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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

HONG KONG STOCK EXCHANGE (HKEX)

Legal entity identification for securities transactions 股市實名制預計將在港推行

Further to the implementation of the Shanghai and Shenzhen Stock Connect programs, and prior to the possible emergence of “ETF Connect”, “IPO Connect”, “Commodities Connect” and so on, Hong Kong is expected to launch legal entity identification (LEI) for ultimate beneficiaries of securities transactions under the Connect programs next year. Sir C.K. Chow, chairman of HKEX, has been quoted as informing public media that LEI should be acceptable to investors in Hong Kong as LEI has been implemented in USA, Europe and Australia; however, the SFC and CSRC should come to consensus on its implementation in Hong Kong. Mr. Charles Li, CEO of HKEX, mentioned at a recent seminar that the A share market has benefited from LEI for securities transactions; by comparison, Hong Kong regulators currently can only approach stock brokers and other intermediaries to enquire about securities transactions. If an investor conducts transactions through different brokers’ accounts, the scrutiny of market activities by regulators would be affected. On the contrary, the A share market requires each transaction to be conducted by an investor with unique LEI, each securities account will have its own LEI. Whenever there is any irregularity regarding a securities transaction, regulators would promptly know who are involved in the transaction, enhancing the enforcement efficiency of regulators of the A share market.

继沪深港通和「债券通」后，香港在推出可能的「ETF通」、「新股通」及「期货通」等互联互通机制前，香港预计将于明年落实股市互联互通机制下的“实名制”。港交所主席周松岗表示，在美国、欧洲及澳洲均已实行实名制，若香港推行实名制，相信国际投资者可以接受，但香港证监会及中证监先要达成共识。港交所行政总裁李小加在一

个研讨会上指出，内地 A 股实名制的好处。他指本港的监管机构由于只能接触券商等持牌交易商，如果一个投资者在不同的交易商开户，监管力度就会有限制。相反内地 A 股由于是「一户一码」，每个证券户口都有自己的编码，当股票交易有异常，监管当局很快就知道是谁在买卖，令内地的监管效率提高。

SECURITIES AND FUTURES COMMISSION (SFC)

SFC issues first-quarter report 证监会发表季度报告

The Securities and Futures Commission (SFC) published its Quarterly Report which summarises SFC developments from April to June 2017. The report details developments including regulatory enhancements, listings, intermediaries, market development, enforcement, and international collaboration.

证券及期货事务监察委员会（证监会）发表了季度报告，总结 2017 年 4 月至 6 月期间的重要发展。报告详细介绍了增强监管、上市、中介、市场发展、执法和国际合作等方面的发展。

In the period between April and June, the SFC has launched multiple important public consultations, including one on proposed guideline regarding the design and operation with internet trading, and another on the proposed regulations on open-ended fund companies (OFCs). Furthermore, the SFC released the first issue of the SFC Regulatory Bulletin: Listed Corporations, which provides guidance on how the SFC performs their listing regulatory functions under the Securities and Futures (Stock Market Listing) Rules and the Securities and Futures Ordinance. Another key development in the market was the launch of Bond Connect in collaboration with the Hong Kong Monetary Authority and the Hong Kong Stock Exchange, which provides offshores institutional investors access to the China Interbank Bond

Market.

在四月至六月期间，证监会发表了多项重要的公众咨询，其中包括一项关于互联网交易的设计和运作的拟议方针，另一项是关于开放式基金公司（OFCs）的拟议规例。此外，证监会发布了第一期《证监会监管通讯：上市公司》，阐明证监会如何就上市公司及其他上市事宜如何履行其在《证券及期货（在证券市场上市）规则》及《证券及期货条例》下的某些职能。另一个重要发展是证监会与香港金融管理局和香港联合交易所合作推出了债券通，为中国境外机构投资者提供了进入中国银行债券市场的机会。

The report collated a number of key statistics regarding the SFC's regulatory functions. Under the dual filing regime, the SFC reviewed a record number of 86 new listing applications during the April to June quarter, an increase from the previous quarter and from the same quarter last year. As of the end of June, the SFC has also seen a record high of 43,204 licensees and registrants, as well as 2,549 licensed corporations. With regards to enforcement, the SFC fined \$11 million to a total of three licensed corporations and sever representatives.

报告整合了一些关于证监会监管职能的统计数字。根据双重存盘制度，证监会在四月至六月季度共检阅了86项新上市申请，数字比上季及去年同期上升。截至6月底，证监会有创记录的43,204名持牌人及注册人，以及2,549间持牌公司。在执法方面，证监会共向三家持牌机构及代表罚款一千一百万元。

The Quarterly Report can be found on the SFC's website. 季度报告可于证监会网站查阅。

SFC and Hong Kong Police sign MoU to strengthen co-operation in combating financial crime

证监会与香港警务处就加强合作打击金融罪案签订谅解备忘录

The Securities and Futures Commission (SFC) and the Hong Kong Police (HKP) entered into a Memorandum of Understanding (MoU) to facilitate co-operation in combating financial crime. The purpose of the MoU is to enhance the effectiveness of both parties in dealing with crime in the financial industry and in maintaining the integrity of Hong Kong's securities and futures markets.

证券及期货事务监察委员会（证监会）及香港警务处签署谅解备忘录，以促进合作打击金融犯罪活动。谅解备忘录的目的是提高双方在处理金融业犯罪和保持香港证券及期货市场的完整性的成效。

According to Mr. Thomas Atkinson, the SFC's Executive Director of Enforcement, the collaboration with the HKP will enable the SFC to perform its regulatory functions with "greater efficiency and effectiveness". The SFC's

regulatory functions are specified in the Securities and Futures Ordinance, Cap. 571 (SFO).

证监会法规执行部执行董事魏建新表示，与香港警务处合作将使证监会能够以更高的效率和效益履行监管职能。证监会的监管职能在《证券及期货条例》（第571章）有所规定。



The MoU covers matters including referral of cases, joint investigations, early involvement of the Department of Justice, exchange and use of information, mutual provision of investigative assistance, communication and media strategy, and establishes a framework for closer collaboration on policy, operational and training issues.

谅解备忘录涵盖案件转介、联合调查、律政司提早参与、交换和使用信息、相互提供调查援助、沟通和媒体战略等事宜，并建立了在政策、业务和培训方面加强合作的框架。

The Memorandum of Understanding can be found on the SFC's website.

谅解备忘录可在证监会网站查阅。

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 imposed administrative penalties in two cases in the past week totaling over RMB\$5 million. The two cases involved illegal intermediary agencies and market manipulation, which violated the Securities Act.

上星期，中国证监会对两宗案件实行行政处罚，总额超过500万人民币。这两宗案件涉及非法中介机构和市场操纵，违反了《证券法》。

International Seminar on Front-line Supervision by Stock Exchanges

证券交易所一线监管国际研讨会

The Shanghai Stock Exchange recently hosted the International Seminar on Front-line Supervision by Stock Exchanges, which involved representatives from nine stock exchanges across the world. CSRC Chairman Liu Shiyu delivered a speech on the development of the Chinese capital markets.

上海证券交易所近日主办了交易所一线监管国际研讨会，有全球九个证券交易所的代表参与。中国证监会主席刘士余就中国资本市场发展发表讲话。

Liu emphasized that stock exchanges, being market organizers, self-regulators and operators, are at the forefront of the market supervisory system, thus holding a unique and important role. Stock exchanges were created with regulatory functions and have always been market supervisors despite the evolution in its organization structures. He noted that the SSE and Shenzhen Stock Exchange (SZSE), being young institutions, have a long way to go in terms of improvement in their role as front-line supervisory institutions. Their self-regulatory and other supervisory functions are enshrined into numerous legislation, including the Securities Law and the Provisional Measures of the Administration of Stock Exchanges by the Securities Commission of the State council. The regulations provide the stock exchange with the power to make trading rules, impose trading halts on abnormal accounts and issue disciplinary sanction, all of which contribute to front-line supervision.

刘主席强调，证券交易所作为市场的组织者、运营者和自律监管者，处在资本市场监管体系的第一线，具有不可替代和重要的作用。证券交易所的监管职能与生俱来，尽管组织形态变迁，但一直是市场监管者。他指出，沪深交易所作为年轻的机构在提升一线监管机构方面还有改进的空间。其自律等监管职能被写入国务院证券委员会《证券法》和《证券交易所管理暂行办法》等。这些规定为证券交易所提供了交易所规则制定权、实时监控权、异常交易账户限制交易权、纪律处分权等的法律依据，全部有助于一线监管。

Liu went on to state that the Chinese stock exchanges have prioritized front-line supervision in the past two years, and will work together with their international counterparts to improve the performance of their regulatory functions. This will enable them to deal with new issues including providing fair trading opportunities to market players in the face of novel financial productions and trading methods, developing RegTech with the use of new technologies, and cracking down on cross-market manipulation by

strengthening cross-border cooperation on front-line supervision.

刘主席又说，中国证券交易所在过去两年优先处理一线监管，并将与国际同行合作，提高监管职能的表现。这将使他们能够处理新情况新问题，包括在新产品新交易方式层出不穷的当下为市场参与者提供公平的交易机会，利用新技术发展监管科技（RegTech），并加强一线监管跨境合作，共同打击跨市场操纵行为。



C. OTHER REGULATORS 其他监管机构

United Kingdom 英国

Supervisory approach to Payment Protection Insurance (PPI) **支付保护保险监管方法**

The Financial Conduct Authority (FCA) of the UK has recently announced its campaign to create awareness of the deadline to make a complaint about PPI. PPI was normally sold with products that customers needed to make repayments on, including loans, credit cards and mortgages. It covered repayments in certain circumstances where the customer could not fulfill the repayment, such as in the case of an accident or disability. 英国金融市场行为监管局最近宣布了一项宣传活动，提升对支付保护保险投诉截止日期的认识。支付保护保险通常与客户需要偿还的产品一起出售，包括贷款、信用卡和抵押贷款。在某些情况下，如客户无法履行还款，例如在发生事故或残疾的情况下，保险可以代为支付还款。

PPI was often mis-sold to customers, and the FCA have recently identified separate problems involving the commission earned by a provider. Thus, the FCA enacted new rules allowing customers to complain even if a PPI

was not mis-sold to them and to complain even if a customer had a previous complaint about the mis-selling of PPI rejected.

支付保护保险经常被错误地卖给客户，英国金融市场行为监管局最近确定了几个涉及提供商获得佣金的问题。因此，英国金融市场行为监管局颁布了新的规则，允许客户即使支付保护保险没有被错误地出售给他们，或即使客户曾经对错误销售提出投诉并被拒绝，也可作出投诉。

United States 美国

Hedge fund adviser charged for inadequate controls to prevent insider trading

对冲基金顾问因就阻止内幕交易控制不足被起诉

The Securities and Exchange Commission announced that a hedge fund advisory firm was charged with failing to enact policies to prevent the misuse of inside information. In this case, the inside information involved political intelligence firms' knowledge of confidential government decisions regarding regulatory and legislative decisions. The SEC emphasized that an investment adviser's policies must be tailored to minimize the specific risks faced by its business. The hedge fund advisory firm should have identified the risk of receiving and trading illegal inside information in relying on political intelligence firms and established policies to address it.

美国证券交易委员会宣布，一间对冲基金咨询公司被指控未制定政策以防止滥用内幕信息。事件中的内部信息涉及政治情报公司有关监管和立法决策的机密政府决策。美国证券交易委员会强调，投资顾问的政策必须进行调整，以尽量减少其业务面临的风险。对冲基金咨询公司在依靠政治情报机构时应确定接收和交易非法内幕信息的风险，并制定解决政策。

Australia 澳洲

ASIC reports on corporation finance regulation - January to June 2017

澳洲证券投资委员会报告公司财务规则 - 2017年1月至6月

The Australian Securities and Investments Commission have released their seventh report on the regulation of corporation finance issues in the first half of 2017, covering fundraising, mergers and acquisitions, and corporate governance.

澳洲证券投资委员会发布了2017年上半年公司的第七份公司财务规则报告，涉及融资、兼并收购以及公司治理。

Key developments in the Australian financial sector include a new regulatory regime for equity-based crowd-

sourced funding by public companies, which aims to facilitate access to capital for small to medium sized unlisted public companies through the lowering of regulatory requirements for making public offers of shares. The report noted that principal areas of concern regarding mergers and acquisitions are public or expert disclosures and underwriting by major shareholders where there are indicators of a control intention. The report also set out prominent enforcement cases carried out by the ASIC.

澳洲金融业的主要发展包括公众公司股权筹资的新监管制度，其目的是通过降低公开发行的监管要求，促进中小型非上市公众公司获取资金。报告指出，兼并收购的主要关注领域是公众或专家披露，及主要股东在具有控制意图的指标下的包销。报告还列出了澳洲证券投资委员会执行的一些案例。

Taiwan 台湾

The Financial Supervisory Commission announced partial amendments to corporate governance regulations

金融监督管理委员会宣布部分修改公司管治法规

The Financial Supervisory Commission R.O.C. (Taiwan) has announced and issued partial amendments to the Regulations Governing the Exercise of Powers by Audit Committees of Public Companies, the Regulations Governing Procedure for Board of Directors Meetings of Public Companies, and the Regulations Governing Appointment of Independent Directors and Compliance Matters for Public Companies on July 28, 2017. Key points of the amendments include:

金融监督管理委员会于2017年7月28日宣布修正「公开发行公司审计委员会行使职权办法」、「公开发行公司董事会会议事办法」、「公开发行公司独立董事设置及应遵循事项办法」部分条文，修正重点如下：

- (1) Strengthening the duties and functions of the audit committee, and increasing the transparency of its meetings; 强化审计委员会责任及职能并加强会议情形之透明度；
- (2) Enhancing independent directors' participation in the operations of the board in order to enhance the independent director's understanding of the company's operations; 加强独立董事参与董事会之运作以加深独立董事对公司运作之理解；
- (3) Enhancing disclosure of nomination of independent directors that have served for three terms or more; and

加强已任职达 3 届或以上的独立董事被再提名时的披露；及

- (4) Members of the special committees on public tender offer reviews or on mergers and acquisitions are also allowed to serve as independent directors.
公司公开收购审议或并购特别委员会之成员亦得担任独立董事。

Securities Investment Trust Enterprises (SITs) Allowed to Use Their Own Capital as "Seed Money" for Investment in Funds

放宽证券投资信托事业以自有资金作为「种子资金」投资于基金之规范

The FSC issued amendments on June 30, 2017 to allow Securities Investment Trust Enterprises (SITs) to adopt a "seed money" mechanism for purposes such as marketing of funds or testing of new investment strategies. 金融监督管理委员会于 2017 年 6 月 30 日发出公告放宽证券投资信托事业（下称投信事业），目的为基金营销或新投资策略试验等，以自有资金作为「种子资金」。

Such amendments were made to raise the competitiveness of SITs and to harmonize with international standards. The FSC has taken overseas practice for funds for reference.

此举是为了提升台湾的投信事业竞争力，以利国际接轨。金管会已参考国外基金实务作法。

A SIT that has applied to and been approved by the FSC to use its own capital to invest in a publicly offered securities investment trust fund issued and managed by that SIT, or in an offshore fund which that SIT has been entrusted to manage, will be exempted from the restrictions that the amount of investment in a single fund may not exceed 5% of the SIT's net worth and 5% of the given fund's net asset value as of one day prior to the date of the investment; provided that the total amount of the capital invested by the SIT in all funds may not exceed 40% of the SIT's net worth.

已依规定获金管会核准申请的投信事业或受托管理之公募境外基金，将获豁免自有资金投资单一基金不得超过该事业净值之 5%、亦不得超过被投资基金前一日净资产价值之 5% 的比率限制规定；但投信事业投资所有基金总金额，不得超过该事业净值之 40%。

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