J M L
Jeffrey Mak Law Firm
麦振兴律师事务所
www.jmaklegal.com

Financial Services Regulatory Update
金融服务监管资讯

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Hong Kong Securities and Futures Commission Publicly Criticizes CICC Financial Trading Limited and China International Capital Corporation Limited for Breaches of Takeovers Code

On June 18, 2020, the Hong Kong Securities and Futures Commission (SFC) publicly criticizes CICC Financial Trading Limited (CICCFT) and China International Capital Corporation Limited (CICCL) for breaches of the Code on Takeovers and Mergers (Takeovers Code).

In transactions related to mandatory general offers for the H shares of Dalian Port (PDA) Company Limited and Maanshan Iron & Steel Company Limited in 2019, China International Capital Corporation Hong Kong Securities Limited (CICCHKSL), which is licensed to carry out Type 1 (dealing in securities), Type 2 (dealing in futures contracts), Type 4 (advising on securities), Type 5 (advising on futures contracts) and Type 6 (advising on corporate finance) regulated activities under the Securities and Futures Ordinance), and a member of the China International Capital Corporation group (CICC Group), was the financial adviser to the offerors. CICCHKSL and CICCFT are wholly owned subsidiaries of CICCL and all of them are members of CICC Group. CICCFT and CICCL are also recognized as exempt principal traders under the Takeovers Code. CICCFT and CICCL therefore fell within the definition of "associate" of the offerors in both of the offers.

CICCFT and CICCL dealt in the relevant securities of Dalian Port and Maanshan Iron during the transactions but failed to make timely disclosure of their dealings in relevant securities under Rule 22 of the Takeovers Code. Rule 22.1(a) of the Takeovers Code provides that "[d]ealings in relevant securities by an offeror or the offeree company, and by any associates of either of them, for their own account during an offer period must be publicly disclosed…". Note 5 to Rule 22 further provides that "[d]isclosure must be made no later than 12.00 noon on the business day following the date of the transaction…".

CICCFT and CICCL accepted that they failed to comply with the Takeovers Code and agreed to the disciplinary action taken against them. In deciding the sanction, the SFC paid considerable regard to the prompt actions taken by CICC Group following the discovery of the breach. The SFC also considered CICC Group's full cooperation and a number of measures which it has put in place to ensure future compliance.

The disclosure obligations in the Takeovers Code are intentionally onerous to reflect the fact that a high degree of transparency is essential to the efficient functioning of the market in the critical period of an offer or possible offer for a company's shares. Timely and accurate disclosure of information in relation to relevant dealings, including those of advisers, plays a fundamental role in ensuring that takeovers are conducted within an orderly framework and the integrity of the markets is maintained.

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

Case Summary

Major Facts	Background 1. An offer period commenced for Dalian Port on 4 June 2019 when Broadford and Dalian Port jointly announced a possible mandatory general offer for Dalian Port ("Dalian Port Offer"). China International Capital Corporation Hong Kong Securities Limited ("CICCHKSL") acted as the financial adviser to Broadford, the offeror. 2. An offer period commenced for Maanshan Iron when it published an announcement under Rule 3.7 of the Takeovers Code on 2 June 2019. Subsequently, Maanshan Iron and Baosteel jointly announced a possible mandatory general offer for Maanshan Iron on 22 July 2019 ("Maanshan Iron

	Offer"). CICCHKSL was the financial adviser to Baosteel, the offeror. 3. Both CICCFT and CICCL are recognized as exempt principal traders ("EPT") by the Executive under the Takeovers Code. Trades executed by CICCL 4. CICCL is a designated liquidity provider of a pre-existing A-share index-tracking exchange traded fund ("ETF") listed on the Shenzhen Stock Exchange ("SZSE"). In performing its pre-existing obligations as a liquidity provider, it creates and redeems ETF units ("ETF Trades"). The creation of ETF units involves the acquisition by CICCL of a basket of underlying securities listed on the Shanghai Stock Exchange ("SSE") and SZSE ("Acquisitions") which will then be delivered to an ETF provider in exchange for a block of ETF units with the same market value. Upon unsolicited client request for redemption of the ETF units, CICCL delivers the ETF units to the ETF provider in return for an equivalent basket of the underlying securities. CICCL will then dispose of these underlying securities in the market ("Disposals" together with the Acquisitions, the "ETF-related Hedging Trades"). 5. CICCL also executed index arbitrage activities which involved taking short positions in an A-share index futures product ("Index Futures Trades") and entering into related hedging transactions. The hedging transactions required acquisition of the underlying constituent stocks of the index ("Index-related Acquisitions") or related ETF units. In the case where ETF units were acquired for hedging, when squaring its position, CICCL might request for redemption and disposal of the underlying stocks afterwards ("Index-related Disposals", together with Index-related Acquisitions, the "Index-related Hedging Trades"). Trades executed by CICCFT 6. CICCFT executed swap transactions involving a basket of stocks which
	included the A shares of Dalian Port and Maanshan Iron ("Swap Trades"). CICCFT also conducted the related delta-one hedging trades of the underlying securities to fully hedge its proprietary positions in the Swap Trades by taking opposite positions in the market through CICCHKSL as its broker ("Swap Hedging Trades", together with the ETF-related Hedging Trades and Index-related Hedging Trades, the "Hedging Trades"). 7. CICCL and CICCFT did not make public disclosures of the Hedging Trades no later than 12:00 noon on the business day following the date of each of the Hedging Trades. Consultation with the Executive 8. On 27 June 2019, the compliance team of CICCHKSL consulted the Executive about the general nature of hedging trades in the context of the Offers, and the applicable disclosure requirements under Rule 22 of the Takeovers Code. While the Derivative Trades and the Swap Trades do not require disclosure as they are 4 not considered "connected with an offer", it became apparent then that CICCFT and CICCL should have made requisite disclosures of Hedging Trades in compliance with Rule 22 of the Takeovers Code. 9. Following its consultation with the Executive on 27 June 2019, CICCFT and CICCL immediately self-reported the non-compliance with the Takeovers Code and submitted all requisite disclosures on 28 June 2019. Apology by CICC Group and Actions Taken 10. CICC Group accepts the oversight of the disclosure obligations of CICCFT and CICCL in respect of the Hedging Trades and that there were shortcomings in its disclosure compliance system. It has apologized for the Rule 22 breaches and emphasized that it takes the matter extremely seriously as evidenced by its prompt action to make the submissions, the measures adopted and the fact that

	the matter was escalated to senior levels of the CICC Group. CICC Group also implemented or committed to implement enhanced measures to ensure compliance in future.
Relevant Rules	1. Rule 22 of the Takeovers Code requires parties to an offer and their respective associates (as defined in the Codes) to disclose their dealings in relevant securities (as defined in Note 4 to Rule 22 of the Takeovers Code) of the offeree company (and of the offeror in a securities exchange offer) conducted for themselves or on behalf of clients during an offer period. 2. The definition of "associate" under the Takeovers Code covers "any financial and other professional adviser… [to an offeror or the offeree company] … and persons controlling, controlled by or under the same control as the advisers…". It also includes "any exempt principal trader… which is controlling, controlled by or under the same control as the financial and other professional adviser to [an offeror or the offeree company]…". 3. The Takeovers Code also defines an "exempt principal trader" as a person who trades as a principal in securities only for the purpose of derivative arbitrage or hedging activities such as closing out existing derivatives, delta hedging in respect of existing derivatives, index related product or tracker fund arbitrage in relation to the relevant securities during an offer period. 4. The note to the definition of derivative provides that "…it is not the intention of the Codes to restrict dealings in, or require disclosure of, derivatives which have no connection with an offer…The Executive will not normally regard a derivative which is referenced to a basket or index including relevant securities as connected with an offeror or potential offeror if at the time of dealing the relevant securities in the basket or index represent less than 1% of the class in issue and less than 20% of the value of the securities in the basket or index...".

Analysis	1. The A shares of Dalian Port and Maanshan Iron were underlying constituent stocks in the ETF and the index futures product. According to the definition of EPT, EPTs are permitted to execute the ETF Trades, the Index Futures Trades and their respective related hedging transactions (collectively, the "Permitted Trades") during an offer period. As the ETF Trades and the Index Futures Trades (together, the "Derivative Trades") are trades relating to derivatives which were referenced to a basket or index including the relevant securities of either Dalian Port or Maanshan Iron that represented less than 1% of their respective class in issue and less than 20% of their respective value of the securities in the basket or index ("Threshold"), the Derivative Trades were not considered as having a connection with the Dalian Port Offer or the Maanshan Iron Offer (together, the "Offers"). Therefore, no disclosure for the Derivative Trades was required. 2. However, the ETF-related Hedging Trades and the Index-related Hedging Trades (collectively, the "Relevant CICCL Trades") were trades that involved the underlying relevant securities of Dalian Port and Maanshan Iron and not derivatives that were unconnected to the Offers. It follows that CICCL should have made public disclosures of the Relevant CICCL Trades no later than 12:00 noon on the business day following the date of each of the Relevant CICCL Trades in compliance with Rule 22 of the Takeovers Code. 3. The Swap Trades were permitted trades under the definition of EPT involving relevant securities of Dalian Port and Maanshan Iron with the relevant percentages falling below the Threshold. The Swap Trades were therefore considered not connected to the Offers and were exempted from the disclosure requirements. 4. However, CICCFT should have made timely public disclosures in respect of the Swap Hedging Trades which involved acquisitions or disposals of the relevant securities of Dalian Port or

	Maanshan Iron during the relevant period.
Conclusion	The Executive publicly criticizes CICCFT and CICCL for breaching Rule 22 of the Takeovers Code as a result of their late disclosure of dealings in the relevant securities in two transactions governed by the Takeovers Code in 2019.

JML's comments:

The definition of derivatives under the Takeovers Codes has no intention to restrict dealings in, or require disclosure of, derivatives which have no connection with an offer. The Executive will not normally regard a derivative which is referenced to a basket or index including relevant securities as connected with an offeror or potential offeror if at the time of dealing the relevant derivatives in the basket or index present below certain threshold, say, less than 1% of the class in issue and less than 20% of the value of the securities in the basket or index.

Disclosures required by Rule 22 of the Takeovers Code for dealings in certain derivatives which are not considered as having a connection with an offer or potential offer are not required. However, disclosures for their related hedging activities are required. For example, in this case, CICCL's trades in the ETF units and index arbitrage activities where in both cases the A shares of Dalian Port and Maanshan Iron were the underlying constituent stocks concerned were exempt from disclosure requirements, since the trades were under the threshold to be defined as connected with the offer. However, when executing hedging trades in relation to the ETF trades and index futures trades, these hedging trades involved dealings of the underlying relevant securities rather than derivatives which were exempt from disclosure under Rule 22 of the Takeovers Code. Similarly, CICCFT's hedging trades in relation to the swap transactions were also not exempt from disclosure requirements.

Bearing this case and relevant definitions and rules in mind, relevant parties to an offer should pay attention and analyze the nature and circumstances of their trading activities carefully in determining whether disclosures under the Takeovers Code are required during an offer period. If in doubt, the Executive should be consulted.

香港证券及期货事务监察委员会公开批评 CICC Financial Trading Limited 及中国国际金融股份有限公司违反《收购守则》

2020 年 6 月 18 日，香港证券及期货事务监察委员会（证监会）公开批评 CICC Financial Trading Limited（CICCFT）及中国国际金融股份有限公司（中金公司）违反《公司收购及合并守则》（《收购守则》）。

在 2019 年就大连港股份有限公司及马鞍山钢铁股份有限公司的 H 股提出的强制性全面要约所涉及的交易中，中国国际金融集团（中金集团）的一名成员中国国际金融香港证券有限公司（中金香港证券）在两项要约中均属要约人的财务顾问。中金香港证券根据《证券及期货条例》获发牌进行第 1 类（证券交易）、第 2 类（期货合约交易）、第 4 类（就证券提供意见）、第 5 类（就期货合约提供意见）及第 6 类（就机构融资提供意见）受规管活动。中金香港证券及 CICCFT 是中金公司的全资附属公司，而三家公司均为中金集团的成员。CICCFT 及中金公司也是根据《收购守则》获认可为获豁免自营买卖商。因此，就《收购守则》而言，CICCFT 及中金公司在两项要约中均属于要约人的"联系人"。

CICCFT 及中金公司在上述交易中，就大连港和马鞍山钢铁的相关证券进行了交易，但却没有按《收购守则》规则 22 及时披露有关证券的交易。《收购守则》规则 22.1(a)规定"要约人或受要约公司，及它们两者之一的任何联系人在要约期内为本身进行的有关证券的交易，必须……加以公开披露"。规则 22 注释 5 进一步订明："披露必须在交易日的下一个营业日中午 12 时正或之前作出……"。

CICCFT 及中金公司承认其没有遵守《收购守则》，并同意接受对其采取的纪律行动。证监会在厘定该处分时，已充分考虑到中金集团在违规事件被发现后迅速采取之行动。证监会亦考虑到中金集团全力配合，以及其为确保日后合规而设立的多项措施。

《收购守则》刻意订明严苛的披露责任，目的是要阐明在就某公司的股份作出要约或可能作出要约的关键期内，高透明度对市场能否有效率地运作而言，至关重要。就相关交易（包括顾问的交易）作出适时及准确的资料披露，是确保收购在有秩序的架构内进行及维持市场廉洁稳健的关键所在。

执行人员的声明可于证监会网站"<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。

案情摘要

主 要事实	背景 1. 大连港的要约期于 2019 年 6 月 4 日在布罗德福及大连港联合公布可能就大连港提 出强制性全面要约（“大连港要约”）后展开。中金香港证券担任要约人布罗德福的财务顾问。 2. 马钢的要约期于 2019 年 6 月 2 日在其根据《收购守则》规则 3.7 发布公告后展开。随后，马钢与宝钢在 2019 年 7 月 22 日联合公布可能就马钢提出强制性全面要约 （“马钢要约”）。中金香港证券是要约人宝钢的财务顾问。 3. . CICCFT 及中金公司已获执行人员根据《收购守则》认可为获豁免自营买卖商。 *中金公司执行的买卖* 4. 中金公司是一只于深圳证券交易所（“深交所”）上市、追踪 A 股指数表现且早已存在的交易所买卖基金（“ETF”）的指定流通量提供者。在其履行作为流通量提供者早已存在的责任，它会增设及赎回 ETF 单位（“ETF 买卖”）。ETF 单位的增设涉及由中金公司买入在上海证券交易所（“上交所”）和深交所上市的一篮子相关证券（“买入交易”），然后将其交付给 ETF 提供者以换取一批具相同市场价值的 ETF 单位。当客户主动要求赎回 ETF 单位时，中金公司便会向 ETF 提供者交付 ETF 单位，以换取一篮子具同等价值的相关证券。中金公司随后会在市场上卖出这 些相关证券（“卖出交易”及买入交易，统称“ETF 相关对冲买卖”）。 5. 中金公司亦执行了指数套戥活动，当中涉及持有某 A 股指数期货产品的淡仓（“指数期货买卖”）及进行相关的对冲交易。为进行该等对冲交易，必须先买入该指数的相关成分股（“指数相关买入交易”）或有关的 ETF 单位。如果是为了对冲而买 入 ETF 单位，则在平仓时中金公司可能要求赎回 ETF 单位及在之后卖出相关的股票（“指数相关卖出交易”及指数相关买入交易，统称“指数相关对冲买卖”）。 *CICCFT 执行的买卖*
	6. CICCFT 执行了涉及一篮子股票（包括大连港及马钢的 A 股）的掉期交易（“该等掉期买卖”）。CICCFT 亦透过其经纪中金香港证券在市场上持有相反的持仓，就相关证券进行得尔塔为 1 的相关对冲买卖，藉以全面对冲其在该等掉期买卖中的自营交易仓盘（“掉期对冲买卖”，与 ETF 相关对冲买卖及指数相关对冲买卖，统称“对冲买卖”）。 7. 中金公司和 CICCFT 本应按《收购守则》规则 22，在每项相关对冲买卖发生的日期的下一 个营业日中午 12 时正或之前就相关对冲买卖作出公开披露。 *就披露规定咨询执行人员* 8. 2019 年 6 月 27 日，中金香港证券的合规小组在该等要约的背景下，就对冲买卖的一般性质及《收购守则》规则 22 下的适用披露规定，咨询执行人员的意见。尽管该等衍生工具买卖及该等掉期买卖无需予以披露，因为它们不被视为“与该等要约有关连”，但 CICCFT 及中金公司显然应该对以下数据作出必须的披露：按《收购守则》规则 22 披露对冲买卖。 9. 于 2019 年 6 月 27 日经咨询执行人员后，CICCFT 及中金公司立即主动汇报未遵守《收购守则》的情况，并于 2019 年 6 月 28 日提交了所有必须的披露数据。 *中金集团致歉及已采取行动* 10. 中金集团承认忽略了 CICCFT 及中金公司关于相关买卖的披露责任，而其披露合规制度亦有不足之处。中金集团已就违反规则 22 的情况致歉，并强调其以非常严肃 的态度来处理此事，这可从其迅速采取行动以提交数据、已采取的措施，以及此事 实际上已上报中金集团的高级管理层得以印证。中金集团亦已采取或承诺采取优化措施以确保日后合规。

相关条文	1. 《收购守则》规则 22 规定，要约的当事人及其各自的联系人（定义见两份守则） 须披露为本身或代表客户于要约期内就受要约公司（假如是证券交换要约，亦包括要约人）的有关证券（定义见《收购守则》规则 22 注释 4）所进行的交易。 2. 根据《收购守则》，“联系人 " 定义包括 “［要约人或受要约公司］……所聘用的任何财务顾问及其他专业顾问……及控制该顾问、受该顾问所控制或与该顾问一样受到同样控制的人士…… "，亦包括“任何控制［要约人或受要约公司］所聘用的财务顾问及其他专业顾问、受该财务顾问及其他专业顾问所控制或与该财务顾问及其他专业顾问一样受到同样控制的获豁免自营买卖商…… " 。 3. 《收购守则》亦将“获豁免自营买卖商 " 界定为纯粹为了在要约期内就相关证券进行衍生工具套戥或对冲活动（例如清结现有衍生工具、就现有衍生工具进行无风险对冲、指数相关产品或指数基金套戥）而以自营方式买卖证券的人。 4. 衍生工具定义的注释订明：“……两份守则无意限制与要约……无关连的衍生工具交易，或规定须就这些衍生工具作出披露”。……假如在交易进行时，在有关一篮子证券或指数内的相关证券占已发行的该类别的证券少于 1%及同时占该该一篮子证券或该指数的价值少于 20%，则执行人员一般不会将以包括相关证券在内的该一篮子证券或该指数作为参照基础的衍生工具视为与要约人或有意要约人有关连…… " 。
分析	1. 大连港及马钢的 A 股是 ETF 及指数期货产品的相关成分股。根据获豁免自营买卖商的定义，获豁免自营买卖商获准在要约期内执行 ETF 买卖、指数期货买卖及其各自的相关对冲交易（统称“获准进行的买卖”）。由于 ETF 买卖及指数期货买卖（统称“该等衍生工具买卖”）是涉及以包括大连港或马钢的相关证券在内的一篮子证券或指数作为参照基础的衍生工具的买卖，而相关证券分别占大连港或马钢已发行的该类别的证券少于 1%及占其在该一篮子证券或该指数内各自的价值少于 20% （“该门坎”），故该等衍生工具买卖不被视为与大连港要约或马钢要约（统称“该等要约”）有关连。因此，该等衍生工具买卖无需予以披露。
	2. . 然而，ETF 相关对冲买卖及指数相关对冲买卖（统称“中金公司相关买卖”）是涉及大连港及马钢的相关证券（而不是与该等要约无关连的衍生工具）的买卖。因此，中金公司本应按《收购守则》规则 22，在每项中金公司相关买卖发生的日期的下一个营业日中午 12 时正或之前就中金公司相关买卖作出公开披露。 3. 该等涉及大连港及马钢的相关证券且有关百分率低于该门坎的掉期买卖，按照获豁免自营买卖商的定义，乃属获准进行的买卖。因此，该等掉期买卖被视为与该等要约无关连，及获豁免遵守披露规定。 4. 然而，CICCFT 本应就在有关期间内涉及买入或卖出大连港或马钢有关证券的掉期对冲买卖，及时作出公开披露。
结论	执行人员公开批评 CICCFT 及中金公司违反了《收购守则》规则 22，原因是它们于 2019 年未有就两宗受《收购守则》管辖的交易中的相关证 券交易作出及时披露。

JML 简评:

《收购守则》下衍生工具的定义无意限制与要约无关连的衍生工具交易，或规定须就这些衍生工具作出披露。假如在交易进行时，在有关一篮子证券或指数内的相关证券占已发行的该类别的证券少于 1%及同时占该该一篮子证券或该指数的价值少于 20%，则执行人员一般不会将以包括相关证券在内的该一篮子证券或该指数作为参照基础的衍生工具视为与要约人或有意要约有关连。

《收购守则》规则 22 规定无需披露某些不被视为与要约或可能要约有关连的衍生工具的交易，但这不应被诠释为与其相关的对冲活动亦同样无需予以披露。例如，在本案中，中金公司的 ETF 买卖及指数套利活动均涉及大连港及马钢的 A 股为相关 ETF 及指数期货产品的相关成分股，由于这些衍生工具交易本身低于衍生工具定义的门槛，因此可以豁免披露要求。然而，与这些 ETF 买卖及股指期货产品相关的对冲买卖由于涉及大连港及马钢的相关证券的买卖，而并非是与该等要约无关连的衍生工具的买卖，因此不能被豁免《收购守则》规则 22 下的披露要求。同样地，CICCFT 执行的与掉期合约相关的对冲买卖同样无法豁免披露要求。

鉴于本案以及相关的定义和规则，与要约有关的各方在确定是否须按《收购守则》的规定在要约期内作出相关

披露时，应慎重考虑和分析其买卖活动的性质及情况。如有任何疑问，应咨询执行人员的意见。

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Hong Kong Securities and Futures Commission Reprimands and Fines Guotai Junan Securities (Hong Kong) Limited HK$25.2 million for Breaches Relating to Anti-Money Laundering and Other Regulatory Requirements

On June 22, 2020, the Hong Kong Securities and Futures Commission (SFC) reprimands and fines Guotai Junan Securities (Hong Kong) Limited (Guotai Junan) HK$25.2 million for multiple internal control failures and regulatory breaches in connection with anti-money laundering, handling of third party fund transfers and placing activities, as well as detection of wash trades and late reporting. Guotai Junan is licensed under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities) and Type 4 (advising on securities) regulated activities.

Third party fund transfers - Lack of proper safeguards to mitigate the risks of money laundering and terrorist financing in relation to third party fund transfers

The SFC investigation found that, between March 2014 and March 2015, Guotai Junan failed to take reasonable measures to ensure that proper safeguards were put in place to mitigate the risks of money laundering and terrorist financing in processing 15,584 third party deposits or withdrawals for its clients, totaling approximately HK$37.5 billion.

Despite red flags suggesting some of the third party fund transfers were unusual or suspicious, and the third-party deposits/withdrawals and the activities in some of the clients' accounts fell within the situations which might give rise to suspicion as set out in the Guideline on Anti-Money Laundering and Counter-Terrorist Financing (AML Guideline) and Guotai Junan's internal policies, Guotai Junan failed to adequately monitor the activities of its clients, conduct appropriate scrutiny of the fund transfers, identify transactions that were suspicious and report them to the Joint Financial Intelligence Unit in a timely manner.

Red flags revealed in a review of some of the fund transfers include: (i) frequent fund transfers to and from third parties that were unrelated to the client, or whose relationship with the client was unverified or difficult to verify; (ii) transactions which have no apparent legitimate purpose and/or appear not to have a commercial rationale, and/or out of the ordinary range of services normally requested of a licensed corporation; (iii) instances where the source of funds was unclear or not consistent with the client's profile; (iv) unnecessary routing of funds from/to third parties or using the account as a conduit for transfers; and (v) large or unusual cash settlements.

Red Flags	Examples of Guotai Junan's Violations
(i) Frequent fund transfers to or from third parties that are unrelated, unverified or difficult to verify	1. Among the 15,584 third party deposits/withdrawals executed for its clients, 11,501 were allegedly made between "friends" whose relationship was difficult to verify. 2. On a sample review of the activities of 7 clients of Guotai Junan (the 7 Clients), the SFC found that there were frequent and significant sums of monies transferred between 61 of the 7 Clients' accounts and third parties who were unrelated to these clients and/or whose identities were unknown to Guotai Junan or not verified by Guotai Junan. 3. In the account of 1 of the 7 Clients, there were frequent transfers to 6 different clients of Guotai Junan which were all of the same amount and just below the HK$2 million threshold which would trigger the obligation of Guotai Junan's staff to report the transfer to Guotai Junan's Compliance Officer and/or Money Laundering Reporting Officer (MLRO) under Guotai Junan's policies.
(ii) Transactions which have no apparent legitimate purpose and/or appear not to have a commercial rationale, and/or is out of the ordinary range of services	1. Although Guotai Junan's clients were asked to provide a reason for the third party deposits/withdrawals and their relationship with the third party, the reason or the relationship given often lacked particulars to enable Guotai Junan's staff to reasonably understand the purpose of the fund transfers. 2. For example, "往来 (incoming and outgoing)" was stated to be

normally requested of a licensed corporation	the reason for the transfers on 4,956 occasions. Although the reason given by the clients was vague and did not properly explain the purpose of the transfers, Guotai Junan accepted these transfers without question. 3. "朋友 (friend)", "业务 (business)", or "生意伙伴 (business partner)" was usually given as the client's relationship with the third party, and "还款 (repayment)", "往来 (incoming and outgoing)", "借款 (loan)", "合作投资 (co-operative investment)", or "朋友代转 (transfer on behalf of friend)" was often given as the reason for the transfers without any further elaboration. None of the reasons given could properly explain why the clients had to use their securities accounts at Guotai Junan, which should have been used primarily for trading in securities, to receive or route funds from/to third parties. 4. There were also occasions when the client gave no details of the third-party depositor and did not explain the reason for using his/her securities account to receive the deposit. These were also accepted by Guotai Junan without question.
(iii) Source of funds is unclear or not consistent with the client's profile	1. The initial deposits made into the accounts of 2 of the 7 Clients (a total of over HK$77 million and HK$39 million respectively) were all from third parties who were not clients of Guotai Junan and whose identities were not verified by Guotai Junan. The source of the funds deposited into these Clients' accounts was also unclear. 2. The activities in the accounts of 3 of the 7 Clients were inconsistent with their net worth and/or annual income as recorded in their account opening documentation. For example, 1 of the 7 Clients claimed to be a "自由投资者 (investor)" with an annual income under HK$500,000 and a net worth under HK$2,500,000. However, Guotai Junan's records show that he withdrew and transferred a total of over HK$185 million to 4 third parties and a total of over HK$167 million to 6 third parties in February 2015 and March 2015 respectively. 3. In a Withdrawal Instruction Form regarding a transfer of over HK$43 million from the account of 1 of the 7 Clients to a third party, it was stated that the third party was his "雇主 (employer)". This was, however, inconsistent with the information recorded in his account opening documentation which stated that he was a "自由投资者 (investor)" with no indication that he was employed.
(iv) Unnecessary routing of funds from/to third parties or using the account as a conduit for transfers	The account of 1 of the 7 Clients received a total sum of over HK$39 million through 11 separate deposits from unverified third parties from May 7, 2014 to May 15, 2014, and the entire sum was transferred to a third party on May 16, 2014. The amount substantially exceeded that Client's declared net worth, and there was no securities trading in the account between May 7 and 16, 2014. The account might have been used as a depository account or a conduit for transfers.
(v) Large or unusual cash settlements	On 2 consecutive trading days, 22 separate cash deposits (involving a total of over HK$2 million) were made into the account of 1 of the 7 Clients.

Guotai Junan also did not ensure that its policies and procedures regarding anti-money laundering and counter-financing of terrorism (AML/CFT) were properly and effectively implemented with respect to third party fund transfers. Specifically, the SFC found that there were:

- a number of occasions where the reasons for the third-party fund transfers, the relationship between the client and the third party, and/or the identity of the third parties were not documented and identified;
- inadequate guidance to its staff on the extent of enquiries they had to make with clients in relation to the third-party fund transfers;
- inadequate procedures requiring its money laundering reporting officer to play an active role in identifying suspicious transactions; and

- inadequate communication between its operations and compliance staff to ensure effective monitoring of client activities.

Guotai Junan's failures above constitute a breach of section 5(1) of Schedule 2 to the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (AMLO) and paragraphs 5.1, 5.10 and 5.11 of the AML Guideline which requires a licensed corporation to continuously monitor its business relationship with its clients including:

(a) monitoring the activities (including cash and non-cash transactions) of the clients to ensure that they are consistent with the nature of business, risk profile and source of funds;

(b) identifying transactions that are complex, large or unusual or patterns of transactions that have no apparent economic or lawful purpose and which may indicate money laundering and/or terrorist financing;

(c) making relevant enquiries, examining the background and purpose, including where appropriate the circumstances, of the transactions;

(d) reporting suspicious transactions to the JFIU in a timely manner; and

(e) documenting the findings and outcomes of its examinations in writing to assist the relevant authorities.

Failure to ensure that Guotai Junan's AML/CFT policies and procedures were properly and effectively implemented

In addition, Guotai Junan processed 5,406 third party deposits from July 2015 to June 2016 without always documenting the identity of the depositors, their relationship with the account holders, and the reasons for these third-party deposits, contrary to the firm's written policies and procedures.

Although Guotai Junan had AML/CFT policies which covered the handling of third-party deposits/withdrawals at the material time, the SFC found that Guotai Junan did not have appropriate measures in place to ensure that such policies and procedures would be properly and effectively implemented:

Guotai Junan's policies	Actual Implementation Situations
Guotai Junan's staff was required under its policy to report suspicious transactions to the Compliance Officer or the MLRO.	However, the activities in most of the 7 Clients' accounts were not brought to the Compliance Officer/MLRO's attention. There did not appear to be any monitoring by senior management on how Operations staff assessed whether a particular transaction was suspicious. The Head of Operations would only randomly review the clients' third-party deposit/withdrawal instructions and check if the forms were completed properly.
Operations staff was required under Guotai Junan's policy to enquire with the clients the reasons for the third party transfers and the relationship between the client and the third party, and document the reasons in the Third Party Fund Deposit Instruction or the Withdrawal Instruction Form.	The SFC's investigation into the third-party transfers during March 2014 to March 2015 shows that: a. Guotai Junan did not provide adequate guidance to its staff on the extent of enquiries they had to make with clients about the reasons for the transfers and their relationship with the third parties. b. There were a number of occasions where the reasons for the third party deposits/withdrawals, the relationship between the client and the third party and/or the identity of the third parties were not documented and such omissions were not identified by the Head of Operations during his random review. c. In relation to third party withdrawals, it was specifically stated in the Withdrawal Instruction Form that if the beneficiary was a third party, the withdrawal instruction would not be processed unless the client's relationship with the third party and the reason for the third party to receive the funds were set out in the form. It was found that this requirement was not implemented by Guotai Junan in practice, as there were occasions when third party withdrawals were approved even when the requisite information was not provided by the clients. d. In relation to third party deposits, although Guotai Junan's policy requires its Operations staff to use a "Third Party Fund Deposit Instruction" to document the reason for the deposits and the relationship between the client and the third party, such a form was not used by Operations staff in practice to

	record their enquiries with the clients about the deposits. The reasons for the deposits were usually just briefly written on the deposit slips. Guotai Junan's records for the third-party deposits during July to December 2015 show that of the 4,034 third party deposits between July and December 2015, the identity of the depositor for 527 third party deposits was missing; and the depositor's identity, the customer's relationship with the depositor and the reason for the deposits were all missing in at least 13 third party deposits.
Guotai Junan's policies and procedures says all third party deposits made though transfers, remittances, or cheques were not accepted.	Of the 1,372 third party deposits between January and June 2016, 97 of them were made through bank transfers or cheques, contrary to Guotai Junan's policies and procedures effective at the material time.
The guidance provided by Guotai Junan in its AML/CFT training to its staff that the firm did not accept "朋友 (friend)" as a proper explanation for third party transfers	The guidance was not reflected in Guotai Junan's policies. There were no measures in place to ensure that this was implemented in practice.

It further failed to identify that two deposits totaling HK$38.2 million for a share subscription in December 2015 did not come from the relevant client but a third party, nor did it have written procedures for the identification of third party deposits until around September 2016.

The written policies and procedures of Guotai Junan before September 2016 only provided for steps to be taken if third party deposits were identified. There were no procedures to identify third party deposits and the identity of the depositor was not checked.

Guotai Junan claimed that after January 1, 2016, the cheque copy would be obtained for a cheque deposit from a high risk customer or if it was over a certain amount to determine if the deposit was from a third party. However, it was not until around September 2016 that Guotai Junan had procedures to a similar effect set out in its written policies, but which only stated that Operations staff should ensure that the cheque issuer is the same as the account holder for cheque deposits, and that the remitter is the same as the account holder for bank transfers.

Guotai Junan's failures above constitute a breach of section 23 of Schedule 2 to the AMLO and paragraph 2.1 of the AML Guideline which require a licensed corporation to take all reasonable measures to ensure that proper safeguards exist to mitigate the risks of money laundering and terrorist financing, and to prevent a contravention of any customer due diligence and record-keeping requirements under the AMLO. To ensure compliance with this requirement, a licensed corporation should implement appropriate internal AML/CFT policies, procedures and controls.

Guotai Junan's failure to identify third party deposits, which may potentially be suspicious transactions, also breached paragraph 5.1 of the AML Guideline.

In view of Guotai Junan's above failure to comply with relevant provisions of the AMLO and the AML Guideline, Guotai Junan also failed to comply with General Principle 7 and paragraph 12.1 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (Code of Conduct), which require licensed corporations to comply with, and implement and maintain measures appropriate to ensuring compliance with, all regulatory requirements applicable to the conduct of their business activities.

Failures in relation to the Listed Company's placing activities

While acting as the placing agent for the global offering of a Hong Kong-listed company's shares between December 2015 and January 2016, Guotai Junan failed to take reasonable steps to ascertain whether the clients' subscription applications were consistent with its knowledge of their background and source of funds, and make appropriate enquiries when there were grounds for suspicion.

Failure to conduct proper enquiries and sufficient scrutiny on third party deposits

In particular, the funds used by five clients to subscribe for HK$28.8 million worth of the listed company's shares were deposited by the same third-party into the respective client accounts in amounts far exceeding their self-declared net worth.

The third party deposits appear unusual and suspicious in light of the following circumstances: (a) the 5 Placees applied to open securities accounts with Guotai Junan

on the same day; (b) the 5 Placees all lived in Zhejiang Province and their employment, annual income and net worth as declared in their account opening forms were identical; (c) the 5 deposits amounting to HK$29,103,610 were transferred from the same third party company to the bank account of Guotai Junan on the day after the accounts of the 5 Placees were opened with Guotai Junan; (d) the Transfer Instructions were sent to Guotai Junan from unknown sender(s) via 2 facsimiles within a short period of time; (e) the Transfer Instructions contained similar handwritten notes and were not signed by the 5 Placees; and (f) the amount of the third party deposit received by each of the 5 Placees substantially exceeded the annual income and net worth as declared in their respective account opening forms.

Failure to conduct proper enquiries and sufficient scrutiny on the 5 Placees' subscriptions

Despite such red flags, Guotai Junan did not take reasonable steps to verify the ultimate beneficial owners of the clients' accounts and their source of funds, nor make appropriate enquiries to ascertain whether the clients were independent of the listed company. In the end, three of the five placees, who were allotted 11% of the listed company's shares of the total placing under the international tranche, turned out to be the listed company's employees. While pursuant to paragraph 7 of Appendix 6 (Placing Guidelines for Equity Securities) to the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited, not more than 10% of the total placing may be offered to employees or past employees of the applicant.

Based on the above circumstances, Guotai Junan has failed to: (a) diligently monitor the 5 Placees' activities to ensure that they were consistent with its knowledge of the 5 Placees; (b) take steps to ensure that the information of the 5 Placees obtained during account openings was up-to-date and relevant given the mismatch between the 5 Placees' declared net worth and their subscription amounts; and (c) make appropriate enquiries to address the risks associated with the 5 Placees' subscription applications and take all reasonable steps to establish the true and full identity of the 5 Placees and their financial situation in light of the red flags mentioned above.

Guotai Junan's failures above constitute a breach of:

(a) General Principle 2 of the Code of Conduct, which requires a licensed corporation to act with due skill, care and diligence, in the best interests of its clients and the integrity of the market in conducting its business activities;

(b) paragraph 5.1 of the Code of Conduct, which requires a licensed corporation to take all reasonable steps to establish the true and full identity of each of its clients, and of each client's financial situation, investment experience, and investment objectives;

(c) paragraph 4.7.12 of the AML Guideline, which requires a licensed corporation to take steps from time to time to ensure that the client information that has been obtained for the purposes of complying with the client due diligence and record-keeping requirements are up-to-date and relevant; and

(d) section 5(1) of Schedule 2 to the AMLO and paragraphs 5.1, 5.10 and 5.11 of the AML Guideline.

Failure to detect wash trades and late reporting

The SFC further found that Guotai Junan failed to detect 590 potential wash trades in a timely manner between January 2014 and July 2016 due to a lack of adequate written trade monitoring procedures or guidelines and technical failures of its transaction pattern monitoring system.

However, despite becoming aware in July 2016 of 210 potential wash trades which could not be detected in a timely manner as a result of the system failure, Guotai Junan did not report these 210 trades to the SFC until seven months later in February 2017.

The above-mentioned findings led the SFC to come to the view that Guotai Junan's conduct failed to comply with regulatory requirements under the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance, the Guideline on Anti-Money Laundering and Counter-Terrorist Financing, the Internal Control Guidelines and the Code of Conduct.

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

- there were multiple AML/CFT related failures and Guotai Junan was handling a substantial number or amount of third-party fund transfers;

- Guotai Junan's failures in complying with AML/CFT requirements lasted for an extensive period of time, including its failure to put in place written procedures to identify third party deposits from September 2009 - when the Prevention of Money Laundering and Terrorist Financing Guidance Note came into effect - to around September 2016;

- while the failures in the transaction pattern monitoring system were primarily attributable to the third-party vendor, Guotai Junan failed to detect wash trades for more than two years and around 590 potential wash trades were not detected;

- the SFC has sent a clear message in previous disciplinary cases that licensed corporations are required to report misconduct to the SFC immediately upon discovery of such misconduct;
- a strong message is necessary to deter similar misconduct;
- Guotai Junan has taken prompt remedial measures to rectify the deficiencies in its trade monitoring system and procedures once identified, and has proactively enhanced its policies and procedures in relation to AML/CFT; and
- in resolving the SFC's concerns, Guotai Junan undertook to provide the SFC with a report prepared by an independent reviewer within 12 months confirming that all the identified concerns were properly rectified.

"The disciplinary action against Guotai Junan for serious systemic deficiencies and failures across its internal controls should serve as a stark reminder to licensed corporations the importance of having adequate and effective safeguards in place to mitigate the real risk of becoming a conduit to facilitate illicit activities, such as money laundering, when exposed to potentially suspicious transactions," said Mr Thomas Atkinson, the SFC's Executive Director of Enforcement.

国泰君安证券（香港）有限公司因违反有关打击洗钱及其他监管规定而遭香港证券及期货事务监察委员会谴责及罚款 2,520 万港元

2020 年 6 月 22 日，香港证券及期货事务监察委员会（证监会）谴责国泰君安证券（香港）有限公司（国泰君安）并处以 2,520 万元罚款，原因是该公司曾干犯多项内部监控缺失及违规事项，当中涉及打擊洗钱、处理第三者资金转帐和配售活动、侦测虚售交易及延迟汇报。国泰君安根据《证券及期货条例》获发牌进行第 1 类（证券交易）及第 4 类（就证券提供意见）受规管活动。

第三者资金转帐 - 欠缺合适的保障措施以减低与第三者资金转账有关的洗钱及恐怖分子资金筹集风险

没有充分地监察客户活动及审查第三者存款／提款

证监会的调查发现，国泰君安在 2014 年 3 月至 2015 年 3 月期间为其客户处理 15,584 笔合共约 375 亿港元的第三者存款或提款时，没有采取合理措施，确保设有合适的保障以减低洗钱及恐怖分子资金筹集风险。

尽管有预警迹象显示部分第三者资金转帐属异乎寻常或可疑，该等第三者存款／提款及部分客户账户内的活动属《打击洗钱及恐怖分子资金筹集指引》（《打击洗钱指引》）及国泰君安的内部政策所指可能引起怀疑的情况，但国泰君安没有充分地监察其客户的活动，对有关资金转帐进行适当的审查，及识别可疑交易并及时向联合财富情报组报告。

在审查部分资金转帐的过程中所出现的预警迹象包括：(i)与和客户无关连或与客户的关系未经核实或难以核实的第三者有频繁的资金转帐；(ii)无明显合法目的及／或看来没有商业理据及／或超出持牌法团一般被要求提供的正常服务范围的交易；(iii)资金来源不明或与客户的概况不符的情况；(iv)与第三者进行不必要的资金调度往来或使用帐户作转帐渠道；及(v)大额或异乎寻常的现金交收。

预警迹象	国泰君安违规的例子
(i) 与无关连、未经核实或难以核实的第三者有频繁的资金转账	1. 在为其客户执行的 15,584 笔第三者存款／提款中，11,501 笔据称是在关系难以核实的“朋友”之间作出的。 2. 证监会在对国泰君安某七名客户（该七名客户）的活动进行的抽样检视 时，发现在该七名客户中，有六名客户的账户与第三者之间有频繁及金额庞大的款项转账，而有关第三者是与这些客户无关连的，及／或其身分不为国泰君安所知或未经国泰君安核实。 3. 在该七名客户中，有一名客户的账户频繁地转账给国泰君安六名不同的 客户，而所转账的金额全部相同且刚刚低于 200 万港元，即根据国泰君 安的政策会触发其职员向该公司的合规主任及／或洗钱报告主任报告有 关转账的责任的门坎。
(ii) 无明显合法目的及／或看来没有商业理据及／或超出持牌法团一般被要求的正常服务范围的交易	1. 虽然国泰君安的客户被要求提供第三者存款／提款的理由及其与有关第 三者的关系，但所提供的理由或关系往往欠缺详情，未能让国泰君安的 职员合理地了解资金转账的目的。 2. 举例来说，在 4,956 宗个案中，转账的理由被述明为“往来”。虽然客户提供的理由含糊不清，及没有适当地解释转账的目的，但国泰君安不加质疑便接纳了这些转账。 3．“朋友”、“业务”或“生意伙伴”通常被用来形容客户与第三者之间的关系；而“还款”、“往来”、“借款”、“合作投资”或“朋友代转”则往往被提供

	作为转账的理由而没有进一步说明。所提供的理由全部都不能适当地解释，为何客户必须使用其本应主要用作证券买卖的国泰君安证券账户来收取来自第三者的资金或与第三者进行资金调度往来。 4. 同时，亦有情况是客户没有提供第三者存款人的详情，及没有解释使用 其证券帐户来收取存款的理由。国泰君安亦不加质疑地接纳了这些转账。
(iii) 资金来源不明或与客户的概况不符	1. 在该七名客户中，两名客户的账户最初被存入的多笔存款（分别合共超 过 7,700 万港元及 3,900 万港元）全部都是来自并非国泰君安客户且其身分未获国泰君安核实的第三者。存入该等客户账户的资金亦来源不明。 2. 在该七名客户中，三名客户的账户内的活动与其开户文件所记录的资产 净值及／或全年入息不符。举例来说，在该七名客户中，一名客户声称 是全年入息低于 500,000 港元及资产净值低于 2,500,000 港元的"自由投资者"。然而，国泰君安的纪录显示，他在 2015 年 2 月提取并向四名第三者转账合共超过 1.85 亿港元，及在 2015 年 3 月提取并向六名第三者转账合共超过 1.67 亿港元。 3. 在该七名客户中，一名客户将超过 4,300 万港元从其账户转账给某第三者，而有关这项转账的提款指示表格述明，该第三者是他的"雇主"。然而，这与述明该客户是"自由投资者"且没有显示其为受雇人士的开 户文件内所记录的数据不符。
(iv) 与第三者进行不必要的资金调度往来或使用账户作转账的渠道	在该七名客户中，一名客户的账户在 2014 年 5 月 7 日至 2014 年 5 月 15 日 期间，透过另外 11 笔来自未经核实的第三者的存款收取合共超过 3,900 万港 元的款项，而这整笔款项在 2014 年 5 月 16 日被转给一名第三者。有关金额大幅超过该客户所申报的资产净值，而该账户在 2014 年 5 月 7 至 16 日期间 并没有进行证券买卖。该帐户可能已被用作存款帐户或转账的渠道。
(v) 大额或异乎寻常的现金交收	在该七名客户中，一名客户的帐户在连续两个交易日被存入另外 22 笔现金存款（涉及合共超过 200 万港元）。

就第三者资金转帐而言，国泰君安亦没有确保其适当及有效地实施有关打击洗钱及恐怖分子资金筹集的政策及程序。具体而言，证监会发现国泰君安：

- 多次没有记录及识别有关第三者资金转帐的原因、客户与第三者之间的关系及／或第三者的身分；
- 没有向其职员提供充足的指引，说明须就有关第三者资金转帐向客户作出何种程度的查询；
- 没有设立充足的程序规定其洗钱报告主任须在识别可疑交易一事上发挥积极作用；及
- 营运部与合规职员之间的沟通不足，无法确保客户的活动得到有效监察。

证监会认为国泰君安的上述缺失，构成违反《打击洗钱及恐怖分子资金筹集 （金融机构）条例》（《打击洗钱条例》）附表 2 第 5(1)条以及《打击洗钱指引》 第 5.1、5.10 及 5.11 段，当中规定持牌法团须持续监察其与客户的业务关系，包括：

(a) 监察客户的活动（包括现金及非现金交易），以确保有关活动与客户的业务性质、风险状况及资金来源相符；

(b) 识别复杂、大额或异乎寻常的交易，或无明显经济或合法目的之交易模式； 这些都可能显示洗钱及／或恐怖分子资金筹集的活动；

(c) 作出相关查询，以审查交易的背景及目的，包括（如适当）交易的情况；

(d) 及时向联合财富情报组报告可疑交易；及

(e) 将其审查发现及结果以书面方式记录在案，藉以为有关当局提供协助。

没有确保适当及有效地实施国泰君安的打击洗钱及恐怖分子资金筹集政策及程序

此外，国泰君安在 2015 年 7 月至 2016 年 6 月期间处理了 5,406 笔第三者存款，但没有常常将存款人的身分、帐户持有人与存款人之间的关系和作出该等第三者存款的理由记录在案，有违该公司的书面政策及程序。

虽然国泰君安在关键时间设有涵盖处理第三者存款／提款的打击洗钱及恐怖分子资金筹集政策，但证监会发现国泰君安并无设立适当措施以确保有关政策及程序得以适当及有效地实施：

国泰君安的政策	实际实施情况
国泰君安的政策规定其职员须向合规主任或洗钱报告主任报告可疑交易。	然而，在该七名客户的账户中，大部分活动都没有提请合规主任／洗钱报告主任注意。高级管理层看来没有对营运部职员如何评估某项特定交易是否可疑进行任何监察。营运部主管只会随机审核客户的第三者存款／提款指示及查验有关表格是否已填妥。
根据国泰君安的政策，营运部职员须向客户查询该等第三者转账的原因以及客户与第三者之间的关系，并在第三者资金存款指示或提款指示表格内记录相关原因。	证监会对在 2014 年 3 月至 2015 年 3 月期间的第三者转账所进行的调查显示： a. 国泰君安没有向其职员提供充足的指引，说明须就转账原因以及客户与第三者之间的关系向客户作出何种程度的查询。 b. 第三者存款／提款的原因、客户与第三者之间的关系及／或第三者的身分曾多次未有加以记录，而营运部主管在随机审核中亦未识别出有关的疏漏。 c. 关于第三者提款，提款指示表格具体述明，如受益人是第三者，除非在表格内列明客户与该第三者之间的关系及该第三者接收资金的原因，否则提款指示不会获得处理。证监会发现，国泰君安在实际运作中没有落实此规定，因为曾发生即使客户未有提供所需数据但第三者提款仍获得批准的情况。 d. 关于第三者存款，尽管国泰君安的政策规定其营运部职员须使用“第三者资金存款指示”以记录存款的原因以及客户与第三者之间的关系，但营运部职员在实际运作中没有使用该表格记录他们与客户就相关存款所作的查询。存款原因通常只是被简略地写在存款单上。 国泰君安在 2015 年 7 月至 2016 年 6 月期间就第三者存款所作出的纪录显示：2015 年 7 月至 12 月期间的 4,034 笔第三者存款中，有 527 笔第三者存款的存款人身分从缺；及至少有 13 笔第三者存款的存款人身分，有关客户与存款人之间的关系和作出有关存款的理由均从缺。
国泰君安的政策和程序订明所有透过转账、汇款或支票作出的第三者存 款一概不予受理。	在 2016 年 1 月至 6 月期间的 1,372 笔第三者存款中，有 97 笔是透过银行转账或支票作出，违反了国泰君安在关键时间生效的政策和程序，当中订明所有透过转账、汇款或支票作出的第三者存 款一概不予受理。
国泰君安在有关打击洗钱及恐怖分子资金筹集的培训中向其职员提供指引， 表示该公司不接纳“朋友”为第三者转账的恰当解释	但该指引并未反映在 其政策内。国泰君安没有制定措施以确保在实际运作中落实这项指引。

没有为识别第三者存款制定书面程序

国泰君安亦未有识别出 2015 年 12 月的两笔合计 3,820 万港元用作股份认购的存款并非来自有关客户，而是来自一名第三者。该公司直至大约 2016 年 9 月才制定用作识别第三者存款的书面程序。

国泰君安在 2016 年 9 月之前的书面政策及程序仅订明，如识别出第三者存款，应采取哪些步骤，但没有为识别第三者存款制定程序，亦没有查核存款人的身分。

国泰君安声称于 2016 年 1 月 1 日后，若支票是由高风险客户存入，或支票存款超过某特定金额，该公司便会索取支票的副本，以确认有关存款是否来自第三者。 然而，直至大约 2016 年 9 月，国泰君安才在其书面政策内列明具类似作用的程序， 但当中只述明营运部职员应确保以支票存款的支票发出人与账户持有人为同一人，以及以银行转账的汇款人与账户持有人为同一人。

国泰君安缺失构成了违反《打击洗钱条例》附表 2 第 23 条以及《打击洗钱指引》第 2.1 段的行为。相关条文规定，持牌法团须采取一切合理措施，确保设有合适的保障措施以减低洗钱及恐怖分子资金筹集的风险，并防止违反《打击洗钱条例》内有关客户尽职审查及备存纪录的任何规定。为确保符合此规定，持牌法团应就打击洗

钱及恐怖分子资金筹集实行适当的内部政策、程序及监控措施。

国泰君安未有识别出可能属可疑交易的第三者存款，亦违反了《打击洗钱指引》第 5.1 段。

鉴于国泰君安没有遵守《打击洗钱条例》及《打击洗钱指引》的有关条文，亦没有遵守《证券及期货事务监察委员会持牌人或注册人操守准则》（《操守准则》）第 7 项一般原则及第 12.1 段，当中规定持牌法团须遵守、实施及维持适当的措施，以确保适用于其业务活动操守的所有监管规定获得遵守。

与上市公司配售活动有关的缺失

在 2015 年 12 月至 2016 年 1 月期间，国泰君安在担任一家香港上市公司的全球发售配售代理时，没有采取合理的步骤，以确定客户的认购申请与国泰君安对有关客户的背景和资金来源的认识是否相符，并在有怀疑的理据时作出适当的查询。

没有对第三者存款进行妥善的查询和充分的审查

值得注意的是，五名客户用于认购该上市公司价值 2,880 万港元的股份的资金，是由同一名第三者存入他们各自的客户帐户内的，而有关金额远远超过他们自行申报的资产净值。

第三者存款显得异常且可疑的情况：(a) 该五名承配人于同日申请在国泰君安开立证券账户；(b) 该五名承配人全部居住在浙江省，而他们在其开户表格内所申报的就业、全年入息和资产净值都是一样的；(c) 上述合共 29,103,610 港元的五笔存款于同日（即该五名承配人于国泰君安开立账户后的翌日）从上述第三方公司转入国泰君安的银行账户；(d) 该等转账指示是在短时间内由未知发件人通过两份传真文件传送给国泰君安的；(e) 该等转账指示内载有类似的手写说明，并且未经该五名承配人签署；及 (f) 该五名承配人每人所收取的第三者存款金额均远超其在各自的开户表格内所申报的全年入息和资产净值。

没有对该五名承配人的认购进行妥善的查询和充分的审查

尽管出现以上预警迹象，国泰君安不但没有采取合理的步骤来核实该等客户帐户的最终实益拥有人和其资金来源，亦没有进行适当的查询以确定有关客户是否独立于该上市公司。最后，该五名承配人中有三人原来是该上市公司的雇员，而他们获配发的股份占该上市公司国际配售部分总额的 11%。依据《香港联合交易所有限公司证券上市规则》附录六（《股本证券的配售指引》）第 7 段的规定，申请人可将不超过配售总额 10%的证券，售予申请人的雇员或前雇员。

基于上述情况，证监会认为国泰君安未有：(a) 勤勉尽责地监察该五名承配人的活动，以确保有关活动与其对该五名承配人的认识相符；(b) 因为该五名承配人所申报的资产净值与其认购金额不相称而采取措施，确保 在开户期间获得该五名承配人的资料反映现况及仍属相关的；及 (c) 鉴于上述预警迹象，作出适当的查询以应对与该五名承配人的认购申请相关的风险，并采取一切合理步骤来确定该五名承配人的真实和完整身分以及财务状况。

证监会认为，国泰君安与上市公司配售活动有关的缺失构成违反：

(a) 《操守准则》第 2 项一般原则，当中规定持牌法团在经营其业务时，应以适当的技能、小心审慎和勤勉尽责的态度行事，以维护客户的最佳利益及确保市场廉洁稳健；

(b) 《操守准则》第 5.1 段，当中规定持牌法团须采取一切合理步骤，以确立其每位客户的真实和全部的身分、每位客户的财政状况、投资经验及投资目标；

(c) 《打击洗钱指引》第 4.7.12 段，当中规定持牌法团须不时采取措施，以确保 为遵从关于客户尽职审查和备存纪录的规定而取得的客户资料能反映现况及 仍属相关的；及

(d) 《打击洗钱条例》附表 2 第 5(1)条和《打击洗钱指引》第 5.1、5.10 和 5.11 段（见上文第 6 段）。

国泰君安的行为亦显示其没有设立充足且有效的系统及程序，因而违反了《操守准则》第 3 项一般原则。当中规定持牌法团须具备及有效地运用其所需的资源和程序，以便适当地进行其业务活动。

虚售交易的侦测工作及汇报责任

证监会进一步发现，国泰君安在 2014 年 1 月至 2016 年 7 月期间未能及时侦测到 590 宗潜在的虚售交易，原因是该公司缺乏足够的书面交易监察程序或指引，以及交易模式监控系统出现技术故障。

尽管国泰君安在 2016 年 7 月察觉到 210 宗因系统故障而未能及时侦测到的潜在虚售交易，但直至七个月后（即 2017 年 2 月）国泰君安才向证监会汇报该 210 宗交易。

上述调查结果令证监会认为，国泰君安的行为显示其没有遵从《打击洗钱及恐怖分子资金筹集（金融机构）条例》、《打击洗钱及恐怖分子资金筹集指引》、《内部监控指引》及《操守准则》下的监管规定。

证监会在决定上述纪律处分时，已考虑到：

- 有多项与打击洗钱及恐怖分子资金筹集相关的缺失，而当时国泰君安正处理大量或大额的第三者资金转帐；
- 国泰君安未有遵守打击洗钱及恐怖分子资金筹集规定的情况持续了颇长的一段时间，包括它由 2009 年 9 月（即《防止洗黑钱及恐怖分子筹资活动的指引》生效之时）至大约 2016 年 9 月的期间内，一直没有为识别第三者存款制定书面程序；
- 尽管交易模式监控系统的故障主要归因于第三方供应商，但国泰君安未有侦测到虚售交易的情况持续了两年以上，期间大约有 590 宗潜在的虚售交易没有被发现；
- 证监会在过往的纪律个案中已传达清晰的讯息，即持牌法团在发现失当行为后须立即就此向证监会汇报；
- 有必要传达强烈的讯息，防止再有类似的失当行为发生；
- 国泰君安已迅速地采取补救措施，以纠正与其交易监控系统和程序有关的问题，并主动加强其在打击洗钱及恐怖分子资金筹集方面的政策和程序；及
- 在解决证监会的关注事项方面，国泰君安承诺在 12 个月内向证监会提供由独立检讨机构拟备的报告，确认所有被识别出的关注事项获得妥善纠正。

证监会法规执行部执行董事魏建新先生（Mr Thomas Atkinson）表示：“本会因国泰君安的严重系统性缺失和内部监控缺失而对其采取的纪律行动，应可令持牌法团有所警惕，明白设立充分且有效的保障措施的重要性，以减低它们在面对潜在可疑交易时成为助长洗钱等非法活动的工具的真正风险。"

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Hong Kong Securities and Futures Commission Bans Former Responsible Officer of Guosen Securities (HK) Brokerage Company, Limited for 12 Months for Failure to Discharge Duties as A Responsible Office and Senior Management Member

On June 23, 2020, the Hong Kong Securities and Futures Commission (SFC) prohibited Ms Joanna Chu Lai Wa (Chu), former responsible officer (RO), director and head of dealing of Guosen Securities (HK) Brokerage Company, Limited (Guosen) from re-entering the industry for 12 months from 23 June 2020 to 22 June 2021. Chu was licensed under the Securities and Futures Ordinance and approved as an RO of Guosen in respect of its Type 1 (dealing in securities) and Type 4 (advising on securities) regulated activities between 26 February 2010 and 20 February 2019, and in respect of its Type 2 (dealing in futures contracts) and Type 5 (advising on futures contracts) regulated activities between March 14, 2011 and February 20, 2019. Chu is currently not licensed by the SFC.

The disciplinary action follows the SFC's sanctions against Guosen over its failures to comply with anti-money laundering (AML) and counter financing of terrorism (CFT) regulatory requirements when handling third party fund deposits between November 2014 and December 2015. Guosen was reprimanded and fined HK$15.2 million by the SFC in February 2019.

The SFC found that Guosen's breaches were attributable to Chu's failure to discharge her duties as a RO and a member of Guosen's senior management. General Principle 9 of the Code of Conduct for Persons Licensed by or Registered with the SFC (Code of Conduct) requires the senior management of a licensed corporation to bear primary responsibility for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures by the firm. Paragraph 14.1 of the Code of Conduct further provides that the senior management of a licensed corporation should properly manage the risks associated with the firm's business.

Guosen's internal control deficiencies in relation to third party deposits were brought to the attention of its senior management - including Chu - by its staff in 2013. However, Chu deemed that the matter was irrelevant to her and did not take any steps to ensure that the

deficiencies were rectified. Her inaction contributed to Guosen's failure to put in place adequate AML/CFT internal controls during the material time.

Chu also received records of third-party deposits from Guosen's then head of settlement from time to time. Those records showed that, contrary to Guosen's purported policy to discourage third party deposits, it processed a significant number of third-party deposits for its clients. However, Chu did not take any action and did not escalate the matter to her supervisor or other members of Guosen's senior management, despite the substantial amount of third-party deposits received.

Apart from turning a blind eye to the money laundering and terrorist financing (ML/TF) risks associated with third party deposits, Chu also failed to ensure that Guosen's staff adhered to the procedures for assessing clients' ML/TF risks by documenting the process as required by Guosen's compliance manual in her capacity as one of the approvers of account opening applications.

The SFC considers that Chu's conduct fell short of the standard required of her as a RO for a licensed corporation.

In deciding the disciplinary sanction, the SFC took into account all relevant circumstances, including that Guosen's regulatory breaches were serious and Chu's otherwise clean disciplinary record.

Chu, who had applied to the Securities and Futures Appeals Tribunal (SFAT) for a review of the SFC's decision, was granted leave to withdraw her application on June 23, 2020 by the SFAT and ordered to pay the SFC's legal costs.

香港证券及期货事务监察委员会就没有履行其作为负责人员及高级管理人员的职责禁止国信证券（香港）经纪有限公司前负责人员重投业界 12 个月

2020 年 6 月 23 日，香港证券及期货事务监察委员会（证监会）禁止国信证券（香港）经纪有限公司（国信）前负责人员、董事兼交易部主管朱丽华（朱）重投业界，为期 12 个月，由 2020 年 6 月 23 日起至 2021 年 6 月 22 日止。朱在 2010 年 2 月 26 日至 2019 年 2 月 20 日期间就第 1 类（证券交易）及第 4 类（就证券提供意见）受规管活动，并在 2011 年 3 月 14 日至 2019 年 2 月 20 日期间就第 2 类（期货合约交易）及第 5 类（就期货合约提供意见）受规管活动，根据《证券及期货条例》获发牌并获核准成为国信的负责人员。朱现时并非证监会持牌人。

上述纪律行动源于证监会早前就国信于 2014 年 11 月至 2015 年 12 月期间，在处理第三者存款时违反了打击洗钱及恐怖分子资金筹集的监管规定而对其作出的处分。国信于 2019 年 2 月遭证监会谴责及罚款 1,520 万港元。

证监会发现，国信的违规行为可归因于朱没有履行其作为负责人员及国信高级管理人员的职责。《证券及期货事务监察委员会持牌人或注册人操守准则》（《操守准则》）第 9 项一般原则规定，持牌法团的高级管理层应承担的首要责任，是确保商号能够维持适当的操守标准及遵守恰当的程序。《操守准则》第 14.1 段进一步订明，持牌法团的高级管理层应适当地管理与商号的业务有关的风险。

国信有职员于 2013 年向高级管理层（包括朱）提出，该公司对第三者存款的内部监控存在缺失。然而，朱却认为该事与她无关，亦没有采取任何步骤来确保有关缺失已被纠正。她知而不行，使国信于关键时间内没有在打击洗钱及恐怖分子资金筹集方面制定充分的内部监控措施。

朱亦不时从国信当时的交收部主管收到第三者存款的纪录。有关纪录显示，国信为其客户处理了大量第三者存款，与其宣称不鼓励第三者存款的政策不相符。尽管国信所收取的第三者存款金额庞大，但朱却没有采取任何行动，亦没有向其上级或国信的其他高级管理人员上报相关事宜。

除对第三者存款所涉及的洗钱及恐怖分子资金筹集风险视而不见外，朱身为开户申请的批核人之一，也没有确保国信职员遵从有关客户洗钱及恐怖分子资金筹集风险的评估程序，即没有按照国信的合规手册所规定将有关过程记录在案。

证监会认为，朱的行为并不符合其作为持牌法团负责人员所须达到的标准。

证监会在决定上述纪律处分时，已考虑到所有相关情况，包括国信的监管违规情况严重及朱过往并无遭受纪律处分的纪录。

朱曾就证监会的决定向证券及期货事务上诉审裁处（上诉审裁处）提出复核申请。上诉审裁处其后于 2020 年 6 月 23 日批准朱撤回其复核申请，并作出命令将讼费判给证监会。

Source 来源:
https://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=20PR57

https://sc.sfc.hk/gb/www.sfc.hk/edistributionWeb/gateway/TC/news-and-announcements/news/doc?refNo=20PR57

Hong Kong Exchanges and Clearing Limited to Launch New Sustainable and Green Exchange

On June 18, 2020, Hong Kong Exchanges and Clearing Limited (HKEX) announced plans to launch the HKEX Sustainable and Green Exchange, 'STAGE'. This pioneering new information platform is the first-of-its kind in Asia, and will act as a central hub for data and information on sustainable and green finance investments in the region.

STAGE will promote the visibility, transparency, and accessibility of sustainable and green finance across asset class and product type. It will provide investors with access to a comprehensive database of sustainable and green investment options that are available on Hong Kong's securities markets. It will also act as a valuable education and advocacy platform, promoting knowledge sharing and stakeholder engagement in sustainable finance.

In its initial phase, STAGE will be home to a repository of information on sustainability, green and social bonds and ESG-related Exchange Traded Products listed on HKEX. Issuers with products that meet international standards or principles and provide post-issuance reports annually are invited to join STAGE without the need to pay any fees and to display their products on the platform. The online repository will be launched as early as later this year.

HKEX will further develop the platform in response to the evolving market landscape, and over time will consider expanding its coverage to introduce more asset classes and product types, such as derivative products linked to relevant sustainability or environmental, social, and governance indices, as well as other sustainable and green financial products.

香港交易及结算所有限公司计划设立全新可持续及绿色交易所 STAGE

2020 年 6 月 18 日，香港交易及结算所有限公司（香港交易所）宣布计划成立可持续及绿色交易所「STAGE」。STAGE 为亚洲首个可持续金融资讯平台，并致力成为区域内领先的可持续及绿色金融产品资讯枢纽。

STAGE 旨在促进区域内各类型可持续及绿色金融产品的发展，提高其市场关注、信息透明及流通。同时，STAGE 将为投资者提供丰富的可持续及绿色金融产品信息及资源，帮助投资者更便利地获取香港市场上各类相关产品信息以做出投资决策。STAGE 也致力成为一个教育和宣传平台，鼓励相关领域知识共享并推动亚洲可持续及绿色金融发展。

在初始阶段，STAGE 将首先建立一个债券及交易所买卖产品（ETP）资讯库，涵盖在香港交易所上市的可持续发展债券、绿色债券和社会责任债券及与 ESG 相关的 ETP。符合相关国际标准的产品发行人将获邀免费加入 STAGE 并展示其产品，发行人每年亦需定期提供相关报告。该产品资讯库最快将于今年稍后推出。

香港交易所将随市场发展逐步开发 STAGE 资讯平台，并考虑扩大其复盖范围，以引入更多资产类别和产品类型，例如与可持续性相关的衍生产品或 ESG 相关的指数产品，以及其他可持续和绿色金融产品。

Source 来源:
https://www.hkex.com.hk/News/News-Release/2020/200618news?sc_lang=en

https://sc.hkex.com.hk/TuniS/www.hkex.com.hk/news/news-release/2020/200618news?sc_lang=zh-cn

U.S. Financial Regulators Modify Volcker Rule

On June 25, 2020, five federal regulatory agencies (U.S. Securities and Exchange Commission, Commodity Futures Trading Commission, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency and Federal Reserve Board) finalized a rule modifying the Volcker rule's prohibition on banking entities investing in or sponsoring hedge funds or private equity funds—known as covered funds. The final rule is broadly similar to the proposed rule from January.

The Volcker rule generally prohibits banking entities from engaging in proprietary trading and from acquiring or retaining ownership interests in, sponsoring, or having certain relationships with a hedge fund or private equity fund.

The final rule modifies three areas of the rule by:

- Streamlining the covered funds portion of rule;
- Addressing the extraterritorial treatment of certain foreign funds; and
- Permitting banking entities to offer financial services and engage in other activities that do not raise concerns that the Volcker rule was intended to address.

The rule will be effective on October 1, 2020.

美国监管机构修改沃尔克规则

2020 年 6 月 25 日，五家美国监管机构（美国证券交易委员会，商品期货交易委员会，联邦存款保险公司，货币监理局和联邦储备委员会）确定修改沃尔克规则中关于禁止银行实体投资或赞助对冲基金或私募股权基金（亦被称为覆盖基金）的规定。最终规则与 1 月份的拟议规则大致相同。

沃尔克规则禁止银行从事自营交易并禁止银行就对冲基金或私募股权基金获取或保留所有权，发起或与之建立联系。

最终规则修改体现在三个方面：

- 简化规则的覆盖基金部分；
- 处理某些境外资金的域外待遇；和
- 允许银行提供金融服务并从事不会引起沃尔克规则项下问题的其他活动。

该规则将于 2020 年 10 月 1 日生效。

Source 来源：
https://www.sec.gov/news/press-release/2020-143

U.S. Securities and Exchange Commission Charges Insurance Company and Former CFO With Faulty Loss Reserves Disclosures

On June 17, 2020, the U.S. Securities and Exchange Commission (SEC) charged international insurance company AmTrust Financial Services Inc. and its former CFO Ronald E. Pipoly Jr. with failing to disclose material facts about how the company estimated its insurance losses and reserves. They have agreed to pay a combined US$10.5 million to settle the charges.

According to the SEC's complaint, AmTrust and Pipoly failed to properly disclose the company's process for reporting management's best estimate of loss reserves in its filings with the SEC. The complaint alleges that AmTrust and Pipoly disclosed the company's general actuarial process for estimating loss reserves, but failed to disclose that Pipoly made consolidated accounting adjustments that did not properly consider the actuarial analyses and diverged from the company's actuarial estimates. The complaint further alleges that AmTrust failed to disclose the specific factors or assumptions supporting Pipoly's judgmental adjustments and failed to maintain sufficient supporting documentation for management's best estimate. Further, AmTrust and Pipoly allegedly failed to disclose the loss contingencies created by Pipoly's judgmental adjustments to the company's historical experience. According to the complaint, by the end of 2015, Pipoly's total adjustments exceeded US$300 million and impacted all AmTrust's reporting segments.

"Disclosures regarding an insurance company's loss reserve process allow investors to judge the reliability of the company's numbers," said David Peavler, Director of the SEC's Fort Worth Regional Office. "As we allege, AmTrust never disclosed that Pipoly repeatedly deviated from the reserving processes described in the company's filings and changed the company's actuarially determined reserves estimates."

The SEC's complaint, filed in federal court in the Southern District of New York, charges AmTrust and Pipoly with violating Section 17(a)(2) and (3) of the Securities Act of 1933, and violating or aiding and abetting violations of the reporting, recordkeeping, and internal controls provisions of the federal securities laws. Without admitting or denying the SEC's allegations, AmTrust and Pipoly have agreed to permanent injunctions against future violations of these provisions and to pay penalties of US$10.3 million and US$75,000, respectively. Pipoly has also agreed to disgorge US$140,000 and pay US$22,499 in prejudgment interest. The settlements with AmTrust and Pipoly are subject to court approval.

美国证券交易委员会指控保险公司和前首席财务官损失准备金披露有误

2020 年 6 月 17 日美国证券交易委员会（美国证交会）指控国际保险公司 AmTrust Financial Services, Inc. 及其前首席财务官 Ronald E. Pipoly Jr.未披露有关公司如何估计其保险损失和准备金的重大事实。他们已同意支付合计 1,050 万美元。

根据指控，AmTrust 和 Pipoly 没有在向美国证交会提交的文件中适当披露公司报告管理层对损失准备金的最佳估计的流程。据称，AmTrust 和 Pipoly 披露了该公司估算损失准备金的一般精算程序，但没有透露 Pipoly 进行了合并会计调整，而其中没有适当考虑精算分析，因而偏离了该公司的精算估计。指控还称，AmTrust 没有透露支持 Pipoly 决定做该调整的具体因素或假设，也没有保留足够的支持文件以达到管理层的最佳估计。此外，AmTrust 和 Pipoly 未披露 Pipoly 对公司历史经验的判断性调整所造成的损失或有事项。到 2015 年底，Pipoly 的调整总额超过 3 亿美元，该调整牵涉 AmTrust 的所有报告项。

美国证交会沃斯堡地区办事处主任 David Peavler 表示："有关保险公司损失准备金程序的披露使投资者能够判断该公司数字的可靠性。正如指控所称，AmTrust 从未披露 Pipoly 一再偏离公司文件中所述的准备流程，并更改了公司精算确定的准备金估算。"

美国证交会在纽约南区联邦法院提起的申诉指控 AmTrust 和 Pipoly 违反了 1933 年证券法第 17(a)(2)和(3)条，并违反或协助违反了证券法关于报告，记录保存和内部管控的规定。在不承认或否认美国证交会指控的情况下，AmTrust 和 Pipoly 同意遵守违反行为永久性禁令，并分别支付 1,030 万美元和 75,000 美元的罚款。Pipoly 另同意支付 140,000 美元，并 22,499 美元的判决前利息。与 AmTrust 和 Pipoly 达成的和解方案尚需法院批准。

Source 来源:
https://www.sec.gov/news/press-release/2020-135

U.S. Securities and Exchange Commission Emergency Action Halts Cryptocurrency Offering Fraud

On June 19, 2020, the U.S. Securities and Exchange Commission (SEC) announced that it filed an emergency action and obtained a temporary restraining order and asset freeze against two Pennsylvania-based brothers and three entities they control to stop an offering fraud and the misappropriation of investor proceeds.

According to the SEC's complaint, from at least July 2019 through May 2020, brothers Sean Hvizdzak and Shane Hvizdzak offered securities in a private fund that purported to invest in digital assets by misrepresenting fund performance, fabricating financial statements, and forging audit documents. For example, the complaint alleges that the Hvizdzaks misrepresented in marketing materials that the fund earned 100.77% and 92.90% on its investments during the third and fourth quarters of 2019, when in fact the fund actually lost money in those quarters. In addition, the SEC alleges that the brothers diverted tens of millions of U.S. dollars from the fund to personal accounts at banks and digital asset trading platforms, and then transferred the assets on multiple blockchains to themselves and others.

美国证券交易委员会紧急行动制止加密货币发行欺诈

美国证券交易委员会（美国证交会）于 2020 年 6 月 19 日宣布采取紧急行动，并针对两个宾夕法尼亚州兄弟和他们控制的三个实体获得了临时限制令并冻结资产，以制止发行欺诈和挪用投资者收益的行为。

根据指控，至少自 2019 年 7 月至 2020 年 5 月，Sean Hvizdzak 和 Shane Hvizdzak 两兄弟提供投资数字货币私募基金证券，虚假陈述基金绩效，财务报表造假及伪造审计文件。据称，Hvizdzak 兄弟虚假陈述该基金在 2019 年第三季度和第四季度投资收益分别为 100.77%和 92.90%，而实际上基金在该等季度中是亏损的。此外，美国证交会指控称 Hvizdzak 兄弟从基金中挪用了数千万美元到银行及数字货币交易所的个人账户，其后将多个区块链上的资产转移给自己或他人。

Source 来源:
https://www.sec.gov/news/press-release/2020-137

U.S. Securities and Exchange Commission Charges Issuer, CEO, and Lobbyist with Defrauding Investors in AML BitCoin

On June 25, 2020, the U.S. Securities and Exchange Commission (SEC) charged NAC Foundation, its Chief Executive Officer Marcus Andrade, and political lobbyist Jack Abramoff with conducting a fraudulent, unregistered offering of AML BitCoin, a digital asset security the defendants claimed was a new and improved version of bitcoin.

The SEC alleges that NAC Foundation raised at least US$5.6 million from more than 2,400 investors by selling tokens that could later be converted to AML BitCoin. According to the SEC's complaints, NAC and its CEO portrayed AML BitCoin as superior to the original bitcoin, with anti-money laundering, anti-terrorism, and theft-resistant technology built into the coin on NAC's own "privately regulated public blockchain." The SEC's complaints allege that in reality none of the touted capabilities existed and the development of AML BitCoin and its blockchain was in the very early stages.

According to the SEC, NAC and Andrade falsely claimed that multiple government agencies were negotiating to use AML BitCoin, and Abramoff and Andrade falsely claimed that they were on the verge of advertising AML BitCoin during the Super Bowl in an effort to create interest in the offering, despite NAC being unable to afford the cost of the ad. Abramoff also allegedly arranged for NAC to pay for purportedly independent articles about AML BitCoin that included many of the misleading statements. The SEC further alleges that Andrade directed a market manipulation strategy to boost the token's trading volume and price and diverted approximately US$1.1 million from the offering for his personal use.

The U.S. Attorney's Office for the Northern District of California announced parallel criminal actions against Andrade and Abramoff, charging Andrade with wire fraud and Abramoff with conspiracy to commit wire fraud and lobbying disclosure violations.

The SEC's complaints, filed in the Northern District of California, charge NAC, Andrade, and Abramoff with violating the antifraud and securities registration provisions of the federal securities laws, and also charge Abramoff with broker-dealer registration violations. The SEC seeks permanent injunctions, disgorgement, and

civil penalties, as well as injunctions prohibiting NAC and Andrade from participating in future securities offerings, and barring Andrade from serving as a public company officer or director. Abramoff has agreed to a settlement imposing permanent and conduct-based injunctions, officer-and-director, industry, and penny stock bars, disgorgement of the US$50,000 in commissions he received, plus prejudgment interest of US$5,501, and reserves the issue of civil penalties for further determination by the court upon motion of the SEC. The settlement is subject to court approval.

The SEC's Office of Investor Education and Advocacy and the Enforcement Division's Retail Strategy Task Force encourage investors who are considering investing in ICOs and digital assets to learn more on Investor.gov.

美国证券交易委员会指控发行人，首席执行官和说客 AML BitCoin 欺诈

2020 年 6 月 25 日，美国证券交易委员会（美国证交会）指控 NAC Foundation、其首席执行官 Marcus Andrade 和说客 Jack Abramoff 未经注册发行 AML Bitcoin，被告声称其为一种数字货币证券产品，是比特币的新改进版本。

美国证交会称，NAC 通过出售 可转换为 AML BitCoin 的代币 从逾 2400 多名投资者处募集至少 560 万美元。NAC 及其首席执行官称 AML BitCoin 优于比特币，并会在 NAC"私人监管的公共区块链"中将反洗钱、反恐融资和防盗技术内置于代币中。美国证交指控称，AML BitCoin 代币并无此类功能，其区块链的开发亦处于早期阶段。

NAC 和 Andrade 谎称多个政府机构正在谈判使用 AML BitCoin，而 Abramoff 和 Andrade 另称他们将在超级碗期间对 AML BitCoin 进行广告宣传以期创造更多利益，而 NAC 并无法负担此广告的花销。Abramoff 还涉及雇佣独立作者撰写关于 AML BitCoin 的推文，其中包含大量虚假声明。另外，Andrade 采取市场操纵策略以提高该代币的交易量和价格，并从发行中挪用了约 110 万美元以供己用。

美国加利福尼亚北区检察官办公室同步宣布对 Andrade 和 Abramoff 的刑事诉讼，指控 Andrade 犯有电汇欺诈罪，Abramoff 电汇欺诈罪串谋和游说披露违规行为。

美国证交会在加利福尼亚北区提起指控，指控 NAC，Andrade 以及 Abramoff 违反联邦证券法的反欺诈和证券注册规定，还指控 Abramoff 违反了经纪人-经销商注册规定。 美国证交会寻求永久性禁令，罚款和民事处罚，以及禁止 NAC 和 Andrade 参与未来证券发行的禁令，并禁止 Andrade 担任上市公司高管或董事。 Abramoff 已同意永久性行为考量禁令，高管或董事禁令，行业禁令以及仙股交易禁令的和解书，被处所得罚款 50,000 美元及 5,501 美元的判决前利息，并保留就民事处罚法院根据美国证交会的动议进一步确定的处罚措施。和解方案尚待法院批准。

美国证交会的投资者教育与倡导办公室和执法部门的零售策略任务组鼓励正在考虑投资 ICO 和数字资产的投资者于 Investor.gov 网站上了解更多信息。

Source 来源:
https://www.sec.gov/news/press-release/2020-145

Lenders Win Cayman Islands Court Order Seeking to Wind Down Entities Controlled by the Family of Luckin Coffee Inc. Chairman Lu Zhengyao

On June 16, 2020, lenders led by Credit Suisse Group AG have won a Cayman Islands court order seeking to wind down entities controlled by Luckin Coffee Inc's Chairman Lu Zhengyao and his family in order to recover US$324.1 million of outstanding indebtedness.

The debt arose out of a loan facility agreement in September 2019, under which the lenders provided US$533 million as a loan facility secured by Luckin's shares.

Liquidation orders have been given to the two shareholder entities of Luckin, Primus Investments Fund and Mayer Investments Fund, which are ultimately controlled by Lu's family. The court found an absence of credible evidence supporting that the two entities had the capacity to repay the debts within reasonable time, and thus rejected their request to drop the petition so as to allow them to repay the debts through refinancing or selling assets.

Since early May 2020, as the internal investigation on Luckin's case continued, the company's former CEO, Jenny Zhiya Qian, and former COO, Jian Liu, were terminated from their positions. Luckin's shares plummeted over 80% since the disclosure of financial fraud and its trading on the Nasdaq Stock Market (Nasdaq) was suspended since April 7, 2020. On May 15, Nasdaq issued a delisting notice to Luckin.

Luckin's case illustrates what may happen if a listed company is found to involve misconduct. Not only could the persons in charge be removed from their positions, the controlling shareholder may lose its shares, and the company's shares may face significant risks of devaluation and being delisted.

贷款人成功获得开曼群岛法院判决清算瑞幸咖啡董事长家族名下之财产以偿还债务

2020 年 6 月 16 日，以瑞信集团为首的一批贷款人获得开曼群岛法院的胜诉判决，清算由瑞幸咖啡董事长陆正耀及其家族名下的个体，以追回 3.241 亿美元的未偿债务。

该债务产生于 2019 年 9 月的贷款融资协议；根据该协议，贷款人提供了共计 5.33 亿美元的贷款，以瑞幸股票为抵押。

被解散的两家个体分别为持有瑞幸咖啡的股份，并由陆氏家族控制的 Primus Investments Fund 和 Mayer Investments Fund。此外，法院表示没有可靠的证据表明两个体可以在合理时间内偿还债务，因而拒绝其驳回清算以期通过再融资或出售资产的方式来偿还债务的请求。

2020 年 5 月初，随着对瑞幸财务造假时间的内部调查持续推进，公司首席执行官钱治亚、首席运营官刘剑等人已被免职。自从财务造假事件以来，瑞幸的股价暴跌 80%以上，其于纳斯达克股票交易所（纳斯达克）的股票自 2020 年 4 月 7 日以来一直停牌。2020 年 5 月 15 日，纳斯达克向瑞幸发出停牌通知。

瑞幸事件充分表明了一家上市公司涉及不当行为将会面临的后果，除相应负责人可被免职并承担相应法律责任外，控股股东可能会失去其股份，公司股票的价值可能会大幅下降，甚至可能面临退市的危险。

Source 来源:
https://www.judicial.ky/judgments/search-judgments (FSD 76 OF 2020 (RPJ) FSD 77 OF 2020 (RPJ))

China Securities Regulatory Commission Releases Arrangements for the Reform of the ChiNext Board and the Pilot Project of the Registration-Based IPO System

On June 12, 2020, the China Securities Regulatory Commission (CSRC) released the Administrative Measures on IPO Registration on the ChiNext Market (For Trial Implementation) ("ChiNext IPO Measures"), the Administrative Measures on Securities Issuance and Registration for Listed Companies on the ChiNext Market (For Trial Implementation) ("ChiNext Refinancing Measures"), the Measures for Continuous Supervision of Listed Companies (For Trial Implementation) ("ChiNext Continuous Supervision Measures"), and the Administrative Measures on Sponsorship for Securities Issuance and Listing ("Sponsorship Measures"), all of which came into effect on the same day.

There are seven chapters and 75 articles in the revised ChiNext IPO Measures. The main contents include: first, streamlining and optimizing the conditions for the initial public offering of stocks on the ChiNext, transforming the matters that can be judged by investors in the issuance conditions into more stringent information disclosure requirements, and emphasizing on grasping the legal compliance and financial regulatory issues of the company according to the principle of materiality; second, formulating institutional arrangements for the registration procedure, to achieve the acceptance and review of the entire process of electronic and full process disclosure, reduce the burden on enterprises, and improve the transparency of the review; third, strengthening information disclosure requirements, strictly implementing the responsibility of issuers and other relevant parties in information disclosure, and formulating differentiated information disclosure rules in terms of the characteristics of ChiNext enterprises; fourth, clarifying on the basic rules of market-oriented issuance and underwriting, and stipulating that pricing methods, investor quotation requirements, and the maximum quotation rejection ratio should also comply with the relevant regulations of Shenzhen Stock Exchange; fifth, enhancing supervision and management and legal responsibilities, and increasing accountability for violations of laws and regulations by issuers, intermediaries, and other market entities.

There are seven chapters and 93 articles in the revised ChiNext Refinancing Measures. The main contents include: first, clarifying the scope of application to include the listed companies issue of shares, convertible corporate bonds, depository receipts and other securities; second, streamlining and optimizing the issuance conditions, distinguishing between issuance to unspecified objects and issuance to specific objects, and establishing different financing conditions for different types of securities; third, clarifying the issuance and listing review and registration procedures (review period of the Shenzhen Stock Exchange being two months, and the registration period of the China Securities Regulatory Commission being 15 working days), and at the same time, establishing simple procedures for "small and fast" financing; fourth, strengthening the information disclosure requirements, requiring targeted disclosure of business model, corporate governance, development strategy and other information to fully reveal the risk factors that may have a significant adverse impact on the company's core competitiveness, operating stability, and future development; fifth, formulating special regulations for issue and underwriting, and special arrangements for the issue price, pricing date, lock-up period, and the conversion period, conversion price, and transaction method of convertible bonds; sixth, strengthening supervision and management and legal responsibilities, and increasing accountability for violations of laws and regulations by listed companies, intermediaries, and other market entities.

The revised ChiNext Continuous Supervision Measures contains a total of 35 articles. The main contents include: first, clarifying the principles of application that ChiNext companies shall abide by the general regulations on the continuous supervision of listed companies, except as otherwise stipulated; second, clarifying the relevant requirements of corporate governance and formulating special arrangements for companies with special voting shares; third, establishing a targeted information disclosure system to strengthen industry positioning and disclosure of risk factors, and to highlight the information disclosure responsibilities of key minority shareholders such as controlling shareholders and actual controllers; fourth, clarifying the shareholding reduction requirements and appropriately extending the lock-up period of the holding shareholders, actual controllers, and directors and supervisors of unprofitable enterprises; fifth, improving the major asset restructuring system, clarifying the implementation of the registration system for the issuance of shares involved in the merger and reorganization of ChiNext listed companies, and stipulating the asset requirements for restructuring; sixth, adjusting the equity incentive system, expanding the range of personnel that can be the target of incentives, relaxing the price restrictions on restricted stocks, and further simplifying the procedures for granting restricted stocks.

The main revised contents of the Sponsorship Measures include: first, maintaining coordination with the new Securities Law, adjusting the relevant provisions of the audit procedures, and improving the management of sponsor representatives; second, implementing the reform requirements of the ChiNext registration system, clarifying the relevant requirements of the issuer, its controlling shareholders, and actual controllers to cooperate with the sponsorship work, refining the intermediary agency's practice requirements, urging the intermediary agencies to hold their responsibilities and work together to check the quality of the sponsorship; third, strengthening the internal control requirements of sponsors, including sponsoring business into the company's overall compliance management and comprehensive risk management, and promoting the industry's spontaneous formation of compliance development, endogenous driving force and self-restraint; fourth, increasing accountability with diversified types of regulatory measures and increased cost of laws and regulations violations and non-compliance.

中国证券监督管理委员会发布创业板改革并试点注册制相关制度规则

2020 年 6 月 12 日，中国证券监督管理委员会（中国证监会）发布了《创业板首次公开发行股票注册管理办法（试行）》（以下简称《创业板首发办法》）《创业板上市公司证券发行注册管理办法（试行）》（以下简称《创业板再融资办法》）《创业板上市公司持续监管办法（试行）》（以下简称《创业板持续监管办法》）和《证券发行上市保荐业务管理办法》（以下简称《保荐办法》），自公布之日起施行。

修改完善后的《创业板首发办法》共七章、七十五条。主要内容包括：一是精简优化创业板首次公开发行股票的条件，将发行条件中可以由投资者判断的事项转化为更加严格的信息披露要求，强调按照重大性原则把握企业的法律合规性和财务规范性问题。二是对注册程序作出制度安排，实现受理和审核全流程电子化和全流程公开，减轻企业负担，提高审核透明度。三是强化信息披露要求，严格落实发行人等相关主体在信息披露方面的责任，制定针对创业板企业特点的差异化信息披露规则。四是明确市场化发行承销的基本规则，并规定定价方式、投资者报价要求、最高报价剔除比例等事项应同时遵守深交所相关规定。五是强化监督管理和法律责任，加大对发行人、中介机构等市场主体违法违规行为的追责力度。

修改完善后的《创业板再融资办法》共七章、九十三条。主要内容包括：一是明确适用范围，上市公司发行股票、可转换公司债券、存托凭证等证券品种的，适用《创业板再融资办法》。二是精简优化发行条件，区分向不特定对象发行和向特定对象发行，差异化设置各类证券品种的再融资条件。三是明确发行上市审核和注册程序，深交所审核期限为二个月，中国证监会注册期限为十五个工作日。同时，针对"小额快速"融资设置简易程序。四是强化信息披露要求，要求有针对性地披露业务模式、公司治理、发展战略等信息，充分揭示可能对公司核心竞争力、经营稳定性以及未来发展产生重大不利影响的风险因素。五是对发行承销作出特别规定，就发行价格、定价基准日、锁定期，以及可转债的转股期限、转股价格、交易方式等作出专门安排。六是强化监督管理和法律责任，加大对上市公司、中介机构等市场主体违法违规行为的追责力度。

修改完善后的《创业板持续监管办法》共三十五条。主要内容包括：一是明确适用原则，创业板公司应遵守上市公司持续监管的一般规定，但《创业板持续监管办法》另有规定的除外。二是明确公司治理相关要求，并针对存在特别表决权股份的公司作出专门安排。三是建立具有针对性的信息披露制度，强化行业定位和风险因素的披露，突出控股股东、实际控制人等关键少数的信息披露责任。四是明确股份减持要求，适当延长未盈利企业控股股东、实际控制人、董监高的持股锁定期。五是完善重大资产重组制度，明确创业板上市公司并购重组涉及发行股票的实行注册制，并规定重组标的资产要求等。

六是调整股权激励制度，扩展可以成为激励对象的人员范围，放宽限制性股票的价格限制，并进一步简化限制性股票的授予程序。

是次《保荐办法》修订的主要内容有：一是与新《证券法》保持协调衔接，调整审核程序相关条款，完善保荐代表人管理。二是落实创业板注册制改革要求，明确发行人及其控股股东、实际控制人配合保荐工作的相关要求，细化中介机构执业要求，督促中介机构各尽其责、合力把关，提高保荐业务质量。三是强化保荐机构内部控制要求，将保荐业务纳入公司整体合规管理和全面风险管理范围，推动行业自发形成合规发展、履职尽责的内生动力和自我约束力。四是加大问责力度，丰富监管措施类型，提高违法违规成本。

Source 来源：
http://www.csrc.gov.cn/pub/newsite/zjhxwfb/xwdd/202006/t20200612_378199.html

Shenzhen Stock Exchange Optimizes the System of Continuous Regulatory Rules for the ChiNext Board

On June 12, 2020, according to the overall arrangements for the reform of the ChiNext Board and the pilot project of the registration-based IPO system, Shenzhen Stock Exchange (SZSE) revised and released the Rules Governing the Listing of Shares on the ChiNext of Shenzhen Stock Exchange ("Rules Governing the Listing of Shares") and the Guidelines for the Standard Operation of Listed Companies on the ChiNext Board ("Guidelines for Standard Operation"), and formulated and issued a series of business handling guides, to promote the reform of basic regulations concerning the ChiNext Board, to implement the new Securities Law and further refine the system of continuous regulatory rules with the Rules Governing the Listing of Shares at its core.

Streamlining the system and establishing a simple, efficient system of rules

Making overall arrangements and optimizing the system. According to the new Securities Law and the Measures for Continuous Regulation of Listed Companies on the ChiNext Board (Trial), SZSE did a good job in abolishing, revising and formulating relevant business rules for continuous regulation of the ChiNext Board. SZSE revised the Rules Governing the Listing of Shares and the Guidelines for Standard Operation, abolished 14 rules including the Memo of Information Disclosure, released seven business handling guides, and established a simple, efficient system of regulatory rules with the Rules Governing the Listing of Shares at its core, the Guidelines for Standard Operation and guidelines for information disclosure as its trunk, and business handling guides as its supplements that has a clear structure and adapts to the requirements of innovation-oriented development.

Defining positioning and giving play to synergy. The Rules Governing the Listing of Shares is the basic business rules for continuous regulation of the ChiNext Board that cover listing, continuous supervision, corporate governance, information disclosure, delisting, etc. The Guidelines for Standard Operation has further made clear the code of conduct of the "critical minority" such as directors, supervisors, senior management, controlling shareholders and de facto controllers, as well as specific regulatory requirements on important issues such as information disclosure management, management of raised funds, financial aid and guarantee. Business handling guides place emphasis on the standardization of the handling procedures of information disclosure business of listed companies and aim to become an "all-in-one book" for business operations.

Rationalizing the relationship and giving priority to urgent needs. Based on years of regulatory practices of the ChiNext Board, SZSE absorbed and incorporated part of relatively mature provisions and requirements in the Guidelines for Standard Operation into the Rules Governing the Listing of Shares; added partial requirements of the memo into the Guidelines for Standard Operation, and adjusted such content as standard business handling and information disclosure operations and added it into the business handling guides. According to the principle of giving priority to urgent needs, seven business handling guides, namely, guides on handling of information disclosure business, matters concerning disclosure of periodical reports, lifting of restrictions on restricted shares, general meeting, stock ownership incentive, format of information disclosure notices and tender offer. Later, relevant rules on refinancing business will be further revised or formulated according to the requirements of upper rules.

Keeping up with the times and improving the system of continuous regulatory rules

Optimizing listing conditions with easy entrance and strict exit and improving the delisting mechanism. First, SZSE cleared the "entrance", formulating more diversified, richer listing conditions that allow enterprises that haven't realized profit yet, red chip enterprises and enterprises with a special equity structure to be listed on the ChiNext Board, adapt to the listing demands of innovation-oriented enterprises and startups in different growth stages and of different types and expand market coverage and inclusiveness. Second, SZSE strictly guarded the "exit", enriching and refining delisting indicators. Net profit is the result after deducting non-recurring gains and losses, and the indicator of operating income is combined to precisely clear shell

companies that do not have sustainable operation ability; delisting indicators concerning market capitalization were added and trading-related indicators were refined to give full play to the function of market-oriented delisting; the delisting process was optimized, listing suspension and listing resumption were cancelled, the delisting transitional period for trading-related delisting was removed. The suspension time point for compulsory delisting in the event of a severe violation was postponed and the "escape period" was cancelled to improve delisting efficiency. Third, based on different delisting scenarios, SZSE refined arrangements for the transitional period, defined market expectations, realized stable transition and ensured the coupling between old and new rules was fair and reasonable.

Alleviating burdens, delegating powers, reducing the cost of market players, and adapting to market development needs. SZSE implemented the requirements to delegate power, improve regulation, and upgrade services, cancelled the pre-event approval requirements on exempted and suspended disclosure, made it clear that listed companies should determine themselves the content for exempted or suspended disclosure and corresponding regulations. By taking into full account the characteristics of innovation-oriented enterprises and startups, SZSE relaxed the disclosure standards for transactions and related-party transactions and simplified deliberation procedures, and cancelled the requirement of compulsory disclosure of preliminary earnings estimate to reduce information disclosure cost. SZSE improved the requirements on equity transfer in the event that controlling shareholders, de facto controllers and their related parties occupy listed companies' funds or the guarantee provided by listed companies is not relieved, which can help relevant entities raise funds and defuse risks. SZSE deleted the regulatory requirements that financial aid may not be provided to external parties during the replenishment period of working capital with idle raised funds and financial investment or high-risk investment may not be made 12 months before replenishment of working capital with over-raised funds. The mandatory requirement that funds should be returned to relevant special account before the expiry of the replenishment period of working capital with raised funds was optimized to improve listed companies' autonomy and flexibility.

Adopting precision regulation, strengthening corporate governance, and focusing on the "critical minority". First, SZSE regulated differentiated arrangements for voting rights and refined the setup procedures of special voting rights, shareholding entities, sunset provisions, voting right multiple and proportion, important issues subject to the one-share-one-vote principle, the supervision responsibilities of the Board of Supervisors and the continuous monitoring responsibilities of sponsor institutions to prevent abuse of special voting rights damaging small and medium-sized investors' rights and interests. Second, to prevent the risk of high-ratio shareholding pledge, SZSE required controlling shareholders to pledge shares prudently, reasonably use and inject funds and maintain control and stable production and operation, and guided controlling shareholders to reasonably control the pledge ratio. Third, regarding the situation that it's deemed that a company has no de facto controller due to fight over the right of control and malicious avoidance of responsibilities and obligations, SZSE further standardized recognition of control. Fourth, SZSE revised and improved the statement and letter of commitment of the controlling shareholder, de facto controller, directors, supervisors and senior management, formulated the statement and letter of commitment for red chip enterprises, and defined the obligations and responsibilities of the "critical minority".

Strengthening disclosure, adding risk warning regulations, and improving information disclosure effectiveness. First, SZSE added delisting risk warning regulations (*ST regulations) and other risk warning regulations (ST regulations) to fully warn investors about delisting risks in a company such as abnormal financial conditions and major violations, or about serious abnormal situations such as production or operation halt, illegal guarantee and occupation of funds. Second, SZSE refined disclosure requirements for industries and risks. According to the requirements of the registration-based IPO system, both good and bad news should be disclosed clearly to provide sufficient information for investors' decision-making. SZSE made it clear that listed companies should strengthen disclosure of information on industry characteristics, business operation, core competitiveness, debts and liquidity risk. Besides, it also clearly required enterprises that hadn't realized profit yet should fully disclosure the reason for not realizing profit yet and its impact on going-concern operation and give sufficient risk warnings, and indicate the risk that no profit was realized yet in a marked position in the annual report so investors can quickly identify it.

Urging intermediaries to fulfill responsibilities, and giving play to their function of continuous supervision and guidance. Intermediaries' fulfillment of responsibilities is the basis to ensure stable and orderly promotion of the reform of the registration-based IPO system. In the revision, SZSE further enhanced the continuous supervision and guidance responsibilities of sponsor institutions, defining their obligations to pay attention to and check a company when the company's share price shows seriously abnormal fluctuations or it is faced with major risks in daily operation and their obligations of onsite verification in the event of a major violation such as fraud or occupation of funds. In the meantime, SZSE added the requirement that sponsor institutions and sponsor representatives, financial consultants and

sponsors should fulfill the obligation of continuous supervision and guidance on fair information disclosure of listed companies and fully play their role as the "gatekeeper".

Formulating regulations in an open way, absorbing and taking reasonable advice from the market

In the process of revision of the continuous regulatory rules, SZSE fully listened to the voice of market players including listed companies, securities companies, fund companies and investors. After summing up and combining content of the same nature, SZSE received a total of 38 pieces of feedback. The feedback on the Rules Governing the Listing of Shares is mainly about listing conditions, institutional arrangements for share lessening, scope of continuous supervision and guidance responsibilities of sponsor institutions and delisting indicators; the feedback on the Guidelines for Standard Operation concerns mainly interpretation of relevant articles, optimizing specific regulatory requirements, etc. After carefully studying and fully demonstrating the advice and feedback given by market players, SZSE took 17 pieces of such advice and made the following adjustments:

Improving the listing and delisting conditions for red chip enterprises. SZSE adjusted the listing conditions on share capital and equity structure for red chip enterprises, making clear that the share capital should be calculated based on the sum of shares and the number of depository receipts, and defining the standard of "rapid growth of operating income" in the listing conditions. SZSE adjusted relevant standards on trading-related delisting for red chip enterprises, stating that when the "face value delisting" indicator is applicable, the standard that "the daily closing price is lower than RMB 1 for 20 consecutive trading days" should be adopted and that the "number of shareholders" delisting indicator is not applicable when red chip enterprises issue depository receipts.

Adjusting and improving partial delisting indicators. SZSE adjusted the market capitalization delisting indicator to that the daily closing market capitalization is less than RMB 300 million for 20 consecutive trading days, and improved the finance-related delisting standards, stating that when a company is required to provide qualified opinion in the financial statements of next year after *ST is enforced for meeting finance-related delisting indicators, the company will be delisted, so as to enhance the function of finance-related delisting indicators and market clearing.

Defining listing conditions on issuance of shares and convertible corporate bonds by listed companies. To implement the requirements of the new Securities Law and ensure good connection with upper rules, SZSE made it clear in the Rules Governing the Listing of Shares that "listed companies shall still meet corresponding issuing conditions when applying to list shares or convertible corporate bonds on SZSE" to keep in line with the actual implementation of refinancing, and SZSE didn't add new listing conditions.

Moreover, based on feedback of the market, SZSE defined the deadline of disclosure of special reports on deposit and use of raised funds, cancelled the requirement on reporting the information of insiders' near relatives in the process of profit distribution, and further improved the expression of relevant rules to make them easier to understand and implement.

深圳证券交易所优化创业板持续监管规则体系

2020 年 6 月 12 日，深圳证券交易所（深交所）按照创业板改革并试点注册制总体工作安排，修订发布《创业板股票上市规则》（以下简称《上市规则》）、《创业板上市公司规范运作指引》（以下简称《规范运作指引》），制定发布系列业务办理指南，以推进创业板基础性制度改革，落实新《证券法》，进一步完善以《上市规则》为核心的持续监管规则体系。

系统梳理，搭建简明高效规则体系

统筹衔接，优化体系。根据新《证券法》和《创业板上市公司持续监管办法（试行）》要求，做好创业板持续监管业务规则的"废改立"工作，全面修订《上市规则》和《规范运作指引》，废止 14 项信息披露业务备忘录等规则，发布 7 项业务办理指南，搭建以《上市规则》为核心，《规范运作指引》、信息披露指引为主干，业务办理指南为补充的层次清晰、简明高效、适应创新发展要求的监管规则体系。

明晰定位，发挥合力。《上市规则》是创业板持续监管的基础业务规则，涵盖上市、持续督导、公司治理、信息披露、退市等方面。《规范运作指引》进一步明确董监高、控股股东和实际控制人等"关键少数"的行为规范，以及信息披露管理、募集资金管理、财务资助、担保等重大事项的具体监管要求。业务办理指南侧重于规范上市公司信息披露业务办理流程，旨在实现业务操作"一本通"。

理顺层次，急用先行。基于创业板多年监管实践，将《规范运作指引》部分较为成熟的规范要求吸收整合至《上市规则》，将原备忘录部分要求吸收整合至《规范运作指引》，将规范业务办理和信息披露操作等内容调整至业务办理指南。按照急用先行原则，是次共发布信息披露业务办理、定期报告披露相关事宜、限售股份解除限售、股东大会、股权激励、信息披露公告格式、要

约收购等 7 件业务办理指南，后续还将根据上位规则要求，进一步修订制定再融资业务相关规则。

与时俱进，完善持续监管规则体系

宽进严出，优化发行上市条件，健全退市机制。一是畅通“入口关”，制定更为多元、丰富的上市条件，允许一定规模的未盈利企业、红筹企业、特殊股权结构企业在创业板上市，适应不同成长阶段和不同类型创新创业企业的上市需求，扩大市场覆盖面和包容性。二是严把“出口关”，丰富和完善退市指标，净利润以扣除非经常性损益为准并组合营业收入指标，精准出清无持续经营能力的空壳公司；新增市值类退市指标，完善交易类指标，充分发挥市场化退市功能；优化退市流程，取消暂停上市、恢复上市，交易类退市不再设置退市整理期，重大违法强制退市停牌时点后移并不再设置“逃跑期”，提升退市效率。三是针对不同退市情形细化过渡期安排，明确市场预期，实现平稳过渡，确保新旧规则衔接公平合理。

减负放权，降低市场主体成本，适应市场发展需要。落实“放管服”要求，取消豁免、暂缓披露的事前审批要求，明确由上市公司自行判断豁免、暂缓披露内容及相应规范要求；充分考虑创新创业企业特点，放宽交易、关联交易事项披露标准并简化审议程序，取消强制披露业绩快报要求，减轻信披成本；完善控股股东、实际控制人及其关联人存在占用上市公司资金、未解除上市公司为其提供担保等情形时的股份转让要求，有助于相关主体筹措资金、化解风险；删除闲置募集资金补流期间不得对外提供财务资助以及超募资金补流前 12 个月内不得进行财务性投资或者高风险投资等监管要求；优化募集资金补流到期日前将资金归还至专户的强制性要求，提高上市公司自主性和灵活性。

精准监管，强化公司治理，抓好“关键少数”。一是规范表决权差异安排，细化特别表决权的设置程序、持股主体、日落条款、表决权倍数和比例、按“一股一权”表决的重大事项、监事会监督责任和保荐机构持续督导责任等，防范滥用特别表决权损害中小投资者权益。二是为防范高比例股权质押风险，要求控股股东审慎质押所持公司股份，合理使用融入资金，维持公司控制权和生产经营稳定，引导控股股东合理自主控制质押比例。三是针对控制权争夺和恶意规避责任义务而认定“无实际控制人”情形，进一步规范控制权认定。四是修订完善控股股东、实际控制人及董监高声明与承诺书，制定针对红筹企业的声明与承诺书，明确“关键少数”的义务责任。

强化披露，增设风险警示制度，提高信披有效性。一是增设退市风险警示制度（即*ST 制度）和其他风险警示制度（即 ST 制度），向投资者充分提示公司存在因财务和其他状况异常、重大违法等情形而退市的风险，或存在生产经营停顿、违规担保、资金占用等严重异常情形。二是细化行业、风险的披露要求。按照注册制要求，既要报喜也要报忧，将喜忧讲清楚、说明白，为投资者决策提供充分信息。明确上市公司应强化行业特征、公司经营、核心竞争力、债务及流动性风险等信披；针对未盈利企业，要充分披露尚未盈利原因、对持续经营影响并进行充分风险提示，同时在年度报告显著位置提示尚未盈利风险，便于投资者快速辨识。

压实责任，督促中介机构归位尽责，发挥持续督导作用。中介机构履职尽责是确保注册制改革平稳有序推进的基础，是次修订进一步强化保荐机构持续督导责任，明确保荐机构在公司出现股价严重异常波动、日常经营面临重大风险时的关注核查义务，以及对涉嫌造假、资金占用等重大违规行为的现场核查义务。同时，增加保荐机构和保荐代表人、财务顾问和主办人对上市公司公平信息披露履行持续督导义务的要求，充分发挥“看门人”作用。

开门立规，吸收采纳市场合理建议

在是次持续监管规则修订过程中，深交所充分听取上市公司、证券公司、基金公司、投资者等市场声音，经归纳合并相同实质内容，共收到反馈意见 38 条。其中，《上市规则》反馈意见主要集中在上市条件、股份减持制度安排、保荐机构持续督导职责范围、退市指标等方面；《规范运作指引》反馈意见主要集中在相关条款解释、优化具体监管要求等方面。对于市场主体反馈的意见建议，深交所对 17 条建议予以采纳，主要调整如下：

完善红筹企业上市及退市条件。调整红筹企业股本总额及股权结构上市条件，明确股本总额按股份总数、存托凭证份数计算，明确上市条件关于“营业收入快速增长”的标准；调整红筹企业交易类退市相关标准，明确在适用“面值退市”指标时，按照“连续二十个交易日每日股票收盘价均低于 1 元人民币”的标准执行，明确红筹企业发行存托凭证的不适用“股东人数”退市指标等。

调整完善部分退市指标。将市值退市指标调整为连续 20 个交易日每日收盘市值低于 3 亿元；完善财务类退市标准，公司因触及财务类退市指标被实施*ST 后，下一年度财务报告被出具保留意见的，也将被终止上市，强化财务类退市指标作用，加大市场出清力度。

明确上市公司发行股票、可转换公司债券的上市条件。为落实新《证券法》要求，做好与上位规则衔接，《上市规则》明确“上市公司申请股票、可转换公司债券在本所上市时仍应当符合相应的发行条件”，与目前再融资实际执行情况保持一致，且不新增上市条件。

此外，根据市场反馈意见，明确募集资金存放及使用情况专项报告的披露结束时间，取消利润分配过程中内幕信息知情人近亲属信息的报备要求等，并进一步完善相关规则表述，便于规则理解和实际执行。

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Shenzhen Stock Exchange News Spokesman Answers Questions from Reporters on Official Announcement of Supporting Business Rules for the Reform of the ChiNext Board and the Pilot Project of the Registration-based IPO System

According to the Masterplan for the Implementation of the Reform of the ChiNext Board and the Pilot Project of the Registration-based IPO System and the unified arrangement of the China Securities Regulatory Commission (CSRC), on June 12,2020, Shenzhen Stock Exchange (SZSE), on the basis of the advice solicited from the market, officially released relevant business rules and supporting arrangements for the reform of the ChiNext Board and the pilot project of the registration-based IPO system, which include eight main business rules and 18 supporting detailed rules, guides and notices. SZSE news spokesman answered reporters' questions of market concerns, as summarized below:

I. A general introduction to relevant rules released by SZSE this time.

With the approval of CSRC, SZSE officially released relevant business rules and supporting arrangements for the reform of the ChiNext Board and the pilot project of the registration-based IPO system.

The main business rules released by SZSE this time include the Rules for Review of Share Issuance and Listing on the ChiNext Board, the Rules for Review of Securities Issuance and Listing of Listed Companies on the ChiNext Board, the Rules for Review of Major Assets Restructuring of Listed Companies on the ChiNext Board, the Administration Measures for the Listing Committee of the ChiNext Board, the Working Rules of the Industry Expert Consultant Team, the Rules Governing the Listing of Shares on the ChiNext of Shenzhen Stock Exchange (Revised in 2020), the Special Provisions for Trading on the ChiNext Board, and the Special Provisions for Refinancing Securities Lending and Securities Refinancing Business on the ChiNext Board.

In addition, SZSE released 18 supporting detailed rules, guides and notices at the same time to further refine relevant institutional arrangements in high-level laws and main business rules. They include the Interim Provisions for Declaration and Recommendation of Issuance and Listing on the ChiNext Board, the Implementation Rules for IPO and Underwriting Business on the ChiNext Board, the Implementation Rules for Securities Issuance and Underwriting Business of Listed Companies on the ChiNext Board, the Detailed Rules for Real-time Monitoring of Abnormal Stock Transactions on the ChiNext Board (Trial), the Guidelines for the Standard Operation of Listed Companies on the ChiNext Board (Revised in 2020), the Notice on Coordination and Arrangements of Review of the Pilot Project of the Registration-based IPO System on the ChiNext Board, the Q&As on Review of IPO on the ChiNext Board, the Q&As on Review of Securities Issuance of Listed Companies on the ChiNext Board, etc.

II. SZSE asked the public for comments on eight business rules on the reform of the ChiNext Board and the pilot project of the registration-based IPO system, and absorbed main market feedback as below:

From April 27 to May 11, SZSE solicited comments from the public on eight business rules and received nearly 300 pieces of advice. SZSE adjusted and improved relevant rules mainly from the following three aspects:

Rules on issuance and listing review: First, further defining the positioning of the ChiNext Board. SZSE formulated the Interim Provisions for Declaration and Recommendation of Issuance and Listing on the ChiNext Board. While ensuring inclusiveness, SZSE set a negative list for the industries and further implemented the requirements on the reform of the ChiNext Board. **Second, improving the quick micro refinancing mechanism.** SZSE set applicable conditions for micro financing in the Rules for Review of Securities Issuance and Listing of Listed Companies on the ChiNext Board to encourage and support quality listed companies with standard operation in flexibly and conveniently using the capital market for direct financing. **Third, revising and refining the review time requirements.** According to the new Securities Law, SZSE put forward the "three-month" time requirement to maintain coordination of the system of rules. **Fourth, adjusting relevant time arrangement for the meeting of the listing committee.** The notification time of the meeting of the listing committee was changed from seven working days before the meeting convenes to five natural days, to further improve review efficiency. **Fifth, defining the period of validity of financial statements quoted in the prospectus.** The financial statements cited in the issuer's prospectus are valid within six months after the deadline of the disclosure of the latest financial statements. Under special circumstances, in

the review stage, the issuer may apply for extending the period of validity for no more than three months. Moreover, given the special situation of the pandemic control this year, in the application acceptance stage, before 31 July 2020, the period of validity of the financial statements cited in the issuer's prospectus can be extended by one month. **Sixth, releasing a notice on arrangements for coordination of review.** SZSE further improved the transparency and standard operation of the arrangements for coordination of review on enterprises under review, defined the review procedures of enterprises under review and the deadline for submission of sponsorship working paper.

Rules for continuous regulation: First, improving the listing and delisting conditions for red chip enterprises. SZSE adjusted the listing conditions on share capital and equity structure for red chip enterprises, made clear that the share capital should be calculated based on the sum of shares and the number of depository receipts and defined the standard of "rapid growth in operating income" in the listing conditions. SZSE also adjusted relevant standards on trading-related delisting for red chip enterprises, **Second, further optimizing delisting indicators.** SZSE adjusted the market capitalization delisting indicator to that the daily closing market capitalization is less than RMB300 million for 20 trading days straight, and improved the finance-related delisting standards. Specifically, if a company, against which a delisting risk warning has been issued after its triggers finance-related delisting indicators, releases financial statements on which the qualified audit opinion is issued, the listed company will be delisted. **Third, defining conditions on issuance of shares and convertible corporate bonds by listed companies.** SZSE made it clear that "listed companies shall still meet corresponding issuing conditions when applying to list shares or convertible corporate bonds on SZSE", consistent with the actual implementation of refinancing.

Rues for trading: First, increasing the maximum number of shares declared in a single transaction. Considering the characteristics of the equity structure of the ChiNext Board and the transaction demands of investors, SZSE adjusted the maximum number of shares declared in a single transaction in limit orders to 300,000, and that in market orders to 150,000. **Second, lifting the price change limit of relevant funds to 20%.** To further improve the pricing efficiency of fund products, SZSE adjusted the price change limits of index ETFs, LOFs or structured fund Class B shares tracking indexes whose component stocks are merely ChiNext Board-listed or which involve stocks subject to 20% price limit, and LOFs with over 80% non-cash asset investment in ChiNext Board stocks or which involve stocks subject to 20% price limit. The specific list will be announced by SZSE.

III. Targeted institutional arrangements SZSE made for red chip enterprises applying for issuance and listing on the ChiNext Board

SZSE made targeted arrangements in the Rules Governing the Listing of Shares on the ChiNext of Shenzhen Stock Exchange (Revised in 2020), the Special Provisions for Trading on the ChiNext Board and the Q&As on Review of IPO on the ChiNext Board regarding application of red chip enterprises for issuance and listing on the ChiNext Board and their trading on the ChiNext Board, such as relevant arrangements on valuation adjustment mechanism (VAM), calculation of share capital, recognition of rapid growth of operating income, special marking of securities, adjustment of information disclosure adaptability, application of delisting indicators and protection of investors' rights and interests, specifically:

First, laying down relevant arrangements for preferential rights in the VAM. SZSE made it clear that when a red chip enterprise issues preferred shares with preferential rights such as agreed redemption rights to investors before getting listed, if the issuer and investors promise that they will not exercise the preferential rights during declaration and issuance, such preferred shares may be converted into common shares before the enterprise is listed, and the shares after such conversion will not be treated as "surprise shares".

Second, adjusting the calculation caliber of share capital. Considering that red chip enterprises are much different from domestic enterprises in terms of organizational form, face value of shares and share capital requirements and relevant arrangements are within the scope of corporate governance, SZSE adjusted the special listing conditions for red chip enterprises. Regarding relevant provisions on "share capital" in the ChiNext Board listing conditions for red chip enterprises, the number of "share capital" was adjusted to the sum of shares or depository receipts after issuance.

Third, defining the criteria of "rapid growth in operating income". SZSE defined the specific criteria of "rapid growth in operating income" in the issuance and listing conditions from the dimensions of operating income, compound growth rate and peer comparison, and stipulated that the regulations on "rapid growth in operation income" do not apply to red chip enterprises in the R&D stage and those that are of great significance to the implementation of the national innovation-driven development strategy.

Fourth, setting special marks for securities. To warn investors of stock and depository receipt transaction risks on the ChiNext Board and protect investors' legal rights and interests, SZSE gave special marks in an appropriate way to the stocks or depository receipts of

red chip enterprises with VIEs or similar special arrangements. If such red chip enterprises no longer have relevant arrangements after getting listed, such special marks will be canceled.

Fifth, laying out adaptive adjustments to information disclosure. When a red chip enterprise adopts relevant information disclosure requirements and continuous regulatory requirements of the ChiNext Board, if it may lead to noncompliance with relevant local provisions in the place where the enterprise is registered or standards commonly recognized by the market, the red chip enterprise may apply for adaptive adjustment but shall state the reason and provide an alternative plan and legal opinions.

Sixth, adjusting indicators relating to trading-related mandatory delisting. Given that the face value of shares of red chip enterprises is in USD, HKD, etc. and is probably low and there is a big difference between depository receipts and stocks in terms of transaction price and quantity of holders, SZSE adjusted relevant delisting conditions for red chip enterprises. When a red chip enterprise issues shares, when the "face value delisting" indicator is applicable, the standard that “the daily closing price is lower than RMB1 in average for 20 trading days straight” shall be adopted; when a red chip enterprise issues depository receipts, SZSE adjusted the standard to that "the daily closing market capitalization is less than RMB300 million for 20 trading days straight" and made it clear that the "number of shareholders" delisting indicator is not applicable.

Seventh, emphasizing protection of investors' rights and interests. When local laws and regulations apply to the corporate governance, standard operation, etc. of red chip enterprises, SZSE emphasized that the protection level of investors' rights and interests shall not be lower than the requirements specified in domestic laws and regulations and that the rights and interests actually enjoyed by holders of depository receipts shall be the same as those enjoyed by holders of overseas underlying securities.

IV. Specific arrangements for the reform of issuance and underwriting regulations of the ChiNext Board

In the reform of issuance and underwriting regulations of the ChiNext Board, SZSE adhered to the market-based and rule-of-law principles. On the basis of summing up the practical experience of issuance and underwriting regulations of the Star Market and taking into account the characteristics of stock reform, SZSE made arrangements in the following four aspects:

First, improving diversified new share offering and pricing methods. First, SZSE set seven types of professional institutional investors as IPO inquiry objects, namely, securities companies, fund management companies, trust companies, finance companies, insurance companies, qualified overseas investors and private fund managers. **Second, SZSE retained the direct pricing method.** Profit-making enterprises that issue fewer than 20 million shares and whose shareholders are not offering shares to the public may directly determine issue price. By doing so, it can reduce the issue cost of small and mid-cap companies and improve their issue efficiency.

Second, giving full play to the pricing capability of professional institutional investors. First, SZSE increased the proportion of offline offering of new shares. SZSE increased the proportion of offline IPO by 10%, as well as the proportion of placement to offline investors after callback and the priority placement of middle- and long-term funds, to strengthen the effectiveness of participation by professional institutional investors and promote reasonable pricing of new shares. **Second, SZSE canceled the precondition on issuing scale in strategic placement.** The issuer and the underwriter may decide whether to implement strategic placement. SZSE have laid down specific requirements on the number of strategic investors and the proportion of strategic placement for enterprises with different issuing scales, to improve the flexibility of the regulations on strategic placement.

Third, further defining market participants' responsibilities through issuance and pricing constraint mechanisms. First, SZSE optimized the co-investment mechanism. While improving the flexibility of the co-investment regulations of sponsor institutions, SZSE required adopting co-investment among four types of special enterprises, and urged sponsor institutions to effectively prevent and control risks and fix prices prudently and reasonably. **Second, SZSE set a lock-up period to guide offline investors to make offers prudently.** The issuer and the underwriter may determine the lock-up period by lottery or by proportion. A certain proportion of securities offered offline shall be provided with a lock-up period of no less than six months. **Third, SZSE strengthened daily supervision over such market participants as issuers and intermediaries,** defined violations of market participants during IPO and refinancing issuance and underwriting on the ChiNext Board, and self-regulatory measures and disciplinary punishment that SZSE may impose.

Fourth, improving refinancing issuance and underwriting mechanisms. First, SZSE optimized the arrangement that simple procedures are applicable to the share offering to specific objects and placed the bidding link before declaration of materials, to improve the financing efficiency of quality listed companies and further strengthen the predictability of issuance results and progress. **Second, SZSE standardized and improved current mature**

practices, refined the issuing and pricing methods and subscription procedures for each refinancing type, and defined the situations in which issuers and underwriters may agree to suspend issuance when issuing securities to specific objects.

V. Brief introduction to the main content of the Interim Provisions for Declaration and Recommendation of Issuance and Listing on the ChiNext Board.

SZSE has formulated the Interim Provisions for Declaration and Recommendation of Issuance and Listing on the ChiNext Board to guide and regulate the declaration by issuers of the ChiNext Board and the recommendation by sponsors in four aspects:

First, SZSE have made it clear that SZSE will support and encourage innovation-oriented enterprises and startups that are in line with the positioning of the ChiNext Board to get listed on the ChiNext Board, support traditional industries in deeply integrating with new technologies, new industries, new forms of business and new models, implement the innovation-driven development strategy, and serve the real economy in the pursuit of high-quality development.

Second, adhering to the positioning of the ChiNext Board, based on the characteristics of the ChiNext Board featuring enterprises in high-tech industries and strategic emerging industries, SZSE have set a negative list, and in principle SZSE will not support enterprises in such traditional industries as real estate in getting listed on the ChiNext Board.

Third, to better support, guide and facilitate the transformation and upgrading of traditional industries, SZSE have made it clear that traditional enterprises in the negative list that deeply integrate with new technologies, new industries, new forms of business and new models can still get listed on the ChiNext Board.

Fourth, according to the principle of "separation of the new from the old", SZSE have stipulated that the provisions on the negative list do not apply to enterprises under review, so as to achieve good connection between old and new regulations and stabilize market expectations.

VI. Brief introduction to the main content of the Detailed Rules for Real-time Monitoring of Abnormal Stock Transactions on the ChiNext Board (Trial).

The Detailed Rules for Real-time Monitoring of Abnormal Stock Transactions on the ChiNext Board (Trial) was formulated based on the characteristics of the ChiNext Board and provides a workable, executable abnormal transaction behavior monitoring system with the goal of classified, precision and scientific regulation. It has laid down clear qualitative and quantitative recognition criteria of abnormal transaction behaviors and regulatory measures for investors' abnormal transaction behaviors and regulates members' performance of customer management responsibilities. Specifically, it includes the following four aspects:

First, defining main types of abnormal transaction behaviors. Specifically, there are five types of typical abnormal transaction behaviors, namely, false declaration, raising or suppressing stock price, maintaining price limit, self-selling and self-purchasing and trading with counterpart, severe abnormal fluctuation, and abnormal declaration rate.

Second, quantifying the thresholds of abnormal transaction behavior indicators. It has defined different types of abnormal transaction behaviors and key components, and refined thresholds of specific indicators including declaration quantity and frequency, stock trading scale, market proportion and stock price fluctuation. Monitoring standards may be adjusted flexibly based on the development of the market.

Third, laying down recognition criteria of abnormal transaction behaviors. Abnormal transaction behaviors shall be recognized based on quantitative criteria (declaration quantity and frequency, stock trading scale, market proportion, stock price fluctuation, etc.) and qualitative analysis (stock fundamentals, important information of listed companies, overall market trends, etc.).

Fourth, enhancing members' client management responsibility. Members shall learn about clients beforehand and monitor transactions in the process, promptly identify, manage and report clients' abnormal transaction behaviors, and actively coordinate with SZSE in properly regulating abnormal transaction behaviors and jointly maintain the stock trading order of the ChiNext Board.

VII. Brief introduction to the clean administration concerning the reform of the ChiNext Board and the pilot project of the registration-based IPO system.

Strengthening clean administration is the inherent requirement and basic guarantee to steadily promote the reform of the ChiNext Board and the pilot project of the registration-based IPO system. SZSE have paid great attention to it, seeing the strengthening of clean administration as the key to the success and efficacy of the reform. Since the preparation of the reform of the registration-based IPO system, SZSE have coordinated institutional development and clean administration as on a single chessboard, planned and promoted them together, and integrated the requirements of clean administration and "strictness". Under the guidance of the discipline inspection team at CSRC, SZSE have formulated the Implementation Suggestions for

Strengthening Clean Administration in the Reform of the ChiNext Board and the Pilot Project of the Registration-based IPO System and four special regulations on clean administration, as well as some 10 internal management regulations including meeting management, file management, job rotation and avoidance. SZSE have formed a system of clean administration regulations for the reform of the registration-based IPO system that includes listing review department's internal management regulations and special regulations for clean administration.

深圳证券交易所新闻发言人就创业板改革并试点注册制配套业务规则正式发布答记者问

根据《创业板改革并试点注册制总体实施方案》，按照中国证券监督管理委员会（中国证监会）统一部署，深圳证券交易所（深交所）在 2020 年 6 月 12 日正式发布创业板改革并试点注册制相关业务规则及配套安排，共计 8 项主要业务规则及 18 项配套细则、指引和通知。深交所新闻发言人就市场关切回答了记者的提问，总结如下：

一、深交所是次发布相关业务规则的总体情况。

经中国证监会批准，深交所正式向市场发布创业板改革并试点注册制相关业务规则及配套安排。

深交所是次集中发布的主要业务规则，包括《创业板股票发行上市审核规则》《创业板上市公司证券发行上市审核规则》《创业板上市公司重大资产重组审核规则》《创业板上市委员会管理办法》《行业咨询专家库工作规则》《创业板股票上市规则（2020 年修订）》《创业板交易特别规定》《创业板转融通证券出借和转融券业务特别规定》等 8 项。

此外，还同步发布 18 项配套业务细则、指引和通知，进一步明确细化上位法及主要业务规则中相关制度安排，包括《创业板企业发行上市申报及推荐暂行规定》《创业板首次公开发行证券发行与承销业务实施细则》《创业板上市公司证券发行与承销业务实施细则》《创业板股票异常交易实时监控细则（试行）》《创业板上市公司规范运作指引（2020 年修订）》《关于创业板试点注册制相关审核工作衔接安排的通知》《创业板股票首次公开发行上市审核问答》《创业板上市公司证券发行上市审核问答》等。

二、深交所就创业板改革并试点注册制的 8 项业务规则公开征求意见，相关规则主要吸收市场反馈意见如下

答：4 月 27 日至 5 月 11 日，深交所就 8 项业务规则公开征求意见，共收到近 300 份反馈意见，主要从以下三个方面进行调整和完善：

发行上市审核类规则：一是进一步明确创业板定位。制定《创业板企业发行上市申报及推荐暂行规定》，在充分体现包容性的前提下，设置行业负面清单，进一步落实创业板改革要求。**二是完善小额快速再融资机制。**在《创业板上市公司证券发行上市审核规则》中设置小额融资适用条件，鼓励和支持运作规范的优质上市公司灵活、便捷地利用资本市场进行直接融资。**三是修改完善审核时限要求。**落实新《证券法》相关规定，明确"三个月"的时限要求，保持规则体系协调衔接。**四是调整上市委会议相关时间安排。**将上市委会议通知时间由会议召开 7 个工作日前改为 5 个自然日前，进一步提高审核效率。**五是明确招股说明书引用财务报表有效期。**明确发行人招股说明书中引用的财务报表在其最近一期截止日后 6 个月内有效，特别情况下，在审核阶段，发行人可以申请适当延长，延长至多不超过 3 个月。此外，考虑疫情防控特殊情况，在受理阶段，于 2020 年 7 月 31 日前，发行人招股说明书引用的财务报表有效期可延长 1 个月。**六是发布审核衔接安排的通知。**进一步提高在审企业审核工作衔接安排的透明度、规范性，明确在审企业审核顺序、保荐工作底稿提交截止时间等事项。

持续监管类规则：一是完善红筹企业上市及退市条件。调整红筹企业股本总额及股权结构上市条件，明确股本总额按股份总数、存托凭证份数计算，明确上市条件关于"营业收入快速增长"的标准；调整红筹企业交易类退市相关标准。**二是进一步优化退市指标。**将市值退市指标调整为连续 20 个交易日每日收盘市值低于 3 亿元；完善财务类退市标准，公司因触及财务类指标被实施*ST 后，下一年度财务报告被出具保留意见的，也将被终止上市。**三是明确上市公司发行股票、可转债上市条件。**明确"上市公司申请股票、可转换公司债券在本所上市时仍应当符合相应的发行条件"，与目前再融资实际执行情况保持一致。

交易类规则：一是提高单笔最高申报数量。适应创业板股价结构特点和投资者交易需求，限价申报单笔最高申报数量调整至 30 万股，市价申报调整至 15 万股。**二是同步放宽相关基金涨跌幅至 20%。**为进一步提高基金产品定价效率，将跟踪指数成份股仅为创业板股票或其他实行 20%涨跌幅限制股票的指数型 ETF、LOF 或分级基金 B 类份额，以及 80%以上非现金资产投资创业板股票或其他实行 20%涨跌幅限制股票的 LOF 涨跌幅调整为 20%，具体名单由深交所公布。

三、对于红筹企业申请在创业板发行上市，深交所的针对性的制度安排

深交所就红筹企业申报创业板发行上市和交易中涉及的对赌协议相关安排、股本总额计算、营业收入快速增长认定、证券特别标识、信息披露适应性调整、退市指标适用、投资者权益保障等事项，在《创业板股票上市规则（2020 年修订）》《创业板交易特别规定》和《创业板股票首次公开发行上市审核问答》中作出针对性安排，具体包括：

一是明确对赌协议中优先权利相关安排。明确红筹企业上市之前向投资人发行带有约定赎回权等优先权利的优先股，若发行人和投资人承诺在申报和发行过程中不行使优先权利的，可以在上市前转换为普通股，对转换后的股份不按突击入股处理。

二是调整股本总额计算口径。考虑到红筹企业的组织形式、股票面值及股本要求与境内企业存在较大差异，且相关安排属于公司治理范畴，因此对红筹企业特定上市条件予以调整适用。红筹企业在适用创业板上市条件中“股本总额”相关规定时，不按照总金额计算，调整为发行后的股份总数或者存托凭证总份数。

三是明确“营业收入快速增长”判断标准。从营业收入、复合增长率、同行业比较等维度，明确发行上市相关条件中“营业收入快速增长”的具体判断标准，并规定处于研发阶段的红筹企业和对落实国家创新驱动发展战略有重要意义的红筹企业，不适用“营业收入快速增长”规定。

四是设置证券特别标识。为提示创业板股票及存托凭证交易风险，保护投资者合法权益，对于具有协议控制架构或者类似特殊安排的红筹企业，以适当方式对其股票或存托凭证作出特别标识。如红筹企业上市后不再具有相关安排，该特别标识将被取消。

五是明确信息披露的适应性调整。红筹企业在适用创业板相关信息披露要求和持续监管规定时，如可能导致不符合公司注册地有关规定或市场普遍认同标准的，可申请调整适用，同时应说明原因和替代方案，并出具法律意见。

六是调整交易类强制退市相关指标。鉴于红筹企业股票面值以美元、港币等为单位且面值可能较低，存托凭证的交易价格、持有人数量也与股票存在较大差异，因此对红筹企业相关退市情形予以调整适用。红筹企业发行股票的，明确在适用“面值退市”指标时，按照“连续二十个交易日每日股票收盘价均低于 1 元人民币”的标准执行；红筹企业发行存托凭证的，调整为“连续二十个交易日每日存托凭证市值均低于 3 亿元”等，明确不适用“股东人数”退市指标。

七是强调保障投资者权益。对于红筹企业公司治理、运行规范等事项适用注册地法律法规的，强调其投资者权益保护水平总体上应不低于境内法律法规规定的要求，并保障境内存托凭证持有人实际享有的权益与境外基础证券持有人的权益相当。

四、创业板发行与承销制度改革的具体安排

是次创业板发行承销制度改革，坚持市场化和法治化原则，在总结科创板发行承销制度实践经验基础上，结合存量改革特点，作出以下四方面安排：

第一，完善多元化新股发行定价方式。一是面向专业机构投资者询价，首次公开发行询价对象为证券公司、基金管理公司、信托公司、财务公司、保险公司、合格境外投资者和私募基金管理人等 7 类专业机构投资者。**二是保留直接定价方式。**发行数量 2000 万股（份）以下且无股东公开发售股份的盈利企业，可直接定价确定发行价格，降低中小市值公司发行成本，提高发行效率。

第二，充分发挥专业机构投资者定价能力。一是提高新股网下发行比例。将网下初始发行比例调高 10%，提升回拨后网下投资者配售比例，提高中长期资金优先配售比例，增强专业机构投资者参与的有效性，促进新股发行合理定价。**二是取消战略配售关于发行规模的前置条件。**由发行人和承销商自行决定是否实施战略配售，对不同发行规模企业的战略投资者数量和战略配售比例作出针对性要求，提高战略配售制度的灵活性。

第三，通过发行定价约束机制压实市场主体责任。一是优化完善跟投机制，在提高保荐机构跟投制度灵活性的同时，要求对四类特殊企业实施跟投，督促保荐机构有效防控风险、审慎合理定价。**二是设置限售期引导网下投资者审慎报价，**发行人和主承销商可采用摇号限售或比例限售方式，对一定比例的网下发行证券设置不少于 6 个月的限售期。**三是强化对发行人、中介机构等市场主体的日常监管，**明确创业板 IPO 及再融资发行承销过程中各参与主体的违规情形，以及深交所可采取的自律监管措施和纪律处分。

第四，完善再融资发行承销相关机制。一是优化向特定对象发行股票适用简易程序的发行安排，将竞价环节前置至申报材料前，提高优质上市公司融资效率，进一步加强发行结果与发行进度的可预期性。**二是规范并完善现行成熟做法，**细化各再融资品种的发行定价方式和申购缴款程序，明确发行人与主承销商可以在向特定对象发行证券时约定中止发行情形。

五、《创业板企业发行上市申报及推荐暂行规定》主要内容。

深交所制定了《创业板企业发行上市申报及推荐暂行规定》，从四个方面引导、规范创业板发行人申报和保荐人推荐工作：

一是明确支持和鼓励符合创业板定位的创新创业企业在创业板上市，并支持传统产业与新技术、新产业、新业态、新模式深度融合，落实创新驱动发展战略，服务实体经济高质量发展。

二是坚守创业板定位，结合以高新技术产业企业和战略性新兴产业企业为主的板块特征，设置行业负面清单，原则上不支持房地产等传统行业企业在创业板上市。

三是为更好支持、引导、促进传统行业转型升级，明确与新技术、新产业、新业态、新模式深度融合的行业负面清单中传统企业，仍可在创业板上市。

四是按照"新老划断"原则，明确在审企业不适用行业负面清单的规定，进一步做好新旧制度衔接，稳定市场预期。

六、《创业板股票异常交易实时监控细则（试行）》的主要内容。

《创业板股票异常交易实时监控细则（试行）》立足创业板市场特点，以实现分类监管、精准监管、科学监管为目标，构建可操作、可执行的创业板异常交易行为监管体系，明确异常交易行为定性定量认定标准，规定投资者异常交易行为监管措施，规范会员履行客户管理职责。具体包括以下四个方面：

一是明确异常交易行为主要类型。具体包括虚假申报、拉抬打压股价、维持涨跌幅限制价格、自买自卖和互为对手方交易、严重异常波动股票申报速率异常等五大类典型异常交易行为。

二是量化异常交易行为指标阈值。明确各类异常交易行为定义和构成要件，细化规定具体指标阈值，包括申报数量和频率、股票交易规模、市场占比、股价波动情况等，监控标准可根据市场发展情况进行动态调整。

三是规定异常交易行为认定要求。异常交易行为认定需结合量化标准（如申报数量和频率、股票交易规模、市场占比、股价波动情况等）和定性分析（如股票基本面、上市公司重大信息、市场整体走势等）进行实质性判断。

四是强化会员履行客户管理职责。会员应事前了解客户、事中监控交易，及时识别、管理和报告客户异常交易行为，积极协同配合深交所做好异常交易行为监管工作，共同维护创业板股票交易秩序。

七、创业板改革并试点注册制廉政监督制度建设情况。

答：加强廉政建设是创业板改革并试点注册制平稳推进的内在要求和根本保障，深交所将加强廉政建设放在事关改革实效和改革成败的高度，从注册制改革筹备开始就坚持制度建设和廉政建设"一盘棋"，做到同部署、同推进，把廉政和"严"的要求融入其中。在驻证监会纪检监察组的指导下，深交所制定了《关于加强创业板改革并试点注册制廉政监督的实施意见》和四项廉政监督专门制度，以及会议管理、文件管理、轮岗和回避等 10 余项内部管理制度，形成了包括上市审核部门内部管理制度、廉政监督专门制度等在内的注册制改革廉政监督制度体系。

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Shenzhen Stock Exchange Releases the Integrated and Revised Business Guides for Listed Companies

Shenzhen Stock Exchange (SZSE) recently released the integrated and revised business guides for listed companies, including 11 guides for the Main Board (SME Board) and 12 guides for the ChiNext board, marking the basic completion of the improvement of the system of self-discipline regulation rules for listed companies.

So far, SZSE has revised and refined the *Rules Governing Share Listing* and the *Guidelines for the Standard Operation of Listed Companies* for the ChiNext Board, integrated and improved the *Guidelines for the Standard Operation of Listed Companies* for the Main Board and the SME Board. It has totally revised and formulated 25 guidelines for information disclosure of sectors and special business, developed and released 23 business guides, and abolished 93 memos, guidelines for information disclosure and so on.

In the improvement of the rules, SZSE focused on two things:

SZSE further reduced the levels of rules, cut the number of rules and deleted content that does not conform to the situation or development, is difficult to implement and adds extra burdens on listed companies, so as to improve the effectiveness of regulation. In the meantime, taking into account the characteristics of SZSE boards and companies, SZSE integrated the self-discipline

regulation rules for the Main Board and those for the SME Board, included the improvement of the self-discipline regulation rules for the ChiNext Board in the overall work concerning the reform of the ChiNext Board, and made further adaptive and differentiated arrangements based on the characteristics of companies following the general trend of innovation, creation and creativity and those in the traditional industries that are deeply integrated with new technologies, new industries, new forms of business and new models.

According to the new requirements stipulated in relevant laws and regulations including the new *Securities Law*, the new situation of the capital market and the new ideas on self-discipline regulation, SZSE supplemented relevant rules to improve the effectiveness of the system of rules. Moreover, centering on special business, SZSE enriched its system of business guides and enhanced the convenience in applying.

In the rule improvement, SZSE reconstructed the structure, content and format of the system of self-discipline regulation rules for listed companies in three steps:

Step one, establishing a three-level system and clarifying the positioning of rules. SZSE abolished all memos for the Main Board, the SME Board and the ChiNext Board and further streamlined the levels of self-disciple regulation rules for listed companies, forming a simpler, easier-to-implement, more transparent and more efficient three-level system of rules. Substantive regulatory requirements in the original memos were elevated to the guidelines for information disclosure, those that are mature in implementation were included in the *Rules Governing Share Listing* and the *Guidelines for the Standard Operation of Listed Companies*, and content relating to business operating procedures was integrated and added in business guides.

Step two, refining content of rules to meet market needs. First, SZSE balanced disclosure effect and cost, revised and refined the guidelines for standard operation and 18 guidelines for information disclosure of sectors, and deregulated and cancelled control that does not adapt to development needs, to ease the burdens on enterprises. **Second,** based on market needs, SZSE promptly released three guidelines for information disclosure of special business, namely, the guidelines for information disclosure of major assets restructuring, employee stock ownership plans, and transactions and related-party transactions. **Third,** on the basis of in-depth analysis of industry characteristics, SZSE formulated and issued four guidelines for information disclosure of sectors including the guidelines for information disclosure of the industrial robot sector, the integrated circuit sector, the lithium battery sector, and the non-metallic building materials sector.

Step three, restructuring business guides and improving user experience. First, following the vein of special business, SZSE established six categories of business guides based on business types, namely, issuance, listing & circulation, periodical reporting, stock ownership incentive, general meeting, announcement format and general information disclosure business operation. To support the implementation of the ChiNext Board refinancing registration-based IPO system, SZSE timely launched five business guides on issuance of convertible corporate bonds to nonspecific objects, fundraising through share issuance to nonspecific objects, share allotment to existing shareholders, share issuance to specific objects, and issuance of convertible corporate bonds to specific objects, to provide efficient, convenient services to listed companies. **Second,** SZSE integrated similar business content. For example, nine business guides and one piece of content in the information disclosure guidelines were combined into one information disclosure business guide. Redundant content was deleted and operation procedures were upgraded. **Third,** SZSE supplemented and improved the business chain. For example, it formulated the business guide for issuance of convertible corporate bonds to nonspecific objects, to realize the full coverage of content.

深圳证券交易所发布整合修订的上市公司业务办理指南

深圳证券交易所（深交所）集中发布整合修订后的上市公司业务办理指南，其中主板（中小板）11 件，创业板 12 件，深交所上市公司自律监管规则体系优化工作基本到位。

截至目前，深交所已先后修订完善创业板《股票上市规则》和《上市公司规范运作指引》，整合优化深市主板、中小板《上市公司规范运作指引》，修订制定 25 项行业和专项业务信息披露指引，制定发布 23 项业务办理指南，废止 92 项备忘录、信息披露指引等规则文件。

规则优化工作中，坚持“两手抓”：

进一步减少规则层级，精简规则数量，将不适应形势发展、执行中存在障碍、过于增加上市公司负担的内容予以删除，提升监管效能。同时，结合深市板块和公司特点，整合主板、中小板自律监管规则，并将优化创业板自律监管规则纳入创业板改革总体工作，根据“三创四新”特点进一步作出适应性、差异化安排。

按照新《证券法》等法律法规的新要求，结合资本市场新形势和自律监管新理念，对自律监管规则“查缺补漏”，

提升规则体系有效性。此外，以专项业务为中心，充实业务办理指南体系，增强使用便利性。

分三步对上市公司自律监管规则体系的架构、内容、形式进行重构：

第一步，构建三层体系，明晰规则定位。废止深市主板、中小板、创业板全部备忘录，进一步简化上市公司自律监管规则层级，形成更加简明易行、透明高效的三层规则体系。原备忘录中的实质监管要求提升至信息披露指引，运行成熟的进一步纳入《股票上市规则》和《上市公司规范运作指引》，而业务操作流程相关的内容则整合至办理指南。

第二步，完善规则内容，满足市场需求。一是平衡披露效果与成本，修订完善规范运作指引和 18 件行业信息披露指引，放松和取消不适应发展需求的管制，切实为企业减负。二是以市场需求为导向，及时发布重大资产重组、员工持股计划、交易与关联交易 3 项专项业务信息披露指引。三是在深入研究行业特点基础上制定发布工业机器人、集成电路、锂电池、非金属建材等 4 项行业信息披露指引。

第三步，重构办理指南，提升使用体验。一是遵循专项业务脉络，按照业务类型设置了发行上市流通、定期报告、股权激励、股东大会、公告格式及通用信披业务操作等六类办理指南。当中，为配合创业板再融资注册制落地，及时推出向不特定对象发行可转换公司债券、向不特定对象募集股份、向原股东配售股份、向特定对象发行股票、向特定对象发行可转换公司债券等 5 件发行上市流通类办理指南，服务上市公司高效便捷地办理相关业务。二是整合同类业务内容，如信息披露业务办理指南合并 9 项业务指南及 1 项信披指引相关内容，删除冗余内容并更新操作流程。三是补充完善业务链条，如制定向不特定对象发行可转换公司债券办理指南，实现指南内容全覆盖。

Source 来源：
http://www.szse.cn/English/about/news/szse/t20200623_578776.html

http://www.szse.cn/aboutus/trends/news/t20200621_578705.html

Shanghai Stock Exchange Announces Methodology of SSE Composite Index to be Revised

On June 19, 2020, Shanghai Stock Exchange (SSE) and China Securities Index Co., Ltd (CSI) announced the upcoming amendment of the index methodology of SSE Composite Index, to be implemented on July 22, 2020, as following:

- Constituents under risk warning status will be deleted from the index on the next trading day after the second Friday of the next month following the month of the implementation of risk warning of stocks. Eligible Securities that are out of risk warning status will be included in the index on the next trading day after the second Friday of the next month following the month of the removal of risk warning.

- Securities with the daily average total market value since its initial listing ranked top 10 in Shanghai Stock Exchange will be included in the index 3 months after listing, otherwise, a security must be listed for more than 1 year before being included in the index.

- Chinese Depository Receipts issued by red-chip enterprises listed on SSE and securities listed on SSE Science and Technology Innovation Board will be included in SSE Composite Index.

SSE answered questions on revising methodology of SSE Composite Index, as summarized below:

Brief on the background of revising the methodology of the SSE Composite Index

As the first stock index in the A-share market, the SSE Composite Index was launched in 1991 and its core methodology is still in use. In recent years, there have been many voices among the market participants regarding revision of the methodology of the SSE Composite Index, with frequent complaints including “distortion of the SSE Composite Index” and “failure to fully reflect changes in the market structure”, etc. During the Two Sessions period in 2020, the market insiders including the deputies to the National People’s Congress and the members of the national committee of the Chinese People’s Political Consultative Conference once again proposed to improve the methodology of the SSE Composite Index.

SSE and CSI have continued to study and launched the efforts in revising the methodology of the SSE Composite Index after listening to market opinions, considering the developments and changes of China's capital market and drawing on the experience in the index construction worldwide.

To compile the index in a scientific approach, elements such as the index universe, method of selecting constituents and adjustment of the constituents for the SSE Composite Index have been studied one by one, thus setting the orientation for the revision of the index methodology. On this basis, special seminars on revision of index methodology have been organized, and

an expert consultation mechanism for index construction has recently been established to solicit opinions and suggestions from experts at fund companies, insurance and assets management institutions, index companies at home and abroad and other institutions, universities and research institutes. Finally, the scheme for the revision of the methodology of the SSE Composite Index has been established, including removing the stocks with risk warnings, extending time for new stocks to be incorporated, and absorbing securities on the SSE STAR Market into the SSE Composite Index universe.

Reasons for adjusting the time for the new stocks to be included in the SSE Composite Index

The time for new stocks to be included in the index is an important basic arrangement for the SSE Composite Index. Many market experts believe that the current inclusion of new stocks on the 11th trading day after listing is not conducive to the SSE Composite Index's accurate and stable representation. Drawing on the valuable experience of representative indexes around the world and objectively analyzing the characteristics of the domestic new stock market, the inclusion of the new stocks into the SSE Composite Index has been adjusted.

The time when new stocks are included in the index of representative indexes around the world is usually set according to the characteristics of the markets in the home country and region. Generally, only after experiencing a full pricing game in the market can a new stock be eligible to be included in an index. For example, new stocks are eligible for inclusion in the S&P 500 index after they have been listed for 12 months, and only those that have been listed for 3 months are qualified to be included into the STOXX Europe Total Market Index. At the same time, in order to maintain market representativeness of the index, some typical indexes will set up a mechanism for rapid inclusion of large-cap new stocks. For example, the Hang Seng Composite Index has established a mechanism for rapid inclusion of large-cap new stocks ranking top 10% in market capitalization into the index on the 11th trading day after listing.

At present, it is common in A-share market for new stocks to trigger the upper price limit consecutively and fluctuate significantly in the initial stage of listing. From 2014 to 2019, a total of 563 new stocks were listed on the SSE and reached the upper price limit for 9 consecutive days on average after listing, with 217 new stocks hitting the upper price limit for more than 10 day in a row. Therefore, the inclusion of new stocks into the index based on the upper limit prices is not conducive to the SSE Composite Index objectively reflecting the actual market performance. As from 2010 to 2019, the average yield volatility of new stocks within one year was about 2.9 times of that of the SSE Composite Index over the same period, making the inclusion of high-volatility new stocks against the purpose of maintaining index stability .

Therefore, the time to include new shares in the SSE Composite Index will be lengthened until 1 year after listing. Considering that it generally takes shorter time for large-cap new stocks than small-cap ones to see the share price stabilize, to maintain the SSE Composite Index's representativeness , large-cap new stocks ranking top 10 in terms of the average daily market capitalization since the initial listing on the SSE market will be included into the index in 3 months after listing.

*Reasons for removing the stocks with risk warnings (marks of ST and *ST) from the constituents of the SSE Composite Index*

The stocks with risk warnings can hardly represent the mainstream situations of the listed companies, as they have higher risks and greater uncertainties in fundamentals, with their investment value affected. The removal of stocks with risk warnings will improve the investment function of the SSE Composite Index, and enable the index better reflect the overall performance of SSE-listed companies.

Constituents of most major composite indexes in the world only include vast majority of the stocks in their markets. For example, the Nasdaq composite index excludes the stocks with the Nasdaq market as the second listing platform. The STOXX Europe Total Market Index and the Hang Seng composite index only cover the stocks accounting for 95 % of the total market value. As of the end of May, constituents of the SSE Composite Index included 85 stocks with risk warnings, with a total weight of 0.6%. Therefore, deleting stocks with risk warnings will not affect the positioning of the index.

Considerations for including the securities listed on the SSE STAR Market into the SSE Composite Index universe

Securities listed on a new board usually need to be tracked and evaluated for a period of time before they are considered to be included in a representative market index. Since the first batch of securities were listed on the SSE STAR Market on July 22, 2019, which the SSE has been tracking and evaluating for nearly a year, the overall operation of the board has been stable. As of the end of May, there were 105 companies listed on the SSE STAR Market, with a total market value of RMB1.6 trillion. As the board has become an important part of the SSE market, it is increasingly necessary to include the securities on the SSE STAR Market into the SSE Composite Index. As the STAR companies cover a large number of enterprises oriented toward science and technology innovation, the inclusion of the board will improve the Index's market representativeness, and

further increase the proportion of hi-tech companies in the composite index, so that the SSE Composite Index will better reflect the changes in the market structure.

Effects of implementation of the revised methodology of the SSE Composite Index on the continuity of the index and on investors' observation of market conditions

Drawing on the approaches of representative indexes in the world to the construction adjustment, the revised methodology of the SSE Composite Index will be implemented in a seamless manner, which means that the point on the effective date of the revised index methodology will be seamlessly connected with the point on the previous trading day, and the real-time point on the effective date will be calculated based on the closing point of the previous trading day and the ups and downs of the constituents on that day. Therefore, the implementation of the revised methodology of the SSE Composite Index will affect neither the continuity of the index, nor the investors' observation of market conditions.

上海证券交易所宣布将修订上证综合指数编制方案

2020 年 6 月 19 日，上海证券交易所（上交所）与中证指数有限公司（中证指数）决定自 2020 年 7 月 22 日起修订上证综合指数的编制方案，修订内容如下：

- 指数样本被实施风险警示的，从被实施风险警示措施次月的第二个星期五的下一交易日起将其从指数样本中剔除。被撤销风险警示措施的证券，从被撤销风险警示措施次月的第二个星期五的下一交易日起将其计入指数。

- 日均总市值排名在沪市前 10 位的新上市证券，于上市满三个月后计入指数，其他新上市证券于上市满一年后计入指数。

- 上交所上市的红筹企业发行的存托凭证、科创板上市证券将依据修订后的编制方案计入上证综合指数。

上交所就相关问题答记者问，总结如下：

修订上证综合指数编制方案的背景

上证综合指数发布于 1991 年，是 A 股市场第一条股票指数，核心编制方法沿用至今。近年来，社会各界对上证综合指数编制方案修订多有呼声，类似“上证综合指数失真”“未能充分反映市场结构变化”等意见频频出现，2020 年两会期间，包括代表委员在内的市场专业人士再次提议对上证综合指数编制方法进行完善。

上交所、中证指数在充分听取市场意见、研究中国资本市场发展变化、借鉴指数编制国际经验基础上,持续研究并慎重启动了上证综合指数编制方案修订工作。

指数编制遵循科学性要求，对上证综合指数的样本空间、选样方法及样本调整等指数编制要素逐一梳理，形成上证综合指数编制修订方向。在此基础上，多次组织召开指数编制修订专题研讨会，并于近期建立指数编制专家咨询机制，积极征询基金公司、保险资管、境内外指数公司等机构及高校、研究所等专家意见建议，最终形成上证综合指数编制修订方案，即剔除被实施风险警示的股票，延迟新股计入时间，科创板证券纳入上证综合指数样本空间。

新股计入上证综合指数时间调整的原因

新股计入指数的时间是上证综合指数重要的基础安排，诸多市场专业人士认为当前上市第 11 个交易日计入新股不利于上证综合指数的表征准确性与稳定性。在充分借鉴国际代表性指数有益经验，客观分析境内新股市场特点的基础上，对新股计入上证综合指数进行调整。

国际代表性指数通常根据所在国家和地区市场特点，设定新股计入指数时间。一般而言，新股需经历充分的市场定价博弈之后才被赋予计入指数的资格，如新股上市满 12 个月才具备资格计入标普 500 指数，新股上市满 3 个月才具备资格计入 STOXX 欧洲全市场指数。同时，为保持指数的市场代表性，部分代表性指数会设定大市值新股的快速计入机制，如恒生综合指数对市值排名前 10% 的大盘新股设定了上市第 11 个交易日快速计入机制。

当前 A 股市场新股上市初期存在“连续涨停”及高波动现象。2014 年至 2019 年，沪市共上市新股 563 只，上市后平均连续涨停天数为 9 天，217 只新股连续涨停天数超过 10 天，新股以涨停价计入不利于上证综合指数客观反映市场真实表现。2010 年至 2019 年，沪市新股 1 年内平均收益波动率约为同期上证综合指数的 2.9 倍，计入高波动新股不利于上证综合指数的稳定。

因此，将新股计入上证综合指数的时间延迟至上市 1 年后。考虑到大市值新股价格稳定所需时间总体短于小市值新股，为保持上证综合指数的良好代表性，对上市以来日均总市值排名沪市前 10 位的大市值新股实行上市满 3 个月后计入。

*上证综合指数样本剔除被实施风险警示（ST、*ST）的股票的原因*

中国资本市场建立了风险警示制度，被实施风险警示的股票存在较高风险，基本面存在较大不确定性，投资价

值受到影响，难以代表上市公司主流情况。剔除被实施风险警示的股票有利于上证综合指数更好发挥投资功能，更好反映沪市上市公司总体表现。

诸多国际主要综合指数样本范围只包括市场绝大多数股票，如纳斯达克综合指数剔除纳斯达克市场作为第二上市地的股票，STOXX 欧洲全市场指数、恒生综合指数只涵盖市场市值95%的股票。截至5月底，上证综合指数样本中包含 85 只被实施风险警示的股票，合计权重 0.6%。因此，剔除被实施风险警示的股票不会影响其综合指数定位。

将科创板证券纳入上证综合指数样本空间的考量

证券市场新板块上市的证券通常需经一段时期跟踪评估后才会考虑计入市场代表性指数。自 2019 年 7 月 22 日首批科创板证券上市至今，上交所已持续跟踪评估近一年时间，科创板整体运行平稳。截至 2020 年 5 月底，科创板上市公司达到 105 家，总市值 1.6 万亿元，已成为沪市的重要组成部分，科创板证券计入上证综合指数的必要性日益凸显。科创板上市公司涵盖诸多科技创新型企业，科创板证券的计入不仅可提高上证综合指数的市场代表性，也将进一步提升上证综合指数中科创型新兴产业上市公司的占比，使上证综合指数更好反映沪市结构变化。

上证综合指数编制修订的实施对指数的连续性以及投资者观测市场行情的影响

是次上证综合指数编制修订的实施，借鉴国际代表性指数编制调整的做法，拟采用无缝衔接的方式进行，即指数编制方案变更生效日点位与前一交易日点位无缝衔接，生效日实时点位基于前一交易日收盘点位及样本股当日涨跌幅计算。因此，上证综合指数编制修订的实施不会影响上证综合指数的连续性，不影响投资者观测市场行情。

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http://www.sse.com.cn/market/sseindex/diclosure/c/c_20200619_5130635.shtml

Shanghai Stock Exchange Announces STAR 50 Index to be Launched

On June 19, 2020, Shanghai Stock Exchange (SSE) and China Securities Index Co., Ltd. (CSI) announced that, in order to reflect the performance of the securities listed on the Science and Technology Innovation Board of the Shanghai Stock Exchange (SSE STAR Market) in a timely manner and provide the market with investment targets and performance benchmarks, the SSE and the CSI will release the historical data of the SSE STAR Market 50 Index (STAR 50) after the market close on July 22, 2020, and officially launch the real-time data of the index on July 23.

As of the end of May, there were a total of 105 companies listed on the SSE STAR Market, with a total market value of RMB1.6 trillion. As the first index of the SSE STAR Market, the STAR 50 Index is expected to improve the representation of the performance of the securities listed on the board and provide more investment targets.

The mature experience of the markets in China and abroad has been drawn on in the index construction, with the characteristics and conditions of the SSE STAR Market system taken into full consideration. The base date of the index is December 31, 2019 and the base level is 1,000 points. The index universe includes the stocks listed on the SSE STAR Market and the Chinese Depository Receipts (CDRs) issued by red-chip enterprises listed on the SSE STAR Market. Considering the development and the system characteristics of the SSE STAR Market, at the current stage new stocks will be included in the index universe 6 months after listing, and when the number of the securities that have been listed on the SSE STAR Market for twelve months reaches 100 to 150, the threshold for inclusion will be adjusted to 12 months. In addition, a differentiated schedule for the inclusion of large-cap companies has been set up. After liquidity-based screening, the constituents will be selected based on market cap indicators so as to achieve objective representation of the market. Constituents are weighted according to the amount of tradable shares, and in order to avoid the impact on the index by individual stocks with excessive weight, the upper limit of weight for individual stocks has been set. To adapt to the rapid development stage of the board, typical listed companies will be included in a timely manner, and a regular quarterly adjustment mechanism will be established.

上海证券交易所宣布将发布上证科创板 50 成份指数

2020年6月19日，为及时反映科创板上市证券的表现，为市场提供投资标的和业绩基准，上海证券交易所和中证指数有限公司将于 2020 年 7 月 22 日收盘后发布上证科创板 50 成份指数历史行情，7 月 23 日正式发布实时行情。

截至 5 月底，科创板上市公司共 105 家，总市值 1.6 万亿元。作为科创板首条指数，预期上证科创板 50 成份指数将有助于反映科创板上市证券表现，并进一步丰富投资标的。

指数编制借鉴了境内外市场成熟经验，并充分考虑科创板制度特征及客观情况。指数以 2019 年 12 月 31 日为基日，基点为 1000 点。样本空间包含科创板上市的股票及红筹企业发行并在科创板上市的存托凭证。考虑到科创板客观发展情况及制度特点，现阶段新股上市满 6 个月后纳入样本空间，待科创板上市满 12 个月的证券达 100 只-150 只后调整为上市满 12 个月后纳入，另外对大市值公司设置差异化的纳入时间安排。经流动性筛选后，以市值指标进行选样，实现对市场的客观表征。采用自由流通股本加权，为避免个股权重过大对指数的影响，设置一定比例的个股权重上限。为适应板块快速发展阶段的特点，及时纳入代表性上市公司，建立季度定期调整机制。

Source 来源:
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http://english.sse.com.cn/markets/indices/indexnews/c/5130639.shtml

http://www.sse.com.cn/aboutus/mediacenter/hotandd/c/c_20200619_5130649.shtml

http://www.sse.com.cn/market/sseindex/diclosure/c/c_20200619_5130634.shtml

Monetary Authority of Singapore Consults on its Proposed Environmental Risk Management Guidelines for Financial Institutions

On June 25, 2020, the Monetary Authority of Singapore (MAS) issued a set of three consultation papers on its proposed Guidelines on Environmental Risk Management (Guidelines) for banks, insurers and asset managers. The Guidelines aim to enhance the resilience of financial institution (FI) to environmental risk and strengthen the financial sector's role in supporting the transition to an environmentally sustainable economy, in Singapore and in the region. This is part of MAS' Green Finance Action Plan to become a leading global center for green finance.

The Guidelines, which were co-created with FIs and industry associations, set out MAS' supervisory expectations for banks, insurers and asset managers in their governance, risk management, and disclosure of environmental risk:

a. Governance – Boards and senior management of FIs are expected to incorporate environmental considerations into their strategies, business plans, and product offerings, and maintain effective oversight of the management of environmental risk.

b. Risk Management – FIs should put in place policies and processes to assess, monitor, and manage environmental risk. For example, on physical risk, the bank may estimate how changes in climate and extreme events can affect the productivity of assets within customers' portfolios and impact their revenue and probability of default. On transition risk, the bank may analyze the impact of varying carbon taxes on customers' cash flows and creditworthiness.

c. Disclosure – FIs should make regular and meaningful disclosure of their environmental risks, to enhance market discipline by investors. For example, the bank should take reference from international reporting frameworks, including recommendations by the Financial Stability Board's Task Force on Climate-related Financial Disclosures, to guide its environmental risk disclosure.

Mr. Ong Chong Tee, Deputy Managing Director, MAS, said, even as FIs, regulators and policymakers grapple with Covid-19 and its impact, it is crucial to keep their focus on environmental issues as they pose clear challenges for Singapore's economies and financial systems. It is important for FIs in Singapore to have a good understanding of environmental risk and improve their resilience against environmental-related events, as part of their business and risk management strategies.

新加坡金融管理局就其建议的金融机构《环境风险管理指引》进行咨询

2020 年 6 月 25 日，新加坡金融管理局(MAS)发布了针对银行、保险公司以及资产管理人的三项《环境风险管理指引》征求意见稿。《环境风险管理指引》旨在提高金融机构对环境风险的抵御能力，增强金融部门在支持新加坡及本区域向环境可持续经济转型的作用。这是新加坡金融管理局绿色金融行动计划的一部分，旨在令新加坡成为全球领先的绿色金融中心。

该指南与金融机构和行业协会共同制定，表明了新加坡金融管理局对银行、保险公司和资产管理公司在治理、风险管理和环境风险披露方面的监管期望：

治理：金融机构的董事会和高级管理层应将环境因素纳入其发展战略、商业计划和产品提供中，并保持对环境风险管理的有效监督。

风险管理：金融机构应当建立评估、监测和管理环境风险的政策和程序。例如，在实体风险方面，银行可以估算气候变化和极端事件的变化如何影响客户投资组合中

资产的生产率，并影响其收入和违约的概率。关于过渡风险，银行可能会分析各种碳税对客户现金流量和信誉的影响。

披露：金融机构应定期且有意义地披露其环境风险，以加强投资者的市场纪律。例如，银行应参考国际报告框架，包括金融稳定委员会气候相关财务信息披露工作组的建议，以指导其环境风险披露。

新加坡金融管理局副行长王宗智（Ong Chong Tee）先生表示，即使金融机构，监管机构和政策制定者都在努力应对新冠疫情（Covid-19）及其影响，但该等机构与人士仍须持续重点关注环境问题，因环境问题对新加坡的经济和社会构成明显挑战。较为重要的是，新加坡的金融机构须对环境风险有充分的了解并提高其对环境等相关事件的适应能力，且应将其作为金融机构业务和风险管理策略的一部分。

Sources 来源 : https://www.mas.gov.sg/news/media-releases/2020/mas-consults-on-environmental-risk-management-guidelines-for-financial-institutions

Financial Conduct Authority of the United Kingdom Reminds Crypto-asset Businesses to Register Before the End of June

The Financial Conduct Authority of the United Kingdom (FCA) reminds businesses which carry out crypto-asset activity in the UK, that they have to be registered with the FCA to comply with new regulations. To ensure that applications are processed on time the FCA requires firms to submit completed applications for registration by June 30, 2020.

FCA became the anti-money laundering and counter terrorist financing (AML/CTF) supervisor of businesses carrying out certain crypto-asset activities in the UK on January 10, 2020. Any businesses that started carrying on business in the UK immediately before January 10，2020 and are not registered by the FCA by the January 10, 2021 deadline will have to cease carrying on business.

The 30 June date allows FCA to review submitted applications and raise any follow-up questions with firms, with enough time for that process to be completed before January 10, 2021. Any new businesses which began operating after January 10, 2020 must be registered with the FCA before carrying out any business.

Firms authorized or registered under the Financial Services and Markets Act 2000, Electronic Money Regulations 2011 or Payment Services Regulations 2017 but undertaking crypto-asset activity subject to the MLRs will also be required to apply for registration.

FCA will proactively supervise firms' compliance with the new regulations and will take swift action where firms fall short of desired standards.

英国金融行为监管局提醒加密资产企业 6 月底前注册

英国金融行为监管局（英国金管局）提醒在英国开展加密资产活动的企业，必须遵守新出台的法规完成注册。为了确保申请得到及时处理，英国金管局要求企业在 2020 年 6 月 30 日之前提交完整的注册申请。

英国金管局于 2020 年 1 月 10 日起成为在英国开展某些加密资产活动企业的反洗钱和反恐融资监管机构。任何于 2020 年 1 月 10 日前在英国开展业务且未在 2021 年 1 月 10 日前在金融监管局注册的企业将必须停止运营。

选定 6 月 30 日作为申请截止日期，将允许英国金管局审查提交的申请，并向公司提出任何后续问题，有足够的时间在 2021 年 1 月 10 日之前完成这一流程。任何新企业于 2020 年 1 月 10 日之后开始运营必须在进行业务往来之前向英国金管局注册。

根据《2000 年金融服务和市场法》、《2011 年电子货币条例》或《2017 年支付服务条例》授权或注册、但从事受《反洗钱条例》约束的加密资产活动的公司也需要申请注册。

英国金管局表示将积极监督企业对新法规的遵守情况，并在企业未达到所需标准的情况下迅速采取行动。

Source 来源:
https://www.fca.org.uk/news/press-releases/fca-reminds-cryptoasset-businesses-register-end-june

Financial Conduct Authority of the United Kingdom Announces Proposals to Make Mini-bond Marketing Ban Permanent

The Financial Conduct Authority of the United Kingdom (FCA) announced on June 18, 2020 proposals to make permanent its ban on the mass-marketing of speculative illiquid securities, including speculative mini-bonds, to retail investors.

The FCA introduced the ban without consultation in January following concerns that speculative mini-bonds were being promoted to retail investors who neither understood the risks involved, nor could afford the potential financial losses. In introducing the rules permanently, the FCA is proposing a small number of changes and clarifications to the ban introduced in

January. This includes bringing listed bonds with similar features to speculative illiquid securities and which are not regularly traded within the scope of the ban.

The term mini-bond refers to a range of investments. The ban will apply to the most complex and opaque arrangements where the funds raised are used to lend to a third party, or to buy or acquire investments, or to buy or fund the construction of property. There are various exemptions including for listed bonds which are regularly traded, companies which raise funds for their own commercial or industrial activities, and products which fund a single UK income-generating property investment.

The FCA ban will mean that products caught by the rules can only be promoted to investors that firms know are sophisticated or high net worth. Marketing material produced or approved by an authorized firm will also have to include a specific risk warning and disclose any costs or payments to third parties that are deducted from the money raised from investors.

The FCA has limited powers over the issuers of speculative mini-bonds who are usually unauthorized but can take action when an authorized firm approves or communicates a financial promotion, or directly advises on or sells, these products.

英国金融行为监管局宣布永久禁止营销迷你债券

2020 年 6 月 18 日，英国金融行为监管局（英国金管局）宣布了有关永久禁止向散户投资者大规模推销包括投机性迷你债券在内的投机性非流动性证券。

考虑到投机性迷你债券将被推广给不了解所涉风险且无法承受潜在财务损失的散户投资者，英国金管局于 2020 年 1 月份在未进行咨询的情况下推出了该禁令。是次对该禁令的永久化，英国金管局提议对 1 月份实施的禁令进行了少量修改和澄清，包括将具有类似投机性非流动性证券特征且不定期交易的上市债券归入禁令范围。

迷你债券一词概指一定范围的投资。是次禁令将适用于最为复杂晦涩的情形，例如，所筹集的资金将用于借给第三方、购买或获取投资、购买或资助房地产建设等。是次禁令亦设有各类豁免情形，包括定期交易的上市债券，为自身商业或工业活动筹集资金的公司，以及为单一英国创收物业投资提供资金的产品。

是次禁令将意味着，被涵盖的产品只能推销给公司已知成熟或高净值的的投资者。且由授权公司生产或批准的营销材料必须包括特定的风险警告并披露从筹集资金中扣除的任何对于第三方的成本或付款。

英国金管局对投机性迷你债券的发行人的约束力有限。投机性迷你债券通常是未授权的，但在授权公司批准或传达财务促销信息或直接提供建议或出售这些产品时，可以执行。

Source 来源:
https://www.fca.org.uk/news/press-releases/fca-make-mini-bond-marketing-ban-permanent

Australian Securities and Investments Commission Releases Guidance on the Administration of Product Intervention Power

Following consultation, Australian Securities and Investments Commission (ASIC) has released a new regulatory guide on the administration of its product intervention power (RG 272).

ASIC Deputy Chair Karen Chester said, “The product intervention power is an incredibly important addition to ASIC’s regulatory toolkit. It allows us to intervene where we are satisfied that a product (or class of products) is likely to result in significant consumer detriment. The power enables us to confront, and respond to, harms in the financial sector in a targeted and timely way. But there are important checks and balances – it is a temporary intervention power and we must consult before each and every use. Over time the targeted solving of problems through product intervention may result in less regulation of industry overall.”

Ms. Chester concluded, “The availability of this power to protect consumers from products that result in significant harm is particularly timely now, when so many are facing uniquely challenging circumstances with the impact of COVID-19. We have already used the product intervention power in relation to a short-term credit product and have consulted on the use of the power in relation to other products.”

Regulatory Guide 272 *Product intervention power* (RG 272) sets out:

- the scope of the power, including products that can be subject to an intervention order and the types of orders ASIC may consider making
- when and how ASIC may exercise the power, including how it may determine when consumer detriment is significant and how it may intervene
- the process for making an intervention order, including how it may consult with affected parties, when an order will commence, the process by which an order can be extended, amended or revoked, and the consequences of breaching an order.

澳大利亚证券与投资委员会发布产品干预权管理指南

经协商，澳大利亚证券与投资委员会发布了有关产品干预权管理的新监管指南（RG 272）。

澳大利亚证券与投资委员会副主席 Karen Chester 表示："产品干预能力是澳大利亚证券与投资委员会监管工作的重要组成部分。产品干预能力使我们能够在认为某一产品（或某类产品）可能严重损害消费者的情况下进行干预，使我们能够有针对性地、及时地面对和应对那些可能对金融部门造成的损害。这是一种临时的干预力量，每次使用前都必须进行协商咨询。通过产品干预针对性地解决问题随着时间推移可能会导致行业整体监管力度减弱。"

Chester 女士表示："当下许多人正面临新型冠状病毒的影响，保护消费者免受严重损害的产品干预特别及时。我们已经使用了与短期信贷产品有关的产品干预权，并就与其他产品有关的干预权的使用展开了协商咨询。"

法规指南 272 *产品干预能力*（RG 272）规定了：

- 权力范围，包括可能受干预命令约束的产品以及澳大利亚证券与投资委员会可能考虑制定的命令类型
- 澳大利亚证券与投资委员会何时以及如何行使权力，包括如何确定何时消费者损害重大及如何进行干预
- 发出干预命令的过程，包括如何与受影响各方进行磋商，命令何时开始生效，通过何种程序可以扩展、修改或撤销命令以及违反命令的后果。

Source 来源：
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