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Financial Services Regulatory Update 金融服务监管资讯

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A. HONG KONG REGULATORS 香港监管机构

SECURITIES AND FUTURES COMMISSION (SFC)

SFC's Consultation Conclusions and Further Consultation on Proposed Changes to the Securities and Futures (Financial Resources) Rules 有关建议修改《证券及期货(财政资源)规则》的咨询总结及进一步咨询

On July 17, 2015, the SFC issued a consultation paper on proposed changes to the Securities and Futures (Financial Resources) Rules (FRR). Consultation conclusions were published by the SFC on July 24, 2017. Those proposals aim to formulate capital and other prudential requirements for activities involving Over-the-counter derivatives (OTCD) (such activities referred to as "OTCD activities") engaged in by the licensed corporations (LCs) as part of the reform of the OTCD market, and to update the requirements in certain areas of the FRR which are not specific to OTCD activities in light of recent market developments.

证监会于2015年7月17日就建议修改《证券及期货(财政资源)规则》发表咨询文件，并于2017年7月24日发表咨询总结。有关建议涉及为从事场外衍生工具活动的持牌机构订明资本及其他审慎规定，以及就其他范畴作出修改，以配合最近市场的发展。

Proposed changes related to OTCD activities 对场外衍生工具活动的修改建议

After due consideration of the comments received and the regulatory objectives of the proposals, modifications have been made to some proposals and additional proposals have been introduced, including: relaxing the OTCD de minimis thresholds by setting the thresholds at 50% of the transitional US registration thresholds, including only OTCD activities involving products falling within the definition of "OTC derivative product" under the Securities and Futures (Amendment) Ordinance in the calculation of an LC's OTCD activity level for comparing with the OTCD

de minimis thresholds for the purpose of applying OTCD de minimis reduction, requiring LCs seeking to rely on OTCD de minimis reduction or becoming aware that their activity level exceeds any of the OTCD de minimis thresholds to notify the SFC in writing with the prescribed time and information and other suggested changes.

经审慎考虑所接获的意见及有关建议的监管目标后，证监会修改了部分建议及提出额外建议，包括放宽场外衍生品少量交易活动门槛，按照过渡性的美国注册门槛的50%设定该门槛，而持牌法团在计算其场外衍生品活动水平时，只须将符合“场外衍生工具产品”定义（载于《证券及期货修订条例》）的产品所涉及的场外衍生品活动计算在内，然后与场外衍生品少量交易活动门槛作比较，以便厘定场外衍生品少量交易活动宽减是否适用；寻求依靠场外衍生品少量交易活动宽减的持牌法团须在指定的期限内就其或在得知其活动水平超过任何场外衍生品少量活动交易活动门槛向证监会发出书面通知并依据其他修改建议提供有关信息。

Proposed changes not specific to OTCD activities and additional technical changes 建议作出非专为场外衍生品活动而设的修改及额外技术性修改

The SFC has also made modifications to certain proposals not specific to OTCD activities including allowing LCs to calculate haircut percentage for a basket of equities/debt securities or an index representing a basket of equities/debt securities underlying equity-linked instruments or index funds tracking an equity or debt securities index on a weighted average basis with the SFC's approval and defining the haircut percentage for an index fund (including ETFs) that tracks debt securities index to be equal to the haircut percentage for its underlying debt securities index, in addition to the original proposal of applying similar approach to an index fund that tracks equity index etc.

证监会对若干非专为场外衍生品活动而设的建议作出修改，包括容许持牌法团在取得证监会批准后，可按加权平均基

准就股票挂钩票据或跟踪股本或债务证券指数的指数基金所参照的相关股本/债务证券篮子或代表一篮子股本/债务证券的相关指数计算扣减百分率；以及将跟踪债务证券指数的指数基金（包括交易所买卖基金）所适用的扣减百分率订为等同于适用于其相关债务证券指数的扣减百分率，在原有建议中对于跟踪股本指数的指数基金亦有类似安排等。

Given the time constraint, the SFC has set out the FRR amendments for implementing the changes which are not specific to OTCD activities in the consultation conclusions and invites the public to further comment.

证监会已针对落实有关非专为场外衍生品活动的修改而草拟了《财政资源规则》修订案，并将邀请公众参与咨询意见。



Full article 全文:

<http://www.sfc.hk/edistributionWeb/gateway/EN/consultation/openFile?refNo=17CP6>

Proposed implementation rules and code for OFCs **建议的开放式基金型公司规则及守则**

An open-ended fund company (OFC) is an open-ended collective investment scheme, which is structured in corporate form with limited liability, but with the flexibility to create and cancel shares for investors to subscribe and redeem the funds. Like a conventional limited company, an OFC has the following features:

开放式基金型公司是开放式集体投资计划的一种，结构上属于有限法律责任公司，并具有为投资者认购及赎回基金以进行股份设立或取消的灵活性。如同传统的有限责任公司，开放式基金型公司具有以下特点：

- it has a legal personality
具有法人资格；
- it has a constitutional document, namely the Instrument of Incorporation
具有法团成立文书；
- it should be governed by a board of directors who are subject to statutory and fiduciary duties; and
需由董事局管治，董事负有法定及受信职责；及
- the liability of its shareholders is limited to the amount unpaid on their shares in the company.
股东的有限责任，仅限于其未缴付的股本金额。

However, as an investment vehicle, an OFC has greater flexibility than conventional companies. It has the following features:

然而，作为投资工具，开放式基金型公司具有比传统的公司更大的灵活性，包括如下特点：

- it has the flexibility to vary its share capital in order to meet investor subscription and redemption requests;
具有为满足投资者认购及赎回要求而进行股本变更的灵活性；
- it may distribute assets out of share capital subject to solvency and disclosure requirements;
根据偿债能力及披露要求可进行股本的资产分派；
- it may be created as an umbrella fund, allowing for a number of sub-funds, where each sub-fund would have a pool of assets that is managed in accordance with the investment objectives and policies specified to that sub-fund. The assets of each sub-fund belong exclusively to that sub-fund and shall not be used to discharge the liabilities of or claims against the umbrella OFC or any other sub-fund; and
可采用伞子基金的结构，允许设立多只独立集资的成分基金，每只成分基金都会根据本身的投资目标及策略，管理所持有的资产。每只成分基金的资产仅属于该成分基金所有，不得用以清偿他人的债务，包括作为伞子基金的开放式基金型公司本身或另一成分基金的债务；及
- it may be a publicly or privately offered fund. A publicly offered fund is a fund that is offered to the public in Hong Kong and should be subject to the prior authorisation of the SFC. A privately offered fund is a fund that is not offered for sale to the public (e.g. for sale to professional investors) and is not subject to the authorisation of the SFC.
可作为向公众或向私人发售的基金。向公众发售的基金为在香港向公众发售的基金，并须获得证监会的事先授权。

向私人发售的基金为并未向公众发售的基金（例如只向专业投资者发售）且不受证监会授权限制。

An OFC has to be registered with the SFC, but is not required to be a licensed corporation under the SFO. It should delegate its investment management functions to an investment manager who is appointed by the OFC board.

开放式基金型公司需要在证监会注册登记，但不需要是持牌法团，但仍需由开放式基金型公司的董事会委任基金经理以执行投资管理功能。

The SFC has issued a consultation paper on its proposed OFC Rules and Code. All OFCs (public or private) will be required to be registered by the SFC under the new Part IVA of the SFO and will be subject to the OFC Rules and OFC Code. The SFC will be the one-stop authority for registration of all OFCs. Directors, investment manager and custodian of an OFC will have to meet the SFC's requirements for registration. An OFC can issue multiple classes of shares. Transfers of shares will be effected by lodging an instrument of transfer with the OFC. Auditing of annual and interim financial results, investment and borrowing activities are to be regulated.

证监会已发出建议的《开放式基金型公司规则》及《开放式基金型公司守则》的咨询文件。所有开放式基金公司（无论公众或私人）将须根据《证券及期货（修订）条例》新增第 IVA 部经由证监会注册，并须遵守《开放式基金型公司规则》及《开放式基金型公司守则》。证监会将作为所有开放式基金型公司的一站式注册机构。开放式基金型公司的董事、基金经理和保管人将受证监会的注册要求规限。开放式基金型公司可发行多类股票。开放式基金型公司的股份转换可通过转让文书进行。对年度及中期财务业绩的审计、投资和借贷活动将受监管。

The OFC Rules will set out terms to be implied in the contracts and transactions entered into by an OFC with an umbrella and sub-fund structure to provide for the segregation of liabilities and assets. 《开放式基金型公司规则》将列明开放式基金型公司所涉及的合约和交易关于伞子基金及子基金结构的分隔资产和债务的条文。

There will be two types of requisite filings, one (administrative matters such as for a change of address) directly with the Companies Registry, and the other (such as those affecting the OFC's instrument of incorporation or director appointment) must first be approved by the SFC before filing with the Companies Registry.

文件存档分为两大类，一类是直接文件提交公司注册处（行政性质的事项，例如更改地址）；另一类必须获证监会批准方可转交给公司注册处（例如影响开放式基金型公司的法团成立文书或董事委任等事项）。

The number of Hong Kong domiciled or re-domiciled retail funds has been on increasing trend since the introduction of the Mainland-Hong Kong Mutual Recognition of Funds (MRF) scheme for retail funds in July 2015. Meanwhile, legislation is under way for profits tax exemption to be extended to onshore privately offered OFCs.

香港注册基金或迁册之香港的基金数量自 2015 年 7 月内地与香港基金互认安排（基金互认计划）的出台而呈增涨趋势。同时，立法机构正在研究豁免在岸私人发售的开放式基金型公司的利得税。

The Monetary Authority of Singapore (MAS) has recently concluded its consultation on a similar corporate structure for investment funds (both closed-end and open-ended funds, and including umbrella funds) – the Singapore Variable Capital Company (S-VACC). With the S-VACC framework, MAS seeks to offer a flexible and efficient platform for fund managers to co-locate fund domiciliation with their substantive fund management activities in Singapore and further deepen the asset servicing ecosystem. Under the consultation document, private S-VACCs are allowed to maintain their respective registers of shareholders, but would be required to disclose the registers to supervisory and law enforcement agencies where necessary. The Accounting and Corporate Regulatory Authority (ACRA) would act as the registrar of S-VACCs, while MAS would oversee the anti-money laundering obligations of S-VACCs.

新加坡金管局近期就投资基金（包括封闭式和开放式基金及伞型基金）的相类似公司结构的咨询作出结论，即新加坡可变资本公司。根据新加坡可变资本公司的框架，新加坡金管局寻求为基金经理提供一个灵活高效的平台，使基金的注册地归属与在新加坡进行的实质性基金管理活动联系起来，进一步深化资产服务的生态系统。根据该咨询文件，新加坡可变资本公司允许保留其各自的股东登记册，但须根据需要向监管部门和执法部门披露。会计和企业管理局将作为新加坡可变资本公司的注册机构，新加坡金管局将监督新加坡可变资本公司执行反洗钱的情况。

B. MAINLAND REGULATORS 内地监管机构

China Securities Regulatory Commission (CSRC) 中国证券监督管理委员会

Administrative penalties 行政处罚

The CSRC has recently imposed administrative penalties in four cases. The four cases involved insider trading, market manipulation, and insider trading with insider information, specifically the buying of shares of the listed company within the sensitive period of insider information. 中国证监会依法对 4 宗案件作出行政处罚，其中包括内幕

交易案及操纵市场案，其皆涉及内幕信息的知情人。在内幕信息敏感期内买入有关上市公司的股份。

Sources/原文:

http://www.csrc.gov.cn/pub/newsite/zjhxwfb/xwdd/201708/t20170811_322029.html

http://www.csrc.gov.cn/pub/newsite/zjhxwfb/xwdd/201708/t20170804_321630.html

Shanghai Stock Exchange

上海证券交易所 (SSE)

Investor suitability management 投资者适当性管理

In order to standardize market growth and protect the legitimate rights and interest of investors, the SSE has amended certain clauses of the “SSE Interim Measures for Investor Suitability Management” (with its name changed to “SSE Measures for Investor Suitability Management” after the amendment), the “SSE Administrative Measures on Stock Trading on Risk Alert Board”, the “SSE Guidance of Investor Suitability Management for Hong Kong Stock Connect” and the “SSE Guidance of Investor Suitability Management for Pilot Program of Stock Options”.

为规范市场发展，切实维护投资者合法权益，根据中国证监会《证券期货投资者适当性管理办法》，上海证券交易所对《上海证券交易所投资者适当性管理暂行办法》（修改后规则名称调整为《上海证券交易所投资者适当性管理办法》）、《上海证券交易所风险警示板股票交易管理办法》《上海证券交易所港股通投资者适当性管理指引》及《上海证券交易所股票期权试点投资者适当性管理指引》的相关条款进行了修改。

Source/原文:

http://www.sse.com.cn/aboutus/mediacenter/hotandd/c/c_20170628_4334848.shtml

Amendment of disclosure evaluation rules

上市公司信息披露工作评价办法的修订

To improve the assessment mechanism of the information disclosure of listed companies and to encourage listed companies to continuously improve their information disclosure quality, the SSE has amended the “SSE Measures for Assessment of Listed Companies’ Information Disclosure”. The amendments made information disclosure supervision more stringent by adjusting the evaluation period, the assessment mechanism and the scoring system.

上海证券交易所对《上海证券交易所上市公司信息披露工作评价办法（2015年修订）》进行了修订。本次修订主要调整了评价期间、评定模式，增加了市场反映强烈的体现

从严监管要求的评价内容，并进一步明晰精简优化部分加分项目，同时调整加分项目计分标准。

Source/原文:

http://www.sse.com.cn/aboutus/mediacenter/hotandd/c/c_20170623_4330666.shtml



C. OTHER REGULATORS 其他监管机构

United Kingdom 英国

Supervision of bank current account procedures

银行经常账户程序的监管

The Financial Conduct Authority (FCA) has on July 25, 2017 launched a consultation proposal to help bank customers compare between services available for personal current accounts and business current accounts. The proposal requires firms who offer such services to publish information regarding:

英国金融行为管理局 2017 年 7 月 25 日发布了一项咨询建议以帮助银行客户将个人经常账户和业务经常账户的银行服务进行比较。该建议要求提供此类服务的公司必须公布如下信息：

1. The length of time it takes to open an account with working features;
开立户口所需时长及户口功能；
2. The length of time it takes to replace a lost, stolen or stopped debit card;
更换丢失、被盗或终止借记卡的所需时长；
3. The length of time it takes to provide another person with a power of attorney access to a personal current account;
向另一人提供授权进行个人经常账户操作的所需时长；
4. How and when customers can carry out transactions; and

客户如何及何时可进行交易；及

5. The number and type of major operational or security incidents.

主要操作或安全事故的数量和类型。

The proposal is for information to be easy for consumers to access and compare.

有关建议旨在为客户提供信息以方便其了解和比较。

Source/原文:

<https://www.fca.org.uk/news/press-releases/fca-consult-new-rules-current-account-providers-publish-information-service-performance>

FCA may open board sector catering to issuers controlled by a shareholder that is a sovereign country

FCA 拟成立新上市板块以吸引/主权国家控股公司

The FCA on July 13, 2017 launched a consultation to create a new category in its premium listing regime to offer opportunities for listing to companies each with a controlling shareholder that is a sovereign country. The rationale for this inclusion is the importance of listed primary markets as part of the capital markets landscape and the benefits that the UK listing regime can reap from supporting those markets.

英国金融行为管理局于 2017 年 7 月 13 日发布一项关于在其高级上市制度中创建新类别的咨询，以向其控股股东为主权国家的公司提供上市机会。该类别公司获考虑纳入的理由是一级市场作为资本市场格局一部分的重要性，以及英国上市制度可以从支持这些市场中获益。

This will create a new listing option specifically for these distinct companies that wish to access UK markets.

该举措将为希望进入英国市场的该类型公司创造一个新的上市选择。

Andrew Bailey, FCA Chief Executive, said: "Regulatory protections for investors lie at the core of the listing regime. However, it is important that these protections remain well-targeted. Refining the listing regime in this way would make UK markets more accessible whilst ensuring that the protections afforded by our premium listing regime are focused and proportionate."

英国金融行为管理局行政总裁安祖·贝雷表示：“对投资者的监管保护是上市制度的核心。然而，这些保护措施具有针对性亦非常重要。通过上市制度精益求精可使英国市场更容易进入，同时亦确保高级上市制度所提供的保护措施乃集中和适度。”

Source/原文:

[https://www.fca.org.uk/news/press-releases/fca-proposes-new-premium-listing-category-sovereign-](https://www.fca.org.uk/news/press-releases/fca-proposes-new-premium-listing-category-sovereign-controlled-companies)

controlled-companies

United States 美国

SEC fined an auditor US\$6.2 million

SEC 对一审计机构处以 620 万美元罚款

The SEC announced that an auditor will pay more than US\$6.2 million to settle charges that it did not sufficiently audit the financial statements of a client company which led to investors being misinformed about the company's value. The auditor was accused of failing to properly address the risks facing the company and overlooking the overvaluation of interests that the company had previously purchased. Furthermore, the auditor has not properly considered facts that should have raised suspicion regarding the true valuation of the company.

美国证券交易委员会宣布，一家会计师事务所因未能对客户公司的财务报表进行充分的审计从而导致投资者对该公司价值的误导，因此须为其行为支付 620 万美元以上的罚金。核数师被指控未能妥善指出公司面临的风险，并忽视了公司对以前购买的收益的高估。此外，核数师被认为没有妥善考虑事实，并没有对公司的真实估值提出怀疑。

Source/原文:

<https://www.sec.gov/news/press-release/2017-142>

Expansion of SPAC regime

SPAC 应用的扩大

NYSE Group has expanded opportunities for listings of special purpose acquisitions companies (SPACS) through listings rule enhancements. SPACs are companies that are formed to raise capital through an IPO, and then use the proceeds to acquire an operating business.

纽约证券交易所集团通过增强上市规则，扩大了《专门收购公司》的上市机会。《专门收购公司》是专门通过 IPO 筹集资金以进行经营业务收购的公司。

Source/原文: [https://ir.theice.com/press/press-](https://ir.theice.com/press/press-releases/all-categories/2017/07-12-2017-140821571)

[releases/all-categories/2017/07-12-2017-140821571](https://ir.theice.com/press/press-releases/all-categories/2017/07-12-2017-140821571)

Singapore 新加坡

Supervision of digital tokens

对电子凭证的监管

The Monetary Authority of Singapore (MAS) and Commercial Affairs Department (CAD) have on August 10, 2017 released advice regarding initial coin (or token) offerings (ICOs) and other investment schemes involving digital tokens. A digital token is a cryptographically-

secured representation of its owner's rights to receive a benefit or perform obligations. This includes virtual currency, which are usually used to buy goods and services. However, the function of digital tokens has evolved beyond a virtual currency. For example, these digital tokens may represent ownership or a security interest over the token seller's assets or property, or a debt owed by the seller. Some of such digital tokens have been marketed as investment opportunities.

新加坡金融管理局和商业部于 2017 年 8 月 10 日发布了涉及电子货币的投资计划建议，包括初始硬币的发行(ICOs)等。电子货币经安全加密可代表其持有者获取利益或履行义务的权利，包括通常用作购买商品和服务的虚拟货币。例如，这些电子货币可代表卖方的资产或产权的拥有权或证券权益，或卖方作为债权人的权益。该类电子货币已获市场标注为投资机会。

As such, it is vital that consumers can find out the underlying risks, particularly when the sellers of digital tokens fail to disclose such risks. Particular risks identified by the MAS that consumers should be aware of include: 因此，消费者能有效发现潜在风险是至关重要的，尤其是当电子货币的卖家未能披露此类风险。获新加坡金融管理局指定的消费者需注意的特定风险包括：

1. Risks relating to foreign and online operations;
与外国及网上业务有关的风险；
2. Risks relating to sellers without a proven track record;
与没有获认证记录的卖家有关的风险；
3. Risks relating to insufficient secondary market liquidity;
与二级市场流动性不足有关的风险；
4. Risks relating to highly speculative investments;
与高投机性投资有关的风险；
5. Risks relating to investments promising high returns;
and
与保证高回报的投资有关的风险；及
6. Risks of money laundering and terrorist financing.
与洗钱及资助恐怖主义金钱有关的风险。

Source/原文:

<http://www.mas.gov.sg/News-and-Publications/Media-Releases/2017/Consumer-Advisory-on-Investment-Schemes-Involving-Digital-Tokens.aspx>

Singapore Exchange (SGX) 新加坡交易所

SGX allows secondary listings of DCS companies with primary listings in developed markets

在已发展市场上市的双重股份制公司可在 SGX 二次上市

SGX announced on July 28, 2017 that companies with a dual-class share (DCS) structure that is primary listed in

22 markets the international index-providers FTSE and MSCI classify as "developed markets" can seek a secondary listing on the exchange and SGX does not impose additional post-listing conditions except a requirement that they companies make continuous disclosure via SGXNet of all announcements made to the home exchange.

新加坡交易所于 2017 年 7 月 28 日宣布，在 22 个市场及并获国际指数商 FTSE 和 MSCI 划分为“发达市场”中首轮上市的具双轨股(DCS)结构的公司，可在新加坡交易所进行第二轮上市。除了要求此类公司通过 SGXNet 对其向第一上市交易所作出的所有公告作出持续披露外，新加坡交易所不会对此类公司施加额外的上市后条件。

Source/原文:

http://infopub.sgx.com/Apps?A=COW_CorpAnnouncement_Content&B=AnnouncementToday&F=794JA6LZ35VFI ZTJ&H=061148532c22392567b832d509e3679bac44947309576cfdcbfbf33d11d40007

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