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Financial Services Regulatory Update
金融服务监管资讯

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Hong Kong Court of Final Appeal Dismisses Moody's Appeal Against the Determination of the Securities and Futures Appeals Tribunal on March 31, 2016 which Affirmed the Securities and Futures Commission's Decision to Reprimand and Fine Moody's for Breaching the Code of Conduct in its Preparation and Publication of a Special Comment Report in 2011

The Court of Final Appeal of Hong Kong dismissed the appeal of Moody's Investors Service Hong Kong Limited (Moody's) on September 3, 2018 in relation to the Securities and Futures Commission (SFC)'s disciplinary action concerning a special comment report Moody's published in 2011.

This brings to an end Moody's challenge on the SFC's jurisdiction to take disciplinary action against it in this matter.

Earlier, the SFC has reprimanded Moody's and fined it HK$23 million for various failures relating to its preparation and publication of the special comment report entitled "Red Flags for Emerging-Market Companies: A Focus on China" published on July 11, 2011 (Report).

In April 2016, the Securities and Futures Appeals Tribunal (SFAT) has affirmed the SFC's findings that, Moody's, in preparing and publishing the Report which purportedly identified risk factors of Mainland rated issuers:

- failed to provide sufficient explanations for the red flags assigned by it to the rated companies and to set out relevant justifications to the red flags in the Report, and had, as a result, painted an unfair, unclear and misleading picture of the companies;
- chose to list the red flags assigned to each company and to highlight six companies with the largest number of flags in the Report as "negative outliers" to make the Report "actionable" despite the assessment performed by its analysts showed that there was no significant correlation between the number of red flags and the companies' credit risk; and
- failed to ensure the accuracy of the red flags assigned to the companies.

The SFAT found that in the preparation and publication of the Report, Moody's was carrying on its regulated activity of providing credit rating services. The SFAT also found that there were substantive breaches of General Principles 1 and 2 of the Code of Conduct. The SFAT determined that Moody's should be subject to a public reprimand and a pecuniary penalty of $11 million.

In June 2017, the Court of Appeal dismissed Moody's appeal against the SFAT's decision to uphold the SFC's disciplinary action, and upheld the SFAT's decision that the preparation and publication of the Report constitute part and parcel of the carrying on of the business of credit ratings by Moody's, but disagreed with the SFAT that the Report itself constituted credit rating, reasoning that the Report expressed an opinion primarily on corporate governance and accounting risks which are relevant but far from determinative of creditworthiness. However, the Report was held by the Court of Appeal to be relating to the earlier credit ratings published by Moody's.

The Court of Final Appeal will deliver reasons in due course.

香港终审法院驳回 Moody's 就证券及期货事务上诉审裁处于 2016 年 3 月 31 日维持证券及期货事务监察委员会因 Moody's 于 2011 年准备和发表特别意见报告时违反操守守则而作出的谴责及处以罚款的决定的上诉

香港终审法院于 2018 年 9 月 3 日驳回 Moody's Investors Service Hong Kong Limited（Moody's）就证券及期货事务监察委员会（证监会）因 Moody's 于 2011 年发表的特别意见报告而采取的纪律处分行动所提出的上诉。

终审法院的裁决，为 Moody's 对证监会是否具有司法管辖权以就此事对其采取纪律处分行动而提出的质疑划上句号。

早前，证监会就 Moody's 在编制及发表一份于 2011 年 7 月 11 日刊发、题为《新兴市场公司的 "红旗讯号"：以中国为重点》（Red Flags for Emerging-Market Companies: A Focus on China）的特别意见报告（该报告）时所犯的多项缺失，对其作出谴责并处以罚款 2,300 万港元。

2016 年 4 月，证券及期货事务上诉审裁处（上诉审裁处）确认了证监会的调查结果，即 Moody's 在编制及发表该报告（其报告据称已识别出获评级的内地发行人的风险因素）时：

- 没有在该报告内就向获评级公司编配红旗提供充分说明，亦没有载列发出红旗的相关理据，并因而为该等公司制造了不公平、不清晰及具误导性的形象；

- 选择列出各家公司获编配的红旗，并将该报告内获得最多红旗的六家公司强调为"异常负评公司（negative outliers）"，从而令该报告"actionable"，即使由其分析员进行的评估显示红旗数目与公司的信用风险并无重大关连；及

- 没有确保该等公司获编配的红旗的准确性。

上诉审裁处裁断，Moody's 在编制及发表该报告时，正在从事其提供信贷评级服务的受规管活动。上诉审裁处亦裁断，《操守准则》第 1 及 2 项一般原则确实遭到违反。上诉审裁处裁定，应对 Moody's 作出公开谴责及处以罚款 1,100 万港元。

2017 月 6 月，香港高等法院上诉法庭（上诉法庭）驳回 Moody's 就上诉审裁处的裁决所提出的上诉并支持了上诉审裁处作出的编制及发表该报告构成 Moody's 提供信贷评级服务的一部分裁定，但上诉法庭不同意上诉审裁处就"该报告本身已构成提供信贷评级服务"的结论，理由是该报告提供的主要有关公司治理和会计风险的意见与信贷评级有关联但远不足以成为信贷评级的决定性因素；但同意 Moody's 所犯的失当行为可基于其编制及发表该报告为经营信贷评级业务的一部分而得以确立。

终审法院稍后将宣告裁决的理由。

Source 来源：

https://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=18PR101

https://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=17PR77

Hong Kong Securities and Futures Commission Issues Reminder to Intermediaries about Compliance with Notification Requirement under Rule 12.5 of the Code of Conduct

On September 14, 2018, Hong Kong Securities and Futures Commission (SFC) issued a circular to remind intermediaries of the notification requirement under paragraph 12.5 of the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (Code of Conduct) under which intermediaries are required to report to the SFC immediately upon the happening of, among other things, any material breach, infringement of or non-compliance with any law, rules, regulations and codes administered by the SFC or any such suspected breach, infringement or non-compliance.

It has recently come to the SFC's attention that some intermediaries have not promptly reported breaches of or non-compliance with various legal or regulatory requirements to the SFC, including:

- Suspected unlicensed dealing activities;
- Suspected unauthorized trading activities;
- Non-compliance with the suitability requirements under paragraph 5.2 of the Code of Conduct as supplemented by the corresponding frequently asked questions;
- Breaches of the Securities and Futures (Keeping of Records) Rules;
- Breaches of the Securities and Futures (Contract Notes, Statements of Account and Receipts) Rules; and
- Non-compliance with the order recording requirements under paragraph 3.9 of the Code of Conduct.

Prompt reporting from intermediaries is crucial to enable the SFC to swiftly assess the impact of the breach, take action to contain the damage (where necessary) and continuously appraise whether the intermediary (and its representatives) are fit and proper to remain licensed or registered.

In this regard, the SFC reminded intermediaries that:

- This reporting obligation applies to both licensed corporations and registered institutions. While the Hong Kong Monetary Authority (HKMA) is the frontline regulator of registered institutions, registered institutions are required to fulfil this reporting obligation by making the report directly to the SFC in addition to reporting to the HKMA;

- All material breaches and non-compliance (actual or suspected, irrespective of whether these were identified by the intermediary itself, stemmed from customer complaints or were identified through other sources) should be reported to the SFC (as well as the HKMA in the case of registered institutions) as soon as practicable upon identification, i.e. not after the intermediary has already completed its investigation, obtained legal advice or taken remedial actions; and

- Failure to comply with the reporting obligation may result in disciplinary action being taken against the intermediaries and their management.

Intermediaries should review their incident escalation and reporting mechanisms and implement appropriate controls to ensure compliance with the notification requirement.

香港证券及期货事务监察委员会向中介人发出通函提醒中介人遵守《操守准则》第 12.5 段下的通知规定

香港证券及期货事务监察委员会（证监会）于 2018 年 9 月 14 日向中介人发出通函提醒中介人有关《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 12.5 段下的通知规定。根据有关规定，中介人须在发生（其中包括）严重地违反、触犯或不遵守任何法例和证监会执行的规则、规例及守则，或怀疑有任何该等违反、触犯或不遵守时，立即向证监会作出汇报。

证监会最近注意到，有部分中介人没有就违反或不遵守不同法律或监管规定的情况从速向证监会作出汇报。有关情况包括：

- 涉嫌无牌进行交易活动；
- 涉嫌未经授权进行买卖活动；
- 不遵守《操守准则》第 5.2 段下的合适性规定（经相关的常见问题补充）；
- 违反《证券及期货(备存纪录)规则》；
- 违反《证券及期货(成交单据、户口结单及收据)规则》；及
- 不遵守《操守准则》第 3.9 段下的记录交易指示规定。

为确保证监会能迅速地评估中介人（及其代表）违反规定的影响、在有需要时采取行动以减低损失及持续地评核中介人（及其代表）是否继续持牌或获注册的适当人选，中介人须从速向证监会作出汇报。

就此，证监会希望提醒中介人：

- 上述汇报责任一概适用于持牌法团及注册机构。尽管香港金融管理局（金管局）是注册机构的前线监管机构，但注册机构除了向金管局汇报外，亦须直接向证监会作出汇报，以履行有关汇报责任；

- 一旦发现任何严重违反或不遵守规定的情况，包括实际或涉嫌的违规，不论事件是由中介人自行发现、从客户投诉或透过其他途径而得悉，都应在切实可行范围内尽快向证监会汇报（如属注册机构，亦须向金管局汇报），即并非在中介人已完成调查、取得法律意见或采取补救行动后才作出汇报；及

- 若中介人没有遵守有关汇报责任，证监会可能会对该中介人及其管理层采取纪律处分行动。

中介人应检视其事故上报及汇报机制，并实施适当的监控措施，以确保遵守通知规定。

Source 来源：

https://www.sfc.hk/edistributionWeb/gateway/EN/circular/intermediaries/supervision/doc?refNo=18EC67

The Hong Kong Monetary Authority Designates Two Retail Payment Systems

The Hong Kong Monetary Authority announced that in accordance with the Payment Systems and Stored Value Facilities Ordinance (Ordinance), the Monetary Authority (HKMA) published in the Gazette (dated August 31, 2018) notices to designate the relevant retail payment systems operated respectively by Joint Electronic Teller Services Limited and EPS Company (Hong Kong) Limited (designated systems), as well as to declare activities that are allowed to be carried out through the relevant designated systems.

The Ordinance empowers the HKMA to designate important retail payment systems and oversee their operations. Implementation of the designation regime for retail payment systems will enhance the operating standards of the local retail payment industry. It will also help strengthen public confidence in the payment systems.

香港金融管理局指定两家零售支付系统

香港金融管理局（金管局）宣布，金融管理专员于 2018 年 8 月 31 日在宪报刊登公告，根据《支付系统及储值支付工具条例》（《条例》）指定分别由银联通宝有限公司及易办事（香港）有限公司营运的相关零售支付系统（指定系统），以及宣布有关指定系统可从事的活动。

《条例》赋予金融管理专员权力指定重要的零售支付系统并监察其运作。实施零售支付系统指定制度有助提升

本地零售支付业界的营运水平，以及加强公众对支付系统的信心。

Source 来源：

https://www.hkma.gov.hk/eng/key-information/press-releases/2018/20180831-5.shtml

Hong Kong Exchanges and Clearing Limited's US Dollar Gold Futures Receive Approval in Taiwan

On August 27, 2018, the Financial Supervisory Commission of the Taiwan Securities and Futures Bureau (TSFB) has approved the inclusion of Hong Kong Exchanges and Clearing Limited's (HKEX) US dollar (USD) Gold Futures (GDU) contract in its list of offshore exchanges and contracts for which FCMs have trading authorization.

HKEX believes that this means Taiwan Futures Commission Merchants (FCMs), intermediaries licensed by the TSFB, can offer trading of HKEX's GDU to investors in Taiwan.

The GDU contract is the first HKEX commodities contract to receive regulatory approval in Taiwan.

Li Gang, HKEX's Co-head of Market Development, said that the GDU contract is the first physically settled gold futures contract which is traded on an Asian exchange and available to investors in Taiwan, and Hong Kong has gained access to a new market for the GDU contract and investors in Taiwan can now trade an Asian gold benchmark with physical delivery in their own time zone.

Currently, HKEX has 16 Futures Exchange Participants offering physical delivery services for its GDU contract. They include two from Taiwan: CSC Futures (HK) Limited and Yuanta Futures (HK) Co., Limited.

The Product under the GDU contract has the following features: -

(i) Physical Delivery

The delivery of HKEX's gold futures is maintained through the chain of integrity. The integrity chain ensures that only qualified parties are allowed to participate in the delivery process. There are 18 recognized refiners, four recognized forwarders and two recognized assayers.

(ii) Liquidity Provision

Through an incentive and fee rebate program, HKEX has appointed Liquidity Providers and Proprietary Traders to provide liquidity for its GDU contract.

香港交易及结算所有限公司的美元黄金期货获准于台湾买卖

2018年8月27日，台湾金融监督管理委员会证券期货局（台湾证期局）将香港交易及结算所有限公司（香港交易所）的美元黄金期货（GDU）纳入认可名单，台湾当地的期货经纪商可参与买卖。

香港交易所认为这意味着台湾投资者可透过受台湾证期局监管的期货经纪商买卖 GDU。

GDU 合约是香港交易所首个获台湾监管机构批准的大宗商品合约。

香港交易所市场发展联席主管李刚表示，GDU 合约是首只于亚洲交易所挂牌、并可以在台湾买卖的实物交收黄金期货合约。GDU 现可于台湾进行交易，让台湾投资者可以在自己的时区内，买卖以亚洲黄金基准实物交收的黄金期货合约。

现时共有16家香港交易所期货交易所参与者为该 GDU 合约提供实物交收服务，包括两家来自台湾的期货交易所参与者：群益期货（香港）有限公司及元大期货（香港）有限公司。

GDU 合约下的产品有以下特点：

(i) 实物结算与交收

香港交易所的黄金期货交收全部在诚信链内完成，确保只有符合认证的单位可参与交付过程。目前分别有18家精炼厂、4家运输公司及2家检测机构获得认证。

(ii) 流动量供应

香港交易所现时透过优惠计划，选定部分流动量提供者和自营交易商为美元黄金期货提供流动性。

Source 来源：

http://www.hkex.com.hk/News/News-Release/2018/180827news?sc_lang=en

The Monetary Authority of Singapore Consults on Measures to Strengthen Cyber Resilience of Financial Institutions

On September 6, 2018, the Monetary Authority of Singapore (MAS) issued for consultation proposed requirements for financial institutions (FIs) in Singapore to implement essential cyber security measures to protect their IT systems. These requirements will help

FIs strengthen their cyber resilience and guard against cyber attacks.

According to the requirements, FIs will be required to implement six cyber security measures:

(i) address system security flaws in a timely manner;

(ii) establish and implement robust security for systems;

(iii) deploy security devices to secure system connections;

(iv) install anti-virus software to mitigate the risk of malware infection;

(v) restrict the use of system administrator accounts that can modify system configurations; and

(vi) strengthen user authentication for system administrator accounts on critical systems.

Cyber breaches are often the result of insecure system configurations or compromised system accounts. Currently, FIs are required to implement information technology controls to protect customer information from unauthorized access or disclosure under MAS' Notice on Technology Risk Management. However, these measures, which are already part of the existing MAS Technology Risk Management Guidelines, are aimed at enhancing the security of FIs' systems and networks as well as mitigating the risk of unauthorized use of system accounts with extensive access privileges. MAS is proposing to stipulate these measures as a baseline hygiene standard for cyber security by elevating them into legally binding requirements.

Mr. Tan Yeow Seng, Chief Cyber Security Officer, MAS, said that the proposed Notice on Cyber Hygiene seeks to strengthen the overall readiness of all financial institutions to address cyber threats by delineating a clear and common cyber security waterline for the financial industry. He believes this will help ensure that the MAS's financial sector as a whole continues to be resilient to cyber threats.

The public consultation has run from September 6 to October 10, 2018.

新加坡金融管理局就加强金融机构的网络抵御措施作出公众咨询

2018年9月6日，新加坡金融管理局（MAS）发布了针对新加坡金融机构（FI）提出的建议必要网络安全措施以保护其信息技术系统要求的公众咨询文件。这些要求将帮助金融机构加强其网络抵御能力并防范网络攻击。

根据这些要求，FI 将被要求实施六项网络安全措施：

（i） 及时解决系统安全漏洞；

（ii） 建立并实施强大安全的系统；

（iii） 部署安全设备以保护系统连接；

（iv） 安装防病毒软件以降低恶意软件感染的风险；

（v） 限制使用可修改系统配置的系统管理员账户；及

（vi） 加强关键系统上系统管理员账户的用户身份验证。

网络攻击通常是系统配置不安全或系统账户受损而导致的结果。目前，金融机构需要根据《MAS 技术风险管理通知》实施信息技术控制，以保护客户信息免受的未授权访问或披露。但是，这些旨在增强 FI 系统和网络的安全性并降低未经授权广泛使用系统账户之风险的措施已经是现行《MAS 技术风险管理指南》的一部分，MAS 建议将这些措施作为网络安全的基本网络健康标准，并赋予其法律约束力。

MAS 首席网络安全官 Tan Yeow Seng 先生表示，拟议的《网络健康通知》旨在通过为金融行业划定一条清晰、通用的网络安全底线，加强所有金融机构应对网络威胁的全面准备。Tan Yeow Seng 先生认为这将有助于确保 MAS 的整个金融部门继续抵御网络威胁。

公众咨询于2018年9月6日至10月5日举行。

Source 来源：

http://www.mas.gov.sg/News-and-Publications/Media-Releases/2018/MAS-consults-on-measures-to-strengthen-cyber-resilience-of-financial-institutions.aspx

The China Securities Regulatory Commission and Relevant Departments Propose to Improve the Share Repurchase System of Listed Companies via Consultation on Amendment to the Company Law of the People's Republic of China

In order to implement the spirit of 19th National Congress of the Communist Party of China and the policy of capitalizing the market, mitigating shortcomings of the current system as well as strengthening a series of important instructions of the financial and banking law system, and to effectively enhancing the share repurchase system in serving state-owned enterprises, encouraging financial reform, improving the quality of listed companies, protecting the legitimate rights and interests of listed companies and investors, and

promoting stable development of the capital market, the China Securities Regulatory Commission (CSRC), together with the Ministry of Finance, People's Bank of China, state-owned Assets Supervision and Administration Commission of the State Council, the Banking and Insurance Regulatory Commission and other relevant departments have drafted the "Amendment on the Company Law of People's republic of China" (Draft Amendment) and proposed to revise Article 142 of the Company Law on repurchasing shares. With the approval of the State Council, in accordance with the requirements of the legislative procedure, public consultation on the amendments are being conducted.

Article 142 of the current "Company Law" provides the manner in which a company may repurchase its shares in order to reduce the registered capital, upon merges with other companies holding shares of the company, granting rewards of shares to employees, shareholders objecting to resolutions on merger, division, change of corporate form, dissolution or liquidation of the company, and sets out provisions for the company's decision-making procedures and the repurchase of shares, and made provisions for company decision-making procedures and repurchase of shares. In practice, some listed companies have carried out share repurchases in accordance with the law, and have accumulated experiences and pioneered in such activities. However, in general, the current "Company Law" provides for a relatively narrow scope of share repurchases, while the prescribed approval process is not pragmatic, and it does not have a treasury stock system, so that a company's motivation for repurchasing shares is dampened, and the function of the share repurchase system is not fully realized.

For the purpose of enhancing the repurchase system and to ensure effective implementation of stock repurchase system in finalizing capital structure and stabilizing corporate control, raising shareholder value and building and improving a sound securities redemption system to provide better legal basis for companies to repurchase securities, amendments on the Company Law are proposed as follows:

Firstly, there should be more permitted channels of share repurchases, including repurchases in relation to employee stock ownership plans, facilitating issuance of convertible bonds and securities with equity conversion, a listed company's need to maintain the company's creditworthiness and shareholders' rights, and other circumstances as stipulated by laws and administrative regulations.

The second proposal is to improve the decision-making process for the implementation of share repurchases, especially to simplify the company's decision-making process for share repurchases for implementing a employee stock ownership plan or other equity incentives, facilitating issuance of convertible bonds and securities with equity conversion, and fulfilling a listed company's need to maintain the company's creditworthiness and shareholders' rights.

The third proposal is to establish a treasury stock system and to clarify the specific circumstances in which shares repurchased by a company's shares may be held as treasury stock and not cancelled.

The authorities welcome comments from the public. The CSRC and the relevant departments will further revise and improve the Draft Amendments according to the responses to the consultation, and promote relevant work in accordance with the legislative procedures, to improve the basic legal framework underpinning the capital market.

中国证监会会同有关部门提出完善上市公司股份回购制度修法建议并就《中华人民共和国公司法修正案》草案公开征求意见

为深入贯彻党的十九大精神，认真落实习近平总书记关于加强资本市场基础制度建设，加快补足制度短板，健全金融法治一系列重要指示要求，切实增强股份回购制度在服务国有企业改革，深化金融改革，提高上市公司质量，保护上市公司与投资者的合法权益，促进资本市场稳定健康发展中的重要作用，证监会会同财政部、人民银行、国资委、银保监会等有关部门，研究起草了《中华人民共和国公司法修正案》草案（修正案草案），提出了修改《公司法》第一百四十二条股份回购有关规定的建议。经国务院批准，按照立法程序要求，就修正案草案在中国政府法制信息网向社会公开征求意见。

现行《公司法》第一百四十二条规定了股份公司为减少注册资本，与持有本公司股份的其他公司合并，将股份奖励给本公司职工，以及股东因对股东大会作出的公司合并、分立决议持异议，要求公司收购其股份等收购本公司股份的情形，并对公司决策程序和回购股份处理作出了规定。实践中，一些上市公司依法开展了相应的股份回购活动，并积累了一定的经验，发挥了积极作用，但总体而言，现行《公司法》规定的股份回购情形的范围较窄，决策程序不够简便，缺乏库存股制度，公司回购股份的积极性不高，股份回购制度的应有功能作用没有得到充分发挥。

为完善股份回购制度，充分发挥股份回购制度在优化资本结构、稳定公司控制权、提升公司投资价值、建立健全投资者回报机制等方面的重要作用，为公司回购股份提供比较充分的法律依据，修正案草案对《公司法》股份回购的规定作出以下修改：

一是增加股份回购情形，包括用于员工持股计划，上市公司为配合可转换公司债券、认股权证的发行用于股权转换的，上市公司为维护公司信用及股东权益所必需的，法律、行政法规规定的其他情形等。

二是完善实施股份回购的决策程序，简化公司因实施员工持股计划或者股权激励，上市公司配合可转换公司债券、认股权证发行用于股权转换，以及上市公司为维护公司信用及股东权益等情形实施股份回购的决策程序。

三是建立库存股制度，明确公司因特定情形回购的本公司股份，可以以库存方式持有。

欢迎各界提出宝贵意见，证监会将会同有关部门根据公开征求意见情况，进一步修改完善修正案草案，按照立法程序抓紧推进相关工作，夯实资本市场基础性法律制度。

Source 来源:

http://www.csrc.gov.cn/pub/newsite/zjhxwfb/xwdd/201809/t20180906_343763.html

U.S. Securities Exchange Commission Awards More Than US$54 Million to Two Whistleblowers

The Securities and Exchange Commission is awarding $39 million to one whistleblower and $15 million to another whose critical information and continued assistance helped the agency bring an important enforcement action. The $39 million award is the second-largest award in the history of the SEC's whistleblower program.

"Whistleblowers serve as invaluable sources of information, and can propel an investigation forward by helping us overcome obstacles and delays in investigation," said Jane Norberg, Chief of the SEC's Office of the Whistleblower. "These substantial awards send a strong message about the SEC's commitment to whistleblowers and the value they bring to the agency's mission."

The SEC has awarded more than $320 million to 57 individuals since issuing its first award in 2012. All payments are made out of an investor protection fund established by Congress that is financed entirely through monetary sanctions paid to the SEC by securities law violators. No money has been taken or withheld from harmed investors to pay whistleblower awards. Whistleblowers may be eligible for an award when they voluntarily provide the SEC with original, timely, and credible information that leads to a successful enforcement action. Whistleblower awards can range from 10 percent to 30 percent of the money collected when the monetary sanctions exceed US$1 million.

By law, the SEC protects the confidentiality of whistleblowers and does not disclose information that might directly or indirectly reveal a whistleblower's identity.

美国证券交易委员会向两名举报人授予高达 5400 万美元的奖金

美国证券交易委员会向一名举报人奖励了 3900 万美元，及向另一名举报人奖励了 1500 万美元，因为其所提供的重要信息和持续性援助帮助该机构采取了重要的执法行动。这高达 3900 万美元的奖金是美国证券交易委员会举报人计划历史上第二大的奖项。

举报人是非常宝贵的信息来源，可以通过帮助克服障碍从而推动调查。 美国证券交易委员会举报人办公室主任 Jane Norberg 说："这些重要奖励传达了一个强烈的信息，即美国证券交易委员会对举报人的承诺以及他们为机构的使命带来的价值。"

自 2012 年颁发第一个奖励以来，美国证券交易委员会已向 57 个人提供超过 3. 2 亿美元的奖励金。所有款项均由国会设立的投资者保护基金支付，该基金完全通过证券法违规者向证券交易委员会支付的金钱赔偿金来提供；支付举报人的奖金从没有来自受伤害的投资者或他们的间接得益。如果举报人自愿向美国证券交易委员会提供首次、及时、可靠的信息，从而促使执法行动获得成功，举报人则有资格获得奖励。当金钱制裁超过 100 万美元时，举报人可以从中收取 10%到 30%不等作为其奖金。

根据法律规定，美国证券交易委员会保护举报人的隐私，并不披露可能直接或间接泄露举报人身份的信息。

Source 来源：

https://www.sec.gov/news/press-release/2018-179

Highlights of the Speech by Julia Leung, Deputy Chief Executive Officer and Executive Director, Intermediaries of Hong Kong Securities and Futures Commission at Hong Kong Chinese Enterprises Association Seminar with Update on the Commission's Supervision Approach

In a speech at the Hong Kong Chinese Enterprises Association Seminar held on September 7, 2018, Julia Leung, Deputy Chief Executive Officer and Executive Director, Intermediaries of Hong Kong Securities and Futures Commission (SFC) outlined the SFC's new supervisory approach which is more front-loaded, targeted and real-time, as well as the Manager-In-

Charge regime which aims at clearly defining who has responsibility for what. Through these supervisory approaches, SFC would like to exercise more effective supervision and provide better protection to the local market and investors.

Mainland-backed brokers have made significant contributions to promoting the financial development of Hong Kong and are playing an increasingly important role in the market. When expanding their businesses, they must not focus too much on economies of scale and short-term benefits and ignore risk controls and compliance. A strong corporate governance culture, prudential risk management mechanism and robust compliance system lay the foundation for the long-term development of corporations. SFC expect Mainland-backed brokers to raise their awareness in these areas and build a solid foundation for the continuous development of their businesses in a healthy manner.
Following approaches have been used by SFC:

Internal Collaboration

An internal taskforce called "ICE", which is comprised of three of SFC's operating divisions, namely Intermediaries, Corporate Finance and Enforcement. When a case or incident comes to SFC's attention, these divisions will immediately communicate, discuss and coordinate with one another. ICE is focusing on two areas – firstly to strictly guard against the listing of "bogus" companies and immediately suspend trading in shares of listed companies involved in serious breaches. "Real-time" regulation is SFC's main theme in tackling corporate misconduct. Secondly to enhance the regulation of sponsors.

Monitoring Securities Margin Financing

Where there are brokers with serious problems or those which have failed to address high risks in a proper and timely manner, SFC will intervene at an early stage by issuing warning letters. If there is no improvement, especially when there are problems which present considerable risks to investors or the market, SFC may impose licensing conditions on, and issue restriction notices to, those brokers if necessary.

Strengthening Cooperation with Mainland regulators

The cooperation between the SFC and China Securities Regulatory Commission (CSRC) is all-round, also covering the exchange of market information. The SFC and the CSRC have reached an agreement on the implementation of an investor identification regime for northbound trading under Stock Connect which will take effect from 17 September. A similar regime will also be introduced for southbound trading under Stock Connect in the near future, allowing both regulators to more effectively combat illegal conduct including market manipulation. In addition, SFC maintains regular contacts with the China Banking and Insurance Regulatory Commission and the CSRC and exchange information with one another about the operation and compliance of Mainland-backed licensed corporations.

Manager-In-Charge Initiative

Last year, the SFC introduced the Manager-In-Charge initiative which helps foster a stronger sense of senior management responsibility and a compliance culture to drive proper conduct and behavior. The initiative was fully implemented for all licensed corporations in October 2017. Amongst other things, it sets out eight core functions including Overall Management Oversight, Risk Management, Compliance and Anti-Money Laundering. A licensed corporation must appoint at least one senior manager to be in charge of each core function, and submit information about its senior managers and organizational charts to the SFC.

香港证券及期货事务监察委员会副行政总裁及中介机构部执行董事梁凤仪女士就证监会监管方法最新动态于香港中国企业协会举办的香港中资大讲堂的演说要点

香港证券及期货事务监察委员会(证监会)副行政总裁及中介机构部执行董事梁凤仪女士在2018年9月7日于香港中国企业协会举办的香港中资大讲堂的演说中概述了证监会一套倾向前置式、具针对性和实时的新监察方法， 及旨在明确界定公司内责任谁属的核心职能主管制度。证监会希望通过这些监管方针，能更有效 地进行监管和更有效地保障本港市场及投资者。 中资券商对推动香港的金融发展有很大的贡献，而且在市场占有愈来愈重要的地位。在发展业务时，切忌片面追求规模效益和短期利益，而忽视风控及合规。良好的企业管治文化、审慎的风险管理机制和严谨的合规制度是企业长远发展的根基，证监会期望中资券商在这些方面能提高意识并建立稳健的基础，持续健康地发展业务。

证监会的监管方法重点包括：

内部协作

一个名为 ICE 的内部工作小组，由证监会三个前线部门，即中介机构部、企业融资部和法规执行部组成，当出现任何个案或事件，这三个部门就会即时沟通、讨论和协调。ICE 成 立以来，重点放在两个方面：

第一，严防"作假"公司上市，已上市的股票，公司若有严重违规，股票立时停止交易。"实时"监管是证监会打击企业失当行为而采取的主要方针。第二，加强对保荐人的监管。

监察证券保证金融资

在监管过程中，对于有严重问题或没有适时妥善处理高风险的券商，证监会会及早介入，发出警告函。假如情况没有改善，尤其当相关问题会为投资者或市场带来重大风险，在必要时证监会可能对相关券商施加发牌条件或发出限制通知书。

加强与内地中证监及银保监的合作

香港证监会和中证监的合作是全面的，涵盖的范围包括市场信息交换。香港证监会和中国证监 会达成共识，于 9 月 17 日起，为沪港通和深港通实施投资者识别码制度。不久将来，也会为港股通引入类似制度，让双方的监管当局能更有效打击市场操控等违法行为。 此外，证监会跟银保监及中证监有定期接触，就中资背景持牌公司的经营、合规情况，交换意见。

核心职能主管

证监会于去年引入了核心职能主管措施，促进高级管理层加强责任感和建立能够倡导恰当操守及行为的合规文化。措施已在 2017 年 10 月全面实施于所有持牌公司，当中订明有八项核心职能，包括整体管理监督、风险管理、合规、打击洗钱等。持牌公司须就每项核心职能，委任最少一名高管人员负责有关管理工作，并向证监会呈交高管人员的资料和公司的组织架构。

Source 来源:

https://www.sfc.hk/web/TC/files/ER/PDF/Speeches/Julia_20180907c.pdf

Hong Kong Financial Services Development Council's Response to the Securities and Futures Commission's Consultation on Anti-Money Laundering and Counter-Terrorist Financing Guidelines

The Financial Services Development Council (FSDC) considers it is important that the amendments to the anti-money laundering (AML) framework proposed by Hong Kong Securities and Futures Commission (SFC) would serve to balance the compliance cost to the financial institution (FI) and the threat of the FI being used in connection with money laundering or terrorist financing (ML/TF).

FSDC's views are set out based on the three categories of measures under paragraph 4.10.4 of the Proposed Revised Guideline and the scope of such measures (as a single measure or part of a combination of measures) that could provide sufficient comfort to satisfy the standard required to adequately guard against impersonation risk:

I. Certification of copy identification documents by an appropriate person (such as lawyer, professional account or trust company)

II. Checking relevant data against reliable databases or registries (certification service providers that that have direct access to governmental / bank or other reliable databases or registries should be eligible)

III. Using appropriate technology:

(a) As a single measure to be adopted by FIs, currently the SFC Circular dated July 12, 2018 only permits online client onboarding by transfer of initial deposit from a bank account (in the client's name) with a licensed bank in Hong Kong. FSDC believes the transfer of initial deposit from a bank account (in the client's name) with a licensed bank in Hong Kong *or in an equivalent jurisdiction* should be acceptable.

(b) As part of a combination of measures to be adopted by FIs to guard against impersonation risks, FIs should also be allowed to rely on other technology/software to assist them in determining that the documentary evidence of identity is actually related to the client they are dealing with. Examples of such measures include (i) live streaming videos with real time interaction between the customer and an employee of the FI or (ii) through videos the customer being asked to perform a series of tasks/actions to ensure the FI is dealing with a living individual and at the same time using facial recognition technology to match the photo identification documentation provided by the individual.

The FSDC believes that an appropriate combination of measures to be adopted by FIs as discussed above can still adequately guard against impersonation risk. Such combination of measures, in FSDC's view, could offer equivalent (if not higher) comfort to adequately safeguard against impersonation risk than existing non-face-to-face approaches for account opening provided under the SFC Circulars. Overall FIs should be encouraged to explore and engage alternative methods of electronic certification. SFC can also provide more guidance on engaging technology that is reliable and dependent. Factors to consider could include the accuracy, security and privacy of the electronic identity verification tool, the method of information collection and the ownership of the data.

香港金融发展局回应证监会有关打击洗钱及恐怖分子资金筹集指引的咨询文件

香港金融服务发展局（金融发展局）认为，香港证券及期货事务监察委员会（证监会）提出的反洗钱（反洗钱）

框架的修订，必须有助于平衡金融机构的合规成本以及金融机构被利用于洗钱或恐怖主义融资（ML / TF）的威胁。

金融发展局的建议措施及观点是根据拟议修订指引第4.10.4段中的三类措施以及此类措施的范围（作为单一措施或措施组合的一部分）拟定的，这些措施可以提供足够的保障以满足标准要求充分防范冒充风险。

I. 由适当人员 (例如律师、职业会计师、信托公司等) 证明复印身份证明文件。

II. 检查可靠数据库或注册表的相关数据（可以直接连线政府/银行或其他可靠数据库或注册管理机构的验证公司应有足够资格提供验证服务）。

III.使用适当的技术：

(a) 目前2018年7月12日的证监会通函只允许网上客户開户时通过香港银行账户（以客户名义开立）进行首次存款。金融发展局建议，从香港或可视为等同的司法管辖区的持牌银行银行户口（以客户名义开立）转账存入初始存款应该是可以接受的。

(b) 作为金融机构为防范冒充风险而采取的措施组合的一部分，金融机构还应被允许依赖其他技术/软件来协助他们确定相关身份证明文件是属于他们正在处理的客户的。这些措施包括（i）在客户与金融机构的雇员之间进行实时交互的实时流动视频，或者（ii）通过视频要求客户执行一系列任务/动作以确保金融机构正在面对一个真实的人，同时使用面部识别技术来配对个人提供的照片识别文件。

金融发展局认为，金融机构采取如上所述的适当措施组合可充分防范冒充风险。金融发展局认为，这些措施组合可以给予与证监会关于非面对面开户方法之指引要求相当（如果不是更高）水平的保障，以充分防范冒充的风险。整体金融机构系统应尝试探索和使用其他合适的电子认证方法。证监会还可以提供更多可靠和依赖技术的指导。要考虑的因素可包括电子身份验证工具的准确性，安全性和隐私性，信息收集方法以及数据的所有权等。

Source 来源：

http://www.fsdc.org.hk/sites/default/files/FSDC%20response%20to%20SFC%20consultation.pdf