that relevant markets should work well, and three supporting operational objectives: the protection of consumers; the integrity of the financial system; and promoting competition in the interests of consumers.

The changing purpose of regulation

The second lens is the purpose of regulation.

There is a view of regulation that rules are prescriptive statements that forbid, require or permit some action or outcome, and that one of these three must be present in any rule. In addition, there is an important development using regulation to enable change consistent with their public policy objectives.

Brexit and the importance of a transition period

The third lens is very relevant to what might be the consequences of Brexit. The FCA has always been of the view that a period of transition is important to avoid the cliff edge risks of a no deal outcome.

After Brexit, it is how equivalence works between the European Union and the other countries. To work effectively, a common agreement is needed on 'rules of the game' setting out the substance and factors and the procedure for reaching unilateral judgments, and there should be a mechanism also for dealing with disagreements or issues such as withdrawal of equivalence on either side. The substance is the outcomes which are shaped by the objectives that matter in the public interest – consumer protection,

market integrity, financial stability, competition. It really means to have an outcomes-based regulatory system.

Having clear principles

Principles are the fourth lens through which to view the future of financial conduct regulation.

The FCA has published a response to their Discussion Paper on introducing a duty of care on authorized firms. The feedback statement on duty of care is available on the FCA's website: [fca.org.uk/news/press-releases/financial-conduct-authority-publishes-feedback-statement-duty-of-care](https://www.fca.org.uk/news/press-releases/financial-conduct-authority-publishes-feedback-statement-duty-of-care).

The FCA intends to undertake further work to examine the role of principles, and it will consider the most efficient and proportionate options for achieving the substance of a duty of care.

英国金融行为监管局首席执行官 Andrew Bailey 就未来的金融行为监管在伦敦彭博社的演讲重点

英国金融行为监管局(英国金管局)的首席执行官 Andrew Bailey 于 2019 年 4 月 23 日在伦敦彭博社就未来的金融行为监管发表演讲。演讲的重点概要载述如下：

英国金管局将使用以下四个角度来考虑实施监管的方法。

为公众利益的监管

第一个角度涉及仔细研究其为公众利益的监管。

英国金管局有一个总体目标，即相关市场应该运作良好，以及三个支持营运目标：保护消费者；金融体系的信誉；并为消费者的利益促进竞争。

改变监管的目标

第二个角度是监管的目标。

监管的一种观点认为，规则是禁止，要求或允许某些行动或结果的规范性陈述；并且这三者中的一个必须存在任何规则中。此外，一个重大的发展是利用监管使转变与其公共政策目标相一致。

英国脱欧和过渡期的重要性

第三个角度与英国脱欧的后果非常相关。英国金管局一直认为，过渡期对于避免无协议结果的悬崖边缘风险非常重要。

在英国脱欧之后，这是与欧盟和其他国家如何运作等同性。为了有效地运作，需要就“游戏规则”达成共识，列出实质内容和因素及程序以达到单方面判定，并且应该有一个机制来处理分歧或问题，例如撤回任何一方的等同性。实质内容是由符合公共利益的目标所塑造的结果 - 消费者保护，市场诚信，金融稳定，竞争。这实际意味着建立一个基于结果的监管体系。

有明确的原则

原则是了解未来金融行为监管的第四个角度。

英国金管局刚发布对其讨论文件的回应意见，其中对认可公司引进谨慎责任。有关谨慎责任的反馈声明载于英国金管局的网站：[fca.org.uk/news/press-releases/financial-conduct-authority-publishes-feedback-statement-duty-of-care](https://www.fca.org.uk/news/press-releases/financial-conduct-authority-publishes-feedback-statement-duty-of-care)。

英国金管局打算进一步研究原则的作用，并将考虑实现谨慎责任的实质性最有效和相称的备选方案。

Source 来源：

[fca.org.uk/news/speeches/future-financial-conduct-regulation](https://www.fca.org.uk/news/speeches/future-financial-conduct-regulation)

China Financial Futures Exchange Further Adjusts Rules for Stock Index Futures Trading

On April 19, 2019, the China Financial Futures Exchange announced to further adjust the stock index futures trading arrangements, effective on April 22, 2019: First, the trading margin for CSI 500 stock index futures will be adjusted to 12%; Second, the limit for intraday activity in trading of single index futures contracts will be adjusted to 500 lots; Third, transaction fees will be adjusted to 0.0345% of the transaction amount.

This adjustment will help to further meet investors' risk-hedging needs, introduce more medium and long-term funds into the capital market, and promote product innovation to meet the needs of all types of investors.

中国金融期货交易所进一步调整股指期货交易规则

2019 年 4 月 19 日，中国金融期货交易所宣布自 2019 年 4 月 22 日起进一步调整股指期货交易安排：一是将中证 500 股指期货交易保证金调整为 12%；二是将股指期货日内活动调整为单个合约 500 手；三是将手续费标准调整为成交金额的万分之三点四五。

此次调整有利于进一步满足投资者风险管理需求，引导更多中长期资金进入资本市场，促进产品创新，更好满足各类投资者的需要。

Source 来源:

cffex.com.cn/jysdt/20190419/23716.html

Australian Securities and Investments Commission Warns of Some Australian Financial Service Licensees Breaking Overseas Laws

On April 11, 2019, the Australian Securities and Investments Commission (ASIC) said Australian financial service (AFS) licensees that offer over the counter (OTC) derivatives to retail investors located in some overseas jurisdictions may be providing unlicensed or unauthorized services in those jurisdictions.

Regulators in many jurisdictions (such as Europe, Japan, North America and China) have restricted or prohibited the provision to retail investors of certain OTC derivatives, such as binary options, margin foreign exchange and other contracts for difference to mitigate harm to retail investors.

ASIC is concerned that some OTC derivative issuers that hold AFS licenses (or their agents) may be marketing or soliciting clients located in China, Europe and other jurisdictions to open accounts with Australian-based AFS licensees on the basis doing so will avoid the overseas intervention measures.

ASIC said that AFS licensees who break the law in overseas jurisdictions, or who mislead retail investors about their services undermine the integrity of the Australian licensing regime. ASIC will not tolerate that conduct. ASIC will consider whether breaching overseas law is consistent with obligations under Australian law to provide services "efficiently, honestly and fairly".

澳洲证券及投资监察委员会提醒部分澳洲金融服务牌照持牌人违反海外法律

2019年4月11日, 澳洲证券及投资监察委员会(澳洲证监会)表示, 向位于某些海外司法管辖区的散户投资者提供场外衍生产品的澳洲金融服务(AFS)牌照持牌人; 可能会在这些司法管辖区内提供未经许可或未经授权的服务。

许多司法管辖区(如欧洲, 日本, 北美和中国)的监管机构已限制或禁止向散户投资者提供某些场外衍生产品, 如二元期权, 外汇保证金和其他差价合约, 以减轻对散户投资者的损害。

澳洲证监会关注持有 AFS 牌照(或其代理人)的一些场外衍生产品发行人可能正在营销或招揽位于中国, 欧洲和其他司法管辖区的客户; 与在澳洲的 AFS 牌照持牌人开立账户, 在此基础上以避免海外干预措施。

澳洲证监会表示: AFS 牌照持牌人在海外司法管辖区违反法律, 或误导散户投资者关于其服务的行为, 会破坏澳洲牌照制度的信誉。澳洲证监会不会容忍这种行为。澳洲证监会将考虑违反海外法律是否符合澳洲法律规定的“高效、诚实和公平”提供服务的责任。

Source 来源:

asic.gov.au/about-asic/news-centre/find-a-media-release/2019-releases/19-088mr-some-afs-licensees-may-be-breaking-overseas-laws

Australian Securities and Investments Commission Surveys Highlight Continued Growth in Innovative Funding Platforms

On April 12, 2019, the Australian Securities and Investments Commission (ASIC)'s surveys of market sectors show fintech businesses are continuing to see growth in demand for alternative funding sources.

The ASIC recently conducted its third survey of the marketplace lending industry and its first survey of Australia's crowd-sourced funding (CSF) sector. Marketplace lending involves the use of electronic platforms to match investing lenders with borrowers.

The ASIC said that marketplace lending is more established in the Australian market than CSF. While its most recent survey results show ongoing growth in both borrowing and lending activity in the marketplace lending sector, there are some indications that this growth may be moderating.

Conversely, the CSF industry is in its early stages and is expected to grow further with the recent expansion of the CSF regime to proprietary companies.

The ASIC will continue to monitor developments in the marketplace lending and CSF sectors. The ASIC committed to facilitating innovation while ensuring investor trust and confidence is maintained.

澳洲证券及投资监察委员会调查显示创新融资平台的持续发展

2019年4月12日, 澳洲证券及投资监察委员会(澳洲证监会)的一项对市场行业的调查显示, 金融科技企业对替代资金渠道的需求将持续增长。

澳洲证监会最近对市场贷款行业进行第三次调查, 并首次对澳洲众筹行业进行首次调查。市场贷款涉及使用电子平台将投资贷款方与借款方相匹配。

澳洲证监会表示，市场贷款在澳洲市场上比众筹更为稳固。虽然最近的调查结果显示市场贷款行业的借贷活动持续增长，但有迹象表明这种增长可能正在放缓。

反过来说，众筹行业处于早期阶段，随着最近将众筹机制扩展到私有企业，预计众筹行业将进一步发展。

澳洲证监会将继续监控市场贷款和众筹行业的发展。澳洲证监会致力于促进创新，同时确保投资者的信任和信心。

Source 来源:

asic.gov.au/about-asic/news-centre/find-a-media-release/2019-releases/19-089mr-asic-surveys-highlight-continued-growth-in-innovative-funding-platforms

Citigroup Refunds Over AUD3 Million to Clients Following an Australian Securities and Investments Commission Investigation

On April 15, 2019, following an Australian Securities and Investments Commission (ASIC) investigation, Citigroup will refund over AUD3 million to 114 retail customers for losses arising out of structured product investments offered by Citigroup between 2013 and 2017. Citigroup will also write to over 1000 customers remaining in the products to provide them an opportunity to exit early without cost.

ASIC was concerned that while Citigroup considered its financial advisers to be providing general advice, elements of its practice may have led some customers to believe that Citigroup was providing personal advice.

From January 1, 2018, as a result of ASIC's investigation, Citigroup ceased selling structured products to retail clients under a general advice model.

Citigroup will shortly start contacting affected customers. The remediation will be completed by September 10, 2019 and Citigroup will report to ASIC once the process is complete.

就澳洲证券及投资监察委员会的调查花旗集团向客户退款超过 300 万澳元

2019 年 4 月 15 日，就澳洲证券及投资监察委员会（澳洲证监会）的调查，花旗集团对因 2013 年至 2017 年间由其提供的结构性产品投资所引起的损失，将向 114 个零售客户退还超过 300 万澳元。花旗集团还将致函产品余下超过 1000 名客户；为他们提供退出机会而无需支付费用。

澳洲证监会关注的是：虽然花旗集团认为其财务顾问提供一般性建议，但其实践的内容可能导致一些客户相信花旗集团提供个人建议。

从 2018 年 1 月 1 日起，由于澳洲证监会的调查，花旗集团停止向一般建议模式的零售客户销售结构性产品。

花旗集团即将开始联系受影响的客户。补救措施将于 2019 年 9 月 10 日前完成，而一旦该流程完成后花旗集团将向澳洲证监会作出报告。

Source 来源:

asic.gov.au/about-asic/news-centre/find-a-media-release/2019-releases/19-091mr-citigroup-to-refund-over-3-million-to-clients-following-sale-of-complex-products

Australian Securities and Investments Commission Warns Trustees about Protecting Your Super Laws and Provides Guidance for Consumers

On April 17, 2019, the Australian Securities and Investments Commission (ASIC) has called on superannuation trustees to provide helpful and balanced communications to their members regarding the Protecting Your Super package (PYSP) of reforms, which are due to take effect on July 1, 2019.

The PYSP reforms are designed to protect the superannuation savings of Australians from erosion due to inappropriate fees and insurance premiums as well as reduce unintended multiple low balance accounts.

The reforms involve the following changes:

- Insurance will be opt-in for members whose accounts have been inactive for 16 months.
- Fund members with balances under AUD6,000 whose accounts have been inactive for 16 months will have their accounts paid to the Australian Tax Office.
- Fee caps will be imposed on certain fees for account balances under AUD6,000.
- Exit fees will not be charged for moving money from a superannuation account.

ASIC has also provided consumer information on the PYSP changes on its MoneySmart website: moneysmart.gov.au/superannuation-and-retirement/is-your-super-on-target#protect.

澳洲证券及投资监察委员会提醒受托人关于保护退休金法律并为消费者提供指导

2019 年 4 月 17 日，澳洲证券及投资监察委员会（澳洲证监会）呼吁退休金受托人就有关保护退休金一揽子方案（PYSP）的改革，向其成员提供有益和平衡的沟通，该改革将于 2019 年 7 月 1 日生效。

PYSP 改革旨在保护澳洲人的退休金储蓄, 使其免受不恰当的费用和保险费的侵蚀, 以及减少非预期多个低余额账户。

改革涉及以下更改:

- 对于 16 个月不活跃账户的成员, 将选择纳入保险。
- 16 个月不活跃账户且余额低于 6,000 澳元的基金成员, 其账户将转至澳洲税务局。
- 对于余额 6,000 澳元以下的账户, 某些收费会被设定上限。
- 从退休金账户转出款项不会收取退出费用。

澳洲证监会还在其 MoneySmart 网站上提供了有关 PYSP 更改的消费者信息:
moneysmart.gov.au/superannuation-and-retirement/is-your-super-on-target#protect。

Source 来源:

asic.gov.au/about-asic/news-centre/find-a-media-release/2019-releases/19-095mr-asic-warns-trustees-about-protecting-your-super-laws-and-provides-guidance-for-consumers

New Zealand Changes the Financial Advice Regulations

On April 11, 2019, Financial Service Providers Register of New Zealand said the Government has passed the Financial Services Legislation Amendment Act (Act) that changes how financial advice is regulated in New Zealand.

The Act will repeal the Financial Advisers Act 2008 and create a new regime for regulating financial advice. The Act will remove the current classifications of advisers and advice firms (Authorized, Registered or Qualifying Financial Entities) and the distinction between "class advice" and "personalized advice".

Under the new regime, anyone giving financial advice to retail clients will need to be engaged by a Financial Advice Provider that is licensed by the Financial Markets Authority.

The start date for the new financial advice regime is expected to be set in the coming months after the new Code of Conduct has been approved.

新西兰修改理财咨询监管法规

2019 年 4 月 11 日, 新西兰金融服务提供者注册处表示, 政府已通过《金融服务法修正案》(法案), 旨在改善新西兰的理财咨询监管方式。

法案将取代《2008 年金融顾问法案》, 并建立一个新的理财咨询监管制度。法案将取消现有的顾问和咨询公司 (授权, 注册或合格金融实体) 分类以及“集体咨询”和“个人咨询”的区别。

在新制度下, 任何向零售客户提供理财咨询的人士都需要由金融市场管理局许可的财务顾问提供者聘用。

新的理财咨询制度的开始日期预计将在新的操守守则获得批准后的几个月内确定。

Source 来源:

fsp-register.companiesoffice.govt.nz/news-and-notice/upcoming-changes-to-how-financial-advice-is-regulated

German Federal Financial Supervisory Authority Signs New Memorandum of Understanding with Prudential Regulatory Authority and Financial Conduct Authority of the United Kingdom to Regulate Supervisory Cooperation after Brexit

On April 15, 2019, the German Federal Financial Supervisory Authority signed a Memorandum of Understanding (MoU) with the British regulators Prudential Regulatory Authority and Financial Conduct Authority.

With the MoU, the cooperation of the German and British authorities, will be placed on a legally solid basis, even after Brexit has been completed. At the same time, the MoU will help prevent cliff-edge effects concerning supervisory action when United Kingdom leaves the European Union.

The MoU regulates cooperation in various supervisory fields. These include cooperation in the licensing of companies, combating money laundering and the general exchange of information.

德国联邦金融监管局与英国审慎监管局和金融行为监管局签署新的谅解备忘录以规范英国脱欧后的监管合作

2019 年 4 月 15 日, 德国联邦金融监管局与英国监管机构, 审慎监管局和金融行为监管局, 签署谅解备忘录。

即使英国在完成脱欧之后, 随着签定谅解备忘录, 德国和英国当局的合作将在巩固的法律基础上进行。与此同时,

谅解备忘录将有助于防止英国脱离欧盟后在监管行动产生悬崖边缘效应。

谅解备忘录规范各个监管领域的合作。这些包括在公司经营许可方面的合作, 打击洗钱和一般信息交流。

Source 来源:

bafin.de/SharedDocs/Veroeffentlichungen/EN/Meldung/2019/meldung_190417_MoU_Banken_Brexit_en.html

Italian Companies and Exchange Commission Approves 2019-2021 Three-year Strategic Plan

On April 15, 2019, Italian Companies and Exchange Commission (CONSOB) has approved the Strategic Plan for the three-year period 2019-21 (Plan), which identifies the objectives and priority lines of action that the CONSOB intends to pursue.

The Plan envisages the improvement of savings protection and its finalization towards the growth of the Italian economy, including through the use of modern analysis techniques based on artificial intelligence and transparency.

The Plan is inspired by the following principles:

- to strengthen the confidence of savers and investors;
- to promote technological innovation (Fin-tech);
- to play an active role in international fora to improve the quality of regulations and, at national level, simplify the regulatory framework;
- to make the transition to a supervisory approach that applies criteria of flexibility, proportionality and effectiveness;
- implement supervision aimed at anticipating pathological events and directing behavior.

In the light of these principles, the following strategic objectives were identified:

- to support the access of enterprises to the market;
- to accompany enterprises in the process of application of the new legislation on non-financial disclosure, promoting the introduction of Environmental, Social and Governance issues;
- to protect savers and investors through an integrated and evidence-based vision;
- to strengthen financial education initiatives;
- to strengthen the activity of the Financial Dispute Arbitrator;
- to strengthen the active role of the CONSOB and networking in international fora;
- to improve the efficiency and performance of the CONSOB, including from the perspective of sustainability;

- to examine more closely events concerning the digitization of the financial system (Fin-tech) in order to promote innovation whilst protecting investors.

意大利金融市场监管局批准 2019-2021 三年战略计划

2019 年 4 月 15 日, 意大利金融市场监管局 (CONSOB) 批准 2019-21 (该计划) 三年战略计划, 该计划确定了 CONSOB 打算追求的目标和优先工作重点。

该计划预期改善储蓄保护并最终促进意大利经济的增长, 包括通过使用基于人工智能和透明度的现代分析技术。

该计划基于以下原则:

- 加强储蓄存户和投资者的信心;
- 促进技术创新 (金融科技);
- 在国际论坛上发挥积极作用, 提高监管的质量, 并在国家层面简化监管框架;
- 过渡到采用灵活性, 相称性和有效性标准的监管方法;
- 执行监督旨在预见缺陷事件和指导行为。

根据这些原则, 确定了以下战略目标:

- 支持企业进入市场;
- 协助企业实施新的非财务披露法律, 促进引入环境, 社会和管治事项;
- 通过综合和注重证据的愿景保护储蓄和投资者;
- 加强金融教育活动;
- 加强金融纠纷仲裁员的活动;
- 加强 CONSOB 和网络在国际论坛中的发挥积极作用;
- 提高 CONSOB 的效率和表现, 包括从可持续性的角度出发;
- 更密切地探讨与金融系统数字化 (金融科技) 有关的事宜, 以促进创新及同时保护投资者。

Source 来源:

consob.it/web/consob-and-its-activities/newsletter?viewId=ultime_newsletter

United Arab Emirates Abu Dhabi Global Market Strengthens Regulatory Supervision with Enhanced Anti-Money Laundering Regime

On April 15, 2019, United Arab Emirates Abu Dhabi Global Market (ADGM) announced that it has enacted and published changes to the ADGM's regulatory framework for combating money laundering, the financing of terrorism and proliferation, and the financing of unlawful organizations (ADGM AML Regime).

Under the enhanced ADGM AML Regime, Relevant Persons, including “designated non-financial businesses and professions” who operate in ADGM will be required to be registered under the ADGM AML regime and comply with the obligations under this framework within the next 12 months.

阿拉伯联合酋长国阿布扎比全球市场提升反洗钱制度以加强监督规管

2019年4月15日,阿拉伯联合酋长国阿布扎比全球市场(ADGM)宣布已制定并公布ADGM监管框架的改革,以打击洗钱,资助恐怖主义和扩散以及为非法组织提供资金(ADGM反洗钱制度)。

根据增强的ADGM反洗钱制度,在ADGM中营运的相关人士(包括“指定的非金融企业和专业人士”)将被要求根据ADGM反洗钱制度在未来12个月内进行注册并遵守该框架下的责任。

Source 来源:

adgm.com/mediacentre/press-releases/abu-dhabi-global-market-strengthens-regulatory-supervision-with-enhanced-anti-money-laundering-regim

Dutch Authority for the Financial Markets Takes National Measures to Prohibit Binary Options and Restrict the Marketing or Sales of Contract for Difference

On April 17, 2019, the Dutch Financial Markets Authority (AFM) takes national measures mirroring the European Securities and Markets Authority's product intervention measures: the AFM will prohibit Binary Options and restrict the marketing, distribution or sale of contracts for differences (CFDs) to retail investors. The measures are effective as of April 19, 2019.

As of April 19, 2019, the marketing, distribution or sale of Binary Options to retail investors in and from The Netherlands is prohibited; the marketing, distribution or sale of CFDs to retail investors in and from The Netherlands is restricted.

荷兰金融市场管理局采取国家措施禁止二元期权并限制差价合约的营销或销售

2019年4月17日,荷兰金融市场管理局采取国家措施(AMF),以反映欧洲证券和市场管理局的产品干预措施:AFM将禁止二元期权,并限制差价合约的营销、分销或销售给散户投资者。这些措施自2019年4月19日起生效。

自2019年4月19日起,禁止向荷兰境内和境外的散户投资者营销、分销或销售二元期权;向荷兰境内和境外的散户投资者进行差价合约的营销、分销或销售也受到限制。

Source 来源:

afm.nl/en/consumenten/nieuws/2019/apr/binaire-opties-cfds-interventies

Swiss Financial Market Supervisory Authority Joins the Network for Greening the Financial System

On April 17, 2019, The Swiss Financial Market Supervisory Authority (FINMA) is joining the Network for Greening the Financial System (NGFS). This network of international central banks and supervisors is committed to better understanding and managing the financial risks of climate change.

FINMA has been closely following the activities of the NGFS since it was launched at the end of 2017. FINMA shares its opinion that the potential impact of climate and other environmental risks on financial institutions merits closer analysis and examination.

The subject of sustainability in the financial markets is also being handled by other federal authorities. FINMA is therefore in contact with the Federal Department of Finance and the Swiss National Bank.

瑞士金融市场监督管理局加入绿色金融体系网络

2019年4月17日,瑞士金融市场监督管理局(FINMA)正在加入绿色金融系统网络。这个国际中央银行和监管机构的网络;致力于更好地了解和管理气候变化带来的金融风险。

自2017年底启动以来,FINMA一直密切关注绿色金融系统网络的活动。FINMA认同其意见认为气候和其他环境风险对金融机构的潜在影响值得进一步分析和研究。

金融市场的可持续性主题也由瑞士其他联邦机构处理。因此,FINMA与联邦财政部和瑞士国家银行保持联系。

Source 来源:

finma.ch/en/news/2019/04/20190417-mm-beitritt-ngfs

Canadian Securities Administrators Signs Co-operation Agreement with Financial Conduct Authority of the United Kingdom

On April 18, 2019, the Canadian Securities Administrators (CSA) announced the securities regulatory authorities in Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Québec and Saskatchewan signed a co-operation agreement with the Financial Conduct Authority (FCA) of the United Kingdom.

The agreement extends the work of the CSA Regulatory Sandbox Initiative and the FCA Innovate project. These innovation functions provide a controlled environment for businesses to develop and test innovative solutions that promote efficiency and consumer choices in the financial sector.

The CSA said that since FinTech businesses are not constrained by national borders, it is in their best interest to share views and exchange information in connection with their activities so they can evaluate market trends and adapt their regulatory framework appropriately.

加拿大证券管理局与英国金融行为监管局签署合作协议

2019年4月18日,加拿大证券管理局(CSA)宣布,阿尔伯塔省,卑诗省,曼尼托巴省,新不伦瑞克省,新斯科舍省,魁北克省和萨斯喀彻温省的证券监管机构与英国金融行为监管局(英国金管局)签署合作协议。

该协议扩展了 CSA 监管沙箱倡议和英国金管局创新项目的工作。这些创新功能为企业的发展提供了可控的环境;并测试创新性解决方案,以提高金融领域的效率和消费者选择。

CSA 表示:由于金融科技的业务不受国界限制,因此与它们分享活动的观点和交换信息符合其最佳利益;这样其就可以评估市场趋势,并适当调整其的监管框架。

Source 来源:
securities-administrators.ca/aboutcsa.aspx?id=1785

U.S. Commodity Futures Trading Commission Charges Foreign Exchange Trading Firms and Principals in US\$75 Million Fraud

On April 22, 2019, the U.S. Commodity Futures Trading Commission (CFTC) announced a civil enforcement action was filed against defendants Oasis International Group, Limited, Oasis Management, LLC, Satellite Holdings Company, Michael J. DaCorta, Joseph S. Anile, II, Raymond P. Montie, III, Francisco "Frank" L. Duran, and John J. Haas (collectively, Defendants). The Defendants are charged with operating a US\$75 million foreign currency trading scheme involving over 700 U.S. participants and over US\$47 million misappropriated.

The Court entered a restraining order freezing the Defendants' assets and appointing a temporary receiver.

In its continuing litigation against the Defendants, the CFTC seeks disgorgement of ill-gotten gains, civil monetary penalties, restitution, permanent registration and trading bans, and a permanent injunction against further violations of the Commodity Exchange Act and CFTC Regulations.

美国商品期货交易委员会指控外汇交易公司和负责人参与 7500 万美元的欺诈行为

2019年4月22日,美国商品期货交易委员会宣布对被告 Oasis International Group, Limited, Oasis Management, LLC, Satellite Holdings Company, Michael J. DaCorta, Joseph S. Anile, II, Raymond P. Montie, III, Francisco "Frank" L. Duran 和 John J. Haas (统称为被告)提起民事执法诉讼。被告被指控经营一项 7500 万美元的外汇交易计划,涉及 700 多名美国参与者和挪用超过 4700 万美元。

法院发出一项限制令,冻结了被告的资产并任命了一名临时接管人。

在对被告的持续诉讼中,CFTC 寻求交出不法所得,民事罚款,恢复原状,永久禁止注册和交易,以及针对进一步违反《商品交易法》和 CFTC 规则的永久禁制令。

Source 来源:
cftc.gov/PressRoom/PressReleases/7915-19

China and Japan Sign ETF Connectivity Agreement at Capital Markets Forum in Shanghai

On April 22, 2019, in order to follow through consensus reached by the state leaders of China and Japan, to implement outcomes achieved by the 5th China-Japan High-Level Economic Dialogue, and to further deepen cooperation between capital markets of the two countries, the first China-Japan Capital Markets Forum was jointly organized in Shanghai by stock exchanges, securities associations and asset management associations of China and Japan.

At the Forum, participants from both sides engaged in in-depth discussions around topics of mutual interest, including enhancing capital market cooperation and capital market's role in innovation-driven growth etc. Stock exchanges, securities associations and asset management associations of the two countries held sub-forums respectively, where participants exchanged views on issues related to industry cooperation. The Shanghai Stock Exchange and the JPX Group signed the ETF Connectivity Agreement at the Forum.

中国和日本在上海中日资本市场论坛签署交易所交易基金互通合作协议

为贯彻两国领导人加强中国和日本在金融领域合作的重要共识,落实第五次中日经济高层对话成果,进一步深化中日资本市场务实合作,由中日两国证券交易所、证券业协会及基金业协会联合主办的首届“中日资本市场论坛”于 2019 年 4 月 22 日在上海举行。

此次论坛就“加强中日资本市场合作”“创新驱动发展及资本市场角色”等中日双方共同关心的议题进行了深入探讨。中日两国交易所、证券业协会及基金业协会还分别举行了分论坛，就加强行业合作的具体议题进行交流。上海证券交易所与日本交易所集团在论坛上签署了交易所交易基金互通合作协议。

Source 来源:

csrc.gov.cn/pub/csrf_en/newsfacts/release/201904/t20190422_354690.html

European Banking Authority Publishes Opinion on the Nature of Passport Notifications for Agents and Distributors of E-money

On April 24, 2019, the European Banking Authority (EBA) published an Opinion on the nature of passport notifications of payment institutions and electronic money institutions using agents and distributors located in another Member State (Opinion).

The Opinion provides clarity on the criteria that national competent authorities should use for determining when the use of an agent or distributor triggers an 'establishment' of the appointing institution in the host Member State or falls under the free provision of services.

The Opinion is available on the EBA's website:

eba.europa.eu/documents/10180/2622242/EBA+Opinion+.pdf.

欧洲银行管理局发布关于电子货币代理商和分销商的通行证通知性质的意见

2019年4月24日，欧洲银行管理局发布关于使用位于另一成员国的代理商和分销商的支付机构和电子货币机构的通行证通知性质的意见（意见）。

意见明确规定了国家主管当局应使用的标准，以确定何时使用代理人或分销商触发在东道成员国“成立”指定机构或者属于免费提供服务的范围。

意见书载于欧洲银行管理局的网站：

eba.europa.eu/documents/10180/2622242/EBA+Opinion+.pdf。

Source 来源:

eba.europa.eu/-/eba-publishes-opinion-on-the-nature-of-passport-notifications-for-agents-and-distributors-of-e-money

Hong Kong Mortgage Corporation Limited and China Export & Credit Insurance Corporation Sign Memorandum of Understanding on Infrastructure Financing Co-operation

On April 24, 2019, the Hong Kong Mortgage Corporation Limited and China Export & Credit Insurance Corporation signed a Memorandum of Understanding in Beijing on co-operation of infrastructure financing.

Both parties will strengthen co-operation in multiple areas including collaborating on infrastructure project financing and exchanging experience and best practices in infrastructure financing transactions, with the common goal of consolidating Hong Kong's position as an infrastructure financing hub and facilitating infrastructure investment and financing flows.

香港按揭证券有限公司与中国出口信用保险公司签订有关基建融资合作《谅解备忘录》

2019年4月24日，香港按揭证券有限公司与中国出口信用保险公司于北京签订有关基建融资合作《谅解备忘录》。

双方将会就多个领域加强合作，包括基建项目融资合作、基建融资交易的经验及最佳惯例的交流，以达至巩固香港成为基建融资中心及促进基建投融资活动的共同目标。

Source 来源:

hkma.gov.hk/eng/key-information/press-releases/2019/20190424-5.shtml

Cayman Islands Launches Public Consultation on Amendment to Securities Law

On April 17, 2019, Cayman Islands launches public consultation on The Securities Investment Business (Amendment) Bill, 2019 (Bill).

The Bill aims to bring all persons, companies and partnerships that undertake securities investment business into regulatory scope. Requirements would include filing financial statements and regular returns, undergoing onsite regulatory inspections, and being subject to any necessary enforcement actions by Cayman's financial services regulator, the Cayman Islands Monetary Authority.

The public is invited to comment on the Bill.

The Bill is available on the Legislative Assembly website: gov.ky/portal/pls/portal/docs/1/12782501.PDF.

开曼群岛启动有关修订证券法的公众咨询

2019年4月17日,开曼群岛就《2019年证券投资业务(修订)条例草案》(条例草案)展开公众咨询。

条例草案旨在使参与证券投资业务的所有个人,公司和合伙企业纳入监管范围。要求包括提交财务报表和定期报告,进行实地监管视察,并受开曼群岛金融服务监管机构,开曼群岛金融管理局任何必要的执法行动。

公众人士可就条例草案发表意见。

条例草案载于立法议会网站:
gov.ky/portal/pls/portal/docs/1/12782501.PDF。

Source 来源:
cayman.finance/2019/04/public-consultation-begins-amendment-securities-law

Privacy Commissioner for Personal Data, Hong Kong Releases Shopping Mall Membership Programs Compliance Checks Report

On April 25, 2019, the Privacy Commissioner for Personal Data, Hong Kong (Privacy Commissioner), released a compliance checks report (the Report) about personal data collection in shopping malls and online promotion activities.

Shopping mall membership programs

The results of the compliance checks on shopping malls revealed that 31 membership programs (60% of a total of 52 membership programs found in the site visits) adopted a "the more the merrier" approach when collecting personal data including contact information, sensitive personal data and information relating to personal and family status, contrary to the no-excessive data collection principle under the Personal Data (Privacy) Ordinance and the practice of collecting minimum information for the purpose of data collection.

The results also showed that:

- Apart from collecting basic contact information (e.g. name, telephone number, address and email address), some shopping mall membership programs also collected sensitive personal data (e.g. date of birth, age, Hong Kong Identity Card number) and personal data relating to personal and family status (e.g. monthly income, marital status, whether a car owner or not and vehicle registration mark);
- Three membership programs (6% of the 52 membership programs) required collection of 18

personal data items;

- 20 membership programs (38% of the 52 membership programs) required compulsory provision of unnecessary personal data; and
- The design of eight membership programs (15% of the 52 membership programs) forced customers to agree that the relevant organizations could use their personal data for direct marketing purposes, leaving individual customers with no choice at all.

The said "bundled consent" design and practice obtained no meaningful and real consent, and practically constituted unfair collection of personal data. Such practice therefore should be discontinued, and the malls concerned had rectified the situation accordingly.

With regard to personal data collected by shopping mall membership programs, in general, the Privacy Commissioner accepts the collection of contact information for the purposes of identification and communication. However, the collection of HKID Card number by membership programs is generally considered excessive because HKID Card number is sensitive in nature, and improper processing of this data may cause unnecessary risks such as identity theft, etc.

Meanwhile, collection of personal data relating to personal and family status is generally acceptable for the purposes of market analyses and provision of suitable offers, but members should be given a choice of not providing such information.

Concerning the personal data related to HKID Card number as well as personal and family information, the Privacy Commissioner is pleased to note that:

- 45 membership programs (87% of the 52 membership programs) did not collect HKID Card number; and
- 32 membership programs (62% of the 52 membership programs) either provided members with an option not to provide certain personal information (such as age, working district, occupation, etc.) and family status or did not request such information at all.

Online promotion activities

For online promotion activities, the results of the compliance checks revealed that:

- Beauty, education institutions as well as health products and services industry used more online promotion activities than other industries,

accounting for 44%, 18% and 8% of the 300 webpages reviewed respectively; and

- Given the purpose is simply to attract customers for promotional offers, only 20 online promotion activities (6% of the 300 webpages) involved excessive collection of personal data, such as HKID Card number, date of birth, age and monthly income.

The Privacy Commissioner emphasized that in the data driven economy, organizations are handling more personal data than ever. It is therefore of utmost importance for them to incorporate data governance, stewardship and ethics - being respectful, beneficial and fair - as part of the corporate governance and a long-term solution for personal data protection.

香港个人资料私隐专员发布本港商场会员计划的循规审查报告

2019年4月25日,香港个人资料私隐专员(私隐专员)发布有关商场及网上推广活动收集个人资料的循规审查报告(报告)。

商场会员计划

就商场方面的循规审查结果显示,31个会员计划(佔巡视期间发现的52个会员计划中的60%)收集个人资料(包括联络方法、敏感个人资料和个人及家庭状况相关的资料)时抱有「宁滥勿缺」的心态,有违《个人资料(私隐)条例》下的不过度收集资料的原则和收集最少资料的行事方式。

是次循规审查结果亦发现：

- 部分商场会员计划收集的个人资料,除了基本的联络资料(如姓名、电话、地址和电邮地址)外,亦包括较敏感的个人资料(如生日资料、年龄、香港身份证号码),以至个人及家庭状况(如每月收入、婚姻状况、是否车主,及车牌号码等);
- 有三个会员计划(佔52个会员计划之中的6%)收集18项个人资料;
- 有20个会员计划(佔52个会员计划之中的38%)要求会员强制提供不必要的个人资料;及
- 有八个会员计划(佔52个会员计划之中的15%)在设计上强迫顾客同意有关机构可使用其个人资料作直接促销用途,而顾客就此没有其他选择。

在上述「捆绑式同意」的做法及设计下所获取的同意,不能视为真正和有意义的同意。其做法及设计实际上亦构

成不公平收集个人资料,因此应予以停止,而有关商场亦已作出相应更改。

就商场之会员计划所收集的个人资料方面,一般而言,私隐专员接受为识辨身份和通讯目的而收集联络资料。然而,会员计划收集香港身份证号码一般会被视为过度收集个人资料,因为香港身份证号码属敏感的个人资料,处理不当会造成如身份盗窃等不必要的风险。

至于为市场分析及提供合适优惠的目的而收集个人及家庭状况有关的个人资料,一般而言可以接受,但同时会员应有不提供这些资料的选择。

就身份证号码与个人及家庭状况有关的个人资料方面,私隐专员欣悉在巡视的52个会员计划之中:

- 45个(佔52个会员计划之中的87%)未有收集会员的香港身份证号码;及
- 32个(佔52个会员计划之中的62%)给予会员可不提供部份个人资讯(如年龄、工作地区、职业等)及家庭状况的选项,或完全没有要求这些资料。

网上推广活动

在网上推广活动方面,是次循规审查行动的结果显示:

- 相比其他行业,美容、教育和保健产品及服务业较多利用网上推广活动,分别佔是次审查的300个网页之中的44%、18%及8%;及
- 由于网上推广活动的目的只为吸引顾客领取推广优惠,只有20个网上推广活动(佔300个网页之中的6%)涉及过度收集个人资料,包括香港身份证号码、生日资料、年龄及每月收入。

私隐专员表示:在数据驱动的经济下,机构需要处理的个人资料与日俱增,因此将数据管治和管理以至数据道德伦理(包括尊重、互惠和公平)纳入机构管治中,作为长远应对个人资料私隐保障的方案至为重要。

Source 来源:

pcpd.org.hk/english/news_events/media_statements/press_20190425.html

SIX Swiss Exchange and Shanghai Stock Exchange Sign an Updated Memorandum of Understanding

On April 23, 2019, SIX Swiss Exchange (SIX) and Shanghai Stock Exchange (SSE) renewed their Memorandum of Understanding (MoU) with the intention

to further deepen their collaboration which was initiated in 2015.

The amended MoU envisages to further intensify the cooperation between the two financial centers and to assess the feasibility of listing securities (such as e.g. Depository Receipts) on respective markets in the near future and thus allow companies listed at either exchange to tap into each other's liquidity pools.

Furthermore, the MoU also includes the consideration of collaborating on further matters that are of mutual interest and which could include topics like digitalization for example and other joint interests.

瑞士证券交易所和上海证券交易所签署更新的谅解备忘录

2019年4月23日, 瑞士证券交易所(瑞交所)和上海证券交易所(上交所)续订谅解备忘录, 旨在进一步深化始于2015年的合作。

修订后的谅解备忘录预期进一步加强两个金融中心之间的合作, 并评估在不久的将来在各自市场将证券上市(例如存托凭证)的可行性, 从而允许在任一个交易所上市的公司相互利用彼此的流动资金池。

此外, 谅解备忘录还包括考虑就共同感兴趣的其他事项进行合作, 其中可能包括数字化等议题和其他共同利益。

Source 来源:

six-group.com/en/home/media/releases/2019/20190423-mou-six-sse.html

Shanghai Stock Exchange Releases its 2018 Social Responsibility Report

On April 17, 2019, the Shanghai Stock Exchange (SSE) released the "2018 SSE Social Responsibility Report" (Report), or rather, the second of its kind by the SSE, aims to publicize its social responsibility strategy and relevant practices. As one of the major measures on comprehensively boosting the innovation and development of green finance, the SSE has established a team to promote green finance and sustainable development and issued the "SSE Vision and Action Plan for Serving Green Development and Promoting Green Finance (2018-2020)".

The Report shows that in 2018, the SSE made some achievements in fulfilling its duties for the economy, the environment and the society and fueling the growth of green finance. Firstly, SSE took its initiative to better serve the real economy with active financial capital by giving full play to the functions and advantages of the capital market in terms of price discovery,

accommodation of funds, resources allocation and risk sharing. Secondly, committed to accelerating the green finance in sharing the coordinated development, SSE joined hands with responsible investors in embracing a promising future on a more sustainable capital market. Thirdly, it adhered to the development concept of business integrity for a shared good future by advancing hand in hand with stakeholders, strengthening the frontline regulation and management, cultivating a good market service climate, upgrading the services for investors in line with the public needs on the capital market. Fourthly, SSE thought constantly of the community development by means of innovated modes, varied measures, targeted and efficient poverty alleviation, full support for nationwide poverty relief drive, and continuous promotion of charity programs by the use of public goods foundations.

In the future, the SSE will continue to promote the green finance and sustainable development, give full play to the function of the capital market in optimizing resources allocation, and serve the transformation of development mode, the optimization of the economic structure and the transformation of growth impetus for China's economy. To achieve the end, SSE will speed up the establishment of green finance standards in the capital market for steady innovation and development of relevant green finance products, orderly cultivation and expansion of green investors in a bid to build a capital market of considerable international clout compatible with China, a strong modern socialist country.

上海证券交易所发布其《2018年度社会责任报告》

2019年4月17日, 上海证券交易所(上交所)发布《上交所2018年度社会责任报告》(报告)。这是上交所发布的第二份社会责任报告, 旨在向公众披露自身社会责任战略和实践情况。作为全方位推动绿色金融创新发展的重要举措, 上交所已成立绿色金融与可持续发展推进领导小组, 并发布了《上交所服务绿色发展推进绿色金融愿景与行动计划(2018-2020年)》。

报告显示, 2018年, 上交所认真履行对经济、环境和社会的责任, 大力促进绿色金融发展, 取得了一定成果。一是积极服务实体经济, 充分发挥资本市场的价格发现、资金融通、资源配置、风险分担的功能和优势, 使金融资本之活水更好地浇灌实体经济之根基; 二是加快发展绿色金融, 以共享协调发展为诚, 以推进绿色金融为公, 汇聚责任投资者, 促进可持续资本市场, 共创美好未来; 三是携手共创幸福未来, 秉持“至诚至公”的发展理念, 与利益相关方携手并进, 强化一线监管主体责任, 积极营造良好的市场服务环境, 不断提升投资者服务水平, 践行资本市场的人民性要求; 四是心系社区发展, 创新模式、多措并举, 坚持精准扶贫、提高脱贫实效, 全力支持全国贫困地区打好脱

攻坚战,并积极利用公益基金会,系统推进公益慈善项目。

未来,上交所将持续推进绿色金融与可持续发展工作,充分发挥资本市场优化资源配置的功能,服务中国经济转变发展方式、优化经济结构、转换增长动力,加快推进建立资本市场绿色金融相关标准,稳步创新和开发相关绿色金融产品,逐步培育和壮大绿色投资者群体,努力建设与中国特色社会主义现代化强国相匹配的、具有强大国际影响力的资本市场。

Source 来源:

english.sse.com.cn/aboutsse/news/newsrelease/c/4780629.shtml

Shenzhen Stock Exchange and Stock Exchange of Thailand Sign Memorandum of Understanding on SME Capital Market Service

On April 23, 2019, the first China-Thailand Capital Market Cooperation Seminar was held in Bangkok, Thailand.

At the seminar, the Shenzhen Stock Exchange (SZSE) and the Stock Exchange (SET) of Thailand signed a Memorandum of Understanding. The two sides will cooperate to establish the "China-Thailand SME Capital Market Service Plan" and explore the establishment of the ChiNext-mai Alliance to further enrich the investing and financing channels of the capital markets of the two countries. The two sides will also carry out specific cooperation in indexes and green financial products.

SZSE and the Thailand capital market have maintained close communication. This cooperation will further leverage the characteristic advantages of both SZSE and SET in cultivating and serving SMEs and their role as capital market organizers. It will promote the participation of all parties in the Sino-Thai markets in the construction of a cooperative network and sharing of resource channels, promote the formation of cross-border innovation capital in the two countries, and facilitate the high-quality development of the innovation economy of both countries.

深圳证券交易所和泰国证券交易所签署有关中小企业资本市场服务谅解备忘录

2019年4月23日,首届中国泰国资本市场合作研讨会在泰国曼谷成功举行。

研讨会上,深圳证券交易所(深交所)与泰国证券交易所(泰交所)合作谅解备忘录。双方将合作建立“中泰中小企业资本市场服务计划”,探讨建立中泰创业板市场联盟,进

一步探索丰富两国资本市场投融资渠道,双方还将在指数、绿色金融产品等方面开展具体合作。

深交所与泰国资本市场长期保持密切沟通,这次合作将进一步发挥深交所与泰交所中小企业培育服务等方面特色和资本市场组织者的纽带作用,推动中泰市场各方参与共建合作网络,共享资源渠道,促进两国跨境创新资本形成,助力两国创新经济高质量发展。

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szse.cn/English/about/news/szse/t20190424_566494.html

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