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# Financial Services Regulatory Update 金融服务监管资讯

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## China Greenlights Majority Shares for Foreign Firms in Insurance Joint Ventures

On December 7, 2019, the China Banking and Insurance Regulatory Commission (CBIRC) announced to stretch the limit of foreign shares in joint-venture life insurance companies to 51 percent, paving the way for scraping the limit next year.

The revised version also eliminated requirements on foreign insurance firms to have set up representative offices for two years in China and have stayed in operation in insurance for 30 years before they enter the Chinese market.

Branches of foreign-invested insurance firms are subject to the same set of rules as Chinese ones.

The CBIRC pledged to improve oversight and risk management capacity for further opening-up.

### 中国落实放宽合资保险公司中外资公司的多数股份限制的举措

2019年12月7日,中国银行业和保险监督管理委员会(银保监会)宣布将将合资人身保险公司的外资股比例放宽至51%,为2020年全面取消外方股比限制预留制度空间。

修订后的版本还取消了对外资保险公司在中国设立前需开设代表处两年并在进入中国市场之前已经在保险业有30年经营年限的要求。

外资保险公司的分支机构要遵守与中资保险分支机构适用相同的规定。

银保监会承诺提高监督和风险管理能力,与开放水平相适应。

Source 来源:

[http://english.www.gov.cn/statecouncil/ministries/201912/07/content\\_WS5deae097c6d0bcf8c4c18749.html](http://english.www.gov.cn/statecouncil/ministries/201912/07/content_WS5deae097c6d0bcf8c4c18749.html)

## The Stock Exchange of Hong Kong Limited Seeks Views on Review of Listing Regime for Debt Issues to Professional Investors Only

On December 6, 2019, the Stock Exchange of Hong Kong Limited (Exchange) announced the publication of a consultation paper seeking feedback on its proposals to review and enhance the Exchange's listing regime for debt issues to professional investors only.

Since 2011, Chapter 37 of the Listing Rules (Chapter 37) has been offering an expedient and streamlined listing process for debt issues to professional investors only.

In light of market developments over the last few years, the Exchange is putting forward a number of proposals for market consultation that seek to balance the need to safeguard investors whilst maintaining an effective and appropriate listing platform for the continued development of the bond market in Hong Kong.

Key proposals:

- Raising the existing issuer's minimum net assets requirement from HK\$100 million to HK\$1 billion;
- Introducing a minimum issuance size of HK\$100 million;
- Requiring issuers to state explicitly in the listing document the intended investor market in Hong Kong are professional investors only;
- Requiring publication of listing documents on the Exchange's website on the listing date;
- Disclosure guidance on certain special features in Chapter 37 debt securities and other disclosure-related matters; and
- Introducing other Rules amendments to enhance the regulatory oversight over issuers and guarantors' in terms of their continuing obligations.

The deadline for responding to the consultation paper is February 7, 2020.

## 香港联合交易所有限公司就检讨仅售予专业投资者的债务证券上市制度咨询公众意见

2019年12月6日,香港联合交易所有限公司(联交所)刊发咨询文件,诚邀公众就检讨及提升仅售予专业投资者的债务证券上市制度各项建议提出意见。

自2011年起,仅售予专业投资者的债务证券可通过《上市规则》第三十七章所载的简化便捷流程申请上市。

联交所考虑到近年市场发展情况,现提出多项建议咨询市场意见,力求在维持有效而合适的上市平台促进香港债券市场持续发展的同时,也兼顾对投资者的保障。

咨询文件提出的主要建议:

- 发行人最低资产净值的规定由1亿港元提高至10亿港元;
- 增设最低发行金额1亿港元的规定;
- 发行人须在上市文件明确指出其债券在香港的目标投资者市场仅限于专业投资者;
- 发行人须于上市当日在联交所网站刊发其上市文件;
- 有关第三十七章债务证券的若干特点及其他披露相关事宜的披露指引;及
- 对《上市规则》进行其他修订,提高对发行人及担保人持续责任的监督。

回应咨询文件的截止日期为2020年2月7日。

Source 来源: [https://www.hkex.com.hk/News/News-Release/2019/191206news?sc\\_lang=en](https://www.hkex.com.hk/News/News-Release/2019/191206news?sc_lang=en)

## Hong Kong Privacy Commissioner for Personal Data Publishes Investigation Report on TransUnion Limited Data Breach Incident

On December 9, 2019, the Privacy Commissioner for Personal Data, Hong Kong (Privacy Commissioner) Mr Stephen Kai-yi WONG published an investigation report on the data breach incident of a local newspaper being able to pass through the online authentication procedures of TransUnion Limited (TransUnion) and obtain the credit reports of a number of public figures (the Incident).

The Privacy Commissioner found TransUnion contravened the principle under the Personal Data (Privacy) Ordinance relating to data security in respect of its online authentication procedures in that it failed to

take all practicable steps to ensure that the personal data held was protected against unauthorized or accidental access or use on the grounds that:

- an exact match of the full name and date of birth inputted by an individual against the records of TransUnion's database was not required;
- the knowledge-based authentication used (a) questions that asked about the age range and Chinese zodiac sign of the individuals instead of unique dealings with TransUnion, and (b) outdated answers that could be easily screened out;
- access through other websites / mobile application was not blocked after an individual failed the authentication procedures on one website / mobile application; and
- two-factor authentication was not applied to all applications.

The Privacy Commissioner made the following five recommendations to TransUnion:

- Devise privacy-friendly default setting  
Transfer of credit data to TransUnion's partners should not be a default setting and less privacy-intrusive alternatives should be chosen.
- Offer individuals a choice of the types of data to be transferred  
An individual may not know the exact extent of data that would be transferred when he is asked to consent to the transfer of credit data from TransUnion to the partners concerned. TransUnion is therefore recommended to list the data and give the individual a choice on the data to be transferred to the partners.
- Exercise control over partners which receive personal data from TransUnion  
TransUnion is recommended to conduct audit no less than once a year to ensure the level of data protection afforded by the partners is adequate.
- Conduct periodic review of online authentication procedures  
Periodic reviews with the aim to identifying and fixing loopholes as well as improving the authentication procedures (including assessing the appropriateness of using biometric authentication) in view of technology advancements should be conducted by in-house and / or third party experts.
- Allow individuals to access credit reports at a lower cost

The fee charged by TransUnion appeared on the high side compared with that of other jurisdictions, considering the magnitude of the demand, and the comparable fees charged or not charged in other jurisdictions. TransUnion is recommended to review its fee structure and offer individuals an option to obtain a copy of the credit report with no provision of other auxiliary services at a lower fee.

### 香港个人资料私隐专员发表环联资讯有限公司资料外泄事故的调查报告

2019年12月9日,香港个人资料私隐专员(私隐专员)黄继儿发表某本地报章通过环联资讯有限公司(环联)的网上认证程序,取得数名公众人士的信贷报告的资料外洩事故的调查报告。

私隐专员认为,环联在网上认证程序中没有采取所有切实可行的步骤以确保由其持有的个人资料受保障而不受未获准许的或意外的查阅或使用,因而违反了《个人资料(私隐)条例》下有关资料保安的保障资料原则;基于以下理由:

- 个人所输入的全名和出生日期无须与环联资料库的纪录完全吻合;
- 「基于知识的认证」采用了(a)与个人年龄范围及生肖这些与环联独有交易无关的问题,及(b)过时而易被剔除的答案;
- 其他网站/手机程式的查取途径没有因个人未能通过某一网站/手机程式的认证程序而被封锁;及
- 非所有申请均使用双重认证。

私隐专员向环联作出以下五项建议:

- 有利于私隐保障的预设设定  
转移信贷资料予夥伴不应是预设设定,环联应该选择私隐侵犯程度较低的方式。
- 让个人选择转移资料的种类  
当个人被要求同意环联转移信贷资料予夥伴时,未必确切知道会被转移的资料范围。因此,私隐专员建议环联列出有关资料,让个人选择哪些资料可转移予夥伴。
- 管控从环联收取个人资料的夥伴  
私隐专员建议环联每年进行不少于一次的审核,以确保夥伴有足够程度的资料保障水平。
- 定期检讨网上认证程序

鑑于科技进步,环联应由内部人员/或第三方专家进行定期检讨,以查找及修补漏洞,并改善认证程序(包括评估使用生物特征认证的合适性)。

- 容许个人以较低费用查取信贷报告
- 在考虑服务的需求量、其他司法区收取或没有收取的可比费用后,环联的收费与其他司法区的收费相比看似偏高。私隐专员建议环联检讨其收费架构,并向个人提供以较低费用取得信贷报告但不提供其他附加服务的选项。

Source 来源:

[https://www.pcpd.org.hk/english/news\\_events/media\\_statements/press\\_20191209.html](https://www.pcpd.org.hk/english/news_events/media_statements/press_20191209.html)

### Hong Kong Monetary Authority Issues Circular on Managing ML/TF Risks Associated with Virtual Assets and Virtual Asset Service Providers

On December 16, 2019, the Hong Kong Monetary Authority (HKMA) issues a circular on managing ML/TF risks associated with virtual assets (VAs) and virtual asset service providers (VASPs) (for Authorized Institutions (AIs)).

The HKMA provides guidance to AIs in relation to recent updates by the Financial Action Task Force (FATF) to its Recommendation 15, which clarify the businesses and activities that the FATF requirements apply in the case of VAs and VASPs.

Following the risk-based approach, when AIs establish and maintain business relationships with VASPs, appropriate risk assessments should be conducted to differentiate the risks of individual VASPs, recognizing that there is no "one-size fits-all". Depending on the nature of relationship, AIs may undertake additional customer due diligence measures, including the collection of sufficient information to adequately understand the nature of the VASP's business; determining from publicly available information whether the VASP are licensed or registered, and subject to AML/CFT supervision; and assessing the AML/CFT controls of the VASP as appropriate. The extent of customer due diligence measures should be commensurate with the assessed ML/TF risks of the VASP.

In line with the FATF standards, before an AI offers any new banking or investment products relating to VAs, it should undertake ML/TF risk assessment and take appropriate measures to manage and mitigate the identified risks in accordance with applicable legal and regulatory requirements including paragraph 2.11 of the Guideline on Anti-Money Laundering and Counter Financing of Terrorism (For Authorized Institutions).

The HKMA will continue to participate in international discussions on this fast evolving subject matter and share updates of FATF's work relating to VAs and VASPs with the banking sector from time to time. AIs should keep abreast of international and local developments to maintain an up-to-date understanding of risks, and apply a risk-based approach that supports responsible financial innovation as well as effective ML/TF risk management.

The HKMA also issued a similar [circular](#) for stored value facility licensees.

#### 香港金融管理局发出关于虚拟资产及虚拟资产服务供应商所涉及的洗钱及恐怖分子资金筹集风险管理的通函

2019年12月16日, 香港金融管理局(金管局)就关于虚拟资产及虚拟资产服务供应商所涉及的洗钱及恐怖分子资金筹集风险管理(认可机构适用)发出通函。

金管局就近期財務行動特別組織(特別組織)更新其第15項建議, 向認可機構提供相關指引。特別組織更新其建議, 釐清了適用於虛擬資產及虛擬資產服務供應商業務和活動的規定。

認可機構需根據風險為本方法, 當與虛擬資產服務供應商建立及維持業務關係時應進行適當風險評估, 以分辨個別供應商的風險, 而非「一刀切」做法。視乎有關業務關係的性質, 認可機構或須實施額外的客戶盡職審查措施, 包

括收集足夠資料以充分了解虛擬資產服務供應商的業務性質、根據公開資料確定某虛擬資產服務供應商是否獲發牌或註冊及接受打擊洗錢及恐怖分子資金籌集的監管, 以及適當評估虛擬資產服務供應商的打擊洗錢及恐怖分子資金籌集管控措施。認可機構所採取的客戶盡職審查措施, 應與其評估有關虛擬資產服務供應商的洗錢及恐怖分子資金籌集風險相稱。

根據特別組織標準, 當認可機構提供有關虛擬資產的新銀行或投資產品之前, 應進行洗錢及恐怖分子資金籌集風險評估, 並根據適用的法律及監管規定, 包括《打擊洗錢及恐怖分子資金籌集指引(認可機構適用)》第2.11段, 採取適當措施管理及減低所辨識的相關風險。

金管局會就此迅速演變的範疇繼續參與相關國際討論, 並不時向銀行業傳達特別組織就虛擬資產及虛擬資產服務供應商的最新工作情況。認可機構應留意國際及本地的發展, 了解和掌握最新風險變化, 並採用風險為本方法, 以配合負責任的金融創新, 及有效的洗錢及恐怖分子資金籌集風險管理。

金管局亦向儲值支付工具持牌人发出相似的通函。

Source 来源:

<https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2019/20191216e2.pdf>

#### Australian Securities and Investments Commission Consults on Guidance for the New Product Design and Distribution Obligations

On December 19, 2019, the Australian Securities and Investments Commission (ASIC) initiated consultation on draft guidance for the new financial product design and distribution obligations. The new obligations come into effect in April 2021.

The obligations require financial product firms to develop products that meet the needs of the consumers in their intended target market.

ASIC seeks public input on the consultation documents by March 11, 2020.

#### 澳洲证券及投资监察委员会就新产品设计和分销责任的指引进行咨询

2019年12月19日, 澳洲证券及投资监察委员会(澳洲证监会)展开有关金融新产品设计和分销责任指引的草案咨询。新责任将于2021年4月生效。

该责任要求金融产品公司开发满足预期目标市场中消费者需求的产品。

澳洲证监会在2020年3月11日之前就咨询文件寻求公众意见。

Source 来源:

<https://asic.gov.au/about-asic/news-centre/find-a-media-release/2019-releases/19-369mr-asic-consults-on-guidance-for-the-new-product-design-and-distribution-obligations>

#### Australian Securities and Investments Commission Bans Unfair Cold Call Sales of Direct Life Insurance and Consumer Credit Insurance

On December 4, 2019, the Australian Securities and Investments Commission (ASIC) announced the implementation of a ban on unsolicited 'cold call' telephone sales of direct life insurance and consumer credit insurance.

The ban will address poor sales practices that have led to unfair consumer outcomes. It will take effect from January 13, 2020.

ASIC will intervene to stop practices that lead to poor consumer outcomes and destroy trust in the financial system.

## 澳洲证券及投资监察委员会禁止直接人寿保险和消费者信用保险的不当电话促销

2019年12月4日, 澳洲证券及投资监察委员会 (澳洲证监会) 宣布禁止以未经请求的陌生电话形式促销直接人寿保险和消费者信用保险的行为。

该禁令涉及导致消费者不公平结果的不良销售行为。该禁令自2020年1月13日起生效。

澳洲证监会将对导致消费者利益受损、破坏金融系统信任的行为进行干预和制止。

Source 来源:

<https://asic.gov.au/about-asic/news-centre/find-a-media-release/2019-releases/19-335mr-asic-to-ban-unfair-cold-call-sales-of-direct-life-insurance-and-cci>

## Australian Securities and Investments Commission Updates Responsible Lending Guidance

On December 9, 2019, the Australian Securities and Investments Commission (ASIC) updated guidance on the responsible lending obligations.

The changes include:

- A stronger focus on the legislative purpose of the obligations - to reduce the incidence of consumers being encouraged to take on unsuitable levels of credit, and ensure licensees obtain sufficient reliable and up-to-date information about the consumer's financial situation, requirements and objectives to enable them to assess whether a particular loan is unsuitable for the particular consumer.
- More guidance to illustrate where a licensee might undertake more, or less, detailed inquiries and verification steps based on different consumer circumstances and the type of credit that is being sought.
- More detailed guidance about how spending reductions may be considered as part of the licensee's consideration of the consumer's financial situation, requirements and objectives.
- Clarity about more complex situations for some consumers - such as income from small business, casual employees, new employees, the gig economy, as well as joint and split liabilities and expenses.

## 澳洲证券及投资监察委员会更新负责任贷款的指引

2019年12月9日, 澳洲证券及投资监察委员会更新有关负责任贷款的责任指引。

更新包括:

- 更加关注责任的立法目的 – 减少鼓励消费者承担不适当信贷水平的概率, 并确保持牌人获得有关消费者财务状况, 需求和目标的足够可靠和最新信息, 使其能够评估特定贷款是否不适合特定消费者。
- 提供更多指引, 以说明持牌人可以根据不同的消费者情况和申请的信贷类型; 在哪些方面进行更多或更少的详细查询和验证步骤。
- 就持牌人如何削减开支作为应对消费者财务状况、需求和目标的考虑; 给予更详细指引。
- 为某些消费者所遇到较为复杂的情况提供更清晰的指引 – 例如其收入来自小型企业、临时工、新雇员或零工经济, 以及共同和分担的债务和费用。

Source 来源:

<https://asic.gov.au/about-asic/news-centre/find-a-media-release/2019-releases/19-342mr-asic-updates-responsible-lending-guidance>

## Abu Dhabi Global Market Publishes Public Consultation on Proposed Amendments to a Various ADGM Commercial Legislation

On December 5, 2019, Abu Dhabi Global Market (ADGM) published a public consultation paper on its proposed amendments to the following: Companies Regulations 2015, Foundations Regulations 2017, Limited Liability Partnership Regulations 2015, Limited Liability Partnership Rules 2015 and Beneficial Ownership Regulations 2018.

ADGM is proposing various changes to its legislation including, but not limited to:

- Abolishing the requirement to issue paper certificates & licenses
- Amending the definition of 'members of the same family' in the Companies Regulations
- Changing the name of "Annual Returns" to be "Confirmation Statements"
- Aligning the Beneficial Ownership Regulations with the federal cabinet resolution concerning Anti-Money Laundering, Counter Terrorism Financing and Financing of Illegal Organizations.

The objectives of the amendments are to improve efficiency in serving ADGM clients and to allow more flexibility to family offices wishing to utilize restricted scope companies in ADGM. These changes will also ensure that the ADGM commercial legislation is up to

date with the international best practices as well as the mandatory onshore anti-money laundry legislation.

The deadline for providing comments on this proposal is January 18, 2020.

### 阿布扎比国际金融中心就各项商业立法的建议修订征询公众意见

2019年12月5日,阿布扎比国际金融中心(ADGM)发布了一份公众意见咨询文件,涉及其对一系列法规的建议修订《2015年公司条例》、《2017年基金会条例》、《2015年有限合伙条例》、《2015年有限合伙法规规定》和《2018年受益所有权条例》。

ADGM 建议对其立法进行各种修订,包括但不限于:

- 取消签发纸质证书和许可证的要求
- 修改《公司条例》中“同一家庭成员”的定义
- 将“年度报表”的名称更改为“确认声明”  
使《实益所有权条例》与政府作出关于反洗钱,反恐融资和非法组织融资的联邦的决议保持一致。

修正案的目的是提高服务 ADGM 客户的效率,并为希望在 ADGM 中使用有限范围公司的家族办公室提供更大的灵活性。这些更改还将确保 ADGM 商业法规与最新国际最佳实践以及强制性的陆上反洗钱法规保持同步。

对此建议提交意见的截止日期为 2020 年 1 月 18 日。

Source 来源:

<https://www.adgm.com/media/announcements/adgm-publishes-public-consultation-on-proposed-amendments-to-commercial-legislation>

### China Further Improves Environment for Foreign Investment

On December 12, 2019, the draft Regulation on Implementing the Foreign Investment Law (Regulation) of the People's Republic of China was approved by at the China State Council's executive meeting. The Regulation specifies and clarifies matters in the form of administrative regulation and will be implemented along with the Foreign Investment Law starting January 1, 2020.

The Regulation specifies measures to facilitate and protect foreign investment, to better address foreign investors' concerns and promote opening-up at a higher level. The Regulation requires equal treatment of domestic and foreign businesses regarding government funding, land supply and tax and fee cuts. Forced technology transfer requirements, either through administrative license or penalty, or in disguised forms,

on foreign investors and foreign companies are prohibited.

According to the Regulation, investors from Hong Kong and Macao should refer to the Foreign Investment Law and the Regulation when investing in the mainland.

For investment in the mainland made by investors from Taiwan, the Law on the Protection of Investment by Taiwan Compatriots and its implementing regulation should be applied and matters not covered should be addressed by reference to the Foreign Investment Law and the implementing regulation.

### 中国进一步改善外商投资环境

2019年12月12日,中国国务院常务会议通过《中华人民共和国外商投资法实施条例(草案)》(条例)。该条例从行政法规层面实化和明确了相关事项,与《外商投资法》将于2020年1月1日同步配套实施。

该条例落实措施以促进和保护外国投资,更好地应对外国投资者的关切事项和推进更高水平的开放。该条例强调在政府资金、土地供应、税费减免等方面对待内外资企业一视同仁。禁止利用行政许可、行政处罚等手段强制或变相强制外国投资者、外资企业转让技术。

根据该条例,香港和澳门的投资者在大陆投资时应参考《外商投资法》和该条例。

台湾投资者在大陆投资,应适用《台湾同胞投资保护法》及其实施条例,未涵盖的事项,参照《外商投资法》和该条例处理。

Source 来源:

[http://english.www.gov.cn/premier/news/201912/13/content\\_WS5df3b316c6d0bcf8c4c18d09.html](http://english.www.gov.cn/premier/news/201912/13/content_WS5df3b316c6d0bcf8c4c18d09.html)

### Eurex Exchange Enhances European ETF Ecosystem with New Product

On December 9, 2019, Eurex Exchange (Eurex) launched EUR-denominated fixed income ETF options. The launch is expected to be well supported as Eurex responds to strong end client demand from across the institutional investor base both in Europe and globally.

It is the first time that investors will have access to options on Euro investment grade and high yield ETFs worldwide which provide access to a new tool that is more representative of cash bond markets for hedging risks and taking tactical positions.

Eurex said that this gives clients access to a developing liquidity pool and offering a listed alternative that replicates OTC risk profiles.

## Eurex Exchange 通过新产品增强欧洲交易所买卖基金生态系统

2019年12月9日，Eurex Exchange (Eurex) 推出以欧元计价的固定收益交易所买卖基金 (ETF) 期权。Eurex 预计将获得支持；因这是回应来自欧洲乃至全球的机构投资者们的最终客户的强烈需求的结果。

这是投资者首次获得全球范围内的欧元投资级别和高收益 ETF 期权的机会，这些期权提供一种更能代表现金债券

市场进行对冲风险和采取战术头寸的新工具机会。

Eurex 表示，这为客户提供发展中的流动资金池，并提供复制场外衍生工具市场风险状况的上市替代方案。

Source 来源:

<https://www.eurexgroup.com/group-en/newsroom/focus/Eurex-enhances-European-ETF-ecosystem-with-new-product-1699724>

## United Kingdom Financial Regulators Publish Consultation Papers on Building Operational Resilience

On December 5, 2019, Bank of England, Prudential Regulation Authority and Financial Conduct Authority of the United Kingdom published joint consultation papers on new requirements to strengthen operational resilience in the financial services sector.

Under the proposals, firms and Financial Market Infrastructures would be expected to:

- identify their important business services that if disrupted could cause harm to consumers or market integrity, threaten the viability of firms or cause instability in the financial system;
- set impact tolerances for each important business service, which would quantify the maximum tolerable level of disruption they would tolerate;
- identify and document the people, processes, technology, facilities and information that support their important business services;
- take actions to be able to remain within their impact tolerances through a range of severe but plausible disruption scenarios.

The consultation period closes on April 3, 2020.

## 英国金融监管机构发布有关增强营运弹性的咨询文件

2019年12月5日，英格兰银行，英国审慎监管局和金融行为监管局发布了联合咨询文件，内容涉及加强金融服务业营运弹性的新要求。

根据这些建议，企业和金融市场基础设施将应:

- 确定其重要的商业服务，如果这些服务受到干扰，可能会损害消费者或市场诚信，威胁企业的生存能力或导致金融体系不稳定；
- 为每项重要的业务服务设置受冲击的容许程度，即量化这些服务所能承受的最大干扰水平；
- 确定并记录支持其重要业务服务的人员，流程，技术，设施和信息；
- 通过一系列严重但可能出现的情况，采取使这些服务的抗冲击能力保持在容许程度内的行动。

咨询期于 2020 年 4 月 3 日结束。

Source 来源:

<https://www.fca.org.uk/publications/consultation-papers/cp-19-32-building-operational-resilience-impact-tolerances-important-business-services>

## Hong Kong Exchanges and Clearing Limited to Enhance Pre-opening Session and Volatility Control Mechanism in its Securities Market

On December 13, 2019, Hong Kong Exchanges and Clearing Limited (HKEX) published its consultation conclusions on the proposed enhancements to the Pre-Opening Session (POS) and Volatility Control Mechanism (VCM) in its securities market.

Having carefully considered the responses, HKEX concluded that there is substantial market support for the proposed enhancements of POS and VCM in HKEX's securities market. As such, HKEX will proceed with the implementation of the two initiatives.

## Final POS and VCM Models

The POS and VCM models to be adopted will be substantially the same as proposed in the consultation paper, with fine-tuning of some features based on market feedback. The fine-tuning includes the following:

### POS model features updated to reflect consultation feedback

- Price limit: Instead of exempting stocks which are on their ex-dates from the application of the  $\pm 15$  per cent price limit as in the original proposal, the  $\pm 15$  per cent price limit (with reference to the adjusted closing price) will also be applied for these stocks to prevent excessive and unintended price volatility at open; and
- Product coverage: Leveraged and Inverse Products (L&I Products) will also be included in POS for better price discovery and liquidity. Given L&I Products are

also funds and they trade in similar ways as Exchange Traded Funds (ETFs), it would be appropriate to include L&I Products in both POS and CAS (i.e. same as ETFs) for trading liquidity and easier communication with investors. To avoid confusion, L&I Products, which are currently not included in CAS, will also be included to CAS when the POS enhancements are implemented to maintain consistency between the two auctions.

#### VCM model features updated to reflect consultation feedback

- Maximum number of VCM triggers: After the initial VCM expansion, the maximum number of VCM triggers will be kept at 'one time per trading session', so that the market has the opportunity to experience and practice the handling of a VCM trigger first. Multiple triggers for each trading session will be implemented six months after the expansion, subject to a brief review of market operations following the VCM expansion; and
- Dissemination of VCM market data: Trigger thresholds applicable for each VCM security will be made available on HKEX website after the VCM expansion.

#### Implementation

HKEX will roll out the two initiatives separately: VCM enhancements will be rolled out first; and POS enhancements will be rolled out later, after completing the development and testing of relevant technical changes. Adequate preparation lead-time will be given to the market. The rollout of VCM enhancements is tentatively set for the second quarter of 2020, and that for POS enhancements is tentatively set for the second half of 2020. The timing of both rollouts on Orion Trading Platform - Securities Market (OTP-C) is subject to the required rule amendments and market readiness.

Additional implementation details will be announced in due course.

#### 香港交易及结算有限公司落实优化香港证券市场开市前时段及市场波动调节机制

2019年12月13日, 香港交易及结算有限公司(香港交易所)

就优化香港证券市场开市前时段竞价机制(开市前时段)及市场波动调节机制(市调机制)的建议刊发咨询总结。

经仔细考虑回应意见后, 香港交易所认为市场普遍支持有关优化香港证券市场开市前时段及市调机制的建议, 并开始落实优化措施的准备工。

#### 开市前时段及市调机制的最终模式

香港交易所将采用的开市前时段及市调机制模式与咨询文件中提出的基本相同, 但亦因应市场回应作出了调整, 包括:

#### 开市前时段因应咨询所得回应而作微调

- 价格限制: 由原来建议除净日股份可获豁免 $\pm 15\%$ 的价格限制, 改为同样适用于除净日股份(经调整的收市价 $\pm 15\%$ ), 避免该类股份开市时价格过度波动及产生不符预期的波幅; 及
- 产品复盖范围: 杠杆及反向产品亦将会纳入开市前时段, 以促进价格发现及交易流通量。由于杠杆及反向产品亦是基金产品, 与交易所买卖基金之交易特点相近, 将杠杆及反向产品同时纳入开市前时段与收市竞价交易时段(一如交易所买卖基金)会较为恰当, 既有助提高交易流通量, 亦让投资者更容易理解。为免混淆, 当开市前时段的优化措施实施后, 现时未纳入收市竞价交易时段交易的杠杆及反向产品亦会纳入收市竞价交易时段, 确保两个竞价时段贯彻一致。

#### 市调机制因应咨询所得回应而作微调

- 触发市调机制的次数上限: 在扩大市调机制的初期, 触发次数将维持每个交易时段最多触发1次, 先让市场熟习处理触发市调机制后的操作。在扩大市调机制涵盖证券范围6个月后会就市调机制触发时的市场运作进行检讨, 视乎检讨结果, 将允许同一交易时段多次触发; 及
- 发布市调机制市场数据: 各市调机制证券的触发门槛可于扩大市调机制后在香港交易所网站供查阅。

#### 实施

香港交易所会分期实施开市前时段及市调机制优化措施。为了让市场有充裕的准备时间, 市调机制优化措施将暂定在2020年第二季率先推行; 而开市前时段则待技术改动及测试完成后, 预计在2020年下半年推出。两项优化措施在OTP-C证券市场平台推出的实际时间将视乎相关规则修订及市场准备情况而定。

香港交易所会适时公布进一步的实施详情。

Source 来源:

<https://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/August-2019-Consultation-Paper-on-Market-Microstructure-Enhancements/Consultation-Paper/cp201908.pdf?la=en>



## HKMC Insurance Limited Introduces SME Financing Guarantee Scheme - 90% Guarantee Product

On December 6, 2019, the HKMC Insurance Limited, a wholly-owned subsidiary of The Hong Kong Mortgage Corporation Limited, announced that the 90% Guarantee Product under the SME Financing Guarantee Scheme will be introduced. The 90% Guarantee Product aims to provide additional support to smaller-sized enterprises, businesses with relatively less operating experience, as well as professionals seeking to set up their own practices, to obtain financing.

A total of HK\$33 billion will be guaranteed by the Hong Kong Government for the 90% Guarantee Product. Each eligible enterprise can obtain guarantee for term loans up to HK\$6 million, with a maximum guarantee period of five years and the same guarantee fee rate as the existing 80% Guarantee Product.

The application period will last until June 30, 2022.

### 香港按揭保险有限公司推出中小企融资担保计划 – 「九成信贷担保产品」

2019年12月6日,香港按揭证券有限公司全资拥有的香

港按揭保险有限公司宣布,中小企融资担保计划将可推出新的「九成信贷担保产品」。此产品旨在协助一些规模较小、经营经验尚浅的企业,或有意独立执业的专业人士取得融资。

「九成信贷担保产品」由香港政府提供 330 亿港元信贷保证承担额,每家企业的最高贷款额为 600 万港元,为有期贷款,最长担保期为五年,而担保费率与现有的「八成信贷担保产品」一样。

申请期至 2022 年 6 月 30 日止。

Source 来源:

<https://www.hkma.gov.hk/eng/news-and-media/press-releases/2019/12/20191206-7>

## The Stock Exchange of Hong Kong Limited Issues Announcement in Relation to the Cancellation of Listing of China Huishan Dairy Holdings Company Limited

On December 18, 2019, the Stock Exchange of Hong Kong Limited (the Exchange) announced that with effect from 9:00 am on December 23, 2019, the listing of the shares of China Huishan Dairy Holdings Company Limited (in Provisional Liquidation) (Company) (Stock code: 6863) will be cancelled in accordance with the

delisting procedures under Practice Note 17 to the Listing Rules (Delisting Procedures).

Dealings in the Company's shares have been suspended since March 24, 2017. On March 27, 2018, the Listing Department placed the Company into the first delisting stage under Practice Note 17 to the Listing Rules as it was of the view that the Company did not comply with the requirement to have sufficient operations or assets under Rule 13.24.

On September 27, 2018 and May 3, 2019, the Exchange placed the Company into the second delisting stage and third delisting stage respectively. Before the expiry of the third delisting stage of November 15, 2019, the Company did not submit any resumption proposal. Therefore, the Exchange has decided to cancel the listing of the Company's shares on the Exchange.

The Exchange has notified the Company of its obligation under paragraph 3.1 of Practice Note 17 to issue an announcement informing the public of the cancellation of the Company's listing.

The Exchange advises shareholders of the Company who have any queries about the implications of the delisting to obtain appropriate professional advice.

### 香港联合交易所有限公司发布关于中国辉山乳业控股有限公司取消上市地位的通告

2019年12月18日,香港联合交易所有限公司(联交所)宣布,由2019年12月23日上午9时起,中国辉山乳业控股有限公司(临时清盘中)(该公司)(股份代号:6863)的上市地位将根据《上市规则》第17项应用指引下的除牌程序(除牌程序)予以取消。

该公司的股份自2017年3月24日起已暂停买卖。2018年3月27日,上市部认为该公司并未符合《上市规则》第13.24条有关拥有足够业务运作或资产的规定,故根据《上市规则》第17项应用指引将该公司置于除牌程序的第一阶段。

联交所分别于2018年9月27日及2019年5月3日将该公司置于除牌程序的第二及第三阶段。在除牌程序的第三阶段于2019年11月15日届满前,该公司并没有提交任何复牌建议。因此,联交所决定取消该公司股份在联交所的上市地位。

联交所已知会该公司,指根据《上市规则》第17项应用指引第3.1段,该公司有责任就其上市地位被取消一事发出公布通知公众。

联交所建议该公司股东，如对除牌的影响有任何疑问，应征询适当的专业意见。

Source 来源:

[https://www.hkex.com.hk/News/News-Release/2019/1912182news?sc\\_lang=en](https://www.hkex.com.hk/News/News-Release/2019/1912182news?sc_lang=en)

### **The Stock Exchange of Hong Kong Limited Publishes ESG Guide Consultation Conclusions and its ESG Disclosure Review Findings**

On December 18, 2019, the Stock Exchange of Hong Kong Limited (the Exchange) published conclusions to its consultation on the ‘Review of the Environmental, Social and Governance (ESG) Reporting Guide (ESG Guide) and Related Listing Rules’ (ESG Consultation Conclusions); and the findings of its latest review of listed issuers’ ESG disclosures (ESG Disclosure Review).

#### ESG Consultation Conclusions

The Exchange will implement the consultation proposals, with modifications, reflecting comments received. The changes will be effective for financial years commencing on or after July 1, 2020.

Key changes to the ESG Guide and related Listing Rules include:

- Introducing mandatory disclosure requirements to include:
  - a board statement setting out the board’s consideration of ESG matters;
  - application of Reporting Principles “materiality”, “quantitative” and “consistency”; and
  - explanation of reporting boundaries of ESG reports;
- Requiring disclosure of significant climate-related issues which have impacted and may impact the issuer;
- Amending the “Environmental” key performance indicators (KPIs) to require disclosure of relevant targets;
- Upgrading the disclosure obligation of all “Social” KPIs to “comply or explain”; and
- Shortening the deadline for publication of ESG reports to within five months after the financial year-end.

#### ESG Disclosure Review

The Exchange reviewed ESG reports for the financial year ended on 31 March, 30 June or 31 December 2018

from 400 randomly selected issuers (Sample Issuers). The review provides insight and guidance to issuers on the possible improvement areas on which to focus in their approach to assessing ESG-related risks, and when preparing ESG reports.

Key findings and recommendations of the ESG Disclosure Review include:

- All Sample Issuers published an ESG report within the timeframe set out in the Listing Rules. A majority published their ESG reports on the same day as their annual report (63 per cent).
- Two-thirds of Sample Issuers disclosed that a materiality assessment had been undertaken, some described the assessment in a more detailed manner than others. The Exchange emphasises the importance of materiality since it is a fundamental element for a company to assess ESG-related risks it faces.
- ESG reports from a majority of Sample Issuers contained little or no description of board involvement. It is important for boards to be meaningfully involved in assessing and addressing ESG-related risks.
- When an issuer is required to “comply or explain”, only 3 per cent of such provisions were “explained”. The high percentage of reports adopting the “comply” option may suggest that issuers have not properly determined what is material to them, or that the “explain” option is believed to be a less-preferable option. Issuers are reminded that if a “comply or explain” provision is immaterial to them, then an explanation to that effect may well be appropriate. “Explanation” is not a less preferred or secondary option.

香港联合交易所有限公司刊發《环境、社会及管治报告指引咨询总结》及 发行人披露环境、社会及管治常规情况的审阅报告

2019年12月18日，香港联合交易所有限公司（联交所）刊发有关检讨《环境、社会及管治报告指引》（ESG指引）及相关《上市规则》条文的咨询总结（ESG咨询总结）；以及其对上市发行人环境、社会及管治披露情况的最新审阅结果（ESG披露审阅）。

#### ESG 咨询总结

联交所将会按所接获的意见作适当修订后，全盘落实咨询文件提出的建议。相关修订于2020年7月1日或之后开始的财政年度生效。

《ESG 指引》及相关《上市规则》条文的主要修订包括:

- 在《ESG 指引》加设强制披露要求, 包括:
  - 载有董事会对 ESG 事宜的考量的董事会声明;
  - 有关汇报原则「重要性」、「量化」以及「一致性」的应用; 及
  - 解释 ESG 报告的汇报范围;
- 规定披露已经及可能会对发行人产生影响的重大气候相关事宜;
- 修订「环境」的关键绩效指标, 并须披露相关目标;
- 将所有「社会」关键绩效指标的披露责任提升至「不遵守就解释」; 及
- 将刊发 ESG 报告的期限缩短至财政年度结束后五个月内。

#### ESG 披露审阅

联交所审阅了 400 名随机挑选发行人(样本发行人)就截至 2018 年 3 月 31 日、6 月 30 日或 12 月 31 日财政年度刊发的 ESG 报告。发行人可透过审阅深入了解尚可改进之处以及相关指引, 日后评估 ESG 相关风险及编制 ESG 报告时可多加注意。

ESG 披露审阅的主要审阅结果及建议包括:

- 所有样本发行人均在《上市规则》规定的期限内刊发 ESG 报告。大部分样本发行人在年报刊发的同一天发布 ESG 报告 (63%)。
- 三分之二的样本发行人披露其有进行重要性评估, 其中有部分发行人的解说较为详尽。联交所强调评估重要性的重要, 因为这是公司评估其所面对 ESG 相关风险的基本因素。
- 大部分样本发行人的 ESG 报告对董事会参与的程度着墨甚少甚或没有说明。在评估、处理 ESG 相关风险方面, 董事会务必扮演积极主动角色。
- 发行人须「不遵守就解释」的条文, 仅 3%以「解释」的方式处理。选择「遵守」条文的比例如此之高, 也许表明发行人并未妥善考虑对自身而言什么是重要的条文, 又或是发行人认为以「解释」的方式处理不太可取。发行人须留意, 若个别「不遵守就解释」条文对其自身而言并不重

要, 如实说明其实亦无不可, 「解释」并非退而求其次的选择。

Source 来源: [https://www.hkex.com.hk/News/News-Release/2019/191218news?sc\\_lang=en](https://www.hkex.com.hk/News/News-Release/2019/191218news?sc_lang=en)

#### **The Listing Committee of The Stock Exchange of Hong Kong Limited Censures Artini Holdings Limited for Breaching the Listing Rules**

On December 11, 2019, the Listing Committee of The Stock Exchange of Hong Kong Limited (Listing Committee)

#### **CENSURES:**

Artini Holdings Limited (Company) (Stock Code: 789)

for breaching Rules 13.46(2)(a) and 13.49(1) of the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited ("Listing Rules") for its delay in the publication of its annual results and report for the year ended March 31, 2017.

#### **FACTS**

The Company's financial year end is March 31. As such the FY2016/17 Results and FY2016/17 Report were due to be published on June 30, 2017 and July 31, 2017 respectively.

The auditors of the Company encountered difficulties in auditing the Company's financial statements because the Company did not keep proper and adequate accounting records of its businesses in particular its "E-Commerce Business" relating to the development and sale of software applications, and "Agency Business" relating to the Company's concurrent design manufacturing of fashion accessories.

The Company published the FY2016/17 Results and FY2016/17 Report on July 17, 2017 and August 16, 2017 respectively, a delay under the Listing Rules of 17 and 16 days.

#### **LISTING COMMITTEE'S FINDINGS OF BREACH**

The Listing Committee concluded as follows:

#### Company's breaches

The Listing Committee noted that the Company admitted it had breached Rules 13.46(2)(a) and 13.49(1) by failing to publish the FY2016/17 Results and Report within the time prescribed by the Listing Rules.

#### Internal Control Deficiencies

The Listing Committee found there were material deficiencies in the Company's internal controls at the time which had led to its breaches of the Listing Rules:

(1) The Company did not maintain any or adequate supporting documents or records to support its revenue or expenditure of its businesses, in particular the "E-Commerce business" and "Agency Business";

(2) Such lack of or limited supporting information and documents prevented the Company's auditors from carrying out satisfactory audit procedures to obtain reasonable assurance regarding inter alia the completeness, accuracy and/or occurrence of the revenue and expenditures of the Company's businesses. This led to a disclaimer of opinion being expressed in the Company's FY2016/17 Results and Report and a delay in the publication of the same; and

(3) The independent internal controls review commissioned by the Company in February 2018 confirmed the significant number of internal controls deficiencies inter alia in the Company's corporate governance practice and financial reporting, revenue and receipts and purchases and payments. These deficiencies were classified by the internal control consultant as high to medium risk.

## REGULATORY CONCERN

The Listing Committee regards the breaches in this matter as serious:

(1) The Listing Rules are designed to ensure that investors have a continued confidence in the market and that they are kept fully informed by the Company. In this regard it is important that issuers publish their financial information in accordance with the timeframe under the Listing Rules.

(2) In this case, it was clearly inadequate for the Company not to have sufficient documents and records to support its transactions, revenue and expenses, to ensure their completeness, accuracy and occurrence. The deficiencies in this respect prevented the Company's auditors from expressing an opinion on important financial information of the Group, which is relevant to the shareholders' and the public's assessment of the Company.

(3) It is important for the Company to review its internal controls and risk management system and to follow up on any matters or deficiencies identified. The reviews must be made on an ongoing basis to ensure it is adequate and effective and should also cover all the material aspects, including financial, operational and compliance controls. Such failure by the Company to review raises serious concerns and demonstrates a disregard for sound corporate governance.

## 香港联合交易所有限公司上市委员会谴责雅天妮集团有限公司违反《上市规则》

2019年12月11日, 香港联合交易所有限公司上市委员会(上市委员会)

### 谴责:

雅天妮集团有限公司(该公司)(股份代号: 789)

延迟刊发截至2017年3月31日止年度的全年业绩及年报, 违反《香港联合交易所有限公司证券上市规则》(上市规则)第13.46(2)(a)及13.49(1)条。

### 实况:

该公司的年度结算日为3月31日。因此, 2016/17财政年度业绩及报告须分别于2017年6月30日及2017年7月31日或之前刊发。

该公司的核数师在审计该公司财务报表时遇到困难, 因为该公司并未就其业务保存恰当及充分的会计纪录, 尤其是有关开发及销售软件应用程式的电子商业业务以及有关该公司设计及制造时尚配饰的代理业务。

该公司分别于2017年7月17日及2017年8月16日刊发2016/17财政年度业绩及报告, 较《上市规则》规定先后迟了17日及16日。

### 上市委员会裁定的违规事项

上市委员会作出以下裁决:

#### 该公司的违规行为

上市委员会留意到, 该公司承认其未能在《上市规则》规定期限内刊发2016/17财政年度业绩及报告, 违反了《上市规则》第13.46(2)(a)及13.49(1)条。

#### 内部监控不足

上市委员会认为该公司当时的内部监控存有下列的重大缺失, 导致其违反《上市规则》的规定:

(1) 该公司没有保存任何或充分的证明文件或纪录可佐证其业务(尤其是电子商业业务及代理业务)的收入或支出。

(2) 上述缺失证明资料及文件的缺失或不足, 导致该公司核数师无法进行足以信纳的审计程序, 就包括该公司业务

收入及支出的完整性、准确性及/或确实存在取得合理样证。因此,核数师无法对该公司 2016/17 财政年度业绩及报告发出意见,以致该等业绩及报告要延迟刊发;及

(3) 该公司于 2018 年 2 月委托进行的独立内部监控审查证实,在包括在企业管治常规、财务汇报、收入及收账、采购及支账等方面,该公司的内部监控有多项缺失。该等缺失全部被内部监控顾问归类为中至高风险。

不过,上市委员会注意到该公司自此已采取相关措施,改善集团内部监控系统及财务汇报程序。2018 年 7 月,内部监控顾问进行后续审查,认为该公司内部监控系统再无异常之处。

### 监管上关注事项

上市委员会认为此个案的违规情况事态严重:

(1) 《上市规则》旨在确保投资者持续对市场抱有信心,并持续充分知悉该公司的情况。因此,发行人务必要在《上市规则》规定的时间内发布财务资料。

(2) 在本个案中,该公司没有充足的文件及纪录作为其交易、收入及支出的证明,从而确保其完整性、准确性及确实存在,是明显缺失。这方面的种种不足令该公司核数师无法就该集团与股东及公众评估该公司有关的重大财务资料发表意见。

(3) 该公司务须审视其内部监控及风险管理系统,若发现任何事项或不足之处,必须采取跟进行动。此外,此等审视必须持续进行,以确保其充分及有效,并应涵盖财务、营运及合规监控等所有重要方面。该公司未有进行此等审视令人高度关注,也显示其漠视良好企业管治。

Source 来源: [https://www.hkex.com.hk/News/News-Release/2019/191211news?sc\\_lang=en](https://www.hkex.com.hk/News/News-Release/2019/191211news?sc_lang=en)

### U.S. Securities and Exchange Commission Charges Ericsson with Foreign Corrupt Practices Act Violations

On December 6, 2019, the U.S. Securities and Exchange Commission (SEC) announced that Sweden-based Telefonaktiebolaget LM Ericsson (Ericsson) was charged with engaging in a large-scale bribery scheme involving the use of sham consultants to secretly funnel money to government officials in multiple countries.

The SEC's complaint alleges that from 2011 through 2017, Ericsson subsidiaries obtained business valued at approximately \$427 million by using third parties to bribe officials in Saudi Arabia, China, and Djibouti. The complaint also alleges that Ericsson's subsidiaries

further violated the Foreign Corrupt Practice Act (FCPA) in Vietnam, Indonesia and Kuwait, by maintaining slush funds, using code names, and creating sham transactions and invoices. The bribes netted Ericsson hundreds of millions in profits.

To resolve these alleged violations of the FCPA and charges from a parallel criminal investigation, Ericsson has agreed to pay more than US\$1 billion to the SEC and the U.S. Department of Justice and to retain an independent compliance monitor for at least three years.

### 美国证券交易委员会指控 Ericsson 违反《海外反腐败法》

2019 年 12 月 6 日,美国证券交易委员会(美国证监会)宣布,总部位于瑞典的 Telefonaktiebolaget LM Ericsson (Ericsson) 被控参与一项大规模的贿赂计划,其中涉及在多个国家使用虚假顾问向政府官员秘密转移资金。

美国证监会的起诉书称,从 2011 年到 2017 年, Ericsson 子公司通过利用第三方贿赂沙特阿拉伯,中国和吉布提的官员,获得了价值约 4.27 亿美元的业务。起诉书也称 Ericsson 的子公司在越南,印尼和科威特通过维持行贿基金,使用代号,创建虚假交易和发票,进一步违反《海外反腐败法》。贿赂使 Ericsson 获得了数亿美元的利润。

为解决涉嫌违反《海外反腐败法》和平行刑事调查的指控, Ericsson 已同意向美国证监会和美国司法部支付超过 10 亿美元,并聘用一位独立的合规监控人员至少三年。

Source 来源: <https://www.sec.gov/news/press-release/2019-254>

### MetLife Inc. Pays US\$10 Million to Settle U.S. Securities and Exchange Commission's Charges for Longstanding Internal Control Failures

On December 18, 2019, the U.S. Securities and Exchange Commission (SEC) charged MetLife, Inc. (MetLife) with violating the books and records and internal accounting controls provisions of the federal securities laws.

According to the SEC's order, MetLife improperly released reserves for annuity benefits, which resulted in an increase in income. For over 25 years, MetLife's practice was to presume annuitants had died or otherwise would never be found if they did not respond to only two mailing attempts made approximately five and half years apart.

The SEC's order also finds that MetLife overstated reserves and understated income relating to variable annuity guarantees assumed by a MetLife subsidiary.

Without admitting or denying the Commission's findings, MetLife has agreed to cease and desist from committing or causing any future violations of these provisions and to pay a civil penalty of US\$10 million.

### 大都会人寿就长期内部监控失误的指控支付 1000 万美元与美国证券交易委员会达成和解

2019 年 12 月 18 日, 美国证券交易委员会 (美国证监会) 指控 MetLife Inc. (大都会人寿) 违反了联邦证券法的账簿和记录以及内部会计监控规定。

根据美国证监会的命令, 在长达 25 年多来, 大都会人寿的做法是如果领取年金受益人不回复两次相隔约五年半的邮件, 就假定年金受益人死亡或永远失踪; 这导致该公司不当地释放了年金权益储备金。

美国证监会的命令还指出, 大都会人寿夸大与子公司保证的可变年金有关的储备金并低估收入。

大都会人寿没有承认或否认美国证监会的调查结果, 但同意停止并终止作出或造成任何将来违反这些规定的行为, 并支付 1000 万美元的民事罚款。

Source 来源: <https://www.sec.gov/news/press-release/2019-269>

### Hong Kong Securities and Futures Commission Bans W. Falcon Asset Management (Asia) Limited's Former Chairman for Life and Ex-CFO for Three Years

On December 17, 2019, the Hong Kong Securities and Futures Commission (SFC) has banned Mr Ang Wing Fung (Ang), the former chairman of W. Falcon Asset Management (Asia) Limited (Falcon), and its former chief financial officer and company secretary Mr Chan Kam Wah (Chan), from re-entering the industry for life and three years, respectively, in connection with their roles in window-dressing the liquid capital of Falcon.

Ang was the mastermind of the window-dressing scheme and its operation was facilitated by Chan.

The disciplinary action against Ang and Chan follows the SFC's revocation of the license of Falcon in February 2019 for window-dressing its liquid capital and other failures. The SFC also found that Falcon provided the SFC with false or misleading information in its license application and financial returns between June 2014 and June 2017. Ang also failed to notify the SFC of Falcon's insufficient liquid capital and his resignation as a director.

Under Ang's scheme, Falcon's month-end liquid capital was window-dressed by including in its liquid capital

computation the amount of cheques he drew on certain bank accounts, which were subsequently dishonored. This practice was adopted from the time of Falcon's SFC license application in June 2014. Had the amount of these cheques issued by Ang been excluded, Falcon would have been denied a license to carry on regulated activities due to a liquid capital deficit at the time of its license application and at each of the month-ends over a three-year period.

Chan, who reported to Ang, had full access to various bank accounts of which Ang was a signatory. As the person in charge of accounting, he was fully aware of the true financial condition of Falcon. He was also aware that cheques signed by Ang would certainly be dishonored upon presentation due to insufficient funds in the bank accounts on which they were drawn and closure of some of these accounts. But he continued to take part in the window-dressing scheme to disguise Falcon's failure to maintain sufficient capital as required for as long as possible.

Ang subsequently resigned from Falcon on October 23, 2017, but he failed to provide the SFC with written notification of such resignation within seven business days as required.

The SFC is of the view that the misconduct of Falcon was a result of Ang and Chan's consent or connivance, or attributable to neglect on their part as members of senior management, and should also be regarded as misconduct on their part. Their failures cast serious doubt on their ability to carry on regulated activities competently and call into question their fitness and propriety to be licensed by the SFC.

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

- the honesty and integrity of Ang and Chan have been impugned;
- their egregious and serious misconduct caused Falcon to damage investors' and the public's confidence in market integrity;
- their otherwise clean disciplinary record; and
- the need to prohibit them from the industry in order to protect the investing public.

香港证券及期货事务监察委员会分别规定年兴行资产管理(亚洲)有限公司前主席及前首席财务官终身和三年内不得重投业界

2019 年 12 月 17 日, 香港证券及期货事务监察委员会 (证监会) 因年兴行资产管理(亚洲)有限公司 (年兴行) 前主席洪荣锋(洪) 及前首席财务官兼公司秘书陈锦华 (陈) 涉及粉饰年兴行的速动资金, 分别规定二人终身和三年内不得重投业界。

洪是粉饰速动资金计划的主谋，而陈则协助执行该计划。

证监会对洪及陈采取上述纪律行动前，已于 2019 年 2 月就年兴行粉饰其速动资金及其他缺失，撤销该公司的牌照。证监会亦发现，年兴行于 2014 年 6 月至 2017 年 6 月期间，在其牌照申请书及财务申报表内向证监会提供虚假或具误导性的资料。洪亦没有将年兴行速动资金不足的情况和其辞任董事一事通知证监会。

在洪的策划下，他透过一些银行帐户开出多张其后无法兑现的支票，并将有关金额包括在年兴行的速动资金计算表内，从而粉饰该公司的月底速动资金。他自年兴行于 2014 年 6 月向证监会申请牌照之时起便已采取这种做法。假如将洪开出支票的金额剔除，年兴行便会因在申请牌照之时及三年期间内每个月底出现速动资金短欠而不获发从事受规管活动的牌照。

陈当时为洪的下属，并能全面查阅由洪作为签署人的多个银行帐户。身为会计事务的负责人，陈完全知悉年兴行的真实财务状况。他亦明知由洪签发的支票在过户时会因用以开票的银行帐户内资金不足或部分帐户已被关闭而无法兑现，但他却继续参与粉饰速动资金计划，尽量拖长为年兴行掩饰其未能维持足够资金一事的时间。

洪其后在 2017 年 10 月 23 日辞去年兴行的职务，但他没有按规定在七个营业日内就辞任一事向证监会发出书面通知。

证监会认为，年兴行的失当行为乃因洪及陈的同意或纵容所致，或可归因于二人作为高级管理人员的怠忽，故亦应视为他们的失当行为。二人的缺失令人严重怀疑他们能否称职地进行受规管活动，以及令人质疑他们是否成为证监会持牌人的适当人选。

证监会厘定罚则时，已考虑到所有相关情况，包括：

- 洪和陈的诚信及操守令人置疑；
- 二人的失当行为极其恶劣及严重，使年兴行损害到投资者及公众对市场廉洁稳健的信心；
- 他们过往并无遭受纪律处分的纪录；及
- 有需要禁止二人重投业界，以保障投资大众。

Source 来源：

<https://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=19PR118>

**Hong Kong Securities and Futures Commission Releases the Findings of its Survey on Environmental, Social and Governance, Climate Change and Asset Management**

On December 16, 2019, the Hong Kong Securities and Futures Commission (SFC) released the findings of its Survey on Integrating Environmental, Social and Governance (ESG) Factors and Climate Risks in Asset Management.

Of the licensed asset management firms surveyed, 660 considered at least one ESG factor when evaluating a company's investment potential. Of these 660 firms, 68% saw ESG factors as a source of financial risk, although only 35% consistently integrated ESG factors in their investment and risk management processes. Nearly two-thirds of licensed firms active in asset management plan to strengthen their ESG practices in the next two years. When the focus narrows to the management of climate-related risks, only 23% of the 660 asset management firms have processes in place to manage the financial impact of risks arising from climate change.

While ESG factors are important and interlinked, in the near term, the SFC will focus on promoting the management of climate change risks in asset management by developing expected standards and providing practical guidance and best practices. The SFC will also establish an industry group to exchange views with experts in environmental and climate risks, as well as sustainable finance.

**香港证券及期货事务监察委员会发表有关环境、社会及管治因素、气候变化及资产管理的调查**

2019 年 12 月 16 日，香港证券及期货事务监察委员（证监会）发表了《有关在资产管理中纳入环境、社会及管治因素和气候风险的调查》的结果。

在接受调查的持牌资产管理公司中，有 660 家在评核一家企业的投资潜力时，曾考虑过至少一项环境、社会及管治（environmental, social and governance, 简称 ESG）因素。在这 660 家公司当中，尽管只有 35% 贯彻地将 ESG 因素纳入其投资及风险管理流程中，但有 68% 认为 ESG 因素是财务风险的来源。有近三分之二活跃于资产管理业的持牌公司计划在未来两年加强其 ESG 实务运作。当聚焦于管理与气候变化相关的风险时，在 660 家资产管理公司中，只有 23% 设有流程以管理因气候变化而引起的财务风险。

尽管 ESG 因素十分重要且互为关联，但短期内，证监会将会透过建立预期标准及提供实用的指引和最佳实务运作，集中推广在资产管理中的气候变化风险管理。证监会亦会成立业界小组，以便与环境及气候风险以及可持续金融领域的专家互相交流意见。

Source 来源：

<https://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=19PR117>

## Hong Kong Securities and Futures Commission Concludes Consultation on Margin Requirements for Non-centrally Cleared OTC Derivatives

On December 18, 2019, the Hong Kong Securities and Futures Commission released consultation conclusions on proposals to impose margin requirements for non-centrally cleared over-the-counter (OTC) derivatives.

The proposals will be adopted with some amendments and clarifications. A licensed corporation which is a contracting party to a non-centrally cleared OTC derivative transaction entered into with an authorized institution, a licensed corporation or another defined entity would be required to exchange margin with the counterparty if the notional amount of their outstanding non-centrally cleared OTC derivatives exceeds specified thresholds.

Amendments to the Code of Conduct to effect the changes will be gazetted in due course. The initial margin requirements will be phased in starting from September 1, 2020, which is also the date the variation margin requirements will take effect.

### 香港证券及期货事务监察委员会就非中央结算场外衍生工具的保证金规定发表咨询总结

2019年12月18日,香港证券及期货事务监察委员会(证监会)就建议对非中央结算场外衍生工具施加的保证金规定,发表咨询总结。

证监会经作出一些修订和厘清后,将会采纳有关建议。持牌机构如以订约方身分与某认可机构、另一持牌机构或其他指定机构进行非中央结算场外衍生工具交易,而双方之间的未完结非中央结算场外衍生工具的名义数额超过指明的门槛,该持牌机构便须与对手方交换保证金。

为落实有关修改而对《操守准则》作出的修订将在适当时候刊宪。开仓保证金规定将由2020年9月1日起分阶段落实,而变动保证金规定亦将于同日生效。

Source 来源 :  
<https://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=19PR119>

## Shenzhen Stock Exchange Issues Business Rules and Guidelines Regarding Stock Options

On December 7, 2019, Shenzhen Stock Exchange (SZSE) issued the Rules Governing Pilot Stock Option Transactions of Shenzhen Stock Exchange and other nine rules, the Brokerage Business Guidelines Governing Securities Companies on Pilot Stock Option Transactions of Shenzhen Stock Exchange and other three guidelines related to stock option business, which

took effect on the same day. It indicates that SZSE has formed a sound stock option system with rich content and clear layers, thus laying a solid institutional foundation for SZSE to stably roll out option business, which shall enhance risk prevention and control and promote the healthy development of markets.

SZSE's business rules and guidelines regarding stock options are basis of the system that standardize the operation of stock options, covering contract management, transactions and option exercise, risk control, transaction regulation, investor suitability management, market maker management, and other items, specifying portfolio strategies, portfolio option exercise, market maker bilateral quotation, facilitation of investor account opening, etc., setting principle rules for block transactions, security margin and other aspects, leaving space for future business innovation. The formulation of business rules and guidelines regarding stock options fully drew on the existing market experience. Recently, SZSE has adjusted the settlement mode of ETF transactions, making it easier for investors to trade.

Next, SZSE will ensure the steady rollout of SZSE's stock option business, promote the sound development of the capital market, enhance the capability to serve the real economy.

### 深圳证券交易所发布股票期权相关业务规则及指南

2019年12月7日,深圳证券交易所(深交所)发布与股票期权业务相关的《深圳证券交易所股票期权试点交易规则》等10项规则和《深圳证券交易所股票期权试点证券公司经纪业务指南》等4项指南,即日起实施。这标志着深交所已形成内容齐备、体系健全、层次清晰的股票期权制度体系,为深市期权平稳启动推出夯实了制度基础,有助于提升风险防控能力、维护市场健康发展。

深交所股票期权业务规则及指南是规范股票期权运行的制度依据,内容涵盖合约管理、交易与行权、风险控制、交易监管、投资者适当性管理、做市商管理等事项,对组合策略、组合行权、做市商双边报价、便利投资者开户等作出了明确规定,对大宗交易、证券保证金等进行了原则性规定,为未来业务创新预留空间。股票期权业务规则及指南的制定充分吸取了市场已有经验。近期深交所已完成ETF交易结算模式调整,更加便利投资者交易。

下一步,深交所将确保其股票期权平稳推出,促进资本市场健康发展,提升服务实体经济能力。

Source 来源:  
[http://www.szse.cn/English/about/news/szse/t20191210\\_572513.html](http://www.szse.cn/English/about/news/szse/t20191210_572513.html)



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