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Financial Services Regulatory Update
金融服务监管资讯

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Hong Kong Securities and Futures Commission Publishes Issue No.52 Takeovers Bulletin

On March 31, 2020, The Securities and Futures Commission (SFC) publishes Issue No.52 Takeovers Bulletin (March 2020). Highlights of the Bulletin are as follows:

Revisions to PN 7 – Treatment of right-of-use assets

PN 7 has been revised to clarify that right-of-use (ROU) assets recognized under International Financial Reporting Standard 16 (IFRS 16) 'Leases', which is the equivalent of Hong Kong Financial Reporting Standard 16 (HKFRS 16) 'Leases', should not be regarded as a company's property assets for the purposes of Rule 11.1(f) of the Takeovers Code.

In Issue No. 3 (December 2007) of the Takeovers Bulletin, the SFC reminded parties and their advisers to consult the Executive at the outset of transactions when in doubt as to whether certain assets should be taken into account for the purpose of calculating the 15% and 50% property interest thresholds under Rule 11.1(f).

Rule 11 of the Takeovers Code governs asset valuations and provides that when valuations of assets are given

in connection with an offer, details of the valuations must be included in the relevant document and should be properly supported by the opinion of a suitably qualified independent valuer. The rule helps ensure that shareholders are provided with sufficient information to reach an informed decision on an offer as required by General Principle 5 of the Codes on Takeovers and Mergers and Share Buy-backs (Codes).

Rule 11.1(f) sets out the circumstances when a property valuation report is required. In particular, when an offeror is an interested party and the offeree company has significant property interests (and in the case of a securities exchange offer, when the offeror has significant property interests), a property valuation will be required. Rule 11.1(f) provides further guidance on the meaning of "significant property interests":

"As a general guide, a company has "significant property interests" if the book value of its consolidated property assets **exceeds 15% of its consolidated total assets**".

Recently, the SFC has been consulted on a number of occasions about whether ROU assets as defined under IFRS 16 should be regarded as a company's property assets for the purposes of Rule 11.1(f).

Previously, under International Accounting Standard 17 (IAS 17) 'Leases', a lessee was required to make a distinction between a finance lease (on balance sheet) and an operating lease (off balance sheet). In January 2016, the International Accounting Standards Board issued IFRS 16 to supersede IAS 17. Under IFRS 16, the lessee is required to recognize a ROU asset for its right to use the asset under a lease and its corresponding liability without the need to differentiate between a finance lease and an operating lease. In essence, unless exemptions apply, lessees are required to bring all contracts which meet the definition of a "lease" under IFRS 16 onto the balance sheet. The accounting treatment for lessors remains largely unchanged.

IFRS 16 became effective for annual reporting periods beginning on or after 1 January 2019.

Although IFRS 16 treats the right to use the asset under a lease as an asset on the company's balance sheet, the lessee does not have legal ownership of the underlying leased asset as it remains with the lessor. For this reason, ROU assets should not normally be regarded as a company's property assets for the purposes of the Takeovers Code. It follows that the values of these ROU assets should normally be excluded when determining whether a company has significant property interests of 15% and 50% under Rule 11.1(f). If in doubt, the Executive should be consulted at the earliest opportunity.

Public censures of CLSA, CSB, Beijing Enterprises and others for Share Buy-backs Code breaches

On 30 December 2019, the SFC publicly censured nine entities and individuals for share buy-back transactions in Beijing Enterprises Holdings Limited conducted in 2016 in breach of the Code on Share Buy-backs.

The censured parties were:

- CLSA Limited
- Andrew James WALTERS
- Stuart Richard WILSON
- CITIC Securities Brokerage (HK) Limited (CSB)
- Ka Yip Eddy LAU
- King Yuen LAU
- Stephanie LI
- Beijing Enterprises Holdings Limited
- Woon Cheung Eric TUNG

In February and May 2016, CLSA on behalf of its institutional clients and CSB on behalf of Beijing Enterprises carried out coordinated trades which allowed Beijing Enterprises to buy back more than 18 million of its shares on The Stock Exchange of Hong Kong Limited. These on-market trades were in fact pre-arranged and pre-agreed, and in substance off-market share buy-backs which required approvals from the Executive and Beijing Enterprises' independent shareholders under Rules 1 and 2 of the Code on Share Buy-backs.

In effecting the pre-arranged trades, the conduct of CLSA, CSB and their licensed persons fell short of the standards expected of them under the Codes, and shareholders of Beijing Enterprises were deprived of the opportunity to vote on an important corporate action.

The parties accepted that they failed to comply with the Code on Share Buy-backs and consented to the disciplinary action taken against them.

Practitioners and parties who wish to take advantage of the securities markets in Hong Kong are reminded to conduct themselves in accordance with the Codes. If there is any doubt about their application, the Executive should be consulted at the earliest opportunity.

A copy of the Executive Statement can be found in the "Regulatory functions - Listings & takeovers – Takeovers & mergers – Decisions and statements – Executive decisions and statements" section of the SFC website.

Note 2 on dispensations from Rule 26

The SFC has noted a recent increase in the number of cases where lenders enforced security over controlling stakes in listed companies. In some cases, relevant parties overlooked possible Takeovers Code implications, and the SFC wishes to take this opportunity to clarify them.

Under Rule 26.1(a) of the Takeovers Code, subject to the granting of a waiver by the Executive, when any person acquires, whether by a series of transactions over a period of time or not, 30% or more of the voting rights of a company, that person shall extend offers on the basis set out in Rule 26 of the Takeovers Code to the holders of each class of equity share capital of that company. When a lender takes enforcement actions following a loan default, it may acquire 30% or more of the voting rights of a company and trigger a mandatory offer obligation under Rule 26.1 unless otherwise waived. A lender that has acquired voting rights will nevertheless trigger an offer obligation even if he does not exercise them.

As noted in a number of Panel decisions, once an offer obligation under Rule 26.1 is triggered, that forms the starting point to any analysis. A lender may consider applying for a waiver under Note 2 on dispensations from Rule 26 and should do so before the acquisition of any voting rights of a company which would trigger a general offer.

Note 2 on dispensations from Rule 26 sets out circumstances when a lender's obligation to make an offer may be waived. It provides that "[w]here a shareholding in a company is charged to a bank or lending institution on an arm's length basis and in the ordinary course of its business as security for a loan and, as a result of enforcement, the lender would otherwise incur an obligation to make a general offer under this Rule 26, the Executive will normally waive the requirement, provided that the security was not given at a time when the lender had reason to believe that enforcement was likely."

The note further states that "[a]lthough a receiver or liquidator of a company is not required to make an offer when he takes control of a holding of 30% or more of the voting rights of another company, the provisions of this Rule 26 apply to a purchase from such a person".

The SFC construes "bank or lending institution" narrowly. An authorized institution within the meaning of the Banking Ordinance (Cap. 155) lending money in the ordinary course of business will normally be considered to be a "bank or lending institution" by the Executive for the purposes of Note 2. However, the holding of a money lenders license under the Money Lenders Ordinance (Cap. 163), in itself, is unlikely to allow an institution to fall within the definition. The Executive will scrutinize the purpose of the loan, the nature of the lender's business (if any) and all relevant circumstances relating to the loan before making a determination.

The second paragraph of Note 2 operates independently from the first paragraph. The SFC notes that it is quite common for lenders to appoint independent receivers

(and in some instances, liquidators) to take over the secured assets following a loan default. The primary duty of a receiver or liquidator is to safeguard the value of security assets and, if appropriate, realize them to satisfy the outstanding debt in whole or in part. Therefore, the second paragraph of Note 2 envisages that no general offer obligation will be triggered upon a receiver or liquidator acquiring control over a secured controlling stake in an offeree company.

Where a lender appoints (or purports to appoint) its own employees, officers or related parties (or employees or officers of such related parties) as receivers or liquidators of a controlling stake in an offeree company, the SFC does not consider that these receivers or liquidators can rely on the second paragraph of Note 2. In such cases, that lender is likely to have triggered an obligation to make a mandatory general offer under Rule 26.1 upon enforcement of the security.

In cases where an independent receiver or liquidator is appointed, it will normally be looking to dispose of the secured assets, which may or may not ultimately lead to a change of control of the relevant offeree company, and this will give rise to a possible offer. Therefore, an offer period will commence as soon as the independent receiver or liquidator takes control of 30% or more of the voting rights of a company. An announcement under Rule 3.7 of the Takeovers Code is also expected to be published when this happens.

Once an offer period commences, the name of the relevant offeree company will be included in the Offer Periods Table on the SFC website. The name of the offeror will be added when such information becomes available, as with other cases where an offer period commences following the publication of a talks announcement with an unnamed potential offeror. The offer period will cease when an offer is completed or when the possibility of a general offer has been ruled out.

As always, the Executive should be consulted when in doubt.

Appointments and reappointments to the takeovers-related committees

The SFC welcomes new appointments and reappointments of members to the Panel, Appeal Committee, Disciplinary Chair Committee and Nominations Committee with effect from 1 April 2020.

A full list of members of the Panel, Appeal Committee, Disciplinary Chair Committee and Nominations Committee can be found in the "Regulatory functions – Listings & takeovers – Takeovers and Mergers – Takeovers Panel and related committees" section of the SFC website.

Quarterly update on the activities of the Takeovers Team

In the three months ended December 31, 2019, the SFC received 14 takeovers-related cases (including privatizations, voluntary and mandatory general offers and off-market and general-offer share buybacks), three whitewashes and 67 ruling applications.

香港证券及期货事务监察委员会发布第 52 期《收购通讯》

2020 年 3 月 31 日，香港证券及期货事务监察委员会（证监会）发布第 52 期《收购通讯》（2020 年 3 月），摘要如下：

修订《应用指引 7》－使用权资产的处理方式

证监会已对《应用指引 7》作出修订，以厘清根据《国际财务报告准则》第 16 号'租赁'（该准则与《香港财务报告准则》第 16 号'租赁'相同）确认的使用权资产就《收购守则》规则 11.1(f)而言，不应被视为公司的物业资产。

证监会在第 3 期(2007 年 12 月）的《收购通讯》中提醒当事人及其顾问，若在计算规则 11.1(f)下的 15%及 50%的物业权益界线时不肯定应否计入某些资产，便应在交易开始时咨询执行人员的意见。

《收购守则》的规则 11 规管资产估值的事宜，当中规定，如提供涉及要约的资产估值，该等资产估值的详情必须列入相关文件内，并应获得具备适当资格的独立估值师的意见支持。该规则有助确保股东获得充足的数据，对某项要约作出有根据的决定，如《公司收购、合并及股份回购守则》（两份守则）的一般原则 5 所规定的一样。规则 11(f)列明在何种情况下须提供物业估值报告。特别是，当要约人为有利害关系人士及受要约公司持有重大物业权益（及如属证券交换要约，当要约人持有重大物业权益）时，便须进行物业估值。规则 11.1(f)就"重大物业权益"的含义提供了进一步指引：

"作为一般准则，如某公司的综合物业资产帐面值**超过其综合总资产的 15%**，该公司即属持有"重大物业权益""。

最近，市场对根据《国际财务报告准则》第 16 号所界定的使用权资产就《收购守则》规则 11.1(f)而言应否被视为公司的物业资产，多次咨询证监会的意见。

过往，根据《国际会计准则》第 17 号'租赁'，承租人须区分融资租赁（资产负债表项目）及经营租赁（非资产负债表项目）。在 2016 年 1 月，国际会计准则委员会颁布《国际财务报告准则》第 16 号以取代《国际会计准则》

第 17 号。根据《国际财务报告准则》第 16 号，承租人须就其根据租赁使用资产的权利确认其使用权资产及其相应负债，而无需区分融资租赁及经营租赁。基本上，除非有关豁免适用，否则承租人须将所有符合《国际财务报告准则》第 16 号下“租赁”的定义的合约列在资产负债表上，而出租人所适用的会计处理手法大致上维持不变。

《国际财务报告准则》第 16 号对在 2019 年 1 月 1 日或其后展开的年度报告期间已告生效。

虽然《国际财务报告准则》第 16 号将根据租赁使用资产的权利视为公司资产负债表上的资产， 但承租人对相关租赁资产并无法定拥有权，因为该资产仍然属于出租人。基于这个原因，就 《收购守则》而言，使用权资产一般不应视为公司的物业资产。因此，在厘定公司是否具有规则 11.1(f)下的 15%及 50%的重大物业权益时，有关使用权资产的价值一般应被排除在外。

如有任何疑问，应尽早咨询执行人员的意见。

公开谴责中信里昂、中信证券、 北京控股及其他人士违反《股份回购守则》

证监会在 2019 年 12 月 30 日就北京控股有限公司在 2016 年进行的股份回购交易违反了《公司股份回购守则》一事，公开谴责九家公司及人士。

受到谴责的当事人为：

- 中信里昂证券有限公司
- Andrew James Walters
- Stuart Richard Wilson
- 中信证券经纪（香港）有限公司
- 刘家业
- 刘敬元
- 李培芬
- 北京控股有限公司
- 董涣樟

在 2016 年 2 月及 5 月，中信里昂及中信证券曾分别代表其机构客户及北京控股进行经协调的交易，藉此让北京控股在香港联合交易所有限公司回购超过 1,800 万股股份。有关场内交易事实上为经预先安排和协议的交易，并实质为场外股份回购，而根据《公司股份回购守则》规则 1 及 2 理应获得执行人员及北京控股的独立股东的批准。

在进行预先安排的交易时，中信里昂、中信证券及其持牌人的行为并不符合他们在两份守则下理应达到的标准，以及北京控股的股东被剥夺就重要的企业行动作出投票的机会。

当事人均承认他们没有遵守《公司股份回购守则》，并同意接受对他们所采取的纪律行动。

证监会提醒有意利用香港证券市场的从业员及人士应根据两份守则行事。如对有关守则的适用范围有任何疑问，应尽早咨询执行人员的意见。

执行人员的声明文本可于证监会网站的“〈监管职能〉－〈上市及收购事宜〉－〈收购合并事宜〉－〈决定及声明〉－〈执行人员的决定及声明〉”一栏取览。

规则 26 的豁免注释 2

证监会注意到，近期有愈来愈多个案涉及贷款人强制执行以上市公司的控股权作抵押的抵押品。在某些个案中，有关当事人忽略了这做法在《收购守则》的规限下可能产生的影响，因此证监会希望藉此机会作出厘清。

根据《收购守则》规则 26.1(a)，除非获执行人员授予宽免，否则当任何人不论是否透过在一段期间内的一系列交易而取得一间公司 30%或以上的投票权时，该人须按《收购守则》规则 26 所列基础，向该公司每类权益股本的持有人作出要约。当贷款人在借款人无力还贷后采取强制行动时，贷款人可取得公司 30%或以上的投票权，以及除非获授予宽免，否则会触发规则 26.1 下的强制要约责任。贷款人在取得投票权后仍会触发要约责任，即使他不行使有关投票权。

如多份委员会的决定所载，规则 26.1 下的要约责任一旦被触发，便成为进行任何分析的起点。贷款人可考虑申请规则 26 的豁免注释 2 下的宽免，并且应在取得某公司的任何投票权以 致触发全面要约之前这样做。

《收购守则》规则 26 的豁免注释 2 载列贷款人作出要约的责任在哪些情况下可获得宽免，当中订明“凡在正常商业关系下并在银行或贷款机构的日常业务过程中，把在某间公司的持股量抵押予该银行或贷款机构作为贷款的抵押品，及因就该项抵押品作出的强制执行后，贷款人将会产生本规则 26 规定作出全面要约的责任，则只要该项抵押品并不是在贷款人有理由相信很有可能会出现强制执行的时候所给予的，执行人员通常将宽免该项规定。”

该注释进一步述明"虽然公司的接管人或清盘人在取得对另一间公司 30% 或以上投票权的控制权时无须作出要约，本规则 26 的条文亦适用于向上述者购买证券的人。 "

证监会以狭义的方式诠释"银行或贷款机构"。就注释 2 而言，在日常业务过程中提供贷款的《银行业条例》（第 155 章）所指的认可机构一般会被执行人员视为 "银行或贷款机构" 。然而，根据《放债人条例》（第 163 章）持有放债人牌照本身不大可能使某机构属于该定义的范围内。执行人员在作出裁断前，将审视贷款的用途、贷款人的业务性质（如有）及与贷款有关的所有情况。

注释 2 第 2 段在执行时独立于第 1 段。证监会注意到，贷款人在借款人无力偿还贷款后委任独立的接管人（及在某些情况下委任独立的清盘人）以接管抵押资产，这情况相当普遍。接管人或清盘人的首要责任是保护抵押资产的价值，及在适当时变卖有关资产以偿还全部或部分未清缴的债务。因此，注释 2 第 2 段预期接管人或清盘人在取得受要约公司的抵押控股权的控制权时，将不会触发全面要约的责任。

若贷款人委任（或声称委任）其雇员、高级人员或有关当事人（或有关当事人的雇员或高级人员）作为受要约公司的控股权的接管人或清盘人，证监会并不认为这些接管人或清盘人可援引注释 2 第 2 段。在这些情况下，贷款人在对抵押品作出强制执行后，相当可能已触发规则 26.1 下强制全面要约的责任。

若贷款人委任独立的接管人或清盘人，有关接管人或清盘人通常会寻求出售抵押资产（可能或可能不会最终导致相关受要约公司的控制权有所变动），而这将产生可能要约。 因此，要约期在独立的接管人或清盘人取得一家公司 30%或以上投票权的控制权时，即告开始。《收购守则》规则 3.7 下的公布亦应在出现上述 情况时发出。

要约期一旦开始，相关受要约公司的名称将载于证监会网站上的要约期表格内，而要约人的姓名/名称会在获得有关资料时加入，如同要约期在发出载有不具名的有意要约人洽商公布后开始的其他个案一样。当要约完成时，或当全面要约的可能性已被排除时，要约将告终止。

一如既往，如有任何疑问，应咨询执行人员的意见。

与收购有关的委员会委员的任命及重新任命

证监会欢迎收购委员会、上诉委员会、纪律研讯主席委员会及提名委员会委员的新任命及重新任命，有关任命由 2020 年 4 月 1 日起生效 。

收购委员会、上诉委员会、纪律研讯主席委员会及提名委员会的全体委员名单载于证监会网站"〈监管职能〉－〈上市及收购事宜〉－〈收购合并事宜〉－〈收购及合并委员会与相关委员会〉" 一栏。

收购及合并组季内工作的最新情况

在截至 2019 年 12 月 31 日止三个月内，证监会接获 14 宗与收购有关的个案（包括私有化、自愿要约、强制全面要约、场外回购及全面要约股份回购）、三宗清洗交易个案和 67 宗要求作出裁定的申请。

Source 来源:
https://www.sfc.hk/web/EN/files/CF/pdf/Takeovers%20Bulletin/20200331-SFC%20Takeover%20Bulletin(e).PDF

https://www.sfc.hk/web/TC/files/CF/pdf/Takeovers%20Bulletin/20200331-SFC%20Takeover%20Bulletin(c).PDF

Hong Kong Securities and Futures Commission and The Stock Exchange of Hong Kong Limited (the Exchange) Issued Joint Statement in relation to General Meetings in light of the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation

On April 1, 2020, following the HKSAR Government's introduction of the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G of the Laws of Hong Kong) (the "Regulation"), which became effective on March 29, 2020, to promote and maintain social distancing in light of the COVID-19 pandemic, Hong Kong Securities and Futures Commission (SFC) and The Stock Exchange of Hong Kong Limited (the Exchange) have consulted the HKSAR Government, which administers the Regulation, to understand how these guidelines impact corporate annual general meetings, extraordinary general meetings and special general meetings.

The prohibition on group gatherings that take place in any "public place" (as defined in the Regulation) is in effect for the "specified period" (as defined in the Regulation). As at the date of this Update, the specified period is from midnight on April 10, 2020 until April 23, 2020.

Paragraph 11 of Schedule 1 of the Regulation ("Paragraph 11") exempts "any group gathering at a meeting of a body that must be held within a specified period in order to comply with any Ordinance or other regulatory instrument that governs the operation of the body or its business".

The SFC and the Exchange have consulted the HKSAR Government and understand that:-

(a) Annual general meetings as required under the Companies Ordinance (Cap. 622) and/or the Main Board Listing Rules or the GEM Listing Rules are in general exempted under Paragraph 11.

(b) Extraordinary general meetings and special general meetings of Hong Kong-listed issuers are exempted under Paragraph 11 if the meeting must be held within the specified period in order to comply with:-

1. any law or regulation in Hong Kong or overseas that is applicable to the listed issuer or a subsidiary of the listed issuer (as part of the listed issuer's business);

2. any Main Board Listing Rules or GEM Listing Rules or The Codes on Takeovers and Mergers and Share Buy-backs;

3. the issuer's own memorandum or articles of association; or

4. other regulatory instrument.

Notwithstanding Paragraph 11, which enables some general meetings to be held during the specified period, the SFC and the Exchange have determined that it is appropriate for listed issuers to consider the following guidelines when deciding on the timing of their general meetings and the manner in which such meetings are to be held. These factors relate to legitimate COVID-19 safety concerns and the public policy measures taken to combat the pandemic.

For the avoidance of doubt, neither the SFC nor the Exchange administers the Regulation, and listed issuers are strongly advised to seek legal advice on its applicability to their own circumstances.

Adjournment or delay

Notwithstanding Paragraph 11, listed issuers should consider whether it is possible to adjourn or delay their general meetings for a reasonable period until after the specified period has ended.

Listed issuers should consider the following:

1. whether the general meeting is subject to any mandatory legal or regulatory requirement on timing;

2. whether any such requirement is capable of extension, waiver or other variation by way of application or otherwise; and

3. whether any business to be considered at the meeting is of such urgency and importance that an adjournment or delay would, taking into account all facts and circumstances, materially harm the interests of the listed issuer and its shareholders considered as a whole.

Listed issuers are encouraged to consider a longer adjournment or delay to allow themselves more time:-

(a) to monitor how the current situation develops in order to better decide how to manage the potential health risks of a physical meeting (if one is needed); and

(b) to explore and assess measures permissible under the laws of their jurisdictions of incorporation and their constitutional documents to reduce the need for physical attendance, including:

1. the use of technology (e.g. webcast, video conference, virtual meetings) to enable non-physical attendance and voting;

2. to encourage more shareholders to vote either by proxy or through HKSCC Nominees Limited by giving instructions to their brokers and custodians; and

3. to encourage shareholders to submit their questions to management in writing in advance of the meeting.

Management of physical meetings

Listed issuers who decide to proceed with a physical general meeting during the specified period should:-

(a) take all practicable precautions to ensure the safety of attendees, including mandatory screening of body temperatures and use of face masks, physical distancing, no food and beverage service, no handing out of corporate gifts at the meeting; and

(b) where possible, adopt other appropriate measures to manage the number of physical attendees, including the use of multiple meeting rooms or venues linked by telecommunication facilities to reduce the headcount at a single venue; and restricting the number of non-shareholder attendees.

A general principle of the Listing Rules is that all holders of listed securities are to be treated fairly and equally, but the rules do not impose a requirement as such on the format of general meetings. Listed issuers are reminded to comply with applicable laws of their jurisdictions of incorporation and their constitutional documents.

Shareholders Communications

To keep investors and other stakeholders informed, listed issuers that have called a general meeting during the specified period should, as soon as practicable, publish an announcement to:-

(a) confirm whether their general meeting will proceed as scheduled during the specified period;

(b) if applicable, explain the necessity for holding the meeting during the specified period; and

(c) where applicable, outline the meeting arrangements and precautionary measures to be adopted to ensure compliance with the Regulation.

Listed issuers should also communicate their plans to share registrars and the Exchange as soon as practicable.

The SFC and the Exchange will continue to monitor the situation as it evolves and will issue further guidance if appropriate.

香港证券及期货事务监察委员和香港联合交易所有限公司发布有关在《预防及控制疾病（禁止群组聚集）规例》实施下召开股东大会的联合声明

2020 年 4 月 1 日，继香港特区政府制订并于 2020 年 3 月 29 日实施《预防及控制疾病（禁止群组聚集）规例》（香港法例第 599G 章）（"该规例"），务求在 2019 冠状病毒病（"新冠病毒"）大流行下避免并减少社交接触后，香港证券及期货事务监察委员会（证监会）与香港联合交易所有限公司（联交所）已谘询香港特区政府（该规例由其执行）的意见，以了解有关指引对企业股东周年大会及股东特别大会有何影响。

在任何"公众地方"（定义见该规例）进行群组聚集的限制已于"指明期间"（定义见该规例）内生效。截至本资讯发布之日，指明期间由 2020 年 4 月 10 日午夜起至 2020 年 4 月 23 日止。

该规例附表 1 第 11 段（"第 11 段"）豁免"某团体的会议上的群组聚集，前提是该会议须在指明期间内举行，以遵守任何条例或符合规管该团体的运作或事务的其他规管性质文书"。

证监会及联交所已谘询香港特区政府的意见，并理解到：

(a) 《公司条例》（第 622 章）及 / 或《主板上市规则》或《GEM 上市规则》所规定的股东周年大会一般在第 11 段下获得豁免。

(b) 香港上市发行人举行的股东特别大会亦可在第 11 段下获得豁免，前提是该大会必在指明期间内举行，以遵守：

1. 香港或海外任何适用于该上市发行人或其附属公司（以作为该上市发行人业务的一部分）的法律或规例；

2. 《主板上市规则》或《GEM 上市规则》或《公司收购、合并及股份回购守则》的任何规定；

3. 该发行人本身的组织章程大纲或细则；或

4. 其他规管性质文书。

尽管第 11 段允许某些股东大会可在指明期间内举行，但证监会及联交所坚信上市发行人在决定何时和以何种形式举行股东大会时，适宜考虑下列指引。有关考虑因素关乎新冠病毒肆虐下合理的安全考量，及为对抗疫情而采取的公共政策措施。

为免生疑问，该规例并非由证监会或联交所执行；而证监会强烈建议各上市发行人就该规例对于其本身情况的适用程度，征询法律意见。

顺延或押后

尽管第 11 段允许某些股东大会可在指明期间内举行，上市发行人应考虑能否将股东大会顺延或押后一段合理期间，直至指明期间结束后。

上市发行人应考虑以下方面：

1. 股东大会在举行的时间方面是否受任何强制性法律或监管规定所约束；

2. 有关股东大会的规定能否透过申请或以其他方式作出顺延、豁免或其他变更；及

3. 会议上将予商讨的任何业务是否如此紧迫和重要，以至在考虑到所有事实和情况后，若将会议顺延或押后，便会严重地损害上市发行人及其股东的整体利益。

证监会鼓励上市发行人考虑将会议顺延或押后一段更长期间，以便它们有更多时间：

(a) 监察当前事态的发展，从而更好地决定如何管理实体会议（如需召开的话）的潜在健康风险；及

(b) 探讨和评估在其成立所在司法管辖区的法例及本身的章程文件容许的情况下可采取哪些措施，藉以减低出席实体会议的需要，包括：

1. 利用科技（例如网上广播、视像会议、虚拟会议）使出席会议和投票能以非面对面形式进行；

2. 鼓励更多股东委派代表投票，或向其经纪行和保管人发出指示，以透过香港中央结算（代理人）有限公司进行投票；及

3. 鼓励股东在会议召开之前以书面形式向管理层提出问题。

对实体会议的管理

上市发行人如决定在指明期间内继续召开实体股东大会，便应：

(a) 采取所有切实可行的防疫措施，以确保出席人士的安全，包括强制量度体温及使用口罩，保持人与人之间的距离，不提供餐饮服务和不在大会上派发企业礼品；及

(b) 可能的话，采取其他适当措施以管理亲身出席大会的人数，包括使用多个已接驳电讯设施的会议室或场地来举行大会，以减少在单一场地的人数；以及限制非股东的出席人数。

《上市规则》的一般原则是，上市证券的所有持有人均受到公平及平等对待 2，但有关规则并无就股东大会的形式施加任何规定。上市发行人务必遵守在其成立所在司法管辖区的适用法例及其章程文件。

与股东的沟通

为了让投资者及其他持份者知悉最新情况，若上市发行人已通知将会在指明期间内举行股东大会，便应在切实可行的情况下尽快刊发公告，以便：

(a) 确定是否将如期在指明期间内继续举行股东大会；

(b) 阐释（如适用）在指明期间内举行大会的必要性；及

(c) 在适用的情况下，概述大会安排及将采取的防疫措施，以确保符合该规例。

此外，上市发行人应在切实可行的情况下尽快将其计划告知股份过户登记处及联交所。

证监会及联交所将会继续监察疫情发展，并会在适当时候发出更多指引。

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Hong Kong Securities and Futures Commission Issues Restriction Notice to Agg. Asset Management Limited

On April 3, 2020, The Securities and Futures Commission (SFC) issues a restriction notice to Agg. Asset Management Limited (Agg) because of doubts over Agg's reliability, integrity, and ability to carry on regulated activities competently, honestly and fairly, and hence, its fitness and properness to remain licensed.

The restriction notice is issued pursuant to section 204 of the Securities and Futures Ordinance (SFO). Agg is a corporation licensed under the SFO to carry on Type 1 (dealing in securities), Type 4 (advising on securities) and Type 9 (asset management) regulated activities. There are licensing conditions imposed on Agg's licenses, amongst others, that it shall not hold client assets. It has a business name www.1234567.com.hk and a company website at www.1234567.com.hk.

The restriction notice prohibits Agg, without prior written consent from the SFC, from carrying on any business, whether directly or through agents, which constitutes regulated activities for which it is licensed under the Securities and Futures Ordinance (SFO) until further notice.

The SFC considers that the issue of the restriction notice is desirable in the interest of the investing public or in the public interest.

The SFC's investigation is ongoing.

香港证券及期货事务监察委员会向海纳资产管理有限公司发出限制通知书

2020 年 4 月 3 日，香港证券及期货事务监察委员会（证监会）向海纳资产管理有限公司（海纳资产）发出限制通知书，原因是对其可靠程度和诚信，以及能否称职地、

诚实地及公正地进行受规管活动，乃至是否继续持牌的适当人选有所怀疑。

该限制通知书乃依据《证券及期货条例》第 204 条而发出。海纳资产是一家根据《证券及期货条例》获发牌进行第 1 类（证券交易）、第 4 类（就证券提供意见）及第 9 类（提供资产管理）受规管活动的法团，就其各项牌照而施加的其中一项发牌条件是不得持有客户资产。海纳资产的注册商业名称为 www.1234567.com.hk，公司网址是 www.1234567.com.hk。

该限制通知书禁止海纳资产在未取得证监会事先书面同意的情况下，直接或透过代理人经营任何构成其根据《证券及期货条例》获发牌从事的受规管活动的业务，直至另行通知为止。

证监会认为，就维护投资大众的利益或公众利益而言，发出限制通知书是可取的做法。

证监会的调查仍在进行中。

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Hong Kong Securities and Futures Commission Reprimands and Fines HSBC Investment Funds (Hong Kong) Limited and HSBC Global Asset Management (Hong Kong) Limited HK$3.5 million for Regulatory Breaches Over Funds' Cash Management

On April 7, 2020, Hong Kong Securities and Futures Commission (SFC) reprimands and fines HSBC Investment Funds (Hong Kong) Limited (HIFL) and HSBC Global Asset Management (Hong Kong) Limited (HGAML) HK$3.5 million for breaches of regulatory requirements in relation to cash management for SFC-authorized funds.

The SFC's investigation found that some of the 53 funds managed and/or advised by HIFL and HGAML between 2010 and 2016 maintained cash deposits with connected entities, namely, The Hongkong and Shanghai Banking Corporation Limited and/or its affiliates. The funds' cash deposits were placed in interest-bearing accounts of the connected entities but mostly did not receive any interest.

An independent review revealed that prior to January 2015, HIFL and HGAML had no procedures in place to ensure that the funds' cash deposited with their connected entities received interest at a rate not lower than the prevailing commercial rate. The review also found that whilst HIFL and HGAML had an established process to monitor the funds' cash balances on a daily basis, such process was not documented in any policies and procedures and was performed for only 10 of the 53 funds.

The SFC considers that HIFL's and HGAML's internal controls and procedures on cash management of the funds at the material time were inadequate and they failed to manage and minimize the conflicting interests between their connected entities and the funds' investors.

In deciding the sanctions, the SFC took into account all the circumstances, including that HIFL and HGAML:

- agreed to make a voluntary payment of US$433,257 to the affected funds, representing the financial impact arising from their failures;
- engaged an independent reviewer to conduct the review and took remedial actions to strengthen their internal systems and controls;
- undertook to provide the SFC with a report prepared by an independent reviewer within nine months confirming that all identified concerns have been properly rectified;
- cooperated with the SFC in resolving its concerns and have no previous disciplinary record with the SFC.

汇丰投资基金（香港）有限公司及汇丰环球投资管理（香港）有限公司因违反与基金现金管理有关的监管规定遭香港证券及期货事务监察委员会谴责及罚款 350 万港元

2020 年 4 月 7 日，汇丰投资基金（香港）有限公司（汇丰投资基金） 及汇丰环球投资管理（香港）有限公司（汇丰环球投资管理）因在管理证监会认可基金的现金时违反监管规定，遭香港证券及期货事务监察委员会（证监会）谴责及罚款 350 万港元。

证监会的调查发现，由汇丰投资基金及汇丰环球投资管理在 2010 年至 2016 年期间所管理及／或提供意见的 53 只基金中，有部分在关连实体（即香港上海汇丰银行有限公司及／或其联属公司）存放了现金。虽然这些现金是存放于关连实体的计息帐户内，但当中的大多数存款却没有收到任何利息。

一项独立检讨更揭示，在 2015 年 1 月之前，汇丰投资基金及汇丰环球投资管理并没有制定程序，以确保基金存放于关连实体的现金按照不低于当时可获得的商业利率收取利息。该项检讨亦发现，虽然汇丰投资基金及汇丰

环球投资管理已有既定流程每日监察基金的现金结余，但有关流程并没有被记录在任何政策及程序中，以及仅为 53 只基金的其中十只而进行。

证监会认为，汇丰投资基金及汇丰环球投资管理在关键时间就该等基金的现金管理所制订的内部监控措施和程序并不充足，而且未有管理及尽量减少关连实体与基金投资者之间的利益冲突。

证监会在决定上述处分时，已考虑到所有情况，包括汇丰投资基金及汇丰环球投资管理：

- 同意自愿向受影响的基金支付 433,257 美元，相当于因两家公司的缺失而造成的财务影响；
- 委聘了独立检讨机构进行上述检讨，并采取了补救行动，以加强两家公司的内部系统及监控措施；
- 承诺在九个月内向证监会提供由独立检讨机构拟备的报告，确认所有已识别出的关注事项已妥为纠正；
- 与证监会合作解决证监会提出的关注事项及过往并无遭受证监会纪律处分的纪录。

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Hong Kong Securities and Futures Commission, Hong Kong Exchanges and Clearing Limited and the Federation of Share Registrars Limited Release Joint Consultation Conclusions on the Model for An Uncertificated Securities Market

On April 8, 2020, Hong Kong Securities and Futures Commission (SFC), Hong Kong Exchanges and Clearing Limited (HKEX) and the Federation of Share Registrars Limited (FSR) jointly release consultation conclusions on a proposed operational model for implementing an uncertificated securities market (USM) in Hong Kong.

The consultation was triggered by market concerns that the operational model proposed earlier would compromise some of the settlement efficiencies enjoyed by the market and have a significant impact on participants' funding needs. The model put forward in the consultation aims to address these concerns while still offering investors an option to hold securities in their own names and without paper.

Feedback on the consultation indicated strong support for the proposals. The proposed operational model will:

- enable securities to be moved into and out of the clearing and settlement system much more efficiently and cost effectively;
- address concerns about settlement efficiencies being compromised, and the potential impact on market participants' funding needs; and
- result in less market disruption and costs as it builds on existing processes, operational flows and infrastructure.

The SFC, HKEX and FSR will further develop the model and the regulatory framework to support it with a view to implementing the USM regime from 2022.

香港证券及期货事务监察委员会、香港交易及结算所有限公司及证券登记公司总会有限公司发表有关无纸证券市场模式的联合谘询总结

2020 年 4 月 8 日，香港证券及期货事务监察委员会（证监会）、香港交易及结算所有限公司（香港交易所）及证券登记公司总会有限公司（证券登记公司总会）就在香港实施无纸证券市场的建议运作模式联合发表谘询总结。

是次谘询源于市场忧虑之前建议的运作模式在一定程度上会削弱市场的交收效率，并对参与者的资金需求产生重大影响。谘询文件内提出的模式旨在释除这些疑虑，同时让投资者仍能选择以自身的名义及在无需纸张文件的情况下持有证券。

从谘询中收到的意见显示，有关建议获得大力支持。建议的运作模式将：

- 使证券能以较现时更具效率和成本效益的方式转入及转出结算及交收系统；
- 释除关于交收效率被削弱及对市场参与者的资金需求带来潜在影响的疑虑；及
- 为市场带来较少的干扰和成本，因为该模式是构建于现有的程序、运作流程和基础设施。

证监会、香港交易所及证券登记公司总会将进一步发展该模式及支持该模式的监管框架，以期自 2022 年起实施无纸证券市场制度。

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Hong Kong Securities and Futures Commission Scrutinizes Leveraged Foreign Exchange Trading

On April 9, 2020, Hong Kong Securities and Futures Commission (SFC) releases a report on its survey of the leveraged foreign exchange trading (LFET) activities of licensed corporations between 1 January 2018 and 31 December 2018.

The survey found that 98% of active LFET clients were retail investors and more than 99% of turnover in the LFET market was attributable to rolling spot forex contracts. Turnover was relatively low for more complex forex products such as options and forward contracts, which may be difficult for retail investors to understand. All LFET products were traded on an over-the-counter basis.

As part of the survey, a sample of brokers were selected to provide more detailed information. These brokers reported that more than 60% of their LFET clients made net trading losses in LFET, and some investors suffered losses over HK$1 million. Investors should carefully consider the risks and suitability for themselves before participating in LFET.

"Leveraged foreign exchange trading may not be suitable for everyone. It is done on a margin basis and these products may involve complex or non-standard features. Even experienced investors may suffer huge losses in such trading, especially in times of high market volatility," said Mr. Ashley Alder, the SFC's Chief Executive Officer. "Brokers should ensure that their clients fully understand the nature and risks of these products and have sufficient financial resources to assume the risks and bear the potential losses."

For firms involved in LFET, the report highlights some expected regulatory standards and good industry practices observed by the SFC during the course of its regulatory supervision. The expected regulatory standards cover customer due diligence, handling of client orders, conflicts of interest and information for clients.

In a circular to licensed corporations, also issued on April 9, 2020, the SFC reminds firms' senior management to assume responsibility for developing and implementing policies and controls to comply with the expected regulatory standards.

香港证券及期货事务监察委员会审视杠杆式外汇交易

2020 年 4 月 9 日，香港证券及期货事务监察委员会（证监会）发表有关其对持牌公司在 2018 年 1 月 1 日至 2018 年 12 月 31 日期间进行的杠杆式外汇交易活动的调查报告。

该项调查发现，98%的杠杆式外汇交易活跃客户为散户投资者，及超过 99%的杠杆式外汇交易市场交易额乃来自滚动式即期外汇合约。散户投资者较难明白的复杂外汇产品（例如期权及远期合约）的交易额相对偏低。在 2018 年的所有杠杆式外汇交易产品都是在场外买卖的。

为配合是次调查，一些杠杆式外汇交易经纪行被抽选向证监会提供更详细的资料。据这些经纪行汇报，它们有超过 60%的杠杆式外汇交易客户在杠杆式外汇交易方面录得净交易亏损，而部分投资者蒙受的损失超过 100 万港元。投资者在参与杠杆式外汇交易前，应就自身的情况仔细考虑风险及有关交易是否适合他们。

证监会行政总裁欧达礼先生（Mr. Ashley Alder）表示："杠杆式外汇交易未必人人合适。有关交易以保证金形式进行，而这些产品可能涉及复杂或非标准结构。即使是经验丰富的投资者亦可能在这些交易中蒙受巨额损失，特别是在市场大幅波动之时。经纪行应确保客户彻底明白这些产品的性质和风险，并有足够的财政资源承担有关风险和可能招致的损失。"

就杠杆式外汇交易经纪行而言，该报告重点阐述了一些应达到的监管标准，以及证监会在其监督过程中所观察到的一些良好的业界作业手法。有关应达到的监管标准涵盖客户尽职审查、处理客户交易指示、利益冲突及为客户提供的资料。

证监会在同样于 2020 年 4 月 9 日向持牌法团发出的通函内，提醒杠杆式外汇交易经纪行的高级管理层应承担制订和实施各项政策和监控措施的责任，以符合应达到的监管标准。

Source 来源:
https://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=20PR34

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Notice issued under Section 2 of Schedule 2 of the Hong Kong Competition Ordinance regarding the Competition Commission of Hong Kong's Proposal to Accept Commitments in Online Travel Agents Case

Introduction

The Competition Commission of Hong Kong (Commission) has conducted an investigation under section 39 of the Hong Kong Competition Ordinance

(Cap. 619) (Ordinance) in relation to suspected anticompetitive conduct by online travel agents (OTAs), relating to certain terms in their agreements with Hong Kong accommodation providers, which are defined as herein to include hotels, guest-houses, bed and breakfasts, or any other type of accommodation service provider that supply rooms in Hong Kong and enters into a contract with an OTA. Three of the OTA websites that were investigated (the relevant legal entities for which are set out in paragraph 10 below, together the "Parties") were:

(a) Booking.com (Booking);

(b) Expedia.com (Expedia); and

(c) Trip.com (Trip).

As part of the investigation, the Commission examined key terms in agreements between the OTAs and accommodation providers that required the accommodation providers to:

(a) always give the OTA the same or better price as the prices they offer or apply in all other sales channels (although for the purposes of the investigation such clauses are defined to exclude the accommodation provider's own online sales channels) (wide price parity);

(b) always give the OTA the same or better room conditions as those they offer or apply in all other sales channels (although for the purposes of the investigation such clauses are defined to exclude the accommodation provider's own online sales channels) (wide conditions parity); and

(c) always give the OTA room availability that is at least as favorable as those given to any of its competitors (room availability parity),

together the "Relevant Provisions".

Based on its investigation, the Commission found that:

(a) Booking's agreements with accommodation providers included terms requiring wide price parity, wide conditions parity and room availability parity;

(b) Expedia's agreements with accommodation providers included terms requiring wide price parity, wide conditions parity and room availability parity; and

(c) Trip's agreements with accommodation providers included terms requiring wide price parity.

The Commission considers that by including the terms set out in paragraph above in their agreements with accommodation providers, the Parties may have made and given effect, and be giving effect, to agreements which could potentially prevent, restrict or distort competition in contravention of section 6 of the Ordinance (First Conduct Rule).

Each of the Parties have offered commitments under section 60 of the Ordinance to take and refrain from particular actions (Proposed Commitments). The Proposed Commitments are appended as Annexes 1, 2 and 3. The Commission considers that the Proposed Commitments are appropriate to address its concerns about a possible contravention of the First Conduct Rule, and it therefore proposes to accept them.

In accordance with the requirements of section 2, Schedule 2 to the Ordinance, the Commission hereby gives notice of the Proposed Commitments and requests parties to make representations in response to this notice (including on the Commission's proposed acceptance of the Proposed Commitments).

The remainder of this notice sets out further details regarding:

(a) the Parties (Part A);

(b) the role of OTAs in the supply of accommodation provider rooms (Part B);

(c) the competition concerns identified by the Commission (Part C); and

(d) the Proposed Commitments (Part D and Annexes 1, 2 and 3);

A. The Parties

The Parties form part of the three major OTA groups in Hong Kong3 and make up a large
part of OTA accommodation bookings in Hong Kong.

The Parties are as follows:

(a) in the case of Booking, Booking.com B.V. and Booking.com (Hong Kong) Ltd. Booking.com is operated by Booking.com B.V. and is supported in Hong Kong by Booking.com (Hong Kong) Ltd. Booking.com B.V. and Booking.com (Hong Kong) Ltd. are direct and indirect fully owned subsidiaries of Booking.com Holding B.V. Booking.com B.V. and Booking.com Holding B.V. are incorporated in the Netherlands. Booking.com (Hong Kong) Ltd. is incorporated in Hong Kong;

(b) in the case of Expedia, Expedia Lodging Partner Services Sarl. Expedia Lodging Partner Services Sarl is the primary entity for Expedia's accommodation supply business, and alongside Travelscape, LLC (d/b/a Expedia Travel), VacationSpot S.L., Hotels.com, L.P., BEX Travel Asia Pte., Ltd., enters into lodging contracts with accommodation providers in Hong Kong. Each entity is a direct or indirect subsidiary of Expedia, Inc. The Proposed Commitments given by Expedia relate to Expedia Group brand sites that offer hotels to consumers including, in Hong Kong, the brands Expedia and hotels.com; and

(c) in the case of Trip, Trip International Travel (Hong Kong) Limited (Ctrip Travel HK) and Ctrip.com (Hong Kong) Limited (Ctrip HK). Ctrip Travel HK is the holding company used as the contracting party to sign all supply agreements with hotels in Hong Kong region. Ctrip HK is an affiliated company of Ctrip Travel HK and operates the Trip.com website. Both Ctrip HK and Ctrip Travel HK are part of Trip.com Group.

There are also a few smaller OTAs operating in Hong Kong.

B. The role of OTAs in the supply of accommodation provider rooms

Accommodation providers use both their own sales channels and other channels such as traditional offline travel agencies and OTAs such as the Parties to reach customers.

OTAs operate platforms on the internet through which consumers can search for and book rooms in accommodations that use the platforms. Accommodation providers enter into agreements with the OTAs to enroll on the platforms and upload information about and images of the accommodations to the platforms. Consumers visiting the OTAs' platforms may search for accommodation providers, compare accommodations on the basis of different criteria, including price, and then book rooms. They are not charged by the OTA for using its platform in this way.

Accommodation providers set the room prices to be displayed to consumers on the OTAs' platforms and the OTAs receive commission from the accommodation providers for each sale. The OTAs do not typically purchase the rooms but act as agents selling the rooms on behalf of the accommodation providers.

In order to achieve the highest possible occupancy rate, it is common for Hong Kong accommodation providers to enroll on several OTAs. The more accommodation providers on an OTA website, the more consumers it will attract, and the more consumers that visit a particular OTA website, the more appealing the OTA will typically be to accommodation providers.

C. The competition concerns identified by the Commission

This section explains the situation that the Proposed Commitments are seeking to deal with, for the purposes of section 2(2)(d) of Schedule 2 of the Ordinance.

The agreements between the accommodation providers and OTAs constitute vertical agreements, i.e. agreements between undertakings that are not competitors. The Commission has assessed whether the Relevant Provisions could have the potential effect of harming competition within the meaning of the First Conduct Rule.

Wide price parity terms

Wide price parity terms may have the potential effect of softening competition among OTAs as they mean that the price of accommodation providers' rooms will always be the same on competing OTAs' websites.

Absent such a clause, an OTA may try to attract accommodation providers to its platform by offering a low commission rate on the sale of rooms. However, with wide price parity terms, the accommodation providers cannot reflect this lower commission rate by way of a lower room rate on that OTA. Any reduced commission rate is therefore unlikely to be accompanied by increased demand by consumers for that OTA's services. This potentially reduces the OTA's incentive to reduce the commission rate in the first place, and thus OTA competition in commission rates is softened.

The wide price parity terms could have the potential further effect that increases in an OTA's commission rate cannot lead to a higher room price on that OTA's platform than that available through its competitors. If an OTA increases its commission rate, accommodation providers have the choice of increasing their room rates to accommodation seekers to reflect this higher cost, a decision which would mean also increasing the room rates on other OTAs platforms that have not increased their commission fees or absorbing the increase in commission. The accommodation provider cannot increase its room rate on the higher cost OTA's platform alone (thereby placing competitive pressure on that OTA by driving consumer traffic away from its platform to other OTAs). Therefore, unless the accommodation provider is prepared to drop the OTA altogether, wide price parity may have the potential effect of softening competition by reducing the competitive pressure accommodation providers can place on the OTAs.

Wide price parity clauses may also have the potential effect of hindering entry and expansion by new or smaller OTAs. Specifically, OTAs wishing to enter the market or smaller OTAs may not be able to compete effectively with the incumbents by offering lower commission rates in return for better room rates.

Room availability parity terms

Room availability parity terms have the potential effect of preventing accommodation providers from rewarding or otherwise playing OTAs off against each other by making more rooms available to lower-cost OTAs (i.e. those offering a lower commission to the accommodation provider). As in the case of the wide price parity terms, this may have the possible effect of softening competition among OTAs, as OTAs may have reduced incentives to compete on the basis of commission rates and there may be a foreclosing effect on new entrants and smaller OTAs.

Wide conditions parity terms

The competition concern with wide conditions parity is similar to that with room rate and room availability parity. Specifically, if there is a wide conditions parity clause in an agreement with a particular accommodation provider, an OTA offering a lower commission rate to the accommodation provider potentially cannot benefit from better room conditions than the OTA with the parity clause.

This has the potential effect of reducing the incentives of the OTA to lower its commission rate in the first place as the reduction will not in result in better room conditions being given to that OTA by the accommodation provider (and the potential for an increase in consumer traffic to that OTA's website). Another possible effect is that an accommodation provider also cannot use better room conditions as a bargaining tool in its commission negotiations with OTAs.

D. Proposed Commitments

This section provides a high level summary of the Proposed Commitments appended in Annexes 1, 2 and 3 and explains their intended object and effect for the purposes of section 2(2)(b) of Schedule 2 of the Ordinance.

The Proposed Commitments do not constitute an admission by the Parties of a contravention of a competition rule.

Should the Commission accept the Proposed Commitments, it will not continue its investigation, or bring proceedings in the Tribunal, against the Parties regarding this matter.

Scope

The Proposed Commitments have the purpose of ensuring that none of the Parties will enforce or enter into agreements with accommodation providers that contain wide price parity, wide conditions parity and room availability parity terms.

The Proposed Commitments also provide that the Parties will not enforce or enter into agreements with accommodation providers that restrict the terms and conditions, including room rates, that accommodation providers are able to offer through their own offline sales channels.

The intended purpose of the Proposed Commitments is to address the competition concerns described in Part C by seeking to ensure that room prices, room conditions and room availability exist as potential competition parameters in the relationship between each of the Parties and with respect to other OTAs.

Since wide price parity terms will no longer apply between OTAs as a result of the Proposed Commitments, it will be possible for OTAs to compete with each other by inducing accommodation providers to offer lower prices on their platforms in return for the OTA agreeing to take a lower commission rate on room sales. Equally, it will be possible for accommodation providers to place competitive pressure on OTAs by offering lower room prices to OTAs that are willing to charge lower commission rates.

The Proposed Commitment to not apply terms relating to room availability parity, as well as parity concerning other conditions, would also increase the ability of accommodation providers to reward an OTA offering lower commission rates than its competitors (for example, by offering such an OTA more favorable cancellation rules or free breakfasts on rooms). This may also help to promote competition between OTAs.

Finally, the Proposed Commitments exclude specific types of bookings from their scope (i.e., managed, opaque and package bookings), on the basis that such bookings have particular product characteristics which justify their differential treatment from normal standalone accommodation bookings.

Timeframes

The Parties will implement the Proposed Commitments within 90 calendar days from the dates on which they receive notice that the Commission accepts them.

Each of the Parties will provide the Commission with a separate written report on their compliance with their respective Proposed Commitments within 120 calendar

days from the date on which they receive notice that the Commission accepts them.

The Proposed Commitments will remain in force for a period of five years from the implementation date aforesaid.

香港竞争事务委员会根据香港《竞争条例》附表 2 第 2 条就拟接受网上旅行社个案中的承诺发出通知

引言

香港竞争事务委员会（竞委会）已根据香港《竞争条例》（第 619 章）（《条例》）第 39 条进行一宗调查，该调查关于网上旅行社从事怀疑反竞争行为，涉及他们与香港的住宿提供者，包括于香港供应房间并与网上旅行社签订合约的酒店、宾馆、民宿，或任何其他类型的住宿服务提供商，之间的若干协议条款。

三个受调查的网上旅行社网站（相关的法律实体列明于下文第 10 段，统称「各方」）为：

(a) Booking.com（Booking）；

(b) Expedia.com（Expedia）；及

(c) Trip.com（Trip）。

竞委会在调查中审视了上述网上旅行社与住宿提供者的协议的主要条款，而这些条款要求住宿提供者：

(a) 一直给予相关网上旅行社等同或优于这些住宿提供者在所有其他销售管道提供或适用的价格（虽然就本调查而言，此类条款的定义摒除了该住宿提供者自家的网上销售管道）（广义平价）

(b) 一直给予相关网上旅行社等同或优于这些住宿提供者在所有其他销售管道提供或适用的房间条（虽然就本调查而言，此类条款的定义摒除了该住宿提供者自家的网上销售管道）（广义条件平等）；以及

(c) 一直为相关网上旅行社提供的房源，最低限度须等同于该网上旅行社的竞争对手获提供的房源（房源平等），

统称「相关条文」。

据竞委会调查所得：

a. Booking 与住宿提供者的协议包括要求广义平价、广义条件平等及房源平等的条款；

b. Expedia 与住宿提供者的协议包括要求广义平价、广义条件平等及房源平等的条款；以及

c. Trip 与住宿提供者的协议包括要求广义平价的条款。

竞委会认为，各方在其与住宿提供者的协议中包括第 4 段所列的条款，可能已藉此订立及执行，及正执行可能会妨碍、限制或扭曲竞争的协议，违反《条例》第 6 条（第一行为守则）。

各方已根据《条例》第 60 条提出采取及不采取特定行动的承诺（建议的承诺），建议的承诺载于附件 1、2 和 3。竞委会认为，建议的承诺对释除竞委会对可能违反第一行为守则的疑虑属适当的，因此竞委会拟接受该等承诺。

按《条例》附表 2 第 2 条的要求，竞委会现就建议的承诺发出通知，并要求不同人士就本通知（包括就着竞委会拟接受建议的承诺这方面）作出申述。

本通知余下部分详述下列各项：

(a) 有关各方（A 部）；

(b) 网上旅行社在住宿提供者房间的供应中的角色（B 部）；

(c) 竞委会识别出的竞争问题（C 部）；

(d) 建议的承诺（D 部及附件 1、2 和 3）；及

A. 有关各方

有关各方是香港三个主要网上旅行社集团 3 的一部分，构成大部分在香港的网上旅行社的住宿预订。

有关各方如下：

(a) 就 Booking 而言为 Booking.com B.V. 及 Booking.com (Hong Kong) Ltd.。Booking.com 由 Booking.com B.V. 经营，且由 Booking.com (Hong Kong) Ltd.在香 港 提 供 支援。 Booking.com B.V. 及 Booking.com (Hong Kong) Ltd. 是 Booking.com Holding B.V. 的直接或间接全资附属公司。Booking.com B.V. 及 Booking.com Holding B.V. 于荷兰注册成立。Booking.com (Hong Kong) Ltd. 于香港注册成立；

(b) 就 Expedia 而言为 Expedia Lodging Partner Services Sarl 。 Expedia Lodging Partner Services Sarl 是

Expedia 经营住宿预订业务的主要实体，与 Travelscape, LLC（以 Expedia Travel 名义经营）、VacationSpot S.L.、Hotels.com, L.P.、BEXTravel Asia Pte., Ltd. 一同与香港的住宿提供者签订住宿合约。每个实体均是 Expedia, Inc. 的直接或间接附属公司。Expedia 所建议的承诺，是关于为消费者提供酒店的 Expedia 集团品牌网站，包括在香港的品牌 Expedia 及 hotels.com；以及

(c) 就 Trip 而言为携程国际旅游（香港） 有限公司（携程旅游香港）及携程旅行网（香港）有限公司（携程香港）。携程旅游香港这间控股公司被用作与香港地区的酒店签署所有供应协议的签订方。携程香港是携程旅游香港的相关联公司，并经营 Trip.com 网站。携程香港及携程旅游香港均是 Trip.com 集团的一部分。

B. 网上旅行社在住宿提供者房间的供应中的角色

住宿提供者透过自家销售管道以及其他管道，例如传统的非网上旅行社及网上旅行社（例如各方）接触顾客。

网上旅行社于互联网经营平台，消费者可在平台上搜寻并预订使用这些平台的住宿的房间。住宿提供者与网上旅行社签订协议，于平台注册并在平台上载关于住宿的资料及相片。消费者浏览网上旅行社的平台时，可以搜寻住宿提供者，根据价格等不同准则比较住宿，然后订房。网上旅行社不会因消费者以此方式使用其平台而收费。

住宿提供者在网上旅行社的平台设定向消费者展示的房间价格，网上旅行社则从住宿提供者收取每项销售的佣金。网上旅行社通常不会承包房间的销售，而是担任代理，代表住宿提供者推销房间。

为尽量提高入住率，香港的住宿提供者普遍于数个网上旅行社注册。网上旅行社网站的住宿提供者数量愈多，愈能吸引消费者，而愈多消费者浏览的网上旅行社网站，对住宿提供者来说亦通常愈吸引。

C. 竞委会识别出的竞争问题

本节会按《条例》附表 2 第 2 条(2)(d)解释建议的承诺谋求处理的情况。

住宿提供者及网上旅行社之间的协议，构成纵向协议，即订立协议的业务实体并非竞争对手 4。竞委会已评估相关条文是否有第一行为守则所指的损害竞争的潜在效果。

广义平价条款

由于在设有广义平价条款的情况，在各个互相竞争的网上旅行社网站上，住宿提供者的房间价格会时刻相同，因此潜在减弱网上旅行社之间竞争的效果。

如没有此条款，网上旅行社可能会尝试以较低的佣金率，吸引住宿提供者使用其平台。但如设有广义平价条款，即使该网上旅行社收取的佣金率较低，住宿提供者亦无法相应地降低房价来反映较低佣金率的况。因此，该网上旅行社下调佣金率后，消费者对其服务的需求亦不会随之而增加。这样有可能令该网上旅行社更无意欲下调佣金率，网上旅行社在佣金率上的竞争亦会因此而减弱。

此外，设有广义平价条款还有另一个潜在效果，网上旅行社提高佣金率后，其经营的平台上的房价亦不会上调至高于其竞争对手。如网上旅行社提高佣金率，住宿提供者可选择上调房价，以反映成本上涨，但这决定意味着住宿提供者亦须对其他没有提高佣金率的网上旅行社的平台上调房价，另外也可选择自行消化上调的佣金。住宿提供者无法只是对成本较高的网上旅行社平台提高房价（这做法会驱使该网上旅行社平台的消费者转用其他网上旅行社，而对该网上旅行社造成竞争压力）。因此，除非住宿提供者打算完全弃用该网上旅行社，否则，广义平价令住宿提供者可对这些网上旅行社施加的竞争压力减低，亦有减弱竞争的潜在效果。

广义平价条款也可能有妨碍新网上旅行社或较小的网上旅行社进入市场及扩张业务的效果。特别是有意进入市场的网上旅行社或较小的网上旅行社未必能提出较低佣金率来换取较佳房价，从而与固有市场参与者有效竞争。

房源平等条款

此外，房源平等条款可能造成的效果，是妨碍住宿提供者向成本较低的网上旅行社（即向住宿提供者收取较低佣金的网上旅行社）增加房源，并以此作为奖励，或激励不同的网上旅行社彼此一较高下。由于网上旅行社在佣金率上竞争的诱因较少，而且这些条款对新竞争对手及较小的网上旅行社也可能造成封锁效果，因此可能有减弱网上旅行社之间的竞争之效果，就如广义平价条款的情况。

广义条件平等条款

广义条件平等的竞争问题与平价及房源平等类似。具体而言，假如某网上旅行社与某住宿提供者签订的协议中设有广义条件平等的条款，即使其他网上旅行社向该住宿提供者收取较低佣金率，所获的房间条件亦不会比已

签订该平等条款的网上旅行社更佳，因此可能无法从中受惠。

由于网上旅行社下调佣金率后，该住宿提供者向其提供的房间条件亦不会更佳（该网上旅行社网站亦不会出现消费者流量增加的潜力），因此这条款的潜在效果是减低网上旅行社下调佣金率的意欲。另一个可能出现的效果，是住宿提供者与网上旅行社磋商佣金时，亦无法以较佳的房间条件作为谈判筹码。

D. 建议的承诺

这一节提供建议的承诺（**见**附件 1、2 和 3）的重点概要，并就《条例》附表 2 第 2 条 (2)(b)解释希望达到的目的及效果。

建议的承诺不构成各方承认违反竞争守则。

如竞委会接受建议的承诺，便会同意不再就此事继续对各方进行调查，亦不会在审裁处对各方提起法律程序。

涵盖范围

建议的承诺旨在确保各方与住宿提供者之间，不会执行或订立包含以下条款的协议：广义平价、广义条件平等及房源平等条款。

建议的承诺亦订明，如协议限制某住宿提供者在其非网上销售管道提出的条款及条件，包括房价，各方不会与该住宿提供者执行或订立该协议。
建议的承诺拟达到之目的，是尝试在各方的关系中及就其他网上旅行社，确保房价、房间条件及房源这几方面得以保留作为潜在的竞争元素，以释除 C 部中有关竞争的疑虑。

随着各方作出建议的承诺，由于网上旅行社之间不再实施广义平价条款，各网上旅行社可诱使住宿提供者在他们的平台提供较低的房价，来换取网上旅行社同意收取较低的售房佣金率，从而鼓励各网上旅行社互相竞争。同样地，住宿提供者也可对愿意收取较低佣金的网上旅行社，提供较低的房价，从而向各网上旅行社施加竞争压力。

建议的承诺包括不再实施与房源平等有关的条款，以及其他条件上的平等，而对于佣金率低于其他竞争对手的网上旅行社，住宿提供者奖励他们的能力亦会提升（例如向该网上旅行社提供对其更有利的取消订房规定，或随房赠送早餐）。这亦可能有助鼓励网上旅行社互相竞争。

最后，建议的承诺并不包括这些网上旅行社某些种类的预订方式（即专人安排预订、盲选模式预订及旅游套餐预订），原因是这些预订方式有特定的产品特色，因此，以有别于一般单纯订房的手法处理亦相当合理。履行承诺时间

各方在收到竞委会的通知表示接受建议的承诺后，将于当日起计 90 个历日内实行建议的承诺。

各方在收到竞委会的通知表示接受建议的承诺后，将于当日起计 120 个历日内，各自向竞委会提供书面报告，汇报他们遵守建议的承诺的情况。

拟议承诺自上述的实施日期起有效期为五年。

Source 来源:

Notice:
https://www.compcomm.hk/en/enforcement/consultations/current_consultations/files/OTA_Notice_ENG.pdf

通知:
https://www.compcomm.hk/tc/enforcement/consultations/current_consultations/files/OTA_Notice_CHI.pdf

Annex / 附件（只备英文版）：

(i) Booking:https://www.compcomm.hk/en/enforcement/consultations/current_consultations/files/Proposed_Commitments_Booking.pdf

(ii) Expedia:https://www.compcomm.hk/en/enforcement/consultations/current_consultations/files/Proposed_Commitments_Expedia.pdf

(iii) Trip:https://www.compcomm.hk/en/enforcement/consultations/current_consultations/files/Proposed_Commitments_Ctrip_HK.pdf

China Securities Regulatory Commission Pays Close Attention to Luckin Coffee Inc.'s Financial Fraud

The China Securities Regulatory Commission (CSRC) pays close attention to the financial fraud of Luckin Coffee Inc. and strongly condemns the company's financial fraud. In its statement dated April 3, 2020, CSRC stated that no matter where a listed company is listed, it should strictly abide by the laws and rules of the relevant market, and fulfill its information disclosure obligations in a true, accurate and complete manner. CSRC will verify the relevant situation in accordance with applicable arrangements of international securities regulatory cooperation, resolutely combat securities fraud and effectively protect the rights and interests of investors. Luckin Coffee Inc. is registered in the Cayman Islands, with issuance of securities supervised by

overseas regulators and is listed on the NASDAQ stock market in the United States of America.

From time to time, potential red flags about a company may be identified by short sellers' reports, such as a company's choice of certain independent directors with dubious track record, signs of benefit transfer through connected transactions, and so on. Certain red flags may be detected by analyses through public searches, relationship web enquiries, shop data collection, and so on. Investment bankers and financial advisers may be required upon specific circumstances to perform such enquiries, in order to discharge their duties.

中国证券监督管理委员会高度关注瑞幸咖啡财务造假事件

中国证券监督管理委员会（中国证监会）高度关注瑞幸咖啡（Luckin Coffee Inc.）财务造假事件，对该公司财务造假行为表示强烈的谴责。中国证监会表示，不管在何地上市，上市公司都应当严格遵守相关市场的法律和规则，真实准确完整地履行信息披露义务。中国证监会将按照国际证券监管合作的有关安排，依法对相关情况进行核查，坚决打击证券欺诈行为，切实保护投资者权益。瑞幸咖啡注册地在开曼群岛，经境外监管机构注册发行证券并在美国纳斯达克股票市场上市。

一些造空公司的报告会提示一家公司潜在的风险信号，例如公司委任具有可疑记录的独立董事，有迹象显示通过关联交易转移利益等情况。通过公共搜索、关系网络调查、商店数据收集等分析，或可检测到某些风险信号。投资银行及财务顾问在特定情况下可能需要进行此类查询，以履行其职责。

Source 来源:

http://www.csrc.gov.cn/pub/csrc_en/newsfacts/release/202004/t20200410_373662.html

http://www.csrc.gov.cn/pub/newsite/zjhxwfb/xwdd/202004/t20200403_373199.html

U.S. Securities and Exchange Commission's Office of Compliance Inspections and Examinations Publishes Risk Alerts Providing Advance Information Regarding Inspections for Compliance with Regulation Best Interest and Form CRS

On April 7, 2020, the U.S. Securities and Exchange Commission (SEC) Office of Compliance Inspections and Examinations (OCIE) has issued two risk alerts: Examinations that Focus on Compliance with Regulation Best Interest and Examinations that Focus on Compliance with Form CRS. These risk alerts provide broker-dealers and investment advisers with advance information about the expected scope and content of the initial examinations for compliance with Regulation Best Interest and Form CRS. Regulation Best Interest and Form CRS are key components of a broader package of rules and interpretations, adopted contemporaneously on June 5, 2019, to enhance the quality and transparency of retail investors' relationships with broker-dealers and investment advisers. The compliance date for Regulation Best Interest and Form CRS is June 30, 2020.

Initial examinations of Regulation Best Interest will focus on assessing whether broker-dealers have made a good faith effort to implement policies and procedures reasonably designed to comply with Regulation Best Interest, including the operational effectiveness of broker-dealers' policies and procedures. Initial examinations of Form CRS will focus on assessing whether firms have made a good faith effort to implement Form CRS, including reviewing the filing and posting of a firm's relationship summary as well as its process for delivering the relationship summary to existing and new retail investors.

"Regulation Best Interest and Form CRS are critical to the protection of Main Street investors, and we feel it is important to share our plans for initial examinations to help firms assess their preparedness as the June 30, 2020 compliance date nears," said Pete Driscoll, Director of OCIE. "Based on conversations we have had with the industry, we know firms have made substantial progress in implementing these new rules. We understand that this implementation will be an iterative process, and our focus will be on firms continuing good faith and reasonable efforts, including taking into account firm-specific effects from disruptions caused by COVID-19."

"OCIE has been working closely with both Financial Industry Regulatory Authority and SEC staff to ensure that we harmonize our examination efforts for Regulation Best Interest across our examination programs," said John Polise, OCIE's National Director for the Broker-Dealer and Exchange program. "I encourage firms to review the Risk Alerts to understand the scope of initial exams."

OCIE conducts examinations of SEC-registered investment advisers, investment companies, broker-dealers, self-regulatory organizations, clearing agencies, transfer agents, and others. It uses a risk-based approach to examinations to fulfill its mission to promote compliance with U.S. securities laws, prevent fraud, monitor risk, and inform SEC policy.

美国证券交易委员会合规检查与检查办公室发布风险提示，提供有关符合最佳利益规则和 CRS 表格的初检信息

2020 年 4 月 7 日，美国证券交易委员会（美国证交会）的合规检查办公室（OCIE）发布了两个风险提示：专注于最佳利益规则的合规检查和专注于共同汇报标准表格（CRS 表格）的合规检查。这些风险提示为经纪交易商和投资顾问提供有关预期检查的范围和内容的初步信息，以符合最佳利益规则和 CRS 表格的规定。最佳利益规则和 CRS 表格是 2019 年 6 月 5 日同时采用的一系列更广泛的规则和解释以提高散户投资者与经纪交易商和投资顾问的关系的质量和透明度的关键组成部分。最佳利益规则和表格 CRS 的合规日期为 2020 年 6 月 30 日。

对最佳利益规则的初步检查将着重于评估经纪交易商是否为实施合理设计以符合最佳利益规则的政策和程序进行了真诚的努力，包括经纪交易商政策和程序的运营有效性。对 CRS 表格的初步检查将着重于评估公司是否为实施 CRS 表格做出了真诚的努力，包括审查公司关系摘要的归档和发布以及将关系摘要提供给现有和新零售投资者的过程。

OCIE 主任 Pete Driscoll 说：“最佳利益规则和 CRS 表格对于保护主街投资者至关重要，我们认为分享我们的初审计划对于帮助公司在 2020 年 6 月 30 日合规日期临近时评估其准备情况十分重要，基于与行业的对话，我们知道公司在实施这些新规则方面取得了实质性进展。我们了解到，这种实施将是一个反复的过程，我们的重点将放在企业继续真诚和合理的努力上，包括考虑到新冠肺炎疫情造成的特定影响。”

OCIE 经纪人与交易计划国家主管 John Polise 表示：“OCIE 与美国金融业监管局及美国证交会员工一直紧密合作，以确保我们在整个检查计划中协调最佳利益规则的审查工作。我鼓励公司审阅风险提示以了解初步检查的范围。”

OCIE 对美国证交会注册的投资顾问，投资公司，经纪交易商，自我监管组织，清算机构，转让代理等进行检查。OCIE 基于风险评估进行检查，以履行其促进遵守美国证券法，防止欺诈，监视风险并告知美国证交会的政策使命。

Source 来源:
https://www.sec.gov/news/press-release/2020-82

U.S. Securities and Exchange Commission Adopts Offering Reforms for Business Development Companies and Registered Closed-End Funds

On April 8, 2020, the U.S. Securities and Exchange Commission (SEC) voted to adopt rule amendments to implement certain provisions of the Small Business Credit Availability Act (BDC Act) and the Economic Growth, Regulatory Relief, and Consumer Protection Act (Registered CEF Act), relating to business development companies and other closed-end funds.

Business development companies (BDCs) are a type of closed-end fund established by statute that primarily invest in small and developing companies. As directed by U.S. Congress, the rules will allow BDCs and other closed-end funds to use the securities offering rules that are already available to operating companies. The amendments are designed to streamline the registration, offering and investor communications processes for BDCs and registered closed-end funds and will provide important benefits to market participants and investors, including advancing capital formation and modernizing and streamlining disclosures. SEC's reforms will allow eligible funds to engage in a streamlined registration process that has long been available to operating companies, including modernized communications and prospectus delivery procedures and requirements. As a result, they will be better able to respond to market opportunities.

Background

In 1980, Congress established BDCs for the purpose of making capital more readily available to small, developing and financially troubled companies that do not have ready access to the public capital markets or other forms of conventional financing. In 2018, Congress directed SEC, through BDC Act and Registered CEF Act, to adopt rules that allow BDCs and other closed-end investment companies to use the securities offering rules that are already available to operating companies.

Highlights

Shelf Offering Process and New Short-Form Registration Statement

Eligible affected funds will be able to engage in a streamlined registration process to sell securities "off the shelf" more quickly and efficiently in response to market opportunities using a new short-form registration statement. Like operating companies, affected funds will generally be eligible to use the short-form registration statement if they meet certain filing and reporting history requirements and have a public float of U.S.$75 million or more. These amendments are designed to allow affected funds to raise capital more efficiently and cost-effectively and provide affected funds with greater flexibility to manage the timing of their offerings in response to market opportunities.

Ability to Qualify for Well-Known Seasoned Issuer (WKSI) Status

Eligible affected funds will be able to qualify as WKSIs and benefit from the same processes available to

operating companies that qualify as WKSIs. These include a more flexible registration process and greater latitude to communicate with the market. Like operating companies, affected funds will qualify as WKSIs if they meet certain filing and reporting history requirements and have a public float of U.S.$700 million or more. Allowing eligible affected funds to qualify for WKSI status will provide flexibility to those funds, including an ability to promptly tap favorable conditions in the public market, and may facilitate both capital formation and a reduction in the cost of capital for these funds.

Immediate or Automatic Effectiveness of Certain Filings

The amendments will expand the scope of rule 486 under the Securities Act of 1933 to registered closed-end funds or BDCs that conduct continuous offerings of securities. The amendments will permit these funds to make certain changes to their registration statements on an immediately-effective basis or on an automatically effective basis a set period of time after filing. Rule 486 currently applies only to closed-end funds that operate as "interval funds," and these amendments will provide parity for other non-listed closed-end funds.

Communications and Prospectus Delivery Reforms

Affected funds will be able to use many of the communication rules currently available to operating companies, including the use of a "free writing prospectus," certain factual business information, forward-looking statements, and certain broker-dealer research reports. Like operating companies, affected funds will be able to satisfy their final prospectus delivery obligations by filing their prospectuses with SEC.

These amendments are designed to reduce regulatory costs while providing more timely information to investors.

New Method for Interval Funds and Certain Exchange-Traded Products to Pay Registration Fees

Instead of registering a specific amount of shares and paying registration fees at the time of filing, under the amendments, closed-end funds that operate as "interval funds" will register an indefinite number of shares and pay registration fees based on net issuance of shares. This approach is similar to that permitted for mutual funds and exchange-traded funds. The amendments also will allow continuously offered exchange-traded products that are not registered under the Investment Company Act to use a similar approach.

Periodic Reporting Requirements

To support the short-form registration statement framework, affected funds filing a short-form registration statement will be required to include certain key prospectus disclosure in their annual reports. In addition, affected funds filing a short-form registration statement will be required to disclose material unresolved staff comments. Registered closed-end funds also will be required to provide management's discussion of fund performance (MDFP) in their annual reports, similar to requirements that currently apply to mutual funds, exchange-traded funds, and BDCs.

Incorporation by Reference Changes

The registration form for affected funds currently requires a fund to provide new purchasers with a copy of all previously-filed materials that are incorporated by reference into the registration statement. The amendments will eliminate this requirement and instead require affected funds to make incorporated materials readily available on a website.

Structured Data Requirements

Affected funds will be required to tag certain registration statement information, similar to current tagging requirements for mutual funds and exchange-traded funds. BDCs also will be required to submit financial statement information, as operating companies currently do. Funds that file Form 24F-2 in connection with paying their registration fees, including mutual funds and exchange-traded funds (as well as interval funds under these amendments), will be required to submit the form in XML format.

What's Next?

The rule and form amendments will become effective on Aug. 1, 2020, with the exception of the amendments related to registration fee payments by interval funds and certain exchange-traded products, which will become effective on Aug. 1, 2021.

In addition, SEC is adopting compliance dates for certain requirements under the amendments to provide a transition period after the effective date of the final rule:

The requirement for registered closed-end funds to provide MDFP in their annual reports to shareholders will have a compliance date of Aug. 1, 2021.

Inline XBRL structured data reporting requirements for financial statement, registration statement information, and prospectus information will have a compliance date of Aug. 1, 2022 for affected funds that are eligible to file a short-form registration statement. For all other affected funds subject to these structured data reporting requirements, the compliance date is Feb. 1, 2023.

The requirement that Form 24F-2 filers (including existing filers) file reports on Form 24F-2 in an XML

structured data format will have a compliance date of Feb. 1, 2022.

美国证券交易委员会通过对商业发展公司和注册的封闭式基金的发行进行改革

2020 年 4 月 8 日，美国证券交易委员会（美国证交会）投票通过了规则修正案，以实施《小企业信贷可用性法》（《BDC 法案》）和《经济增长，监管救济和消费者保护法案》（《CEF 法》）涉及商业发展公司和其他封闭式基金的相关规定。

商业发展公司（BDCs）是一种由法规建立的封闭式基金，主要投资于小型和发展中公司。根据美国国会的指示，该规则将允许 BDCs 和其他封闭式基金使用营运公司已经可用的证券发行规则。该修正案旨在简化 BDCs 和封闭式基金的注册，发行和投资者沟通流程，并将为市场参与者和投资者提供重要利益，包括推进资本形成，现代化和简化披露。 美国证交会的改革将使符合条件的基金能够参与简化的注册流程，该流程早已为营运公司所采用，包括现代化的沟通以及招股说明书交付程序和要求，以使其更好地应对市场机会。

背景

1980 年，美国国会建立了 BDCs，其目的是使尚不具备公共资本市场或其他形式的常规融资渠道的小型、发展中和财务困难的公司更易获得资本。 2018 年，美国国会通过 BDC 法案和 CEF 法案指示美国证交会通过规则，允许 BDCs 和其他封闭式投资公司使用营运公司已经可用的证券发行规则。

重点

货架发售过程和新的简要注册声明

合格的受影响基金将能够通过使用新的简要注册说明，参与简化的注册流程，以更快速、更有效地“现货”出售证券，以响应市场机会。像营运公司一样，如果受影响的基金满足特定的存档和历史记录要求，并且公众持股量达到或超过 7500 万美元，则通常可以使用简要注册说明。是次修正案旨在使受影响的基金能够更有效、更经济地筹集资金，并为受影响的基金提供更大的灵活性，以根据市场机会管理其发行时间。

有资格获得著名的经验丰富的发行人（WKSI）资格

合格的受影响基金将有资格获得 WKSI，并受益于有资格获得 WKSI 的营运公司的相同流程。其中包括更灵活的注册流程和更大的与市场沟通的自由度。像营运公司一样，如果受影响的基金满足一定的存档和报告历史记录要求，并且其公众持股量达到 7 亿美元或以上，则可获成为 WKSI 资格。允许符合条件的受影响基金获得 WKSI 资格，将为这些基金提供灵活性，包括迅速利用公开市场上的有利条件的能力，并可能促进资本形成和这些基金的资本成本降低。

某些申请的即时或自动生效

修正案将根据 1933 年《证券法》将第 486 条规则的范围扩大至注册连续交易证券的封闭式基金或 BDCs。该修正案将允许这些资金在其生效后立即或自动生效的基础上对其注册声明进行某些更改。第 486 条规则目前仅适用于作为“区间基金”运作的封闭式基金，是次修正案将为其他非上市封闭式基金提供相同适用。

沟通和招股说明书交付改革

受影响的基金将能够使用营运公司当前可用的许多沟通规则，包括”自由写作招股说明书”的适用，某些事实业务信息，前瞻性声明以及某些经纪交易研究报告。像营运公司一样，受影响的基金将能够通过向美国证交会提交招股说明书来履行其最终招股说明书交付义务。

是次修正旨在降低监管成本，同时为投资者提供更及时的信息。

间隔资金和某些交易所买卖产品支付注册费的新方法

根据修正案，封闭式基金作为“间隔基金”运作，根据股票的净发行量来无限次登记股份并支付登记费，而非在登记时登记特定数量的股份并支付登记费。此方法类似于共同基金和交易所买卖基金所允许的方法。修正案还将允许未根据《投资公司法》进行注册的持续提供的交易产品使用类似的方法。

定期报告要求

为了支持简要注册声明书框架，提交简要注册声明书的受影响的基金将需要在其年度报告中披露某些重要的招股说明书。此外，受影响的基金必须提交一份简要注册声明，以披露尚未解决的重大员工意见。注册封闭式基金也将需要在其年度报告中提供管理层对基金业绩（MDFP）的讨论，类似于当前适用于共同基金，交易所买卖基金和 BDCs 的要求。

参考变更合并

目前，受影响基金的注册表格要求基金向新购买者提供所有以前提交的材料的副本，这些材料通过引用结合到

注册声明中。是次修正案将消除此要求，转为要求受影响的资金在网站上提供可取得之合并资料。

结构化数据要求

受影响的基金将需要标记某些注册声明信息，类似于当前对共同基金和交易所买卖基金的标记要求。 BDCs 也将需要像营运公司一样提交财务报表信息。提交 24F-2 表格以支付注册费的基金，包括共同基金和交易所买卖基金（以及是次修正案中的区间基金），将需要以 XML 格式提交表格。

后续

是次修订将于 2020 年 8 月 1 日生效，但与间隔基金和某些交易所买卖产品支付的注册费相关的修正将于 2021 年 8 月 1 日生效。

此外，美国证交会正在根据修订案中的某些要求采用以下合规日期，以在最终规则的生效日期之后提供过渡期：

注册封闭式基金在向股东提供年报中提供 MDFP 的要求将于 2021 年 8 月 1 日生效。

符合财务报表，注册报表信息和招股说明书信息的内联 XBRL 结构化数据报告要求的合规日期为 2022 年 8 月 1 日，适用于有资格提交简短注册表的受影响基金。对于所有受这些结构化数据报告要求约束的其他受影响基金，其合规日期为 2023 年 2 月 1 日。

要求 Form 24F-2 申报人（包括现有申报人）以 XML 结构化数据格式在 Form 24F-2 上申报的合规日期为 2022 年 2 月 1 日。

Source 来源:
https://www.sec.gov/news/press-release/2020-83

U.S. Securities and Exchange Commission Provides Temporary and Conditional Relief for Business Development Companies Making Investments in Small and Medium-sized Businesses

On April 8, 2020, U.S. Securities and Exchange Commission (SEC) announced that it is providing temporary, conditional exemptive relief for business development companies (BDCs) to enable them to make additional investments in small and medium-sized businesses, including those with operations affected by COVID-19. BDCs were created to provide capital to smaller domestic operating companies that otherwise may not be able to readily access the capital markets. This relief will provide additional flexibility for BDCs to issue and sell senior securities in order to provide capital to such companies, and to participate in investments in these companies alongside certain private funds that are affiliated with the BDC. This relief is subject to investor protection conditions, including specific requirements for obtaining an independent evaluation of the issuances' terms and approval by a majority of a BDC's independent board members.

"Many small and medium-sized businesses across the country are struggling due to the effect of COVID-19, and this temporary, targeted action will enable BDCs to provide their businesses with additional financial support during these times," said Chairman Jay Clayton. "The method for calculating the level of permitted financing and the other important conditions included in the order are designed to ensure that this temporary relief will both protect and benefit investors in the BDCs."

This relief is the latest in a series of steps SEC has taken to assist financial market participants in addressing the impacts of the COVID-19.

美国证券交易委员会为在中小企业进行投资的商业发展公司提供临时有条件政策

2020 年 4 月 8 日，美国证券交易委员会（美国证交会）宣布为商业发展公司（BDCs）提供临时的有条件的政策，以使其能够对包括经营业务受 COVID-19 的影响的公司在内的的中小型企业进行额外的投资。BDCs 的创建是为了向较小的境内运营公司提供资金，否则这些公司可能无法轻易进入资本市场。是次政策将为 BDCs 发行和出售高级证券提供额外的灵活性，以便为此类公司提供资本，并与 BDCs 附属的某些私人基金一起参与对这些公司的投资。是次政策受投资者保护条件的约束，包括获得对发行条款的独立评估以及 BDCs 多数独立董事会成员的批准的特定要求。

美国证交会主席 Jay Clayton 说："由于 2019 新冠肺炎疫情的影响，全国许多中小企业都在苦苦挣扎，而这种有针对性的临时行动将使 BDCs 在这段时间内为企业提供更多的财务支持。计算允许的融资水平的方法以及指令中包含的其他重要条件的目的是确保这种临时政策既能保护 BDCs 亦能使投资者受益。"

是次措施为美国证交会为协助金融市场参与者解决 2019 新冠肺炎疫情影响而采取的一系列措施中的最新措施。

Source 来源:
https://www.sec.gov/news/press-release/2020-84

U.S. Securities and Exchange Commission Enhances Standards for Critical Market Infrastructure

On April 9, 2020, the U.S. Securities and Exchange Commission (SEC) adopted amendments to its rules for securities clearing agencies to apply enhanced standards to all SEC-registered central counterparties and central securities depositories. The rule amendments build on rules adopted by SEC in 2016 pursuant to the Dodd-Frank Act to establish enhanced standards for the operation and governance of securities clearing agencies deemed systemically important and those that are central counterparties for security-based swaps.

"These amendments both enhance and clarify the definition of a covered clearing agency, which is an important step in the regulation of the U.S. financial system's critical market infrastructure," said Brett Redfearn, Director of the Division of Trading and Markets.

Securities clearing agencies perform a range of services critical to the effective operation of the securities markets following the execution of a trade, helping to ensure that funds and securities are transferred between parties. When acting as a central counterparty, a securities clearing agency interposes itself between the counterparties to a securities transaction, serving functionally as the buyer to every seller and the seller to every buyer. When acting as a central securities depository, a clearing agency may perform a range of depository functions designed to facilitate the settlement of a transaction.

Securities clearing agencies subject to the SEC's enhanced standards must adhere to requirements regarding, among other things, their policies and procedures for financial risk management, governance, recovery planning, operations, and disclosures to market participants and the public. Prior to these amendments, only certain systemically important clearing agencies and clearing agencies for security-based swaps were subject to these enhanced standards. The rules adopted apply these enhanced standards to all SEC-registered central counterparties and central securities depositories.

The adopted rules will become effective 60 days after publication in the Federal Register.

美国证券交易委员会提高关键市场基础设施的标准

2020 年 4 月 9 日，美国证券交易委员会（美国证交会）通过了其证券清算机构规则的修正案，以对所有在美国证交会注册的中央交易对手和中央证券存管处应用增强标准。该规则修正案以 2016 年根据《多德-弗兰克法案》通过的规则为基础，该规则确立对具有系统重要性的证券清算机构以及作为基于安全掉期交易的主要对手方的证券清算机构的运营和治理的增强标准。

交易与市场部主管 Brett Redfearn 表示："是次修正案加强并澄清有担保清算所的定义，这是监管美国金融体系关键市场基础设施的重要一步。"

证券清算机构于交易完成后提供一系列对证券市场的有效运作至关重要的服务，有助于确保交易双方之间资金和证券的转移。当作为中央交易对手时，证券清算机构将自己置于交易对手之间，在功能上充当每个卖方的买方和每个买方的卖方。当作为中央证券托管人时，清算机构可以执行旨在便利交易结算的一系列托管人功能。

适用美国证交会增强标准的证券清算机构必须遵守有关其金融风险管理、治理、恢复计划、运营以及向市场参与者和公众披露的政策和程序等要求。在进行这些修订之前，只有某些具有系统重要性的清算机构和基于安全的交换的清算机构要遵守这些增强的标准。是次修正将增强标准应用于所有在美国证交会注册的中央交易对手和中央证券存管处。

通过的规则将在《联邦公报》上公布后 60 天生效。

Source 来源:
https://www.sec.gov/news/press-release/2020-86

Shenzhen Stock Exchange Refines Arrangements on Postponement of Disclosure of Annual Reports

On April 8, 2020, Shenzhen Stock Exchange (SZSE) released the Notice on Supporting Listed Companies in Doing Well in Auditing and Disclosure of 2019 Annual Reports (the Notice) to fully support market players including listed companies in COVID-19 prevention and control and disclosure of periodical reports by making overall planning and arrangements. The Notice laid down detailed arrangements for listed companies that have difficulties in disclosing audited 2019 annual reports before April 30, 2020 because of the COVID-19, showing regulatory consideration, identifying market expectations and maintaining market order.

In the meantime, SZSE conducted several thorough investigations verify the impact of the COVID-19 on SZSE-listed companies and resumption of business and operation. Overall, SZSE-listed companies did well in business resumption, and most companies actively prepared for the formulation and disclosure of their 2019 annual reports. So far, 359 SZSE-listed companies have, overcoming the difficulties brought about by the COVID-19, disclosed their 2019 annual reports. However, some companies stated they were unable to complete auditing and disclosure of the annual reports before April 30 because their main business or operation premises were in regions hit hard by the COVID-19. Under the unified arrangement of CSRC, after conducting in-depth

extensive surveys and carefully evaluating the impact, SZSE properly integrated information disclosure, the delisting system and investor protection.

Aimed to solve the actual difficulties faced by listed companies and accounting firms, the Notice, according to the principle of "disclosing all information that should be disclosed", encourages listed companies and accounting firms to overcome difficulties, step up audit work, and disclose audited 2019 annual reports as scheduled as they could. On that basis, the Notice has made proper arrangements for a few companies that are unable to disclose their audited 2019 annual reports due to the COVID-19 to fully guarantee investors' right to know.

First, allowing disclosure phase by phase. The listed company that plans to postpone the disclosure of the audited 2019 annual report shall promptly release a disclosure postponement notice and the 2019 main operating results. In the meantime, the listed company shall disclose its 2020 Q1 report on time, and the disclosure shall not be earlier than that of its 2019 main operating results.

Second, ensuring sufficient risk disclosure. The listed company that may be given a delisting risk warning, listing suspension or delisting shall fully reveal relevant risks and disclose its progress on a weekly basis.

Third, urging key minority market players to fulfill their responsibilities. For the listed company that plans to postpone the disclosure of its audited 2019 annual report, when its 2019 main operating results are disclosed, its directors, supervisors and senior management shall ensure the information disclosed is true, accurate and complete and give an opinion on whether there were acts of gross violation such as appropriation of nonoperating funds. In the meantime, the accounting firm responsible for the auditing the annual report shall give special opinions, and state reasons and the degree of audit limitation as well as the estimated time when the auditor's report will be completed.

Fourth, strengthening in-process and post-event regulation. The listed company that fails to release a notice on postponing disclosure of annual report and the special opinions of accountants auditing the annual report shall not be allowed to postpone disclosure of audited annual report. Companies that are approved for postponing disclosure of its audited annual report but fails to disclose it before June 30, 2020 without giving sufficient reasons regarding the impact of the COVID-19 and issuing clear supportive opinions from the accounting firm auditing the annual report will be subject to regulations for companies failing to disclose annual reports within the statutory period.

深圳证券交易所细化年报延期披露安排

2020 年 4 月 8 日，深圳证券交易所（深交所）发布《关于支持上市公司做好 2019 年年度报告审计与披露工作的通知》（《通知》），全力支持上市公司等市场主体统筹做好疫情防控和定期报告披露相关工作，对受疫情影响确实难以在 2020 年 4 月 30 日前披露 2019 年经审计年度报告的上市公司做出细化安排。

同时，深交所对深市上市公司受疫情影响和复工复产情况等进行了多次摸排。总体来看，深市公司复产复工情况良好，绝大多数公司积极开展 2019 年年度报告编制和披露的准备工作。截至目前，已有 359 家深市公司克服疫情困难，披露了 2019 年年度报告。但也有部分公司因主要生产经营地处于疫情严重地区等原因，无法在 4 月 30 日前完成年报审计和披露工作。

《通知》立足解决上市公司和会计师事务所客观实际困难，根据"应披尽披"原则，鼓励上市公司和会计师事务所克服困难，抓紧推进审计工作，尽可能按期披露 2019 年经审计年度报告，在此基础上，对少数因疫情影响确实无法按规定披露 2019 年经审计年度报告作出适当安排，以充分保障投资者的知情权。

一是明确分阶段披露。上市公司拟延期披露 2019 年经审计年度报告的，应当及时披露延期公告、2019 年主要经营业绩；同时，上市公司仍应按期披露 2020 年第一季度报告，披露时间不应早于 2019 年主要经营业绩的披露时间。

二是做好充分风险揭示。对于可能存在被实施退市风险警示、暂停上市、终止上市风险的，上市公司应当充分揭示相关风险，并每周披露进展情况。

三是督促关键少数主体归位尽责。对于拟延期披露经审计年度报告的，上市公司董事、监事和高级管理人员在披露 2019 年主要经营业绩时，应当保证披露内容的真实、准确、完整，并对是否存在非经营性资金占用等重大违规行为发表意见；同时，年审会计师事务所应当出具专项意见，说明原因及审计受限程度，以及预计完成审计报告的时间。

四是强化事中事后监管。上市公司未按规定发布年度报告延期披露公告及年审会计师专项意见的，应不予延期披露经审计年度报告。上市公司经延期但未能在 2020 年 6 月 30 日前披露经审计年度报告，且无充分理由说明系受疫情影响并出具年审会计师事务所明确支持意见的，按未在法定期限披露年度报告处理。

Source 来源:
http://www.szse.cn/English/about/news/szse/t20200409_575858.html

http://www.szse.cn/aboutus/trends/news/t20200408_575831.html

Shanghai Stock Exchange Implements Arrangements for Extending Disclosure of Annual Reports to Strengthen and Enhance All-round Service for Listed Companies

On April 7, 2020, the China Securities Regulatory Commission (CSRC) issued the Announcement on Matters Concerning Current Work in Audit and Disclosure of Annual Reports of Listed Companies and Other Institutions (the Announcement), which makes a unified deployment for the matters concerning the extended disclosure of annual reports of listed companies, fully reflecting the support and care of the capital market for the listed companies. On April 8, 2020, the Shanghai Stock Exchange (SSE) released the Notice on Supporting Listed Companies in Making Effective Efforts in Disclosure of 2019 Annual Reports (the Notice), so as to support the implementation of the specific requirements of the CSRC's announcement, relay the warmth of regulation, and bolster the listed companies in the audit and disclosure of 2019 annual reports.

As per the request of the Announcement, SSE has responded in four aspects. First, the principle of "disclosing all reports as necessary" is conveyed. The information in the annual report is the summary of a listed company 's operations over the past year and matters much to the investors. The listed companies with conditions should try their best to overcome difficulties, work closely with the audit institutions, and strive to disclose the annual reports as scheduled, to fully protect the investors' right to know. Secondly, the deadline for the disclosure extension is specified. The companies that are unable to disclose the audited annual reports before April 30, 2020 due to the impact of the epidemic can defer the disclosure, but in principle the disclosure should be no later than June 30, 2020. The abovementioned arrangements not only consider the actual situations of the listed companies, but also consider the need to maintain the normal order of information disclosure in the market. Thirdly, the requirements for information disclosure are refined. More information disclosure requirements are adequately made for the companies intending to postpone the disclosure, and the role of professional opinions offered by accounting firms is brought into full play, so as to provide support for the companies with real difficulties and avoid individual cases of arbitrary extension. Fourthly, the linkage with the follow-up handling is arranged. For the companies that do meet the conditions for deferring disclosure, the provisions on trading suspension and resumption and delisting, etc. will not be applied accordingly and the postponed disclosure will not be treated as a violation either. Corresponding measures will be taken in accordance with the actual situations after the companies disclose their audited annual reports. If the reasons for the extension are untrue, the SSE will carry out supervision during and after the event, and if necessary, will request the local CSRC office for verification.

The Notice is summarized as below, the full version of which can be found at :

http://english.sse.com.cn/news/newsrelease/c/5036723.shtml

1. As the annual report is important investment decision-related information for investors to understand the situations of a listed company, the listed companies should energetically take measures to overcome difficulties and try their best to disclose the audited annual reports on schedule. The listed companies should strengthen the communication with the accounting firms for annual audit, innovate in working methods, assign necessary personnel, closely support the accounting firms for annual audit in carrying out the audit work, and bolster the efforts of the accounting firms for annual audit in completing the audit work on time.

2. If a listed company is unable to complete the audit work due to the epidemic impact on itself or the accounting firm for annual audit it hires, and cannot objectively disclose the audited 2019 annual report on schedule, it may postpone the disclosure in accordance with the CSRC's "Announcement" and the Notice, but in principle the disclosure should be no later than June 30, 2020.

   If a listed company intends to postpone the disclosure of the audited annual report for 2019, in principle, it should publish the interim report on the postponed disclosure of the annual report before April 20, 2020; if there are indeed difficulties, the date shall be no later than April 30, 2020. For the listed companies that intend to postpone the disclosure but fail to release an interim report before April 20, the SSE will request the local CSRC office for verification as appropriate.

   In the abovementioned interim report, the listed company should truthfully explain whether it is unable to make the disclosure on schedule as a result of the epidemic, the specific matters under the impact of the epidemic and the degrees, the progress in the preparation and audit of the current annual report, and the measures taken and to be taken to disclose the annual report as soon as

possible, and specify the expected time of disclosure. The board of directors of the listed company shall convene a meeting to discuss the abovementioned matters and form definite opinions.

3. If a listed company intends to postpone the disclosure of the audited 2019 annual report, the company shall at least have hired an accounting firm for annual audit after convening a meeting of the board of directors. The accounting firm for annual audit hired by the listed company should issue special opinions, verify whether the listed company's aforementioned matters related to the audit of the annual report are true, explain the reasons for the failure to issue the audit report on schedule, the items with restrictions in the audit and the degrees, the progress in the audit work, and the measures taken and to be taken for completing the audit work as soon as possible, and specify the expected time of completing the audit report. These special opinions shall be disclosed together with the abovementioned interim report.

   If a listed company fails to disclose the interim report on postponing the disclosure of the annual report and the special opinions of the accounting firm for annual audit as required, the provisions of the Notice will not be applied, and the extension will not be granted; the failure to disclose the audited 2019 annual report before April 30, 2020 will be dealt with in accordance with the relevant provisions on failing to disclose the annual report within the statutory time limit.

4. If a listed company intends to postpone the disclosure of the audited annual report for 2019, it may disclose its main operating results in 2019 before April 30, 2020, and the "No. 13 Rules for Information Disclosure Compilation of the Companies Publicly Offering Securities – Special Provisions on Contents and Formats of Quarterly Reports" shall be referenced for the contents and formats of the disclosure in implementations.

   The directors, supervisors and executives of the listed company should ensure that the listed company's main operating results in 2019 are true, accurate and complete, and free from false records, misleading statements and major omissions, and there is no significant difference from the audited annual report. If the guarantee cannot be made, the company should explain the matters with possible differences, and the reasons for the inability to make the promise, and fully warn against the risks.

   The directors, supervisors and executives of the listed company should also express clear opinions on whether the listed company has any major violations such as capital occupation, non-compliance guarantees and illegal use of raised funds during the reporting period.

5. If a listed company intends to postpone the disclosure of the audited 2019 annual report, it should still disclose the report for the first quarter of2020 before April 30, 2020, and the disclosure time of the first quarterly report shall not be earlier than the time of the aforementioned disclosure of the major operating results in 2019.

6. If a listed company intends to postpone the disclosure of the audited 2019 annual report, the convening of its annual general meeting of shareholders may be put off accordingly to within 2 months after the disclosure of the audited 2019 annual report, but the date shall be no later than August 31, 2020.

7. If a listed company previously disclosed that its stocks had the warning of delisting risk or the risks of suspension or termination of listing, or its stocks have the warning of delisting risk or the risks of suspension or termination of listing according to its major operating results in 2019 disclosed in accordance with the provisions of the Notice, it shall full warn against the relevant risks, and release every week the warnings against the risk that the company may have its stocks delisted or the announcements on the warnings against the risk of listing suspension or termination, until the release of the audited 2019 annual report.

8. If a listed company meets the requirements for postponing the disclosure of the audited annual report for 2019 according to the Announcement and the provisions of the Notice, it will not be subject to the provisions of the SSE on the measures of trading suspension and resumption, delisting risk warning, listing suspension and listing termination taken as a result of the failure to disclose the annual report within the statutory time limit, and the SSE will not take any regulatory measures or disciplinary actions accordingly.

   If a listed company fails to disclose the audited 2019 annual report within the expected time in the postponement announcement, but it still discloses it before June 30, 2020, the SSE will not apply the provisions on the measures of trading suspension and resumption, delisting risk warning, listing suspension and listing termination taken as a result of the failure to disclose the annual report within the statutory time limit, but the listed company and related parties shall still be responsible for inaccurate information disclosure.

9. After a listed company discloses the audited annual report for 2019, the relevant provisions of the SSE

on trading suspension and resumption, delisting risk warning, listing suspension and listing termination shall be applied accordingly. If a listed company fails to disclose the audited annual report for 2019 before June 30, 2020 after the extension, and there is no sufficient evidence of the impact of the epidemic with the audit institution issuing the definite opinion of support, the cases will still be handled in accordance with the relevant provisions on the failure to disclose the annual report within the statutory time limit.

10. A listed company and its directors, supervisors and executives, and the accounting firm for annual audit hired by it should be honest and diligent, and only when a company cannot objectively carry out the audit work and disclose the audited 2019 annual report on schedule as a result of the impact of the epidemic can the extension be implemented in accordance with the provisions of the Notice. The SSE will conduct the aftermath supervision on the reasons for the listed companies to postpone the disclosure of the audited annual reports, and the differences discovered from the actual situations will be dealt with seriously according to laws and regulations and rules.

上海证券交易所落实年度报告披露延期安排

2020 年 4 月 7 日，中国证券监督管理委员会（中国证监会）发布了《关于做好当前上市公司等年度报告审计与披露工作有关事项的公告》（中国证监会公告），对上市公司年度报告延期披露有关事项做出统一部署，充分体现了资本市场对上市公司的支持和呵护。2020 年 4 月 8 日，上海证券交易所（上交所）发布了《关于支持上市公司做好 2019 年年度报告披露工作的通知》（《通知》），配套落实中国证监会公告的具体要求，切实支持上市公司做好 2019 年年度报告的审计和披露工作。

按照中国证监会公告的精神，上交所《通知》从 4 个方面做了具体回应和安排：一是传递“应披尽披”原则。年度报告信息是上市公司对过去一年经营情况的总结，与投资者密切相关。上市公司有条件的，应当尽力克服困难，与审计机构密切合作，力争如期披露年度报告，充分保障投资者知情权。二是明确可延期披露时限。对确实因疫情影响难以在 2020 年 4 月 30 日前披露经审计年度报告的公司，允许其延期披露，但原则上应不晚于 2020 年 6 月 30 日。上述安排既考虑了上市公司的实际情况，也兼顾了维护市场正常信息披露秩序的需要。三是细化信息披露要求。对拟延期披露的公司，适当增加信息披露要求,充分发挥会计师事务所专业意见的作用,其目的是使真正有困难的公司得到支持，避免出现个别随意延期的情况。四是做好后续处置衔接。对于确实符合条件延期披露的公司，相应将不适用停复牌、退市等相关规定，也不作违规处理，待其披露经审计的年度报告后，再根据实际情况进行相应处置。对于延期理由不实的，交易所将做好事中、事后监管，必要时将视情况提请属地证监局核查。

《通知》总结如下，并可于以下链接获取全文：

http://www.sse.com.cn/aboutus/mediacenter/hotandd/c/c_20200408_5031781.shtml)

1. 年度报告是投资者了解上市公司情况的重要投资决策信息，上市公司应当积极采取措施，克服困难，尽可能按期披露经审计的年度报告。上市公司应当加强与年审会计师事务所的沟通，创新工作方法，配备必要人员，密切配合年审会计师事务所开展审计工作，支持年审会计师事务所如期完成审计工作。

2. 上市公司因其自身或聘请的年审会计师事务所受疫情影响无法完成审计工作，客观上不能按期披露 2019 年经审计年度报告的，可以按照中国证监会公告及《通知》规定延期披露，但原则上不晚于 2020 年 6 月 30 日。

   上市公司拟延期披露 2019 年经审计年度报告的，原则上应当在 2020 年 4 月 20 日前发布年度报告延期披露的临时报告；确有困难的，最迟不晚于 2020 年 4 月 30 日。对拟延期披露但未在 4 月 20 日前发布临时报告的上市公司，上交所将视情况提请属地证监局进行核查。

   上市公司应在前款规定的临时报告中如实说明无法按期披露是否系受疫情影响、受疫情影响的具体事项和程度，披露当前年度报告编制及审计工作进展、为尽快披露年度报告已采取和拟采取措施，并明确预计披露时间。上市公司董事会应当召开会议审议上述事项，并形成明确意见。

3. 上市公司拟延期披露 2019 年经审计年度报告的，应当至少已经召开董事会聘请年审会计师事务所。上市公司聘请的年审会计师事务所应当出具专项意见，核查上市公司前述与年度报告审计有关的事项是否属实，说明未能按期出具审计报告的原因、审计受限科目和程度、审计工作进展，以及为尽快完成审计工作已采取和拟采取措施，并明确预计完成审计报告的时间。该专项意见应与前条规定的临时报告一并披露。

   上市公司未按规定披露年度报告延期的临时报告及年审会计师事务所专项意见的，不适用《通知》规定，不予延期；如未在 2020 年 4 月 30 日前披露 2019

年经审计年度报告，依照未在法定期限内披露年度报告的有关规定处理。

4. 上市公司拟延期披露 2019 年经审计年度报告的，可以在 2020 年 4 月 30 日前披露 2019 年主要经营业绩，披露的内容及格式参照《公开发行证券的公司信息披露编报规则第 13 号——季度报告内容与格式特别规定》执行。

   上市公司董事、监事及高级管理人员应当保证上市公司 2019 年主要经营业绩真实、准确、完整，不存在虚假记载、误导性陈述和重大遗漏，且与经审计的年度报告不存在重大差异。无法做出保证的，应当说明可能存在差异的事项、无法保证的原因，并充分提示风险。

   上市公司董事、监事及高级管理人员应当同时对上市公司在报告期内是否存在资金占用、违规担保、违规使用募集资金等重大违规行为发表明确意见。

5. 上市公司拟延期披露 2019 年经审计年度报告的，仍应当在 2020 年 4 月 30 日前披露 2020 年第一季度报告，且第一季度报告的披露时间不得早于前述 2019 年主要经营业绩的披露时间。

6. 上市公司拟延期披露 2019 年经审计年度报告的，其年度股东大会可相应顺延至 2019 年经审计年度报告披露后 2 个月内召开，且不晚于 2020 年 8 月 31 日。

7. 上市公司前期披露其股票存在退市风险警示、暂停上市及终止上市风险，或按照《通知》规定披露的 2019 年主要经营业绩显示其股票存在退市风险警示、暂停上市及终止上市风险的，应当充分提示相关风险，并每周发布公司股票可能被实施退市风险警示、暂停上市或终止上市的风险提示公告，直至披露 2019 年经审计的年度报告。

8. 上市公司符合中国证监会公告及《通知》规定延期披露 2019 年经审计年度报告的，不适用上交所因未在法定期限内披露年度报告而采取停复牌、退市风险警示、暂停上市、终止上市等有关规定，上交所不就此采取监管措施或者纪律处分。

   上市公司未能在延期公告预计的时间内披露 2019 年经审计年度报告，但仍在 2020 年 6 月 30 日前披露的，不适用上交所因未在法定期限内披露年度报告而采取停复牌、退市风险警示、暂停上市、终止上市等有关规定，但上市公司及相关方需承担信息披露不准确的责任。

9. 上市公司披露 2019 年经审计的年度报告后，相应适用上交所停复牌、退市风险警示、暂停上市、终止上市等有关规定。上市公司经延期但未能在 2020 年 6 月 30 日前披露 2019 年经审计的年度报告，也无充分理由说明系受疫情影响并出具审计机构明确支持意见的，依照未在法定期限内披露年度报告的有关规定处理。

10. 上市公司及其董事、监事和高级管理人员，上市公司聘请的年审会计师事务所应当实事求是、勤勉尽责，确因疫情影响客观上不能按期开展审计工作及披露 2019 年经审计年度报告的，方可按照《通知》规定延期。上交所对上市公司延期披露经审计年度报告的原因进行事后监管，发现与实际情况不符的，将依法依规严肃处理。

Source 来源:
http://english.sse.com.cn/news/newsrelease/c/5036719.shtml

http://www.sse.com.cn/aboutus/mediacenter/hotandd/c/c_20200408_5031782.shtml

Shenzhen Stock Exchange Signs Memorandum of Understanding with Bursa Malaysia to Further Explore Areas and Channels of Cross-border Collaboration

On April 15, 2020, Shenzhen Stock Exchange (SZSE) and Bursa Malaysia signed a Memorandum of Understanding (MoU) through video conference. The two exchanges will further explore areas and channels of cross-border collaboration, give full play to both exchanges' pivotal role in capital market, boost market confidence, serve the real economy, and strengthen pragmatic cooperation under the “Belt and Road” Initiative. By leveraging its market characteristics, technology advantages and geographical location, SZSE answers the country’s call for high-level opening-up and makes progress in orderly pushing forward multi-level cooperation and communication of capital markets among “Belt and Road” countries. This cooperation also shows SZSE's stance for opening-up and international cooperation which will add to the global efforts in overcoming the difficult time of preventing and combating the COVID-19.

Malaysia is one of the first countries to support and participate in the “Belt and Road” Initiative. In recent years, under the “Belt and Road” framework and with the support of the two governments, China and Malaysia have continuously optimized bilateral trade structure, leading to enhanced cooperation in various fields, closer connections of industrial and supply chains, and new opportunities in capital market cooperation. In 2019, SZSE and Bursa Malaysia conducted several bilateral visits and held in-depth discussions in such topics as

resources and capital matchmaking for entrepreneurship and innovation, and China-Malaysia capital market cooperation against the backdrop of development of the pilot demonstration area and the Guangdong-Hong Kong-Macao Greater Bay Area.

According to the MoU, the two sides will share information and resources via the V-Next Platform and promote China-Malaysia industrial chain cooperation, developing a convenient and effective mechanism of cross-border investment and financing matchmaking for enterprises and investment institutions in the two countries. Meanwhile, the two sides will strengthen index cooperation and share market development experience to lay a solid foundation for further cooperation.

深圳证券交易所与马来西亚交易所签署合作备忘录进一步拓宽跨境合作领域和渠道

2020 年 4 月 15 日，深圳证券交易所（深交所）与马来西亚交易所（马交所）通过视频连线方式远程签署合作备忘录（备忘录），双方将进一步拓宽跨境合作领域和渠道，共同发挥中马资本市场枢纽作用，增强市场信心，服务两国实体经济，深化“一带一路”建设务实合作。这是深交所突出自身市场、技术、区位等方面优势，积极贯彻落实国家高水平对外开放要求，有序推进“一带一路”沿线国家资本市场多层次交流合作的又一积极进展，凸显了在全球应对新冠疫情冲击下，通过开放合作共克时艰的导向。

马来西亚是最早表示支持和参与“一带一路”建设的国家之一。近年来，在“一带一路”框架和两国政府支持下，中马不断优化贸易结构，各领域合作蓬勃发展，产业链、供应链联系日趋紧密，两国资本市场合作也涌现出新机遇。2019 年，深交所与马交所开展了多次互访交流，两所就促进双边创业创新资源和资本对接、在先行示范区、粤港澳大湾区建设中推进中马资本市场合作等议题进行了深入探讨。

根据备忘录，双方将通过深交所创新创业投融资服务平台（V-Next 平台）共享信息资源，推动中马产业链对接合作，为两国企业、投资机构建立便捷有效的投融资对接机制。同时加强指数合作，创新合作方式，共享市场发展经验，为后续更深层次合作奠定坚实基础。

Source 来源:
http://www.szse.cn/English/about/news/szse/t20200415_576008.html

http://www.szse.cn/aboutus/trends/news/t20200415_576007.html

U.S. Commodity Futures Trading Commission Charges Florida Man and His Companies in Fraudulent Forex and Digital Asset Scheme

On April 16, 2020, the U.S. Commodity Futures Trading Commission (CFTC) filed a complaint in the U.S. District Court for the Middle District of Florida, charging defendants Alan Friedland of Florida and his Florida-based companies, Fintech Investment Group, Inc. (Fintech) and Compcoin LLC, with fraudulently soliciting more than U.S.$1.6 million from their customers in connection with a leveraged or margined off-exchange foreign currency (forex) scheme.

According to the complaint, starting in at least 2016 and proceeding through 2018, Friedland and his companies fraudulently solicited customers and prospective customers to purchase a digital asset known as Compcoin. The defendants falsely promised, among other things, that Compcoin would allow customers to gain access to Fintech’s proprietary forex trading algorithm known as ART, and falsely advertised that ART would deliver high rates of return.

According to the complaint, in marketing Compcoin, the defendants also falsely represented, among other things, the use and function of Compcoin and that ART “was ready for release on the open market.” In fact, as alleged in the complaint, the defendants knew that no customer could lawfully utilize ART until Fintech obtained approval from the National Futures Association, which never occurred. Thus, according to the complaint, the purchasers of Compcoin never gained access to ART as promised and were left with a valueless asset.

The CFTC strongly urges the public to verify a company’s registration before committing funds. If unregistered, a customer should be wary of providing funds to that entity.

美国商品期货交易委员会指控佛罗里达被告及其公司欺诈性外汇和加密货币计划

2020 年 4 月 16 日，美国商品期货交易委员会（CFTC）向美国佛罗里达州中区地方法院提起诉讼，指控佛罗里达州被告 Alan Friedland 及其佛罗里达州的公司 Fintech Investment Group，Inc.（Fintech）和 Compcoin LLC 利用杠杆作用的外汇欺诈行为非法获得 160 万美元

据称，至少从 2016 年开始到 2018 年，被告及其公司欺诈性诱使客户和潜在客户购买被称为 Compcoin 的加密货币，并虚假宣传持有者将有权使用据称是高回报的外汇交易算法（ART）。

据称，在营销 Compcoin 时，被告还虚假陈述了 Compcoin 的使用和功能并宣称 ART 已准备好在公开市

场上发行。实际上，被告知道直到 Fintech 获得美国全国期货协会的批准之前，任何客户都不能合法使用 ART，而 Fintech 从未获得上述批准。因此，Compcoin 的购买者从未如所承诺的那般获得 ART 的使用权，而仅仅只是拥有了无价值资产。

CFTC 强烈敦促公众在投资之前核实公司的注册情况。如果未注册，则客户应谨慎向该实体提供资金。

Source 来源:
https://cftc.gov/PressRoom/PressReleases/8148-20

The Monetary Authority of Singapore Takes Regulatory and Supervisory Measures to Help Financial Institutions Focus on Supporting Customers

The Monetary Authority of Singapore (MAS) announced that it will adjust selected regulatory requirements and supervisory programs to enable financial institutions (FIs) to focus on dealing with issues related to the COVID-19 pandemic and supporting their customers during this difficult period.

MAS will take the following regulatory and supervisory measures:

• adjust banks' capital and liquidity requirements, to help sustain their lending activities;

• allow FIs to take into account the government's fiscal assistance and banks' relief measures in setting more realistic accounting loan loss allowances;

• defer FIs' implementation of the final set of Basel III reforms, margin requirements for non-centrally cleared derivatives, and other new regulations and policies, to ease FIs' operational burden;

• provide FIs more latitude on submission timelines for regulatory reports and defer non-urgent industry projects; and

• suspend regular onsite inspections and supervisory visits till further notice.

Adjusting Capital and Liquidity Requirements for Banks

- MAS encourages banks to utilize their capital buffers as appropriate to support their lending activities. Banks in Singapore can afford to do this because they have managed their businesses prudently and have built up healthy capital buffers over the years. Banks have sufficient capital to see them through the current economic slump while continuing to supply credit to the economy to support businesses and individuals.

- Sustaining lending activities should take priority over discretionary distributions. While MAS does not see a need to restrict banks' dividend policies, the release of capital buffers should not be used to finance share buybacks during this period.

- MAS will allow banks to recognize as capital more of their regulatory loss allowance reserves. This will help to enhance banks' capacity to lend. The relief will apply until September 30, 2021 and may be extended if necessary.

- Banks may also utilize their liquidity buffers as necessary to meet liquidity demands. Banks in Singapore operate with healthy levels of liquidity. To support banks' lending activities, MAS will adjust the Net Stable Funding Ratio requirement. The amount of stable funding that banks must maintain for loans to individuals and businesses that are maturing in less than six months will be halved from 50% to 25%. The relief will apply until September 30, 2021 and may be extended if necessary.

Setting Accounting Loan Loss Allowances

- MAS has engaged FIs and accounting professionals on how accounting standard FRS 109 should be applied to loan loss allowances under the current challenging circumstances resulting from the COVID-19 pandemic. FRS 109 requires the incorporation of forward-looking information, including macroeconomic factors, to estimate accounting loan loss allowances. Given uncertainties on how the COVID-19 pandemic will evolve and its impact on the global economy, there are significant challenges around the exercise of judgement in the use of such forward-looking factors.

- MAS has provided guidance that when FIs assess COVID-19's impact on future economic conditions in estimating accounting loan loss allowances, they should also consider the extraordinary measures taken by the government to bolster economic resilience.

- MAS does not expect FIs to maintain higher accounting loan loss allowances solely because COVID-19 relief measures are applied to these loans. Instead, FIs should assess a borrower's risk of default comprehensively, taking into account the mitigating effects of the relief measures, and the borrower's ability to make full repayment based on the revised loan terms as well as its creditworthiness in the long term.

Deferring Implementation of Regulatory Reforms

- MAS will defer by one year the implementation of the final set of Basel III reforms for banks in Singapore. While the reforms are necessary to strengthen the banking system over the long term, they will require banks to make considerable operational adjustments which they would be hard pressed to make under the current challenging conditions.

- MAS will defer to January 1, 2023 the implementation of revised standards for:
credit risk, operational risk, leverage ratio, output floor and related disclosure requirements; and market risk and credit valuation adjustments for supervisory reporting purposes.

- MAS will defer by one year the implementation of the final two phases of the margin requirements for non-centrally cleared derivatives. This will reduce the strain on banks' resources to put in place legal agreements and system changes to implement the exchange of initial margins. The new timelines are: September 1, 2021 for a bank or merchant bank whose group's aggregate non-centrally cleared derivatives exposure is more than $80 billion; and September 1, 2022 for a bank or merchant bank whose group's aggregate non-centrally cleared derivatives exposure is more than $13 billion and up to $80 billion.

- MAS will also extend by one year to 1 October 2021 the final phase of the reporting requirements for over-the-counter derivatives trades.

- MAS will defer the implementation of certain licensing and conduct requirements, which were introduced under the Securities and Futures (Amendment) Act 2017. MAS will extend the transitional period for these requirements by one year to 8 October 2021.

Extending Reporting Timelines and Deferring Industry Projects

- MAS will provide more latitude on submission timelines for regulatory reports. MAS will work with FIs to review submission timelines while taking into account the need for timely information by MAS to facilitate its supervisory reviews.

- MAS will defer non-urgent industry projects, such as the launch of a new electronic system for banks and insurers to submit applications for approval of key appointment executives. The new system was scheduled for launch in Q2 2020. The existing application process will continue to be used until further notice.

- MAS will seek feedback from banks and merchant banks on potential challenges they may face in transiting to a more comprehensive reporting regime under the revised MAS Notices 610 and 1003 respectively.

Suspending On-site Inspections and Supervisory Visits

- MAS will suspend all regular on-site inspections and supervisory visits to FIs till further notice. MAS recognizes that FIs' implementation of measures such as split operations and telecommuting to ensure business continuity have placed additional operational burden on them.

- MAS will therefore focus its supervisory reviews on how FIs are managing the impact of COVID-19 on their business and operations.

Sound Risk Management

MAS expects FIs to ensure operational resilience and sound risk management amidst the challenges posed by the COVID-19 pandemic. They must remain vigilant to heightened risks such as cybersecurity threats, fraudulent transactions and scams, money laundering, and terrorism financing.

新加坡金融管理局采取监管措施以帮助金融机构专注于为客户提供支持

新加坡金融管理局宣布将调整既定监管要求和监管计划，以使金融机构能够专注于处理与新型冠状病毒大流行有关的问题并在此困难时期为其客户提供支持。

新加坡金融管理局将采取以下监管措施：

- 调整对银行的资本和流动性要求，以帮助其维持借贷活动；

- 允许金融机构在设置更加切合实际的贷款损失准备金时考虑政府财政援助和银行救济措施；

- 推迟实施《巴塞尔协议 III》的最后一套改革、对非中央清算衍生品的保证金要求及其他新法规和新政策，以减轻金融机构的运营负担；

- 使金融机构在提交监管报告的时间安排方面拥有更大自由度，并推迟非紧急行业项目；及

- 暂停定期的现场检查和监督访问，直至另行通知。

调整银行的资本和流动性要求

- 新加坡金融管理局鼓励银行酌情利用资本缓冲来维持其贷款活动。新加坡银行业因其多年来审慎的管理业务及稳健的资本缓冲，有能力做到此点。银行业有足够的资本来应付当前的经济萧条同时继续提供信贷以支持企业和个人。

- 维持贷款活动应优先于自由分配。虽然新加坡金融管理局认为没有必要限制银行的股利政策，但在此阶段内不应使利用资本缓冲来回购股票。

- 新加坡金融管理局将允许银行将更多的监管损失准备金确认为资本。此做法将有助于增强银行的借贷能力。此救济将一直持续到 2021 年 9 月 30 日，如有必要可以延长。

- 银行还可以根据需要利用其流动性缓冲来满足流动性需求。新加坡银行业运作状况良好。为了支持银行借贷活动，新加坡金融管理局将调整净稳定融资比率要求，银行将必须为六个月内到期的个人和企业提供贷款而保持稳定的资金量从 50%减半至 25%。此救济将一直持续到 2021 年 9 月 30 日，如有必要可以延长。

设置贷款损失准备金

- 在当前新型冠状病毒大流行造成的严峻形势下，新加坡金融管理局已聘请金融机构和会计专业人士就如何将会计准则 FRS 109 应用于贷款损失准备金。FRS 109 要求纳入包括宏观经济因素在内的前瞻性信息以估计贷款损失准备金。鉴于新型冠状病毒大流行将如何演变及其对全球经济的影响尚不确定，因此在使用此类前瞻性因素进行判断方面存在重大挑战。

- 新加坡金融管理局已提供指导，金融机构在评估贷款损失准备金时评估新型冠状病毒对未来经济状况的影响时，还应考虑政府为增强经济弹性而采取的特殊措施。

- 新加坡金融管理局不希望金融机构仅因对此类贷款采取了新型冠状病救济措施而维持较高的贷款损失准备金。相反，金融机构应综合考虑救济措施的缓解效果及借款人根据修订后的贷款条款以及其长期信用能力的全额还款能力，全面评估借款人的违约风险。

推迟实施监管改革

- 新加坡金融管理局将为新加坡银行业推迟实施《巴塞尔协议 III》最后一套改革的时间。尽管从长远来看，这些改革对于加强银行体系是必要的，但将要求银行进行相当大的业务调整，在当前严峻形势下，这些调整将很难进行。

- 新加坡金融管理局会将以下修订标准的实施推迟至 2023 年 1 月 1 日：
  信用风险、操作风险、杠杆比率、产出下线及相关披露要求; 及出于监管报告目的的市场风险和信用估值调整。

- 新加坡金融管理局将把非中央清算衍生品保证金要求最后两个阶段的实施推迟一年，将减轻银行用于制定法律协议和系统变更以实现初始利润交换的资源压力。新的时间表是：一家银行或商业银行，该集团的非中央清算衍生品风险总额超过 800 亿美元，推迟至 2021 年 9 月 1 日实施；及一家银行或商业银行，该集团的非中央清算衍生品风险总额超过 130 亿美元而不超过 800 亿美元，推迟至 2022 年 9 月 1 日实施。

- 新加坡金融管理局还将对场外衍生品交易的报告要求的最后阶段延长一年至 2021 年 10 月 1 日。

- 新加坡金融管理局将推迟实施某些根据《2017 年证券和期货法（修订）》引入的许可和行为要求，这些要求的过渡期延长一年至 2021 年 10 月 8 日。

延长报告时间并推迟行业项目

- 新加坡金融管理局将为监管报告的提交时间表提供更大的自由度。

- 新加坡金融管理局将推迟非紧急行业项目。

- 新加坡金融管理局将向银行征求反馈意见，以了解其在根据修订的金管局通告 610 和 1003 过渡到更全面的报告制度时可能面临的潜在挑战。

暂停现场检查和监督访问

- 新加坡金融管理局将暂停对金融机构的所有常规现场检查和监督访问，直至另行通知。金融机构为确保业务连续性而采取的措施（如拆分运营和远程办公）为其带来了额外运营负担。

- 新加坡金融管理局将把监管审查的重点放在金融机构如何管应对新型冠状病毒对其业务和运营的影响上。

健全的风险管理

新加坡金融管理局期望金融机构在新型冠状病毒大流行带来的挑战中还应确保运营弹性和合理的风险管理，保持警惕应对更高的风险，例如网络安全威胁、欺诈交易、洗钱和恐怖主义融资。

Source 来源:
https://www.mas.gov.sg/news/media-releases/2020/mas-takes-regulatory-and-supervisory-measures-to-help-fis-focus-on-supporting-customers

Australian Securities and Investments Commission Updates Guidance on Internal Market Making

Australian Securities and Investments Commission (ASIC) has updated Information Sheet 230 *Exchange traded products: Admission guidelines* (INFO 230). INFO 230 provides additional guidance to firms, including licensed Australian exchanges, product issuers and market making execution agents, on better practices for internal market making in non-transparent, actively managed funds that are traded on exchange markets.

The update outlines measures firms should take to manage market integrity risks associated with internal market making. Firms should:

- only use a reference price or other information that is publicly available as the input for market making quotes;
- establish information barriers so that bids and offers are not submitted to the market by persons or systems with knowledge of the current portfolio holdings;
- have adequate arrangements for identifying and responding to instances of substantial information asymmetry in the market; and
- have appropriate compliance and supervision arrangements to support these measures.

The update also provides guidance on improving internal marking making practices. This includes:

- the indicative net asset value (iNAV) being as accurate and frequently disseminated as practicably possible;
- full portfolio holdings disclosure being delayed only to the extent necessary to protect the fund's intellectual property; and
- internal market making arrangements supporting incoming and exiting investors to transact at fair and orderly prices.

Peripheral updates have also been made to reflect recent changes in the market. This update follows ASIC's review of internal market making which took place over the second half of 2019.

澳大利亚证券与投资委员会对内部做市指南进行更新

澳大利亚证券与投资委员会对信息表 230 *交易所交易产品：入场指南* 进行了更新。信息表 230 旨在为包括澳大利亚经批准的交易所、产品发行人和做市执行代理在内的企业提供有关于交易市场上交易的积极型管理基金以及非透明内部做市的指导。

该更新概述了企业为管理与内部做市相关的市场诚信风险应采取的措施。企业应：

- 仅使用参考价格或其他公开可用信息作为做市报价；
- 建立信息壁垒，以使知晓当前投资组合持有量的个人或系统不会将出价和要约提交市场；
- 有充分的安排来识别和应对市场上大量信息不对称的情况；及
- 有适当的合规和监督安排以支持此类举措。

该更新还提供了有关改进内部做市实践的指南。包括：

- 指示性资产净值尽可能准确并经常性发布；
- 仅在保护基金知识产权所必需的程度上延迟投资组合的充分披露；及
- 内部做市安排支持入场和出场投资者以公平有序的价格进行交易。

此外，还进行了能够反映市场最新变化的更新。此更新是紧随澳大利亚证券与投资委员会于 2019 年下半年进行的针对内部做市进行的审查而展开的。

Source 来源:
https://asic.gov.au/about-asic/news-centre/find-a-media-release/2020-releases/20-088mr-asic-updates-guidance-on-internal-market-making/

Details of Changes to Australian Securities and Investments Commission Regulatory Work and Priorities in Light of COVID-19

Australian Securities and Investments Commission (ASIC) has previously stated it would temporarily change its regulatory work and priorities to allow it and

regulated entities to focus on the impact of COVID-19. This will include the deferral of some activities and redeployment of staff to address issues of immediate concern, including maintaining the integrity of markets and protecting vulnerable consumers.

ASIC has delayed a number of activities not immediately necessary in light of these significantly changed circumstances, including consultations, regulatory reports and reviews.

Onsite supervisory work is now not possible. However, ASIC will continue to monitor firms remotely, including through close working and information sharing arrangements with APRA. ASIC will also continue to draw on established working arrangements with senior executives to both supervise and support firms.

In response to COVID-19 ASIC:

- has stepped up its markets supervision work to support the fair and orderly operation of markets, ensure investors are appropriately informed, and protect against manipulation and abuse;
- will heighten its support for consumers who may be vulnerable to scams and sharp practices, receive poor advice, or need assistance in finding information and support should they fall into hardship; and
- will identify other actions needed to support firms such as facilitating the timely completion of capital raisings and other urgent transactions, providing regulatory relief, where appropriate, and identifying measures to support small business.

Enforcement action will continue. However, it is recognized that there may be some changes to the timing and process of investigations to take into account the impact of COVID-19. Key functions will remain available to those who rely on them, including registry operations and services, receipt of whistleblower, breach and misconduct reports, and general contact points for industry.

ASIC Chair James Shipton said, “ASIC recognizes that participants in the Australian financial services sector are under enormous strain due to the effects of COVID-19. We also acknowledge that they are taking special measures to support their customers who are adversely affected. We expect them to continue to act fairly and in the best interest of consumers in these extraordinary times. To assist firms, ASIC will limit the regulatory activity that they will need to respond to as much as possible. We are also working with the financial industry to identify other areas where we can provide support. However, it is important to note that this is not an abrogation of our regulatory work, but a recognition that some existing activities and new tasks must take precedence over work we would otherwise be doing. In fact, COVID-19 has increased the workload of our organization as there is a heightened risk of significant consumer harm, the possibility of serious breaches of the financial services laws, and challenges in ensuring market integrity and the continued funding of companies and the economy. ASIC is being especially vigilant in addressing predatory practices, scams and fraud.”

Despite the challenges posed by COVID-19, ASIC expects entities to treat customers fairly, avoid adding further financial harm or burden to consumers, and act to maintain the integrity and efficiency of markets.

In addition, financial services and credit licensees and participants in financial services markets continue to have legal obligations including, where applicable, to:

- act fairly, honestly and efficiently;
- report material breaches of the law;
- maintain records of the financial services they provide; and
- ensure appropriate supervision of the provision of financial services and credit activities, even where staff are working remotely.

ASIC is committed to working with the regulated population, and representatives of industry and consumers to maintain the proper functioning of markets and financial systems in the best interests of consumers and the Australian economy.

关于澳大利亚证券与投资委员会为应对新型冠状病毒对其监管工作和优先级别进行临时调整的详细信息

澳大利亚证券与投资委员会先前表示，将暂时对其监管工作和优先级别进行调整以使其和受其监管的实体能够专注于新型冠状病毒带来的影响。延迟某些活动和调动工作人员以解决目前的问题，维护市场完整性并保护脆弱的消费者。

澳大利亚证券与投资委员会已推迟一些并非刻不容缓的活动，包括磋商、监管报告和审查。

目前的情况无法进行现场监督工作。但是，澳大利亚证券与投资委员会将继续通过包括与澳大利亚金融监理署紧密合作和信息共享在内的方式来对企业进行远程监管，还将继续利用与高级管理人员达成的既定工作安排来监督和支持企业。

针对新型冠状病毒的流行，澳大利亚证券与投资委员会：

- 加强市场监管工作，以支持市场公平有序运作，确保投资者获取适当信息并防止操纵及滥用行为；
- 将加大力度帮助易受诈骗、易接收不良建议或在陷入困境时需要寻求信息和支持的消费者；及
- 将对支持公司所需采取的其他行动进行确认，例如促进及时完成资本募集和其他紧急交易，酌情提供监管救济以及确定支持小型企业的措施。

执行行为将继续。但考虑到新型冠状病毒的影响，调查时间和过程可能会有一些变化。关键功能将继续供相关人员使用，包括注册表操作和服务、接收举报、违规和不当行为报告以及行业的一般联系点。

澳大利亚证券与投资委员会主席 James Shipton 表示："我们意识到，澳大利亚金融服务业参与者由于新型冠状病毒的影响正承受着巨大压力。他们正采取特别举措来支持那些受到不利影响的客户，我们希望在特殊时期他们能继续采取公平的并符合消费者最大利益的举措。为了帮助这些企业，澳大利亚证券与投资委员会将对需要其尽可能多回应的监管活动进行限制。澳大利亚证券与投资委员会还与金融业合作以确定可以提供支持的其他领域。但是，值得注意的是，这并不代表监管工作的废止而是认识到现有情况下的某些活动和任务必须优先于原有工作。因为消费者重大伤害风险、严重违反金融服务法的可能性及确保市场诚信和公司持续融资方面的挑战的存在，应对新型冠状病毒实际上增加了澳大利亚证券与投资委员会的工作量。澳大利亚证券与投资委员会在应对掠夺行为和欺诈行为时尤其保持警惕。"

尽管新型冠状病毒带来诸多挑战，但澳大利亚证券与投资委员会希望企业能够公平对待客户，避免给消费者带来进一步的财务损害和负担，并采取措施维护市场完整和效率。

此外，金融服务和信贷服务提供者及金融服务市场的参与者继续承担相应法律义务，包括：

- 行为公正、诚实和有效；
- 报告重大违反法律的行为；
- 保留金融服务提供记录；及
- 在员工远程工作的情况下也应当确保对金融服务和信贷活动的提供进行适当监督。

澳大利亚证券与投资委员会致力于与受规管群体、行业代表和消费者代表开展合作，以维护体现消费者和澳大利亚经济最大利益的市场和金融体系的正常运转。

Source 来源:
https://asic.gov.au/about-asic/news-centre/find-a-media-release/2020-releases/20-086mr-details-of-changes-to-asic-regulatory-work-and-priorities-in-light-of-covid-19/

The European Commission Provides "Temporary Framework Communication" to Guide on Allowing Limited Cooperation Among Businesses in Response to Urgent Situations Related to Current Coronavirus Outbreak

The European Commission has published a Temporary Framework Communication to provide antitrust guidance to companies cooperating in response to urgent situations related to the current coronavirus outbreak. In this context, the Commission is also issuing a "comfort letter" concerning a specific cooperation project aimed at avoiding situations of shortages of critical hospital medicines.

Executive Vice-President Margrethe Vestager in charge of competition policy said: "We need to make sure that there is sufficient supply of the critical hospital medicines used to treat coronavirus patients. To avoid the risk of shortages of essential and scarce products and services because of the unprecedented surge in demand due to the pandemic, we need businesses to cooperate and do it in line with European Competition rules. So to ensure supply we will urgently provide businesses with sufficient guidance and comfort to facilitate cooperation initiatives boosting the production of products in high demand. The temporary framework explains when and how firms can obtain guidance or written comfort in line with our competition rules."

The Temporary Framework Communication

The coronavirus outbreak has given rise to a general supply shock resulting from the disruption of supply chains and a demand surge caused mainly by a steep rise in demand for certain products and services, notably in the health sector.

These circumstances risk leading to shortages in critical medical goods, which may worsen as the pandemic evolves. This concerns, in particular, medicines and medical equipment that are used to treat coronavirus patients. Supply emergencies resulting from the coronavirus outbreak can arise also for other essential goods and services outside the health sector.

Tackling these exceptional shocks and avoiding shortages in a timely manner may require the swift coordination of companies in order to overcome, or at least to mitigate, the effects of the crisis to the ultimate benefit of citizens. For example, companies may need to coordinate on production stock management and potentially distribution so that not all undertakings focus on one or a few medicines, while others remain in under-production. Such coordination would be contrary to antitrust rules in normal circumstances. But in the context of a pandemic like the coronavirus outbreak, such coordination can, with appropriate safeguards, bring important benefits to citizens.

The Temporary Framework is meant to provide antitrust guidance to companies willing to temporarily cooperate and coordinate their activities in order to increase production in the most effective way and optimize supply of, in particular, urgently needed hospital medicines. In particular, the Temporary Framework Communication explains the main criteria that the Commission will follow in assessing these possible cooperation projects.

Companies are responsible for assessing themselves the legality of their agreements and practices. However, mindful of the exceptional situation, the Commission has been engaging with companies and trade associations to help them in assessing the legality of their cooperation plans and putting in place adequate safeguards against longer-term anticompetitive effects. In most situations, the oral guidance that the Commission has been giving to companies is sufficient. However, the Commission is also ready to exceptionally provide companies with written comfort (comfort letter) concerning specific cooperation projects that need to be swiftly implemented in order to effectively tackle the coronavirus outbreak.

The comfort letter

The Commission is also using the procedure described in the communication for the first time and is providing a comfort letter to "Medicines for Europe", formerly the "European Generics Medicines Association" (EGA). The comfort letter addresses a specific voluntary cooperation project among pharmaceutical producers – both members and non-members of the association – that targets the risk of shortage of critical hospital medicines for the treatment of coronavirus patients. Generic pharmaceutical companies produce the largest part of the critical hospital medicines that are now urgently needed in large scale volumes to avoid shortages.

In the current circumstances, this temporary cooperation appears indeed justifiable under EU antitrust law, in view of its objective and the safeguards put in place to avoid anticompetitive concerns and as long as it remains within the scope communicated to the Commission.

No breaches of the competition rules on the back of the crisis

At the same time, the Commission underlines that under these exceptional circumstances, it is more important than ever that undertakings and consumers receive protection under competition law. It will therefore continue to closely and actively monitor relevant market developments to detect undertakings, which take advantage of the current situation to breach EU antitrust law, either by engaging in anti-competitive agreements or abusing their dominant position.

欧盟委员会提供临时框架通讯以指导企业间进行有限合作以应对当前与新型冠状病毒爆发相关的紧急情况

欧盟委员会发布了临时框架通讯，旨在为企业合作应对当前新型冠状病毒爆发的紧急情况提供反托拉斯指导。在此情况下，欧盟委员会还就一项具体的合作项目发出"安慰函"，以期避免重点医院药物短缺的情况。

负责竞争政策的执行副总裁 Margrethe Vestager 表示："我们需要确保有足够的用于治疗新型冠状病毒患者的重点医院的药物供应。为了避免由于新型冠状病毒大流行引起的需求空前激增而导致必需的、稀缺的产品及服务的短缺风险，企业需要按照欧洲竞争规则进行合作。因此，为了确保供应，我们将紧急为企业提供足够的指导和安慰以促进合作计划，从而促进高需求产品的生产。临时框架阐释了企业何时以及如何根据竞争规则获得指导或书面安慰。"

临时框架通讯

由于供应链中断和需求激增，新型冠状病毒的爆发引起了普遍的供应冲击，这主要是由于对某些产品和服务的需求急剧上升导致的，尤其是医疗卫生部门。

此类情况可能导致关键医疗产品短缺并随着新型冠状病毒大流行而不断恶化，特别是用于治疗新型冠状病毒患者的药物及医疗设备。新型冠状病毒爆发引起的供应紧急情况也可能发生于医疗卫生部门以外的其他重要商品和服务领域。

为了应对此类特殊冲击并及时避免短缺，可能需要公司迅速协调以克服或至少减轻危机对公民根本利益的影响。例如，公司可能需要协调产品库存管理和潜在分销以避免所有企业都专注于某种或某几种药物而其他药物仍生产不足的情况。正常情况下，此种协调将会违反反托拉斯规则，但是在新型冠状病毒大流行的背景中，此种协调在适当规制下可以为公民带来重大利益。

临时框架旨在为愿意暂时合作和协调其活动的企业提供反托拉斯指导，以最有效的方式增加产量并优化医疗药物的供应。临时框架通讯特别说明了欧盟委员会在评估此类可能的合作项目时将遵循的主要标准。

企业有责任评估自己的协议及惯例的合法性。但是，考虑到当前的特殊情况，欧盟委员会一直在与企业和行业协会合作以帮助其评估合作计划的合法性，并采取适当的措施来防止长期性反竞争影响。在大多数情况下，欧盟委员会向企业提供口头指导已经足够。但是，欧盟委员会还准备为企业提供特殊的书面安慰（安慰函）以应

对需要迅速实施以有效应对新型冠状病毒爆发的具体合作项目。

安慰函

欧盟委员会首次使用临时框架通讯中所述程序，并致函“欧洲药品”（原称“欧洲非专利药品协会”）。 安慰函涉及药品生产商（该协会成员和非成员）之间的一项特定的自愿合作项目，该项目针对治疗新型冠状病毒患者的重点医院的药物短缺风险。 非专利通用药品制造公司生产重点医院绝大部分现在急需的、以避免短缺的药物。 在当前情况下，鉴于其目的以及为避免引发反竞争问题而采取的保障措施并且只要其处于申报给欧盟委员会的范围之内，此类临时合作就欧盟反托拉斯法而言确实具有合理性。

危机后不违反竞争规则

同时欧盟委员会着重强调，在特殊情况下，企业和消费者获得竞争法规定的保护比以往任何时期都更为重要。 因此，欧盟委员会将继续密切地、积极主动地监管相关市场发展情况以发现利用当前情况参与反竞争协议或滥用其支配地位等违反欧盟反托拉斯法的企业。

Source 来源:
https://ec.europa.eu/commission/presscorner/detail/en/ip_20_618