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Financial Services Regulatory Update
金融服务监管资讯

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Highlights of Speech by Mr. John Price, Commissioner, Australian Securities and Investments Commission on "Whistleblowing – New Rules, New Policies, New Vision"

In a speech at the Griffith University Whistleblowing Conference held on November 16, 2018, John Price, Commissioner of the Australian Securities and Investments Commission (ASIC) outlined the ASIC's approach to whistleblowing. The key issues of the speech are summarized as follows:

The value of whistleblowing

As the conduct regulator, ASIC gets their intelligence on what to investigate from a few sources.

Often it's from people reporting information to them; often, it's from their surveillances and understanding of the industry. Many times, the most valuable information is from people inside organizations who see wrongdoing every day and take the brave decision to call it out.

Primarily, what ASIC gets from whistleblowers, is the value of their perspective. They give ASIC another way to look at the concerns and misconduct that may be happening in companies and licensees. And another perspective from which to test the information that the companies and licensees themselves are telling ASIC.

Whistleblowers play an important role in calling out poor conduct and assisting ASIC to do their job. And they have used their information in a number of their enforcement cases.

Encouraging more whistleblower reporting

The following three aspects complement each other – collectively, they should encourage more whistleblower reporting.

<u>The role of ASIC's Office of the Whistleblower</u>

The Office of the Whistleblower acts as a central point within ASIC for ensuring that they record and action whistleblower matters appropriately.

ASIC has an end-to-end process for dealing with whistleblower reports, overseen by the Office of the Whistleblower. The process is designed to ensure that ASIC:

- inform whistleblowers about their rights and what they can expect from ASIC;
- fully and properly assess the information they provide to ASIC; and
- keep them up to date about what action ASIC is taking in relation to their report.

Importantly, they regularly review and enhance these processes, based on their experience in assisting whistleblowers and dealing with the information they provide to them.

ASIC prepares an initial assessment of all reports that whistleblowers provide to them. This ensures they identify all potential whistleblower matters, as well as matters from those who may fall within the statutory definition but do not identify themselves as whistleblowers. They do this to make people aware of the legal protections that may apply to them.

Once a report is identified as a potential whistleblower matter, they begin to track the matter within their whistleblower handling process.

ASIC has trained staff to act as the designated point of contact for whistleblowers about the handling of their reports. Where a matter is assessed as requiring further action by ASIC, the whistleblower will be advised about the contact details of the ASIC officer that will be assisting them.

The officer is responsible for ensuring regular contact and communication with the whistleblower. At a minimum, this should occur once every four months.

Where ASIC has finalized a matter or decided not to take further action, the officer will communicate the outcome to the whistleblower.

<u>Reforms to the corporate sector whistleblowing regime</u>

Protections for corporate whistleblowers have formed part of the Corporations Act since 2004. The current provisions focus on protecting an ongoing employment or contractual relationship between a whistleblower and a company.

This is an important component of the regime. Though the regime does not, in ASIC's view, adequately cover the all the people who may be in a position to observe misconduct and face victimization if they report it.

The current protections don't extend to former employees or former contractors. They don't cater for a whistleblower seeking to remain anonymous. And, they limit the means for whistleblowers to seek compensation or redress if they suffer victimization or can no longer work for their employer.

ASIC, along with many experts, has been advocating for reforms to the existing whistleblowing regime. Over the past two years, ASIC has been working closely with the Government on reforms to encourage reporting of corporate wrongdoing and better protect whistleblowers in Australia.

The Government has introduced a bill to amend the whistleblower protections, and it is currently before the Senate. The amendments will:

- broaden the definition of whistleblowers to include a company's former employees, officers, and contractors, and certain family members;
- broaden the types of wrongdoing that whistleblowers can make disclosures about that will attract the protections;
- clarify who in companies can receive whistleblower disclosures;
- apply the protections to anonymous disclosures;
- provide better protections for whistleblowers against detriment, and better access to compensation;
- expand the orders that may be made by a court in favor of a person who has suffered loss, damage, or injury as a result of detrimental conduct;
- increase penalties for individuals and corporations if a whistleblower's identity is revealed without consent;
- provide avenues for making emergency or public interest disclosures, under certain limited circumstances; and
- require public and large proprietary companies to have an internal whistleblower policy that is made available to their officers and employees, with penalties applying for non-compliance.

Under the whistleblower reforms, ASIC is expected to receive any report from whistleblowers related to, among other things, any misconduct or improper state of affairs in relation to a company. This will include matters relating to other regulators' responsibilities that ASIC will need to refer and monitor.

<u>How businesses can better encourage and protect whistleblowers</u>

Companies and licensees need their own people to come forward when they observe or experience misconduct in the workplace.

- Where treated right, and encouraged, people who speak up when they see the wrong thing being done will help their own employers and businesses.
- Whistleblowing plays an important role to alert businesses to changes that are necessary to improve their performance.

Broadly speaking, an organization's whistleblowing policy needs to be robust and make it clear that whistleblowers will be protected. The written policy needs to be well communicated – not just internally, but to all the organization's stakeholders.

Procedures need to be in place to enable staff to disclose information if they feel there is wrongdoing.

These processes require integrity and they require the confidence of staff.

- Integrity so that people's identities are protected, if that's what they wish
- Integrity so that the company uses the information for the right purposes, that is, to address misconduct or improve operations, and
- Confidence that employees can trust that the process will achieve what it sets out to achieve.

Organizations need to ensure they adopt a culture of professionalism – that is, higher standards of competency, integrity, care, ethics, and conscientiousness. They also need to make sure this culture is cascaded throughout the entire organization.

Equally important, there needs to be an environment that people can feel they can come forward to report, knowing that their disclosure will be handled appropriately and acted upon.

Encouraging employees to speak out about problems should be encouraged – since it will allow organizations to address problems before they turn into crises.

- Companies also need to ensure that the right training is provided. The training should cover three key areas: how to raise a concern, how staff will be protected, and how the concern will be dealt with.

- Employees need to feel confident to speak up about wrongdoing. Company officers and managers need to be trained in dealing with disclosure and supporting their employees. Others in the company management also need to understand the systems and processes to support the members of their team.

John Price said that from a regulator's perspective, providing whistleblowers with the confidence to come forward is important in assisting with the deterrence, detection, and prosecution of misconduct – which in turn is crucial in helping ensure there is a fair, strong and efficient financial system for all Australians.

澳洲证券及投资监察委员会专员 John Price 就"举报 – 新规则, 新政策, 新愿景"演讲的重点

澳大利亚证券和投资监察委员会 (澳洲证监会) 专员 John Price 于2018年11月16日在格里菲斯大学举报政策会议上发表演讲, 概述了澳洲证监会对举报的看法。 该演讲的一些要点总结如下：

举报的价值

作为行为监管机构，澳洲证监会从一些来源获取有关调查内容的情报。

通常一些情报来自向澳洲证监会报告信息的人; 往往是其对行业的监督和理解。很多时候，最有价值的信息来自企业内部的人，他们每天都会看到不当行为，并勇敢地决定作出举报。

首先, 澳洲证监会从举报人那里得到其的观点价值。他们以澳洲证监会的另一种方式来审视在企业和被许可人可能出现的关注问题和不当行为。及从另一个角度来测试企业和被许可人向澳洲证监会报告的信息。

举报人在作出举报不当行为和协助澳洲证监会履行职责方面发挥着重要作用。 而澳洲证监会已在其许多执法案例中使用了他们的信息。

鼓励更多的举报人作出报告

总的来说，以下三个方面相辅相成, 它们可鼓励更多的举报人作出报告。

<u>澳洲证监会的举报人办公室的角色</u>

举报人办公室是澳洲证监会内部的重点, 用于确保其适当地记录和处理举报人事宜。

澳洲证监会有一个端到端的处理举报人报告的流程, 由举报人办公室监督。 该过程旨在确保澳洲证监会：

- 告知举报人其权利以及他们对澳洲证监会的期望;
- 充分和适当地评估他们提供给澳洲证监会的信息; 及
- 让他们及时了解澳洲证监会正在采取与其报告相关的行动。

重要的是, 澳洲证监会根据其协助举报人和处理他们提供的信息的经验, 定期审查和加强这些流程。

澳洲证监会就举报人提供给其的所有报告进行初步评估。这可以确保澳洲证监会识别所有潜在的举报人的事宜, 以及那些可能属于法定定义之内但未将自己称为举报人的事宜。澳洲证监会这样做是为了让人们了解可能适用于他们的法律保护。

一旦报告被确定为潜在的举报人事宜, 澳洲证监会就会开始在其举报人处理流程中追踪此事件。

澳洲证监会已培训员工作为举报人处理报告的指定联络点。如果某个问题被评估为需要澳洲证监会进一步采取行动, 告知举报人将协助他们的澳洲证监会官员的联系方式。

该官员负责确保与举报人定期联系和沟通。 至少应该每四个月进行一次。如果澳洲证监会已完成某项事件或决定不采取进一步行动, 该官员要将结果告知举报人。

<u>对私营机构举报制度的改革</u>

自2004年以来, 对企业的举报人保护已成为《公司法》的一部分。目前的条款侧重于保护举报人与公司之间的持续雇用或合同关系。

这是该制度的重要组成部分。 尽管该制度, 在澳洲证监会看来, 不能充分涵盖所有可能注视到不当行为并面临受到迫害的人如果他们作出举报。

目前的保护措施不适用于前雇员或前承包商。 该措施不会为寻求匿名的举报人提供保护。 而且，如果举报人受到迫害或无法再为雇主工作，该措施亦使举报人寻求赔偿或补救的手段受到限制。

澳洲证监会和许多专家一直在倡导改革现有的举报制度。在过去两年，澳洲证监会一直与政府密切合作，进行改革，鼓励举报企业的不当法行为，并更好地保护在澳大利亚的举报人。

政府已提出修改举报人保护措施的法案，目前已提交参议院。修正案将：

- 扩大举报人的定义，包括公司的前雇员，高级职员和承包商，以及某些家庭成员;
- 扩大举报人可以披露的不当行为的类型以得到保护;
- 明确企业中谁可以收到举报人的披露;
- 将保护措施应用于匿名披露;
- 为举报人提供更好的保护，免受损害，并更好地获得赔偿;
- 扩大法院可能作出有利于因举报不当行为而遭受损失，损害或伤害的人的命令;
- 如果在未经同意的情况下揭露举报人的身份，则增加对个人和企业的处罚;
- 在某些有限的情况下提供渠道作紧急或为公共利益的披露; 及
- 要求公共和大型私有企业向其高级职员和员工提供了制定内部举报人政策；并对违规行为规定处罚措施。

在举报人制度改革下，澳洲证监会有望收到举报人的任何报告，其中包括与企业有关的任何不当行为或不当状况。 这将包括与其他监管机构的职责有关，需要澳洲证监会转介和监控的事宜。

<u>企业如何更好地鼓励和保护举报人</u>

企业和被许可人需要其员工提出关于他们在工作场所注视或经历的不当行为。

- 在正确对待和鼓励的情况下，员工把他们看到犯错的事情作出举报将帮助其雇主和企业。
- 举报发挥重要作用，以提醒企业注意改善绩效所需的变更。

大体来说，企业的举报政策需要强有力，并明确告知举报人将受到保护。 书面政策需要很好地传达 - 不仅仅是内部，而是所有企业的利益相关者。

需要制定程序，使员工在感到有不当行为时能够披露信息。

这些过程需要诚信，并且需要得到员工的信任。

- 诚信，以便员工的身份得到保护，如果这是企业所希望的;
- 诚信，以便企业将信息用于正确的目的，即解决不当行为或改善运营;及
- 信心，员工可以信任该流程将实现其目标。

企业需要确保其采用专业文化 - 即更高的能力标准，诚信，关怀，道德和责任感。 其还需要确保这种文化逐级贯穿整个企业。

同样重要的是，需要有一个员工可以感觉到可以作出报告的环境，知道他们的披露将得到适当的处理和采取行动。

应该鼓励员工作出举报 - 因为它可以让企业在问题变成危机之前解决问题。

- 企业还需要确保提供正确的培训。 培训应涵盖三个关键领域：如何提出问题，如何保护员工以及如何处理问题。
- 员工需要有信心说出不当行为。 企业高级职员和经理需要接受培训，以处理披露和支持其员工。 企业管理层中的其他人也需要了解系统和流程以支持其团队成员。

John Price 表示: 从监管机构的角度来看，使举报人有信心挺身而出，对于协助阻吓，侦查和检举不当行为非常重要 - 这反过来又有助于确保所有澳大利亚人拥有公平，强大和有效的金融体系。

Source 來源:
https://asic.gov.au/about-asic/news-centre/speeches/whistleblowing-new-rules-new-policies-new-vision

Hong Kong Securities and Futures Commission Announces Thematic Review of Remote Booking, Operational and Data Risk Management Practices

November 16, 2018, the Hong Kong Securities and Futures Commission (SFC) commenced a thematic review of selected licensed corporations (LCs) to assess their risk governance and oversight framework as well as their risk management practices. The review comprises three work streams focusing on the underlying risks of LCs' remote booking models, operational risk and data risk, with the aim of providing further guidance for LCs to cope with these evolving risks.

LCs should exercise due skill, care and diligence, and have the operational capabilities to protect their operations and clients. Effective resources should be deployed and procedures should be implemented to properly manage the risks to which LCs are exposed, and information should be provided to management to adequately manage the risks.

The SFC notes that the growing complexity of trading and business models, extensive use of technology, greater reliance on big data and more challenging liquidity conditions all pose increasing risks to financial

institutions in Hong Kong. The SFC expects LCs to evaluate the risk management processes periodically to ensure that they adequately manage the risk of losses, whether financial or otherwise, resulting from fraud, errors, omissions and other operational and compliance matters.

Risk governance and oversight framework

Sufficient management oversight is crucial to ensure that proper risk management is thoroughly integrated into LCs' businesses and brought to the forefront of their corporate strategies. Most importantly, LCs should allocate risk mitigation responsibilities and tasks to staff under their risk management framework. As risk management is one of the core functions under the Manager-In-Charge (MIC) regime, the SFC plans to take this opportunity to assess the risk governance and oversight frameworks of selected LCs as well as the roles and responsibilities of MICs of risk management.

Work streams

(1) Underlying risks of remote booking models – One area of increasing concern is the remote booking of risks. Some financial institutions with a global business presence book the risks of trades originated from or handled by their LCs in Hong Kong to an offshore central booking entity. In turn, the risk booking entity enters into a transfer pricing arrangement with the LCs to share the profits or losses. With risks being moved across borders and different firms implementing a variety of remote booking models, LCs need to adapt their risk management frameworks to ensure that risks are appropriately identified and managed.

The scope of this work stream covers an understanding of the remote booking framework and transfer pricing methodologies adopted as well as the assessment of the relevant controls and monitoring implemented by LCs.

(2) Operational risk – This is the risk of loss resulting from inadequate or failed internal processes, people and systems or from external events. In recent years, LCs have been more focused on the management of operational risk due to the increasing complexity of their business models and trade-related issues.

The scope of this work stream covers an understanding of the procedures and methodologies adopted to address trade-related issues as well as the assessment of relevant controls and monitoring implemented by LCs such as the segregation of duties and surveillance of trade processing.

(3) Data risk – Data risk is also becoming increasingly important as technological advancements have fundamentally changed the way LCs collect, use and manage data. Whilst the wider use of technology has raised awareness about the importance of data protection, this requires strong data governance and management on the part of LCs.

The scope of this work stream covers an understanding of the data management- related procedures and methodologies adopted as well as the assessment of the relevant controls and monitoring implemented by LCs, such as data protection governance, access controls and data loss protection and recovery.

Format of the thematic review

Focusing on the abovementioned work streams, including risk governance and oversight frameworks, the thematic review will be conducted through a combination of industry surveys, meetings and on-site inspections:

- questionnaires will be sent to selected LCs in Hong Kong;
- the SFC will analyze the responses to identify any red flags suggesting potential concerns or instances of non-compliance;
- LCs will be selected for meetings and on-site inspections, which will involve the SFC meeting with key personnel and inspecting internal controls and risk management activities; and
- existing SFC regulatory requirements will be compared to those of other major financial market regulators. Market practices will be assessed to identify good practices or common issues.

The findings from the thematic review will form the basis for the SFC to issue further guidance to the market which will help promote good practices and mitigate the risks facing LCs and the financial market. The SFC will also share the findings with the industry, where appropriate.

香港证券及期货事务监察委员会公布就离岸入帐、运作及数据风险的管理作业手法进行主题检视

2018年11月16日，香港证券及期货事务监察委员会（证监会）对多家选定的持牌法团展开一项主题检视，以评估它们的风险管治及监察框架，以及其风险管理作业手法。是次检视包括三项工作，分别针对持牌法团离岸入帐模式的相关风险以及持牌法团的运作风险和数据风险，旨在向持牌法团提供进一步指引，以处理这些新冒起的风险。

持牌法团应以适当的技能、小心审慎和勤勉尽责的态度行事，并具备足以保障其运作及客户权益的操作能力。持牌法团应有效地运用资源及实施程序，从而适当地管理其面对的风险，并应向管理层提供资料，以便妥善地管理有关风险。

证监会注意到，交易及业务模式渐趋复杂、科技的广泛使用、对大数据依赖日深，及更具挑战的流动性状况等现象，均为香港的金融机构带来不断增加的风险。证监会要求持牌法团定期评估风险管理程序，以确保它们能够妥善地管理因欺诈、错误、遗漏及其他运作和合规事宜而须承担财务或其他方面的损失的风险。

风险管治及监察框架

为了确保妥善的风险管理能彻底融入持牌法团的业务中，并成为其企业策略的重点，足够的管理层监督措施是关键所在。最重要的是，持牌法团应根据其风险管理框架，将纾减风险的责任及职务分配给员工。由于风险管理是核心职能主管制度下的核心职能之一，证监会计划藉此机会评估选定的持牌法团的风险管治及监察框架,以及风险管理核心职能主管的角色和责任。

检视工作

(1) 离岸入帐模式的相关风险 - 风险的离岸入帐是一个日益受到关注的范畴。有些业务遍及全球的金融 机构将源自旗下香港持牌法团或由该等持牌法团处理的交易的风险入帐至一个离岸的中央入帐实体，再由该风险入帐实体与该等持牌法团订立转移定价安排，以分享利润或分担损失。由于风险跨境移动，及不同的公司实施多种多样的离岸入帐模式，持牌法团需调整其风险管理框架，以确保适当地识别及 管理风险。

这项工作的范畴包括了解持牌法团所采用的离岸入帐框架和转移定价方法，及对持牌法团实施的相关 监控和监察措施进行评估。

(2) 运作风险 – 这是由于内部程序不足或失效、人员及系统或外部事件而导致出现损失的风险。近年来，由于持牌法团的业务模式及交易相关事项日趋复杂，持牌法团已比较集中关注运作风险的管理。

这项工作的范畴包括了解为处理交易相关事项而采用的程序和方法，及对持牌法团实施的相关监控和 监察措施(例如将交易处理的职责与监察工作分隔开) 进行评估。

(3) 数据风险 – 处理数据风险亦变得日益重要，原因是科技的进步已从根本上改变了持牌法团收集、使用 及管理数据的方式。更广泛地使用科技的情况引起各界意识到保护数据的重要性，而持牌法团若要保 护数据,便须设有稳健的数据管治及管理措施。

这项工作的范畴包括了解持牌法团所采用与数据管理相关的程序和方法，及对持牌法团实施的相关监 控和监察措施 (例如数据保护管治、存取监控以及数据遗失防护及复原) 进行评估。

主题检视的形式

是次主题检视将聚焦上述工作 (包括风险管治及监察框架)，并透过业界问卷调查、会见及现场视察等方式进行：

- 证监会将向选定的香港持牌法团发出问卷；
- 证监会将对回应进行分析，以识别出任何显示潜在关注事项或不合规情况的预警迹象；
- 证监会将筛选持牌法团进行会见及现场视察，当中包括与主要人员进行会见， 及查阅内部监控措施和 风险管理活动；及
- 将证监会的现行监管规定与其他主要金融市场监管机构的监管规定进行比较。对市场作业手法进行 评估，以识别出良好手法或常见问题。

是次主题检视的结果将成为证监会向市场发出进一步指引的基础，而该等指引将有助推动良好作业手法，及纾减持牌法团和金融市场面对的风险。证监会亦将会在适当时候与业界分享是次主题检视的结果。

Source 來源:
https://www.sfc.hk/edistributionWeb/gateway/EN/circular/doc?refNo=18EC82

Hong Kong Securities and Futures Commission Sets Out New Regulatory Approach for Virtual Assets

The Hong Kong Securities and Futures Commission (SFC) notes with concern the growing investor interest in gaining exposure to virtual assets via funds and unlicensed trading platform operators in Hong Kong. On November 1, 2018, the SFC issued a statement setting out a new approach which aims to bring virtual asset portfolio managers and distributors of virtual asset funds under its regulatory net (the statement). A virtual asset is a digital representation of value, examples including cryptocurrencies, crypto-assets and digital tokens.

In light of the significant risks virtual assets pose to investors, the SFC will adopt new measures within its regulatory remit to protect those who invest in virtual asset portfolios or funds. The SFC will impose licensing conditions on firms which manage or intend to manage portfolios investing in virtual assets (where 10% or more of the gross asset value of the portfolio is invested in virtual assets), irrespective of whether the virtual assets meet the definition of "securities" or "futures contracts".

The SFC has also observed investors' growing interest in funds which invest in "virtual assets". These include digital tokens (such as digital currencies, utility tokens or security or asset-backed tokens) and any other virtual commodities, crypto assets and other assets of

essentially the same nature. In an accompanying circular, the SFC provided detailed guidance and reminded firms which distribute funds investing in virtual assets that they should be registered with or regulated by the SFC and comply with its regulatory requirements, including the suitability obligations, when distributing these funds. Intermediaries should only target clients who are professional investors as defined under the Securities and Futures Ordinance. Except for institutional professional investors, intermediaries should assess whether clients have knowledge of investing in virtual assets or related products prior to effecting the transaction on their behalf. Intermediaries should ensure that the recommendation or solicitation made is suitable for clients in all circumstances.

The SFC has also set out a conceptual framework to explore a pathway for compliance for virtual asset trading platform operators (commonly known as cryptocurrency exchanges) who are willing to be supervised by it.

Under the framework, also announced in the statement, the SFC will explore whether virtual asset trading platforms

are suitable for regulation in the SFC Regulatory Sandbox. The SFC will observe the operations of interested trading platform operators and their compliance with proposed regulatory requirements in the Sandbox environment. The SFC proposes that the standards of conduct regulation for virtual asset trading platform operators should be comparable to those applicable to licensed providers of automated trading services.

If it is decided at the end of this stage that it is appropriate to regulate platform operators, the SFC would then consider granting a license and putting them under its close supervision. Alternatively, the SFC may take the view that the risks involved cannot be sufficiently addressed and no license shall be granted as protection for investors cannot be ensured.

The SFC said that the measures announced allow it to regulate the management or distribution of virtual asset funds in one way or another so that investors' interests would be protected either at the fund management level, at the distribution level, or both. The SFC hopes to encourage the responsible use of new technologies and also provide investors with more choices and better outcomes.

The SFC is closely monitoring the development of virtual assets and may issue further guidance where appropriate.

香港证券及期货事务监察委员会阐述有关虚拟资产的新监管方针

香港证券及期货事务监察委员 (证监会) 关注到, 投资者对于透过基金及香港的无牌交易平台营运者接触虚拟资产的兴趣愈来愈大。2018年11月1日, 证监会发表声明(该声明), 阐述新的监管方针。新的方针旨在将虚拟资产投资组合管理公司及虚拟资产基金分销商纳入证监会的监管范围。虚拟资产以数码形式来表达价值, 其例子包括加密货币、加密资产及数码代币。

鉴于虚拟资产对投资者造成重大风险, 证监会将在其监管权力范围内采取多项新措施, 以保障投资于虚拟资产投资组合或基金的人士。证监会将对现正管理或计划管理投资于虚拟资产的投资组合的公司（如它们的投资组合中10%或以上的总资产价值投资于虚拟资产）施加发牌条件, 不论这些虚拟资产是否符合"证券"或"期货合约"的定义。

证监会观察到, 投资者对投资于"虚拟资产"的基金的兴趣日益增长; 包括数码代币(如数码货币、功能型代币,或以证券或资产作为抵押的代币)和任何其他虚拟商品、加密资产及其他性质相同的资产。 证监会在随附于该声明的通函内提供了详尽指引, 并提醒那些分销投资于虚拟资产的基金的公司须获证监会注册或规管, 以及在分销这些基金时须符合证监会的监管规定, 包括为客户提供合理适当建议的责任。中介人应只向专业投资者(如《证券及期货条例》所定义) 客户进行销售。除非是机构专业投资者, 否则中介人在代表客户执行交易前, 应先评估该客户在投资于虚拟资产或相关产品方面的知识。中介人应确保作出的建议或招揽在所有情况下都适合客户。

证监会亦阐述了一个概念性框架, 目的是为那些愿意接受证监会监察的虚拟资产交易平台营运者(一般称为加密货币交易所), 探索一个合规途径。

根据在该声明内公布的框架, 证监会将会在其监管沙盒内, 探索虚拟资产交易平台是否适宜受到规管, 并会观察有意从事有关业务的平台营运者在沙盒环境中的运作情况, 以及它们能否符合建议的监管规定。 证监会建议, 针对虚拟资产交易平台营运者的操守规管标准, 应与适用于提供自动化交易服务的持牌供应商的标准相若。

如证监会在此阶段结束时认为适宜对平台营运者作出规管, 便会考虑发出牌照及对它们进行密切监察。另一个情况是, 证监会可能认为由于无法充分处理所涉及的风险, 以及不能确保投资者会得到保障, 故不应发出牌照。

证监会表示：公布的措施容许其以某种形式对虚拟资产基金的管理或分销作出规管, 使到投资者的利益能够在基金管理、基金分销或同时两个层面得到保障。证监会希望鼓励市场以负责任的态度应用新科技, 同时为投资者带

来更多选择和更佳的效果。

证监会正密切留意虚拟资产的发展，并可能在适当时候发出进一步指引。

Source 來源:
https://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=18PR126

Highlights of the Speech by Mr. Ashley Alder, Chief Executive Officer of Hong Kong Securities and Futures Commission at Hong Kong FinTech Week 2018 on the Regulatory Response to the Growing Importance of Financial Technology

In a speech at Hong Kong FinTech Week 2018 held on November 1, 2018 by Mr Ashley Alder, Chief Executive Officer of the Hong Kong Securities and Futures Commission (SFC) outlined the SFC's regulatory response to the growing importance of financial technology. Some key issues of the speech are summarized as follows:

Virtual assets, or crypto-assets

Some of the risks are inherent in the nature of the virtual assets themselves. They have no intrinsic value and are generally not backed by physical assets. Not being guaranteed by any government, they are not currencies.

One of many big questions is how to assess the value of virtual assets under current accounting frameworks. There are no agreed standards on how to obtain audit evidence for virtual assets or judge the reasonableness of valuations.

There are other particular risks which relate to the operations of crypto exchanges or trading platforms, as well as funds investing in crypto assets. These are activities of special interest to securities regulators as, superficially, these platforms seem to mimic conventional funds and stock exchanges.

The market for virtual assets is still very young and trading rules may not be transparent and fair. Outages are not uncommon, as is market manipulation and abuse. There are also outright scams or frauds, as seen in many failed Initial Coin Offerings.

Another challenge is that many virtual assets are traded anonymously, which immediately raises issues around money laundering and terrorist financing. Bitcoins have been used in illegal and fraudulent schemes. And unlike conventional exchanges, the public does not access these platforms through regulated brokers. Direct access implies additional vulnerabilities for consumers.

One core issue for regulators is very simple. This is whether they actually have legal jurisdiction over crypto firms and activities. Some have decided that their current regulations already apply to those virtual assets which can be classified as securities and have been active in this space. Others have found that they need to develop new legal frameworks. Others are adopting a wait and see approach.

The regulatory regime for virtual assets

It is important to understand that some crypto markets are not legally capable of being regulated by the SFC if the virtual assets involved fall outside the legal definition in Hong Kong of “securities” or “futures contracts”.

Even within this constraint, the SFC already set out its regulatory stance in a number of statements and circulars. The SFC made it clear that where a virtual asset clearly falls under the definition of “securities” or “futures contracts”, it can still be subject to its rules.

However, if a fund solely invests in virtual assets which themselves are not currently subject to SFC regulation, not being securities, then the management of that fund will be outside the SFC’s regulatory perimeter too.

Similarly, operators of platforms which only provide trading services for virtual assets not falling within the definition of “securities” are not regulated.

Virtual asset portfolio managers and distributors

On November 1, 2018, the SFC issued a statement setting out the exact regulatory standards expected of virtual asset fund managers (the statement). In essence, all those supervised by the SFC intending to invest more than 10% of a mixed portfolio in virtual assets will need to observe new requirements targeting crypto assets, irrespective of whether they amount to “securities” or “futures contracts”. To afford better protection, only professional investors should be allowed to participate for the time being. The SFC has also issued a circular on the expected standards when firms distribute virtual asset funds (the circular).

These firms are required to be registered with or licensed by the SFC as brokers. As such, they already have to comply with the SFC's distribution requirements for all collective investment schemes, including suitability obligations. But the circular will, for the first time, provide specific guidance on the regulatory standards for the distribution of all funds with crypto exposures.

The combined effect of these measures is that the management or distribution of crypto funds will be regulated in one way or another, so that investor interests will be protected either at the fund

management level, at the distribution level, or both.

Exploring regulation of platform operators

The SFC is not yet sure that virtual asset trading platforms (platform) or "crypto-exchanges" are in fact suitable for regulation. They are technically, structurally and qualitatively different from traditional stock and futures exchanges.

One basic principle is that, to be regulated by the SFC, the standards of conduct, operational resilience and financial soundness expected of a platform operator should be the same as, if not higher, than those which apply to the automated trading platforms which the SFC already supervises – such as dark pools.

The statement sets out a conceptual framework for potential regulation which the SFC hopes may provide a pathway to compliance for those operators who have the willingness and the ability to stick to high standards.

This is essentially an opt-in approach for platform operators. Interested operators would first explore the conceptual framework with the SFC in a strict, Sandbox environment. In the Sandbox stage, no formal regulatory approval will be given to an operator. The SFC will discuss its expected standards and closely monitor the live operations of the platform in light of those standards.

In this way, the SFC can discover if it would be appropriate for them to be regulated by the SFC. If, and only if, the SFC decides at the Sandbox stage that it should regulate, it would consider granting a license. The platform would then be subject to intensive reporting and monitoring to ensure that strict internal controls operate as expected and investor interests are protected.

香港证券及期货事务监察委员会行政总裁欧达礼先生就面对金融科技的监管挑战于 2018 年香港金融科技周的演讲重点

香港证券及期货事务监察委员会（证监会）行政总裁欧达礼先生在 2018 年 11 月 1 日于 2018 年香港金融科技周的演讲中概述证监会面对日益重要的金融科技的监管挑战。演讲的要点摘要如下：

虚拟资产或加密资产

虚拟资产存在一些本身固有的风险特征。它们没有内在价值，通常没有实物资产支持。 没有任何政府担保，它们亦不是货币。

其中一个重大议题就是如何在当前会计框架下评估虚拟资产的价值。 有关如何获取虚拟资产的审计证据或判断估值的合理性没有一致的标准。

这还存在与加密交易所或交易平台的操作以及投资于加密资产的资金有关的其他特定风险。这些是证券监管机构特别感兴趣的事宜，因为从表面上看，这些平台似乎类似传统基金和证券交易所。

虚拟资产市场仍然很年轻，交易规则可能不透明和公平。市场停运并不罕见正如市场操纵和滥用。 就像许多首次代币发行失败事件中所显示，还有一些是彻头彻尾的骗局或欺诈行为。

另一个挑战是许多虚拟资产是匿名交易的，这会立即引发有关洗钱和恐怖主义融资的问题。比特币已被用于非法和欺诈计划。与传统交易所不同，公众不会通过受监管的经纪人浏览这些平台。 直接浏览意味着消费者可能面对额外的不明朗因素。

监管机构的一个非常简单的核心问题是；实际上对加密公司和活动是否具有法律管辖权。有些已经认定现行的法规已经可以适用于归类为证券的虚拟资产，并且积极从事在这个领域的工作。其他认为需要开发新的法律框架而另外一些则采取观望态度。

虚拟资产的监管制度

有一点是非常重要的是，如果涉及的虚拟资产超出香港"证券"或"期货合约"的法律定义，某些加密市场在法律上无法受证监会监管。

即使在此限制下，证监会已在若干声明及通函中列明其监管立场。证监会明确表示，如果虚拟资产明显符合 "证券"或"期货合约"的定义，则仍须遵从其制定的规则。

然而，如果基金仅投资于本身目前不受证监会监管而非证券的虚拟资产，则该基金的管理层也将在证监会的监管范围之外。

同样地，仅为不符合"证券"定义的虚拟资产提供交易服务的平台营运商亦不受监管。

虚拟资产投资组合管理公司及分销商

证监会于2018年11月1日发表声明(该声明)，列明虚拟资产基金经理公司的预期监管标准。实际上，所有受证监会监管的人士，如果想将超过10%的混合投资组合投资于虚拟资产，则需要遵守针对加密资产的新要求，无论这些资产是否属于"证券"或"期货合约"。为了提供更好的保护，暂时只允许专业投资者参与。 证监会亦就分销虚拟资产

的基金的公司應有的水平发出通函(该通函) 。

这些公司必须作为经纪人在证监会注册或获取牌照。因此, 该等公司必须遵守证监会对所有集体投资计划的分销规定, 包括合理适当建议的责任。该通函将首次为所有基于加密风险的基金分销的监管标准提供具体指引。

这些措施的综合效果是对加密基金的管理或分销将以某种方式进行监管, 以便投资者的利益在基金管理层面,或分销层面或两者都受到保护。

探索平台营运商的监管

证监会尚不确定虚拟资产交易平台(平台)或"加密交易所"实际上是否适合监管。 它们在技术上, 结构上和质量上都不同于传统的股票和期货交易所。

基本原则是, 即使不高于那些适用于自动交易平台例如黑池的标准, 受证监会监管的平台营运商所预期的行为标准, 运作弹性及财务稳健性应与已受其规管的持牌供应商的标准相若。

该声明为潜在监管制定了一个概念框架, 证监会希望该框架可为那些有意愿和有能力坚持高标准的平台营运商探索一个合规的途径。

这实质上是平台营运商接受监管的机制。 有兴趣的营运商将首先在严格的沙盒环境中探索证监会的概念框架。在沙盒阶段, 不会向营运商作出正式的监管审批。证监会将探讨其预期标准, 并会根据这些标准密切监察平台的实际运作。

通过这种方式, 证监会可以了解平台营运商是否适合由证监会监管。 只会当证监会在沙盒阶段决定应该监管时, 其便会考虑发出牌照。然后, 平台将须遵守密切的申报和监管规定, 以确保严格的内部控制按预期运作, 并保护投资者的利益。

Source 來源:
https://www.sfc.hk/web/EN/files/ER/PDF/Speeches/Ashley%20HK%20FinTech%20Week.pdf

Hong Kong Court of Final Appeal Unanimously Dismisses Appeal by Solicitor and his Sisters in Fraud Case Brought by Hong Kong Securities and Futures Commission Involving Overseas Listed Securities

On October 31, 2018, the Hong Kong Court of Final Appeal (CFA) dismissed the appeal by Mr Eric Lee Kwok Wa (Lee), a solicitor, and his two sisters, Ms Patsy Lee Siu Ying (Pasty Lee) and Ms Stella Lee Siu Fan (collectively known as Lee's two sisters), against the decision of the Court of First Instance (CFI) which had been upheld by the Court of Appeal (CA) (a copy of CFA Judgment can be found on the judiciary website: https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=118186&currpage=T).

In December 2010, the Securities and Futures Commission (SFC) commenced civil proceedings under section 213 of the Securities and Futures Ordinance (SFO) in the CFI against Lee, Lee's two sisters and another solicitor Ms Betty Young Bik Fung (Young) for fraud/deception in transactions involving the shares of Taiwan-listed Hsinchu International Bank Company Limited (Hsinchu) and for insider dealing in the shares of Asia Satellite Telecommunications Holdings Limited (AsiaSat).

In January 2016, the CFI found that Young, Lee and his sister Patsy Lee had contravened section 300 of the SFO by engaging in fraud or deception in transactions involving Hsinchu shares and section 291 of the SFO by insider dealing in AsiaSat shares and granted orders under section 213 against all four defendants.

In February 2016 the four defendants appealed against the CFI's decision to the CA. Young withdrew her appeal before the CA heard the case. In November 2017, the CA dismissed the appeal.

In the judgment, the CFA unanimously dismissed the appeal of Lee and Lee's two sisters and held that:

- section 300 of the SFO is directed at fraudulent/deceptive conduct perpetrated in connection with or in relation to transactions involving securities;

- the transactions involving securities which section 300 of the SFO targets cover a variety of activities including the steps that are taken with a view to profit, or avoid loss, by the misuse of inside information, such as the opening of a securities trading account and the giving of trading instructions to intermediaries;

- insider dealing is a species of fraud and a fraud on the public. It is not a victimless crime;

- where there is conduct which answers the definition of an insider dealing offense in the SFO, the perpetrator(s) should be prosecuted for the relevant, specific insider dealing offense under the SFO. It should not be prosecuted for an offense under section 300 of the SFO; and

- although Hsinchu shares were not Hong Kong-listed securities, the fraudulent or deceptive

conduct of Young, Lee and Lee's two sisters in respect of their dealings in Hsinchu shares can properly be dealt with under section 300 of the SFO.

The SFC said that it will continue to robustly pursue enforcement actions where the misuse of inside information occurs in Hong Kong even if the actual execution of transaction takes place on overseas exchanges. The SFC also reminds market participants including professional parties not to misuse inside information.

香港终审法院一致驳回就香港证券及期货事务监察委员会在涉及海外上市证券提出的欺诈案的事务律师及其两名姊姊所提出的上诉

2018年10月31日，香港终审法院驳回一名事务律师李国华 (李) 及其两名姊姊李少英和李少芬 (统称为:李的两名姊姊) 就原讼法庭的裁决所提出的上诉。该项原讼法庭的裁决早前获得上诉法庭维持不变 (终审法院判案书可于司法机构的网站 https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp？DIS = 118186＆GUrpage = T 浏览)。

香港证券及期货事务监察委员 (证监会) 于2010年12月根据《证券及期货条例》第213条在原讼法庭对李、李的两名姊姊及另一名事务律师杨碧凤 (杨) 展开民事法律程序，指他们在涉及于台湾上市的新竹国际商业银行股份有限公司 (新竹银行) 股份的交易时进行欺诈／诈骗，及就亚洲卫星控股有限公司 (亚洲卫星) 股份进行内幕交易。

原讼法庭在2016年1月裁定，杨、李及其姊姊李少英因在进行涉及新竹银行股份的交易时使用欺诈或诈骗手段及进行亚洲卫星股份的内幕交易，而分别违反了《证券及期货条例》第300条及第291条，并根据第213条向全部四名答辩人作出命令。

四名答辩人于2016年2月就原讼法庭的裁决向上诉法庭提出上诉。杨在上诉法庭展开聆讯前撤销其上诉申请。上诉法庭在2017年11月驳回有关上诉。

在判决书中，终审法院一致驳回李及李的两名姊姊的上诉，并裁定：

- 《证券及期货条例》第300条是针对相关或对于证券的交易而作出的欺诈／欺骗行为；

- 《证券及期货条例》第300条所针对有关涉及证券的交易涵盖各类活动，包括藉着不当地使用内幕消息，为了赚取利润或避免损失而采取的行动，例如开立证券户口及向中介人作出交易指示；

- 内幕交易是欺诈的一种，是一项对公众进行的欺诈，并非是没有受害人的罪行；

- 若有关行为属于《证券及期货条例》下内幕交易的定义，犯案者便应被控该条例下相关及特定的内幕交易罪行，而不应被控第300条下的罪行；及

- 尽管新竹股份当时并非香港上市的证券，但杨、李及李的两名姊姊就涉及新竹股份的交易作出的欺诈或欺骗行为，可根据《证券及期货条例》第300条适当地加以处理。

证监会表示：如在香港发生不当使用内幕消息的情况，即使有关交易实际上是在海外交易所执行，证监会亦将继续严厉执行监管行动。证监会亦提醒市场参与者，包括专业机构或人士，切勿不当地使用内幕消息。

Source 來源:
https://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=18PR125

The Stock Exchange of Hong Kong Limited Publishes Its Latest Review of Listed Issuers' Corporate Governance Practices and Updates Its Guidance Material on Environmental, Social and Governance Reporting

November 16, 2018, the Stock Exchange of Hong Kong Limited (the Exchange), a wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited (HKEX), published the findings of its latest review of listed issuers' corporate governance practices (the Review) and updated guidance material on environmental, social and governance (ESG) reporting.

<u>Latest Review of Listed Issuers' Corporate Governance Practices</u>

The Review examined issuers' corporate governance disclosures as well as their level of compliance with the Corporate Governance Code and Corporate Governance Report (Code). The Review involved analyzing the disclosures made by 400 randomly selected issuers (Sample Issuers), of which 300 had a financial year-end date of 31 December 2017, and 100 with financial year-end dates of 30 June 2017 and 31 March 2018.

As with previous reviews, the results of the Review demonstrate issuers' high level of compliance with the Code. Whilst the compliance rates are similar to previous years, the Exchange has noted a 2% rise in the number of issuers that complied with all 78 Code Provisions (CPs), and Chairmen's attendance at general meetings has improved by 4%.

The Exchange has set out a summary of the explanations given by the Sample Issuers in respect of the five CPs with the lowest compliance rates [including separation of the roles of chairman and chief executive, non-executive directors (NEDs) being appointed for a specific term; subject to re-election, Chairman's attendance at annual general meeting, establishment of a nomination committee which is chaired by the chairman of the board or an independent non-executive director (INED), and Chairman's annual meeting with NEDs without the executive directors present] and the Exchange's comments, including the rationale for the CPs and how the explanations might be improved.

In the November 2015 review report, the Exchange recommended issuers that decided to deviate from the CP requiring separation of the roles of chairman and chief executive to provide explanations on how they have addressed the governance issue of the leadership's lack of checks and balances. The Exchange is pleased to observe a generally more comprehensive explanation being given by Sample Issuers that deviated from this CP and in particular, a majority of them have addressed the issue of balance of powers on the board in their explanations.

The Review also reviewed Sample Issuers' disclosures under the Code's Mandatory Disclosure Requirements (MDRs) and Recommended Disclosures (compliance obligation is voluntary). The Exchange focused on the summary of work of the board committees as it observed a varied level and quality of disclosure in this area. The Exchange also examined the disclosures relating to board diversity as it noted from previous reviews that some issuers did not disclose their board diversity policies despite claiming to have such policies whilst others may have provided "boiler-plate" style policies. These areas of disclosures are important and they go some way to demonstrate issuers' corporate governance efforts. Whilst Sample Issuers' disclosures under the MDRs are generally of a high standard, the Exchange considers there is still room for improvement.

HKEX said that the Review is a part of the Exchange's ongoing commitment to promote and maintain high corporate governance standards amongst issuers. Whilst the Review noted an improvement in some aspects of reporting, it also gives valuable insight and guidance on ways in which corporate governance reporting can be improved.

New Code and Related Listing Rules

Issuers are reminded that following the Exchange's publication of its "Consultation Conclusions on Review of the Corporate Governance Code and Related Listing Rules" (Consultation Conclusions), new amendments to the Code and related Listing Rules will come into effect on January 1 2019. Important changes that relate to NEDs include requiring greater disclosure on the process of their identification as a possible INED, their time commitment and their potential contribution to the board, including diversity. It will be mandatory for issuers to have and to disclose their board diversity and nomination policies. The criteria determining an INED's independence has also been enhanced. For details of these and other changes to the Code and related Listing Rules, the Exchange encourages issuers to read the Consultation Conclusions to gain a better understanding of the new corporate governance regime.

To equip issuers to prepare for the new corporate governance regime effective January 1 2019, which resulted from the Exchange's latest consultations in this area, the Exchange will release a Directors' E-Training webcast entitled "INEDs' Role in Corporate Governance" before the end of 2018.

HKEX said that in light of the new corporate governance regime, it is an opportune time for issuers to review their policies and practices on important corporate governance issues such as board diversity, particularly gender diversity, and their INEDs' availability and time commitment to the board.

Updated ESG Reporting Guidance

The Exchange has updated its "How to prepare an ESG report?" and Frequently Asked Questions (FAQs) on its ESG-related Listing Rules, taking into account recent international climate-related disclosure recommendations and with an emphasis on the issuer's governance structure for ESG reporting.

HKEX said that it is seeing increased demand for effective ESG reporting frameworks as more market participants become interested in sustainable economic development. HKEX plans to review its framework and has informal discussions with stakeholders with a view towards consulting the market in mid-2019 on proposed changes to its rules.

香港联合交易所有限公司刊发最新审阅上市发行人企业管治常规的结果及更新环境、社会及管治报告指导材料

2018年11月16日, 香港交易及结算所有限公司 (香港交易所) 全资附属公司香港联合交易所有限公司 (联交所) 刊发最新审阅上市发行人企业管治常规 (审阅报告) 所得的结果, 并更新环境、社会及管治报告的指导材料。

有关上市发行人企业管治的最新审阅报告

审阅报告审阅了上市发行人的企业管治披露及其遵守《企业管治守则》及《企业管治报告》(守则) 的程度。审核报告分析了400家随机拣选的发行人 (样本发行人) 所

作的披露，当中300家发行人的财政年度结算日为2017年12月31日，100家为2017年6月30日2018年3月31日。

一如过往的审阅结果，审阅报告结果显示发行人高度遵守《守则》。遵守率与过往相近，但联交所注意到遵守全部78条守则条文的发行人数目增加了2%，发行人主席于股东大会的出席率亦改善了4%。

对于遵守率最低的五条守则条文(包括：主席与行政总裁的角色区分，非执行董事有指定任期；但可接受重新选举，主席出席股东周年大会，设立提名委员会，由董事会主席或独立非执行董事担任主席及主席每年与非执行董事举行一次没有执行董事出席的会议)，联交所概述了样本发行人给予的解释及其的意见，包括该等守则条文的理念及发行人可如何改进它们所提供的解释。

审阅报告亦检视样本发行人就《守则》中的强制披露要求及建议披露(自愿遵守)所作的披露。联交所主要审视董事会辖下委员会的工作摘要，因其观察到发行人在这方面的披露程度及质素参差。联交所亦检视了发行人有关董事会成员多元化的披露，因过往的审阅发现有部分发行人虽声称设有董事会成员多元化政策，但并未披露该等政策，亦有部分发行人所披露的政策流于公式化。这些范畴的披露都属于重要披露，可于某程度上反映发行人为加强企业管治所做的努力。样本发行人就强制披露要求进行的披露普遍水准较高，但联交所认为仍有改善空间。

香港交易所表示：审阅企业管治常规是联交所致力持续提升及维持发行人的企业管治水平的其中一项工作。审阅报告显示发行人的汇报质素在数个范畴已有所提高，审阅报告同时亦为如何改进企业管治汇报提供了实用指引。

最新的《企业管治守则》及相关《上市规则》条文

发行人应留意，联交所已刊发《检讨《企业管治守则》及相关《上市规则》条文的谘询总结》(谘询总结)，《守则》及相关《上市规则》条文的新修订将于2019年1月1日生效。有关独立非执行董事的重要变动包括：增强披露物色独立非执行董事的过程、该董事投入的时间及有关任命如何令董事会成员更多元化。日后发行人必须订立其董事会组成多元化的政策及提名政策，并强制作出相关披露。判断独立非执行董事独立性的准则亦已提升。有关上述详情及其他《守则》及相关《上市规则》条文的修订，联交所鼓励发行人细阅谘询总结，加深对新企业管治制度的了解。

联交所最近就企业管治制度作了咨询，为使发行人作准准备以适应2019年1月1日生效的企业管治新制度,联交所将于2018年年底前推出名为「独立非执行董事在企业管治中的角色」的董事网上培训短片。

香港交易所表示：新的企业管治机制为发行人提供良好时机，重新检视企业在管治议题上的政策和做法，包括董事会多元化(尤其是性别多元化)，及公司的独立非执行董事是否能够及有否足够时间投入董事会等。

更新的环境、社会及管治报告的指导材料

联交所已更新「如何准备环境、社会及管治报告」网页，和涉及环境、社会及管治相关《上市规则》的常问问题，当中已经将近年国际间对气候相关的披露建议纳入考虑；并强调发行人在环境、社会及管治报告中有关管治架构的汇报。
香港交易所表示：其注意到越来越多市场参与者关注可持续的经济发展，对设立一个可行有效的环境、社会及管治报告框架有殷切需求。香港交易所亦计划重新审视现行的框架，并会与各持份者保持接触，期望可于2019年年中就修订相关规则谘询市场意见。

Source 來源:
https://www.hkex.com.hk/News/News-Release/2018/181116news?sc_lang=en

Hong Kong Monetary Authority Issues Warnings about Mobile Applications (Apps) on Personal Financial Management

The Hong Kong Monetary Authority (HKMA) has recently received enquiries from members of the public about mobile Apps serving to aggregate financial information from different bank accounts or stored value facilities (SVFs).

The HKMA wishes to remind the public that these service providers may not be in cooperation with the concerned banks or stored value facilities and the services provided are therefore not subject to the HKMA's supervision.

These service providers have required customers to provide login information for e-banking services or stored value facilities. Members of the public must bear in mind that both their login user name and PIN /password are important personal information, which should be kept with great care. While the HKMA is open-minded to financial innovation, the public must get to know how the service providers collect, use and store their customers' personal information, and understand clearly the terms and conditions of the services when opting for the above services.

香港金融管理局发出有关个人理财手机应用程式的提醒

香港金融管理局（金管局）近日收到公众查询，称市面上有服务供应商提供手机应用程式，以整合公众人士在

不同银行或储值支付工具的个人财务资料。

金管局提醒市民，该类服务供应商未必与银行或储值支付工具有合作关系，所提供的服务亦不受金管局监管。

部分服务供应商会要求客户提供电子银行服务或储值支付工具的登入资料。市民必须明白，登入用户名称及个人密码是重要的个人资料，应小心保管。金管局对科技创新持开放态度，但市民在选用这些服务时，必须明了这些服务供应商如何收集、使用及保存客户的个人资料，并清楚了解服务的条款。

Source 來源:
https://www.hkma.gov.hk/eng/key-information/press-releases/2018/20181112-3.shtml

Hong Kong Monetary Authority Announced Gazettal of Commencement Notice, Exposure Limits Rules, Revised Capital Rules and Revised Disclosure Rules under Banking Ordinance Issued by the Hong Kong SAR Government

November 16, 2018, the Hong Kong Monetary Authority (HKMA) announced that the Banking (Amendment) Ordinance 2018 (Commencement) (No. 2) Notice 2018 (Commencement Notice), the Banking (Exposure Limits) Rules, the Banking (Capital) (Amendment) Rules 2018 (BCAR) and the Banking (Disclosure) (Amendment) (No. 2) Rules 2018 were gazetted to implement some recent international standards on banking regulation in Hong Kong.

The three sets of banking rules seek mainly to implement in Hong Kong certain standards promulgated by the Basel Committee on Banking Supervision:

(a) the "internal assessment approach" of the 2014 revised secularization framework (further revised in 2016), which is a methodology for calculating capital requirements of certain secularization exposures in asset-backed commercial paper programs;

(b) the 2016 total loss-absorbing capacity holdings standard, which generally sets out the regulatory capital treatment of banks' holdings of certain subordinated instruments capable of absorbing losses should the issuing entities become non- viable; and

(c) the 2014 standards Supervisory framework for measuring and controlling large exposures, together with certain local capital and disclosure requirements on concentration risk in sovereign exposures to complement the implementation of the standards.

The Commencement Notice seeks to appoint July 1 2019 as the commencement date for repeal of the relevant provisions of the Banking Ordinance, which will be replaced by the Banking (Exposure Limits) Rules to be effected on the same day.

The four pieces of subsidiary legislation will be tabled before the Legislative Council on November 21 2018 for negative vetting and will come into operation respectively on January 11 2019 for item (a), April 1 2019 for item (b) and July 1 2019 for item (c) above.

The HKMA said that they have carefully considered the banking industry's comments in the course of formulating the rules to ensure that they are appropriate in strengthening the regulatory regime for authorized institutions under the local circumstances.

香港金融管理局公布香港特区政府就香港银行业(修订)条例(生效日期)公告、风险承担限度规则、资本(修订)规则及披露(修订)规则刊宪

2018年11月16日，香港金融管理局 (金管局) 公布香港特区政府在宪报刊登《2018年〈银行业(修订)条例〉(生效日期)(第2号)公告(《生效日期公告》)、《银行业(风险承担限度)规则》(《风险承担限度规则》)、《2018年银行业(资本)(修订)规则》及《2018年银行业(披露)(修订)(第2号)规则》，以期在香港落实最新的国际银行业监管标准。

三项银行业规则旨在落实巴塞尔银行监管委员会颁布的相关银行业国际监管标准：

(一) 二零一四年经修订证券化框架的「内部评估计算法」(二零一六年再度修订)：该计算法专为有资产支 持的商业票据计划某些证券化风险承担而设，用以计算资本要求；

(二) 二零一六年《总吸收亏损能力持有标准》：该标准列明当发行票据机构无法继续经营时，银行持有相 关具吸收亏损能力的后偿工具的监管资本处理方法；及

(三) 二零一四年《计量及管控大额风险承担的监管框架》标准及官方实体集中风险相关的本地资本及披 露要求，以协助落实有关标准。

《生效日期公告》指明二零一九年七月一日为废除《银行业条例》相关条文开始实施的日期，有关条文由《风险承担限度规则》于同日起取代。

四项附属法例将于二零一八年十一月二十一日提交立法会省览，进行先订立后审议程序。上述项目(一)、(二)、(三)将分别于二零一九年一月十一日、四月一日及七月一日生效。

金管局表示：其在拟备规则时已仔细考虑了银行业界的意见，以确保有关规则能在符合香港实际情况下加强对认可机构的监管制度。

Source 來源:
https://www.info.gov.hk/gia/general/201811/16/P2018111500723.htm

Hong Kong Privacy Commissioner for Personal Data Initiates Enforcement Investigation on Cathay Pacific Airways Limited's Data Breach Incident

Further to a media statement dated October 25, 2018 on Cathay Pacific Airways Limited (Cathay Pacific) data breach incident, having considered the latest information obtained, the Privacy Commissioner for Personal Data, Hong Kong (Privacy Commissioner), Mr Stephen Kai-yi WONG, is, after the compliance check initiated upon receipt of the data breach notification, of the view that there are reasonable grounds to believe that there may be a contravention of a requirement under the law and decides on November 5, 2018 to commence a compliance investigation against Cathay Pacific, and its wholly owned subsidiary, Hong Kong Dragon Airlines Limited, pursuant to section 38(b) of the Personal Data (Privacy) Ordinance (the Ordinance).

Earlier on November 5, Cathay Pacific responded in writing to the Privacy Commissioner's request for information in the compliance check, which was initiated by him on October 26, 2018, the day after Cathay Pacific publicly announced and notified him that there had been unauthorized access to a vast amount of personal data of its customers. Having considered the latest information from Cathay Pacific, the Privacy Commissioner has decided to commence a compliance investigation to ascertain whether there is any contravention of a requirement under the Ordinance.

As at 5:00 pm on November 5, the office of the Privacy Commissioner for Personal Data, Hong Kong (PCPD) has received 108 inquiries and 89 complaints relating to this data breach incident.

The Privacy Commissioner said that the compliance investigation is going to examine in detail, amongst others, the security measures taken by Cathay Pacific to safeguard its customers' personal data and the airline's data retention policy and practice. The Privacy Commissioner is empowered under the Ordinance to summon witnesses, enter premises, require them to furnish to him evidence, and carry out public hearings in the course of a compliance investigation.

The Privacy Commissioner reiterated that a compliance check preceding a compliance investigation, being an established policy and practice in the PCPD in accordance with the Ordinance has nothing to do with, let alone derogating, the stringency of determining a contravention. It is entirely incorrect and irresponsible to suggest that after a compliance check, the process of compliance investigation will automatically stop. Any message to the public purported to suggest that the PCPD will not carry out a detailed compliance investigation of the reported incident at the earlier stage is ill-informed, misleading and irresponsible.

香港个人资料私隐专员就国泰航空有限公司外泄客户个人资料事件展开执法调查

继2018年10月25日就国泰航空有限公司（国泰航空）外洩客户个人资料事件发出新闻稿后，香港个人资料私隐专员（私隐专员）黄继儿在收到资料外洩事故通报后进行了循规审查，经考虑所得之最新资料，认为有合理理由相信有违反法例的规定，并于2018年11月5日决定根据《个人资料（私隐）条例》(《私隐条例》) 第38条(b) 对国泰航空及其全资子公司港龙航空有限公司展开循规调查。

在11月5日较早前，国泰航空书面回应了私隐专员于循规审查的资料查询要求。该循规审查是私隐专员在2018年10月25日展开，即国泰航空公开宣布并通知私隐专员其大量客户个人资料被未获授权取览后之翌日。经考虑从国泰航空所得之最新资料，私隐专员决定展开循规调查，以确定事件有否违反《私隐条例》规定。

截至11月5日下午五时，香港个人资料私隐专员公署(公署)共接获89宗跟是次资料外洩事件相关的投诉个案及108宗有关查询。

私隐专员指出，是次循规调查将详细检视包括国泰航空在保障客户的个人资料方面所采取的保安措施，以及其个人资料的保留政策及做法。 私隐专员可根据《私隐条例》所赋予的权力，在进行循规调查的过程中传召证人、进入处所、要求提供证据、并就事件展开公开聆讯。

私隐专员重申，在展开循规调查前进行循规审查，是公署一直以来的既定政策和做法。对确定是否有违规行为的严谨性并无任何影响，亦不会削弱执法力度。有评论指公署在进行循规审查后，循规调查工作便会自动停止,此实属错误和不负责任的说法。任何人于早前向公众发放讯息指公署将不会对国泰航空资料外洩事件进行详细的循规调查，这种说法实属愚昧、误导和不负责任。

Source 來源:
https://www.pcpd.org.hk/english/news_events/media_statements/press_20181105.html

Bank Indonesia and Monetary Authority of Singapore Establish US$10 Billion Bilateral Financial Arrangement

November 5, 2018, Bank Indonesia (BI) and the Monetary Authority of Singapore (MAS) have established a bilateral financial arrangement of USD10 billion equivalent. The arrangement will enable the two central banks to access foreign currency liquidity from each other, if needed, to preserve monetary and financial stability.

The bilateral financial arrangement, which will be in place for one year, comprises two agreements:

a. A new local currency bilateral swap agreement that allows for the exchange of local currencies between the two central banks of up to SGD9.5 billion or IDR100 trillion (about USD7 billion equivalent); and

b. An enhanced bilateral repo agreement of USD3 billion that allows for repurchase transactions between the two central banks to obtain USD cash using Government Bonds of major countries as collateral. This is an increase from the current size of USD1 billion.

BI said that the initiative reflects the strengthened bilateral monetary and financial cooperation between Singapore and Indonesia, and indicates the commitment of the authorities of Indonesia and Singapore to maintain financial stability amid the lingering uncertainty in the global financial market.

MAS said that economic fundamentals in the regional economies remain sound. But markets can sometimes overreact in the face of heightened uncertainty. This bilateral financial arrangement will instil confidence amongst investors. It also reflects the close relationship between Indonesia and Singapore.

印度尼西亚银行和新加坡金融管理局建立100亿美元的双边金融协议

2018年11月5日, 印度尼西亚银行 (印尼央行) 和新加坡金融管理局 (新金局) 建立了相当于100亿美元的双边金融协议。如果需要, 该协议将使两个中央银行能够相互获得外币流动性, 以维持货币和金融稳定。

将在一年内实施的双边财务安排包括两项协议：

a. 一项新的本币双边互换协议, 允许两个中央银行之间的当地货币兑换高达95亿新元或100万亿印尼 盾(约合70亿美元); 和

b. 增加30亿美元的双边回购协议, 允许两个中央银行之间的回购交易, 以主要国家的政府债券作为 抵押品获得美元现金。这比目前10亿美元的规模有所增加。

印尼央行表示: 该倡议反映了新加坡与印尼之间加强的双边货币和金融合作, 并表明印尼和新加坡当局承诺在全球金融市场持续不明朗的情况下维持金融稳定。

新金局表示: 区域经济的经济基本面依然良好。但面对加剧的不明朗因素, 市场有时会反应过敏。这种双边金融协议将为投资者树立信心。这也反映了印尼与新加坡之间的密切关系。

Source 來源: http://www.mas.gov.sg/News-and-Publications/Media-Releases/2018/BI-and-MAS-Establish-Bilateral-Financial-Arrangement.aspx

Monetary Authority of Singapore Initiates Business Sans Borders to Foster Small and Medium-sized Enterprises Digitization

November 12, 2018, the Monetary Authority of Singapore (MAS) and Infocomm Media Development Authority (IMDA) are partnering with six private sector partners to create a Proof of Concept (POC) hybrid business data and digital solutions hub. The initiative will leverage on Artificial Intelligence (AI) to facilitate the internationalization and digitization of Small and Medium-sized Enterprises (SMEs).

Known as Business sans Borders, this initiative aims to:
(a) Provide a wide set of digital services and connections to enhance domestic and international trade opportunities for SMEs;
(b) Promote interoperability between SME ecosystems;
(c) Facilitate quick and intuitive access in the provision of digital services (such as financial and professional services) with seamless integration; and
(d) Provide a sandbox environment to accelerate testing and delivery of new services for SMEs.

The following features will be developed and tested during the POC stage, by first quarter of 2019:

(a) Multi-ecosystem sandbox, containing anonymized SME data, which can be used to initiate new trading opportunities or services through digital discovery;
(b) Services App Store for the promotion of new and relevant services to SME ecosystems and SMEs; and
(c) Smart AI Engine for the seamless matching of demand and supply of services and products between SMEs across various SME ecosystems.

MAS said that Business sans Borders aims to ignite a sea change in the way SMEs around the world can easily connect digitally with each other. This pioneering hybrid data and solutions hub will be supported by innovative and relevant financial services and powered with self-learning artificial intelligence. MAS is confident that Business sans Borders will positively transform

economies and propagate financial inclusion through ASEAN and beyond.

新加坡金融管理局启动 Business Sans Borders 平台促进中小企业数码化

2018年11月12日, 新加坡金融管理局 (新金局) 和 资讯通信媒体发展局 (IMDA) 与六个私营行业伙伴合作, 创建了概念验证(POC)混合业务数据和数字解决方案中心。 该计划将利用人工智能促进中小企业的国际化和数码化。

启动这个名为 Business sans Borders 的平台旨在：

1. 提供广泛的数字服务和联系, 以增加中小企业的国内和国际贸易机会;
2. 促进中小企业生态系统之间的互操作性;
3. 通过无缝整合, 利便快速, 直观浏览所提供的数字服务(如金融和专业服务); 和
4. 提供沙盒环境, 加速测试和为中小企业提供新服务。

在 POC 阶段, 到2019年第一季度将开发和测试以下功能：

1. 多种生态系统沙盒, 包含匿名的中小企业数据,它可以用来启动通过数字发现新的 贸易机会或服务;
2. 服务应用程式商店促进向中小企业生态系统和中小企业提供的新服务和相关服务; 和
3. 智能人工引擎使各中小企业生态系统中各中小企业之间, 对服务和产品的需求和供应作出无缝配对。

新金局表示: Business Sans Borders 的平台旨在点燃翻天覆地的改变, 使世界各地中小企业可以轻松实现数码化相互联系的方式。这一开创性的混合数据和解决方案中心将得到创新和相关金融服务业的支持, 并提供自学人工智能。新金局相信, Business Sans Borders 的平台将积极转变经济, 并通过东盟及其他地区传播金融包容性。

Source 來源:
http://www.mas.gov.sg/News-and-Publications/Media-Releases/2018/Business-sans-Borders.aspx

Monetary Authority of Singapore Introduces New Fairness, Ethics, Accountability and Transparency Principles to Promote Responsible Use of Artificial Intelligence and Data Analytics

November 12, 2018, the Monetary Authority of Singapore (MAS) has released a set of principles to promote fairness, ethics, accountability and transparency (FEAT Principles) in the use of artificial intelligence (AI) and data analytics in finance.

Known as the FEAT Principles, the document provides guidance to firms offering financial products and services on the responsible use of AI and data analytics, to strengthen internal governance around data management and use. This will foster greater confidence and trust in the use of AI and data analytics, as firms increasingly adopt technology tools and solutions to support business strategies and in risk management.

MAS has worked closely with a group of senior industry partners through a FEAT Committee in developing the FEAT Principles. The FEAT Principles also incorporates views and feedback from financial institutions, industry associations, FinTech firms, technology providers and academia.

MAS said that the FEAT Principles lay the foundation for a thriving AI and data analytics ecosystem. As the financial industry harnesses the potential of AI and data analytics on an increasing scale, they need to be cognizant of using these technologies in a responsible and ethical manner. The FEAT Principles are a significant first step that MAS has taken with the industry.

新加坡金融管理局推出新的公平、道德、问责和透明度准则以促进负责任地使用人工智能和数据分析

2018年11月12日, 新加坡金融管理局 (新金局) 推出了一系列准则从公平、道德、问责和透明度 (FEAT 准则) 四方面着手, 促进在人工智能和金融数据分析中的应用。

被称为 FEAT 准则的文件, 为负责任地使用人工智能和数据分析来提供金融产品和服务的企业提供指导, 以加强有关数据管理和使用的内部监管。随着企业越来越多地采用技术工具和解决方案来支持业务战略和风险管理, 这将增强对人工智能和数据分析的信心和信任。

新金局通过一个 FEAT 委员会与一批资深行业伙伴密切合作, 共同制定 FEAT 准则。该 FEAT 准则还纳入了金融机构, 行业协会, 金融科技公司, 技术供应商和学术界的观点和意见。

新金局表示: FEAT 准则为蓬勃发展的人工智能和数据分析生态系统奠定了基础。随着金融行业使用人工智能和数据分析的潜力日益增加, 其需要认识到以负责任和道德的方式使用这些技术。FEAT 准则是新金局与业界共同迈出的重要一步。

Source 來源:
http://www.mas.gov.sg/News-and-Publications/Media-Releases/2018/MAS-introduces-new-FEAT-Principles-to-promote-responsible-use-of-AI-and-data-analytics.aspx

Monetary Authority of Singapore Proposes New Regulatory Sandbox with Fast-Track Approvals

November 14, 2018, the Monetary Authority of Singapore (MAS) released a consultation paper on the creation of pre-defined sandboxes, known as Sandbox Express, to complement the existing FinTech Regulatory Sandbox that was launched in 2016. The aim is to enable firms which intend to conduct regulated activities to embark on experiments more quickly, without needing to go through the existing bespoke sandbox application and approval process.

The Sandbox Express is suitable for activities where the risks are generally low, or well understood and could be reasonably contained within the specific pre-defined sandbox. As a start, it will include sandboxes specifically pre-defined for insurance broking, recognized market operators and remittance businesses.

Each pre-defined sandbox will have its boundaries, expectations and regulatory reliefs pre-determined. The applicant must declare that it is able to fully comply with all expectations of the pre-defined sandbox that it has applied for, which includes providing clear disclosure and obtaining an acknowledgment from the user before the user can be on-boarded as a customer.

MAS will assess applications based only on two criteria – (i) technological innovativeness of the financial service, and (ii) fitness and propriety of the applicant's key stakeholders. The applications will be fast-tracked, with approval decisions granted within 21 days. An approved pre-defined sandbox entity will be required to submit periodic progress reports to MAS as well as ensure that the pre-defined sandbox expectations are adhered to.

MAS said that they are heartened that the FinTech Regulatory Sandbox has been well received by the industry. MAS has engaged with more than 150 FinTech players since the Sandbox was launched; and a number of firms have experimented in the sandbox. To facilitate quicker experimentation and faster introduction of innovative financial services to the market, MAS is now offering the option of Sandbox Express.

The public consultation will run from November 14 to December 13, 2018.

新加坡金融管理局建议特快审批的新监管沙盒

2018年11月14日, 新加坡金融管理局 (新金局) 发布了一份关于创建预设沙盒的咨询文件, 称为快捷沙盒, 以补充2016年推出的现有金融科技监管沙盒。目的是使打算开展受监管活动的公司能够更快地开展试验, 而无需通过现有的专项沙盒申请和审批流程。

快捷沙盒适用于风险普遍较低或容易理解且可以合理地包含在专门预设沙盒内的活动。首先, 它将包括为保险经纪业者, 认可市场营运商和汇款业者专门预设的沙盒。

每一个预设沙盒都将具有预先确定的范围, 期望和监管宽免。申请人必须声明其能够完全符合已申请的预设沙盒的所有期望, 其中包括在用户加入成为客户之前, 提供明确的披露并获得用户的确认。

新金局将只根据两个标准评估申请 - (i) 金融服务的技术创新能力, 以及 (ii) 申请人主要利益相关者的合适性。这些申请将被特快处理, 并在21天内作出批准决定。批准的预设沙盒实体将需要向新金局提交定期进度报告, 并确保遵守预设沙盒期望。

新金局表示: 对金融科技监管沙盒受到业界的好评, 其感到鼓舞。自推出沙盒以来, 新金局已与超过150名金融科技参与者合作; 许多公司已经在沙盒中进行了试验。新金局现正提供快捷沙盒选项, 从而加快试验并更快地向市场推出创新金融服务。

公众咨询将于2018年11月14日至12月13日进行。

Source 來源:
http://www.mas.gov.sg/News-and-Publications/Media-Releases/2018/MAS-Proposes-New-Regulatory-Sandbox-with-FastTrack-Approvals.aspx

The Bank of Canada, Bank of England and Monetary Authority of Singapore Share Assessment on Emerging Opportunities for Digital Transformation in Cross-border Payments

November 15, 2018, the Bank of Canada, Bank of England and Monetary Authority of Singapore (MAS) have jointly published a report which assesses alternative models that could enhance cross-border payments and settlements. The report examines existing challenges and considers alternative models that could in time result in improvements in speed, cost and transparency for users.

The report, "Cross-border interbank payments and settlements: Emerging opportunities for digital transformation", provides an initial framework for the global financial community to assess cross-border payments and settlements in greater depth. Specifically, it discusses how a variety of payment models could be implemented, from both a technical and non-technical perspective.

The report examines three models of cross-border payments. The first two are built on existing domestic interbank payment systems using traditional technology.

The third model focuses on the use of Wholesale Central Bank Digital Currency and its various applications through Distributed Ledger Technology. The models could be used to improve access, speed and transparency of cross-border payments. However, the report finds that further work would be required, by both industry and regulators, if the models were to be developed further. Future areas of focus could include implementation and policy challenges.

The project involved collaboration among the three central banks, who were supported by a group of financial institutions led by the Hongkong and Shanghai Banking Corporation (HSBC). Contributors included Oversea-Chinese Banking Corporation, The Toronto-Dominion Bank, United Overseas Bank and Payments Canada. It builds on previous research projects such as Project Jasper by the Bank of Canada and Project Ubin by the Monetary Authority of Singapore, which explored tokenized forms of central bank liabilities for domestic transactions.

MAS said that payments infrastructure have rapidly improved over the last few years. Domestic transfers can now be completed almost instantly and at low cost. With this as an aspirational benchmark, there is a huge opportunity to improve cross-border payments. This collaborative effort by the central banks and financial institutions across the three jurisdictions helps them identify gaps and areas of improvements in cross-border payments, and sets the foundation for further technical experimentation.

HSBC said that they are delighted to have led the banking community to discuss the challenges and opportunities to improve cross-border payments and settlement. HSBC looks forward to continuing the positive dialogue created through this project to ensure that, as a collective community, they harness digital technology to deliver practical benefits for international businesses.

加拿大银行, 英格兰银行和新加坡金融管理局分享对跨境支付数码化转型新机遇的评估

2018年11月15日, 加拿大银行, 英格兰银行和新加坡金融管理局 (新金局) 联合发布了一份报告, 探讨加强跨境支付和结算的替代模式的可行性。该报告研究了现有的挑战, 并考虑了可以及时改善用户速度, 成本和透明度的替代模式。

该报告"跨境银行间支付和结算：数码化转型的新机遇"为全球金融界提供了一个初步框架, 可以更深入地评估跨境支付和结算。具体而言, 它从技术和非技术角度讨论了如何实施各种支付模式。

该报告审查了三种跨境支付模式。前两种基于采用现有传统科技的国内跨银行付款系统。第三种模式侧重使用批发型中央银行数字货币, 以及采用分散式账本技术的各种应用功能。这些模式可用于改善跨境支付的连接, 速度和透明度。但是, 报告指出这些模式须经过业界和监管机构更深入的研究才可推行。 未来的探讨焦点可能包括实施方案和相关政策挑战。

该项目涉及由香港上海汇丰银行 (汇丰银行) 牵头的一组金融机构支持的三家中央银行之间的合作。 作出贡献的机构包括华侨银行, 多伦多道明银行, 大华银行和 Payments Canada。它建立在以前的研究项目之上, 如加拿大银行的 Project Jasper 和新金局的 Project Ubin, 该等项目探讨了就国内交易, 中央银行负债的代币化形式。

MAS 表示: 支付基础结构在过去几年间迅速改善。现在几乎可以瞬间以低成本完成国内转账。 以此作为理想的基准, 这是一个改善跨境支付的重大契机。这三个司法管辖区的中央银行和金融机构的共同努力, 有助其确定跨境支付方面的差距和改善领域, 并为进一步的技术试验奠定基础。

汇丰银行表示: 其很荣幸牵头银行界讨论改善跨境支付和结算的挑战和机遇。 汇丰银行期待继续通过该项目缔造的积极对话, 以确保作为一个共同体, 其将利用数字技术为国际企业带来实际利益。

Source 來源:
http://www.mas.gov.sg/News-and-Publications/Media-Releases/2018/Assessment-on-emerging-opportunities-for-digital-transformation-in-cross-border-payments.aspx

Singapore Exchange Strengthens Partnerships in China with the Signing of Two Memorandums of Understanding

Agreements will be signed at a gala dinner in Beijing this evening, as part of SGX Beijing Representative Office's 10th anniversary celebration

Strengthening ties with China remains a key priority for SGX's multi-asset, international growth strategy

Singapore Exchange (SGX) will sign Memorandums of Understanding (MOUs) with Zhejiang (S) Entrepreneurs Association (ZJEA) and China Futures Association (CFA), in an effort to further strengthen ties with China as part of its multi-asset, international growth strategy.
The signing ceremonies will take place tonight at a gala dinner in Beijing to mark the 10th anniversary of SGX's Beijing Representative Office. Over 300 business partners, industry associates, issuers and media will gather for a capital markets forum, panel discussions and a celebratory dinner, as part of the commemorative

event.

The MOU between SGX and ZJEA – a non-profit organization that has strong links with Zhejiang enterprises and a good reach to enterprises in other parts of China – is intended to foster greater collaboration in developing Singapore capital market opportunities for China enterprises.
In addition, CFA will sign an MOU with SGX to cooperate in the development of the derivatives markets in China and Singapore through financial market education and research. This renews a partnership first established between SGX and CFA in 2013.

Loh Boon Chye, Chief Executive Officer of SGX, said, "We are excited about the opportunities offered with China further internationalizing and the increasing role that it is playing within global capital markets. Together with our partners, we will continue to promote Singapore as a choice location for Chinese companies looking to expand their businesses internationally, as well as reinforce SGX's role in facilitating the growing institutional investor demand for risk management tools and broader access to China."

Li Guosheng, President of ZJEA, said, "ZJEA encourages entrepreneurs originating from Zhejiang province to use Singapore as their regional headquarters base to expand into Southeast Asia. China has entered a new phase of economic development, in which capital markets can play an important role to strengthen its competitiveness globally. SGX, as a gateway to international markets, is well positioned to help these entrepreneurs to compete on a global scale. This MOU between SGX and ZJEA will cement a close partnership between SGX and Zhejiang entrepreneurs in China."

Wang Ming Wei, Chairman of China Futures Association said, "We have established a good partnership with SGX, since our first MOU was signed in 2013. We have collaborated on several fronts, in the areas of information exchange, regular management meetings, education as well as training. 2018 marks a year of rapid growth for China's futures market. We are delighted to continue this collaboration which is not only an important milestone in our relationship with SGX, but will also further promote the derivatives market. With this shared mandate, we look forward to working closely with SGX in the coming years, to better serve our members and markets."

Presently, about 20% of listed companies and 15% of bond issuers on SGX are from Greater China, with over S$206 billion market capitalization and S$294 billion outstanding amount, respectively. Leveraging Singapore's role as a global RMB center, SGX is also one of the leading clearing houses in the world accepting offshore RMB for margin collaterals, clearing and settlement. SGX's equity index, currency and commodity derivatives are key risk management tools for global market participants investing in China.

新加坡交易所通过签署两份谅解备忘录加强在中国的合作伙伴关系

- 作为新交所北京代表处十周年庆典的一部分，协议将于今晚在北京的晚宴上签署
- 加强与中国的关系仍是新交所多资产国际增长战略的重中之重

新加坡交易所（SGX）将与浙江（S）企业家协会（ZJEA）和中国期货协会（CFA）签署谅解备忘录（MOU），以进一步加强与中国的关系，作为其多资产，国际增长的一部分战略。
签约仪式将于今晚在北京举行的庆祝晚宴上举行，以纪念新加坡交易所北京代表处成立十周年。作为纪念活动的一部分，将有300多个商业合作伙伴，行业合作伙伴，发行人和媒体参加资本市场论坛，小组讨论和庆祝晚宴。

新加坡证券交易所与 ZJEA 之间的谅解备忘录是一个与浙江企业有密切联系并与中国其他地区企业有良好关系的非营利组织，旨在促进中国企业为新加坡资本市场发展机会的更大合作。
此外，CFA 将与新交所签署谅解备忘录，通过金融市场教育和研究合作开发中国和新加坡的衍生品市场。这延续了2013年新加坡交易所与 CFA 之间建立的合作伙伴关系。

新加坡证券交易所首席执行官 Loh Boon Chye 表示，"我们对中国进一步国际化所带来的机遇及其在全球资本市场中日益重要的作用感到兴奋。与我们的合作伙伴一起，我们将继续推动新加坡成为希望在国际上拓展业务的中国公司的选择地点，并加强新交所在促进机构投资者对风险管理工具的需求和更广泛的中国市场需求方面的作用。

ZJEA 总裁李国胜说："ZJEA 鼓励来自浙江省的企业家将新加坡作为其地区总部基地，扩展到东南亚。中国已进入经济发展的新阶段，资本市场可以在其中发挥重要作用，增强其在全球的竞争力。作为进入国际市场的门户，新交所有能力帮助这些企业家在全球范围内展开竞争。新加坡证券交易所与 ZJEA 之间的谅解备忘录将巩固新交所与浙江企业家在中国的密切合作关系。"

中国期货业协会主席王明伟表示，"自2013年签署第一份谅解备忘录以来，我们与新加坡交易所建立了良好的合作关系。我们在信息交流，定期管理会议，教育等方面

进行了多方面的合作。以及培训。 2018年是中国期货市场快速增长的一年。我们很高兴继续这次合作，这不仅是我们与新交所关系的重要里程碑，也将进一步推动衍生品市场。凭借这一共同的使命，我们期待在未来几年与新加坡交易所密切合作，以更好地为我们的会员和市场服务。“

目前，新交所约20％的上市公司和15％的债券发行人来自大中华区，市值分别超过2060亿新元和2940亿新元。凭借新加坡作为全球人民币中心的角色，新交所还是全球领先的结算所之一，为保证金抵押，结算和结算接受离岸人民币。新交所的股票指数，货币和商品衍生品是全球市场参与者在中国投资的主要风险管理工具。

Source 來源:
http://www.sgx.com/wps/wcm/connect/sgx_en/home/higlights/news_releases/sgx_strengthens_partnerships_in_china_with_the_signing_of_two_mous

Singapore Exchange Regulation Proposes Changes to Delisting Rules

November 9, 2018, Singapore Exchange Regulation (SGX RegCo) is consulting the market on rule changes to two aspects of voluntary delistings, namely the voluntary delisting resolution and the exit offer.

SGX RegCo is proposing that only minority shareholders, and directors and controlling shareholders who are not the party making the offer (the offeror) or who are not acting in concert with it, can vote on the voluntary delisting resolution at the shareholder meeting. This means the offeror and the parties acting in concert with it cannot participate in the vote.

Accordingly, the approval threshold for the voluntary delisting to proceed is proposed to be amended to a majority from 75%. Also proposed is the removal of the block provision where the delisting will not proceed if it is voted against by holders of more than 10% of the total number of issued shares present and voting.

SGX RegCo intends to require that the exit offer made in conjunction with a voluntary delisting be reasonable and fair in order for the voluntary delisting to proceed. The appointed independent financial adviser must opine that the offer meets both criteria. The Listing Rules currently require an exit offer to be reasonable but does not require it to be fair. SGX RegCo is also proposing to codify the existing practice that the exit offer must include a cash alternative as the default alternative.

The public consultation will close on December 7 2018. Subject to the feedback received, SGX RegCo expects to implement the new rules in 2019.

SGX RegCo said that different parties will have different interests when it comes to listings and delistings and it needs to constantly balance the various interests. The changes the SGX RegCo is proposing aim to align, as much as possible, the interests of the offeror and the shareholders particularly the minorities. SGX RegCo is therefore proposing that the delisting offer must be both reasonable and fair, and that the majority of the independent shareholders find it attractive enough to vote in favor of the delisting.

新加坡交易所监管公司建议修订除牌规则

2018年11月9日，新加坡交易所监管公司 (新交所监管) 正在就自愿除牌的两个方面 (即自愿除牌决议和除牌脱手献议) 的规则修订咨询市场。

新交所监管建议，只有少数股东，以及非提出除牌脱手献议的董事和控股股东(收购方)或与其不一致的股东，才能在股东大会上对自愿除牌决议进行投票。 这意味着收购方和与其一致行动的各方不能参与投票。

因此，建议将自愿除牌的审批门槛从75％修改为大多数，以及建议废除反对票门槛，即超过已发行股份总数的10％的股东出席和投票反对。

新交所监管打算要求与自愿除牌一起提出的除牌脱手献议要符合合理及公平两项标准，以便进行自愿除牌。指定的独立财务顾问必须认为除牌脱手献议符合该两个标准。现行《上市规则》规定除牌脱手献议要合理,但并不一定要公平。 新交所监管还建议编纂现有做法，即除牌脱手献议必须包含现金替代品作为自动替代方案。

公众咨询将于2018年12月7日结束。根据收到的意见，新交所监管预计将在2019年实施相关新规则。

新交所监管表示: 公司在上市和除牌时，每个群体都有各自利益考量，其需要持续平衡各方利益。新交所监管提出的修订建议旨在尽可能协调收购方及股东尤其是少数股东的利益。因此，新交所监管建议除牌献议必须合理及公平，才能吸引大多数独立股东投票支持除牌。

Source 來源:
http://www.sgx.com/wps/wcm/connect/sgx_en/home/higlights/news_releases/sgx-regco-proposes-changes-to-delisting-rules

Monetary Authority of Singapore and Singapore Exchange Successfully Leverage Blockchain Technology for Settlement of Tokenized Assets

November 11, 2018, the Monetary Authority of Singapore (MAS) and Singapore Exchange (SGX)

announced that they have successfully developed Delivery versus Payment (DvP) capabilities for the settlement of tokenized assets across different blockchain platforms. This will help simplify post-trade processes and further shorten settlement cycles.

The DvP prototypes, developed with technology partners Anquan, Deloitte and Nasdaq, demonstrated that financial institutions and corporate investors are able to carry out the simultaneous exchange and final settlement of tokenized digital currencies and securities assets on different blockchain platforms. The ability to perform these activities simultaneously improves operational efficiency and reduces settlement risks.

The collaboration also demonstrated that DvP settlement finality, interledger interoperability and investor protection can be achieved through specific solutions designed and built on blockchain technology. Following its conclusion, MAS and SGX have jointly published an industry report, which provides a comprehensive view of automating DvP settlement processes with Smart Contracts. The report also identifies key technology and operational considerations to ensure resilient operations, and defines a market framework that governs post-trade settlement processes such as arbitration.

MAS, said that blockchain technology and asset tokenization are fueling a new wave of innovation globally. This project has demonstrated the value of blockchain technology and the benefits it can bring to the financial industry in the short to medium term. The concept of asset tokenization, as well as other learnings gleaned from this project, can potentially be applied to a broad spectrum of the economy, creating a whole new world of opportunities.

SGX said that they are delighted to drive this important industry effort to accelerate innovation in the marketplace. Based on the unique methodology SGX developed to enable real-world interoperability of platforms, as well as the simultaneous exchange of digital tokens and securities, they have applied for their first-ever technology patent.

新加坡金融管理局和新加坡交易所已成功利用区块链技术应用在代币化资产的清算

2018年11月11日，新加坡金融管理局 (新金局) 和新加坡交易所 (新交所) 宣布其已成功开发了付款交割(DvP)功能，以便在不同的区块链平台上进行代币化资产结算。 这将有助于简化交易后流程并进一步缩短结算周期。

与技术合作伙伴 Anquan, Deloitte 和 Nasdaq 共同开发的 DvP 原型证明，金融机构和企业投资者能够在不同的区块链平台上同时交易和最终结算代币化数字货币和证券资产。同时执行这些活动的能力可提高营运效率并降低结算风险。

有关合作还显示，通过区块链技术设计和构建的特定解决方案，可以实现 DvP 最终结算，平台的互操作性和投资者保护。根据得出的结论，新金局和新交所联合发布了一份行业报告，该报告提供了使用智能合约的自动化 DvP 结算流程的全面视图。该报告还指出确保弹性营运的关键技术和营运考虑因素，并确定了管理交易后结算流程如仲裁等的市场框架。

新金局表示: 区块链技术和代币化资产正在推动全球创新浪潮。 该研究展示了区块链技术的价值及其在短期和中期可为金融业带来的好处。代币化资产的概念以及从该研究中获得的其他经验，有可能被应用于广泛的经济方面，创造一个全新的机遇世界。

新交所表示: 其很高兴为推动这重要的产业作出努力，以加速市场创新。基于新交所为实现平台在真实环境的互操作性而开发的独特方法，以及进行数字代币和证券的同步交易，其已提交了首个技术专利申请。

Source 來源:
https://www.sgx.com/wps/wcm/connect/sgx_en/home/higlights/news_releases/mas_and_sgx_successfully_leverage_blockchain_technology_for_settlement_of_tokenised_assets

Singapore Exchange to Launch New Securities Settlement and Depository System T+2 Securities Settlement Cycle on December 10, 2018

November 13, 2018, Singapore Exchange (SGX) announced that they will be launching a new securities settlement and depository framework and system on December 10, 2018, enabling a shorter securities settlement cycle of two days (T+2) and simultaneous settlement of money and securities.

Moving from a T+3 to a T+2 settlement cycle will harmonize Singapore's stock market with that of global markets including Australia, the European Union, Hong Kong and the US. Other improvements that investors can expect include the simultaneous settlement of securities and money, and the streamlining of Central Depository Pte Ltd notifications.

In addition, the new settlement and depository system will allow a broker-linked balance functionality to be made available to investors. This functionality allows investors to give their chosen brokers visibility over specific securities. This will provide brokers the ability to offer more personalized products and services to their clients.

SGX said that they will align their securities clearing and settlement processes with global standards, strengthening Singapore's position as an international financial center. With the new settlement and depository framework, securities and funds will be made available to investors earlier, while reducing risks across systems and markets. SGX's new system will also enable them and their securities members to enhance services for the market.

新加坡交易所自2018年12月10日起推出新 T + 2证券结算周期的证券结算和托收系统

2018年11月13日, 新加坡交易所 (新交所) 宣布将于2018年12月10日推出新的证券结算和托收框架及系统, 实现两天(T+2)的较短证券结算周期以及货币和证券的同步结算。

从 T+3转为 T+2结算周期将使新加坡的股票市场与包括澳大利亚, 欧盟, 香港和美国在内的全球市场的标准一致。投资者可以期待的其他改善包括同时结算证券和资金, 以及精简 Central Depository Pte Ltd 的通报。

此外, 新的结算和托收系统将将允许投资者获得经纪链接结存服务功能。此功能允许投资者可授权经纪取得指定股票的资料。这将使经纪能够为其客户提供更多个人化的产品和服务。

新交所表示: 这是为了让其将证券结算和结算流程与全球标准保持一致, 从而加强新加坡作为国际金融中心的地位。在新的结算和托收框架, 投资者能够更快取得证券和资金, 同时降低系统和市场风险。新交所的新系统还将使他们及其证券从业员能够增强对市场的服务。

Source 來源:
https://www.sgx.com/wps/wcm/connect/sgx_en/home/higlights/news_releases/sgx_launches_new_securities_settlement_and_depository_system_t2_securities_settlement_cycle_from_10_december

Bank of China Limited, China Foreign Exchange Trade System & National Interbank Funding Center and Singapore Exchange Sign Strategic Cooperation Agreement on CFETS-BOC Bond Indices

November 14 2018, Bank of China Limited (BOC), China Foreign Exchange Trade System & National Interbank Funding Center (CFETS) and Singapore Exchange (SGX) announced that they have signed a strategic cooperation agreement to jointly promote CFETS-BOC Traded Bond Index and its sub-indices (Bond Indices) outside of China to international investors, as well as to explore the feasibility of developing products based on the Bond Indices.

SGX will be the first exchange to distribute the Bond Indices outside of China, by publishing the Bond Indices on SGX's website (http://www.sgx.com/indices/cfets-boc-traded-bond-indices). The three parties will jointly organize educational sessions and publicity activities to promote the development and increase investor awareness of the Bond Indices.

As part of the collaboration agreement, they will also explore disseminating the Bond Indices via SGX's market data distribution network, and using the Bond Indices as a component in the indices calculated by SGX. In addition, they will explore the feasibility of developing financial products using the Bond Indices as the underlying, to be listed on SGX.

CFETS and BOC jointly developed and launched the Bond Indices, which are based on the transaction characteristics of various types of bonds and represent top liquidity in the current China Interbank Bond Market (CIBM). These indices serve to provide an effective price-level indicator of the CIBM for domestic and foreign investors, who wish to follow CIBM movements for performance benchmarking and portfolio construction and management.

SGX said that this strategic cooperation marks a further strengthening of financial ties between Singapore and China. As China forges ahead with the opening up of its financial markets, SGX is well-placed to raise the visibility of the Bond Indices and facilitate greater global institutional investor interest. The distribution of the Indices through SGX's network will also familiarize international investors with Chinese domestic markets. SGX looks forward to closer collaboration between the three organizations and the two countries, so as to enhance cross-border opportunities benefitting both markets.

中国银行, 中国外汇交易中心与新加坡交易所就中国外汇交易中心-中国银行交易型债券指数签署战略合作协议

2018年11月14日, 中国银行, 中国外汇交易中心和新加坡交易所 (新交所) 宣布已签署战略合作协议, 共同向在中国以外的国际投资者推广中国外汇交易中心-中国银行交易型债券指数和其分类指数(债券指数), 以及探索基于债券指数开发产品的可行性。

新交所将成为首个在中国以外分销债券指数的交易所,通过在新交所网(http://www.sgx.com/indices/cfets-boc-traded-bond-indices) 上发布债券指数。 三方将联合举办培训课程和宣传活动, 以促进发展, 提高投资者对债券指数的认识。

作为合作协议的一部分, 三方还将探讨通过新交所的市场数据分销网络发布债券指数, 并将债券指数作为新交所计算指数的的成分。 此外, 三方将探讨以债券指数为基础开发金融产品的可行性, 并将在新交所上市。

中国外汇交易中心和中国银行共同开发并推出了债券指数, 这些债券指数基于各类债券的交易特征和代表当前中国银行间债券市场的最大流动性。 这些指数有助于为中国和外国投资者提供有效的中国银行间债券市场价格水平指标, 使愿意遵循中国银行间债券市场的变动进行业绩指标和投资组合的建设和管理。

新交所表示: 此次战略合作标志着新加坡与中国之间金融关系的进一步加强。 随着中国开放金融市场的进程,新交所有望提高债券指数的知名度, 并促进更多全球机构投资者的兴趣。通过新交所网络分销指数也将使国际投资者熟悉中国国内市场。新交所期待三个机构和两国之间更密切的合作, 以增加有利于两个市场的跨境商机。

Source 來源:
https://www.sgx.com/wps/wcm/connect/sgx_en/home/higlights/news_releases/boc_cfets_and_sgx_sign_strategic_cooperation_agreement

U.S. Securities and Exchange Commission Proposes Disclosure Improvements for Variable Annuities and Variable Life Insurance Contracts

On October 30, 2018, the U.S. Securities and Exchange Commission (SEC) announced to propose rule changes designed to improve disclosure for investors about variable annuities and variable life insurance contracts (contracts). The proposal is intended to help investors better understand these contracts' features, fees, and risks, and to more easily find the information that they need to make an informed investment decision.

The proposal would newly permit these contracts to use a summary prospectus to provide disclosures to investors. The document would be a concise, reader-friendly summary of key facts about the contract. More-detailed information about the contract would be available online, and an investor also could choose to have that information delivered in paper or electronic format at no charge.

Mutual funds have been permitted to use a similar layered approach to disclosure—with investors receiving a summary prospectus, and more-detailed information available on request—since 2009.

The SEC said that providing key summary information about the contracts to investors is particularly important in light of the long-term nature of these contracts and their potential complexity.

The SEC has requested public comment on the proposed rule changes, as well as on hypothetical summary prospectus samples that it has published. The public comment period will remain open through February 15, 2019.

美国证券交易委员会提出了可变年金和可变人寿保险合同信息披露的改善建议

美国证券交易委员会 (证交会) 于2018年10月30宣布建议变更规则, 以改善投资者对可变年金和可变人寿保险合同(合同)信息的披露。 该建议旨在帮助投资者更好地了解这些合同的特征, 费用和风险, 并更方便地查阅使他们做出明智投资决策所需的信息。

该建议将允许这些合同使用计划书摘要向投资者披露信息。 该文件将是关于合同的重要内容的简明, 通俗易懂的摘要。 有关合同的更详细信息将可在线查阅, 投资者也可以选择免费提供的纸张或电子形式的信息。

互惠基金已获准使用类似的分层方式进行披露 – 投资者可以收到摘要说明书, 并且根据要求提供自2009年以来更详细的信息。

证交会表示: 鉴于这些合同的长期性及其潜在的复杂性, 向投资者提供关于合同的重要信息摘要尤其重要。

证交会已就建议的规则变更以及已公布的模拟计划书摘要样本征求公众意见。 公众意见征询期将继续开放至2019年2月15日。

Source 來源:
https://www.sec.gov/news/press-release/2018-246

U.S. Securities and Exchange Commission Charges EtherDelta Founder With Operating an Unregistered Exchange

On November 8, 2018, the U.S. Securities and Exchange Commission (SEC) announced settled charges against Zachary Coburn, the founder of EtherDelta, a digital "token" trading platform. This is the SEC's first enforcement action based on findings that such a platform operated as an unregistered national securities exchange.

According to the SEC's order, EtherDelta is an online platform for secondary market trading of ERC20 tokens, a type of blockchain-based token commonly issued in Initial Coin Offerings (ICOs). The order found that Coburn caused EtherDelta to operate as an unregistered national securities exchange.

EtherDelta provided a marketplace for bringing together buyers and sellers for digital asset securities through the combined use of an order book, a website that displayed orders, and a “smart contract” run on the Ethereum blockchain. EtherDelta's smart contract was coded to validate the order messages, confirm the terms and conditions of orders, execute paired orders, and direct the distributed ledger to be updated to reflect a trade.

Over an 18-month period, EtherDelta's users executed more than 3.6 million orders for ERC20 tokens, including tokens that are securities under the federal securities laws. Almost all of the orders placed through EtherDelta's platform were traded after the SEC issued its 2017 DAO Report, which concluded that certain digital assets, such as DAO tokens, were securities and that platforms that offered trading of these digital asset securities would be subject to the SEC's requirement that exchanges register or operate pursuant to an exemption. EtherDelta offered trading of various digital asset securities and failed to register as an exchange or operate pursuant to an exemption.

The SEC has previously brought enforcement actions relating to unregistered broker-dealers and unregistered ICOs, including some of the tokens traded on EtherDelta.

Without admitting or denying the findings, Coburn consented to the order and agreed to pay US$300,000 in disgorgement plus US$13,000 in prejudgment interest and a US$75,000 penalty. The SEC's order recognizes Coburn's cooperation, which the SEC considered in determining not to impose a greater penalty.

The SEC said that EtherDelta had both the user interface and underlying functionality of an online national securities exchange and was required to register with the SEC or qualify for an exemption. The SEC is witnessing a time of significant innovation in the securities markets with the use and application of distributed ledger technology, but to protect investors, this innovation necessitates the SEC's thoughtful oversight of digital markets and enforcement of existing laws.

美国证券交易委员会指控 EtherDelta 创办人营运未注册的交易所

于2018年11月8日，美国证券交易委员会(证交会) 宣布对数字“代币”交易平台 EtherDelta 的创办人 Zachary Coburn (Coburn) 提起诉讼。 这是证交会首次对一个平台作为未注册的国家证券交易所营运的执法结果。

根据证交会的命令，EtherDelta 是 ERC20代币二级交易市场的在线平台，这是一种通常在初始代币产品(ICOs)以区块链支援发行的代币。 该命令发现 Coburn 造成 EtherDelta 作为未注册的国家证券交易所营运。

EtherDelta 通过结合使用显示订单的网站及在以太坊区块链上运行的“智能合约”，为买卖双方提供一个数字资产证券交易的市場。 EtherDelta 的智能合约被编码以验证订单讯息，确认订单的条款和条件，执行配对订单，并指示分布式分类帐进行更新以反映交易情况。

在18个月的期间内，EtherDelta 的用户执行了超过360万份 ERC20代币订单，其中包括根据联邦证券法属于证券的代币。几乎所有通过 EtherDelta 平台下达的订单都在证交会发布2017年 DAO 报告后进行交易，该报告得出的结论是某些数字资产(如 DAO 代币)是证券，而提供这些数字资产证券交易的平台将受制于证交会的规限，即注册为交易所或提交豁免注册申请营运。EtherDelta 提供各种数字资产证券的交易，但没有注册为交易所或获得豁免注册营运。

证交会早前已提起与未注册的经纪-交易商和未注册的 ICO 有关的执法行动，包括一些在 EtherDelta 上进行的代币交易。

在不承认或否认调查结果的情况下，Coburn 同意该命令并同意支付30万美元的赔偿金以及13,000美元的判决前利息和75,000美元的罚款。 证交员会的命令确认 Coburn 与其合作，令其在考虑时决定不加重处罚。

证交会表示: EtherDelta 既有用户界面，也有在线国家证券交易所的基本功能，而需要向证交会注册或获得豁免资格。随着分布式账本技术的使用和应用，证交会正在经历证券市场的重大创新时代，但为保护投资者,证交会有必要就这项创新科技对数字市场进行周全监管并执行现有法律。

Source 來源:
https://www.sec.gov/news/press-release/2018-258

Stock Research Firm and Co-Founders Charged with Deceiving Investors in Supposedly Unbiased Reports by U.S. Securities and Exchange Commission

On November 8, 2018, the U.S. Securities and Exchange Commission (SEC) charged a stock research firm and its co-founders with defrauding investors by issuing reports purportedly based on “unbiased” and “not paid for” research when in reality they received thousands of dollars from issuers as a condition to providing each report.

According to the SEC’s complaint, SeeThruEquity LLC and brothers Ajay and Amit Tandon camouflaged the payments by inviting companies to make a “presentation”

at an investor conference in order to receive a research report for free. SeeThru and the Tandons allegedly collected up to several thousand dollars in conference presentation fees per company, and the issuers regularly had input into the substance of the supposedly unbiased research reports, even including the price targets at times. The SEC alleges that the Tandons often instructed SeeThru analysts to use different, higher price targets for covered issuers than those yielded through purported quantitative analysis, and the price targets contained in SeeThru's reports were typically more than 300 percent above the current trading price of the stock.

The SEC further alleges that Ajay Tandon, who serves as CEO, frequently traded in the same stocks that SeeThru was evaluating despite stating in published interviews and elsewhere that neither the firm nor its principals traded in securities for which they published research. According to the SEC's complaint, Tandon also engaged in scalping, which is a form of securities fraud that occurs when a perpetrator makes a stock recommendation to investors and contemporaneously trades against that very recommendation in the open market without adequate disclosure.

"There is a clear line between paid advertising and unbiased research coverage, and we allege that SeeThru and its co-founders crossed it to deceive investors and make money," said Richard R. Best, Director of the SEC's Atlanta Regional Office. "According to our complaint, Ajay Tandon even scalped multiple issuers, further revealing the biased nature of SeeThru's research reports."

The SEC's complaint, which was filed in federal court in Manhattan, charges Ajay Tandon and SeeThru with violating the antifraud provisions of the federal securities laws, and charges Ajay and Amit Tandon with aiding and abetting certain violations by SeeThru. The SEC seeks permanent injunctions, a conduct-based injunction that would bar the Tandons and SeeThru from promoting the issuer of any security, and disgorgement of ill-gotten gains plus interest, penalties, officer-and-director bars, and penny stock bars.

The SEC's litigation will be led by Pat Huddleston II and Paul Kim of the Atlanta office, and the ongoing investigation is being conducted by Joshua M. Dickman and supervised by Natalie M. Brunson of the Atlanta office.

股票研究公司和联合创始人被美国证券交易委员会指控于应为公正无偏见的报告中欺骗投资者

于2018年11月8日，美国证券交易委员会指控一家股票研究公司及其联合创始人欺诈投资者发布据称基于"无偏见"和"未付款"研究的报告，实际上他们从发行人那里获得了数千美元作为提供每份报告的条件。

根据美国证券交易委员会的投诉，SeeThruEquity LLC 和 Ajay 和 Amit Tandon 兄弟通过邀请公司在投资者会议上进行"演示"以免费收到研究报告来伪装付款。据称，Thh 和 Tandons 每家公司收取高达数千美元的会议演示费，发行人经常对所谓的无偏见研究报告的实质内容进行投入，甚至包括有时的价格目标。美国证券交易委员会称，Tandons 经常指示 SeeThru 分析师对承保发行人使用不同的，更高价格的目标，而不是通过声称的定量分析产生的目标，而 SeeThru 报告中包含的价格目标通常比股票的当前交易价格高出300％以上。

美国证券交易委员会进一步声称，担任首席执行官的 Ajay Tandon 经常交易 SeeThru 正在评估的股票，尽管在公布的访谈和其他地方表示，该公司及其负责人都没有交易他们发表研究证券。根据美国证券交易委员会的投诉，Tandon 还进行了股票投机，这是一种当犯罪者向投资者提出股票推荐并同时在公开市场上对该建议进行交易而没有充分披露时证券欺诈行为。

美国证券交易委员会亚特兰大地区办事处主任理查德·R·贝斯特说："付费广告和无偏见的研究报道之间存在明确界限，我们声称 SeeThru 及其联合创始人跨过它来欺骗投资者并赚钱。""根据我们的投诉，Ajay Tandon 甚至对多个发行人进行了调整，进一步揭示了 SeeThru 研究报告的偏见性质。"美国证券交易委员会的投诉是在曼哈顿联邦法院提起的，指控 Ajay Tandon 和 SeeThru 违反联邦证券法的反欺诈条款，并指控 Ajay 和 Amit Tandon 协助并教唆 SeeThru 的某些违规行为。美国证券交易委员会寻求永久性禁令，这是一种基于行为的禁令，禁止 Tandons 和 SeeThru 促销发行人的任何证券，以及退回不义之财、利息，支付罚款，以及禁止担任高管和董事和限制股票交易。

美国证券交易委员会的诉讼将由亚特兰大办事处的 Pat Huddleston II 和 Paul Kim 领导，正在进行的调查由 Joshua M. Dickman 进行，并由亚特兰大办事处的 Natalie M. Brunson 监督。

Source 來源:
https://www.sec.gov/news/press-release/2018-259

U.S. Securities and Exchange Commission Settles Insider Trading Claims Against Former Chairman and CEO of Advanced Medical Optics

On November 13, 2018, the U.S. Securities and Exchange Commission today announced that it has agreed to resolve its insider trading claims against

James V. Mazzo, the former Chairman and Chief Executive Officer of Advanced Medical Optics, Inc. (AMO) for allegedly tipping information about his company's acquisition to his close personal friend, former professional baseball player Douglas V. DeCinces.

The SEC's complaint alleged that in October 2008 Mazzo executed a nondisclosure agreement with Abbott Laboratories, Inc., as Abbott explored a potential acquisition of AMO. As talks between AMO and Abbott progressed over the ensuing months, Mazzo provided DeCinces with material, nonpublic information about the acquisition on multiple occasions. The complaint further alleges that DeCinces bought AMO securities numerous times after communicating with Mazzo about the progress of the merger talks. DeCinces also allegedly tipped five of his friends, including a former Baltimore Orioles teammate and a businessman, David L. Parker. DeCinces's trading resulted in over $1.3 million in alleged ill-gotten gains, and the tippees obtained another $1 million in ill-gotten gains.

"The Commission alleges that Mr. Mazzo, a company insider, repeatedly gifted material, nonpublic information to his friend Mr. DeCinces, who in turn tipped his own friends," said Kelly L. Gibson, Associate Regional Director for Enforcement in the SEC's Philadelphia Regional Office. "When it comes to insider trading, the fact that the insider does not directly share in the tippee's ill-gotten gains does not excuse his decision to benefit a friend at the expense of other shareholders."
Without admitting or denying the allegations, Mazzo agreed to a final judgment that includes a permanent injunction from violations of the antifraud and tender offer provisions of the Exchange Act, orders Mazzo to pay a civil penalty in the amount of $1.5 million, and imposes a five-year officer-and-director bar. The settlement is subject to final approval by the court.

DeCinces and four of his tippees already settled the Commission's insider trading claims against them. The SEC's litigation against Parker is continuing.

The litigation is being led by Christopher R. Kelly and supervised by Jennifer C. Barry in the SEC's Philadelphia Regional Office.

美国证券交易委员会对高级医疗光学前董事长兼首席执行官提出内幕交易索赔

于2018年11月13日,美国证券交易委员会宣布已同意解决其对 Advanced Medical Optics，Inc.（AMO）前董事长兼首席执行官 James V. Mazzo 的内幕交易索赔，Mazzo 涉嫌向其私人朋友，前职业棒球运动员 Douglas V. DeCinces 透露有关其公司收购的信息。

美国证券交易委员会的投诉称，2008年10月，Mazzo 与 Abbott Laboratories，Inc.签署了一份保密协议，因为雅培探索了对 AMO 的潜在收购。随着 AMO 和雅培之间的谈判在随后的几个月中取得进展，Mazzo 多次向 DeCinces 提供有关此次收购的重要非公开信息。该投诉进一步指控 DeCinces 在与 Mazzo 沟通合并谈判进展后多次购买 AMO 证券。据称，DeCinces 还向他的五个朋友倾诉，其中包括一名前巴尔的摩金莺队友和一名商人 David L. Parker。 DeCinces 的交易导致超过130万美元的所谓不义之财，而且该骗局获得了另外100万美元的不义之财。

委员会声称，“公司内部人员 Mazzo 先生多次向他的朋友 DeCinces 先生提供重要的非公开信息，DeCinces 先生又为自己的朋友提供了信息，”美国证券交易委员会费城区域办事处执法副总裁 Kelly L. Gibson 说。“当涉及到内幕交易时，内幕人士没有直接分享他们不义之财的事实，这并不能成为他以牺牲其他股东为代价让朋友受益的决定的借口。”在不承认或否认这些指控的情况下，Mazzo 同意最终判决，其中包括违反反欺诈和交易法案中的要约收购条款的永久禁令，命令 Mazzo 支付150万美元的民事罚款，并判处5年禁止担任高管和董事。和解须经法院最终批准。

DeCinces 和他的四个内幕消息接收人已经解决了委员会对他们的内幕交易索赔。美国证券交易委员会对帕克的诉讼仍在继续。

诉讼由 Christopher R. Kelly 领导，并由美国证券交易委员会费城地区办事处的 Jennifer C. Barry 监督。

Source 來源:
https://www.sec.gov/news/press-release/2018-261

U.S. Securities and Exchange Commission Charges Giga Entertainment Media, Former Officers and Directors with Fraud in Pay-For-Download Campaign

On November 15, 2018, the U.S. Securities and Exchange Commission (SEC) charged Giga Entertainment Media Inc. (Giga) and five of its former officers and directors - Gary Nerlinger (Nerlinger), Jarret Streiner (Streiner), Lawrence Silver (Silver), Alfred Colucci (Colucci), and Charles Noska (Noska) - with fraud in connection with a scheme to mislead investors.

According to the SEC’s complaint, between February and August 2016, Giga bought at least 559,662 downloads from outside marketing firms to boost the profile of the company’s mobile app, SELFEO. These firms provided Giga with a shortcut to propel its app to the top of the Apple Store download rankings. But

instead of disclosing the real cause of the app's artificial meteoric rise, Giga misled its shareholders into believing that this success was due to traditional marketing tactics like billboards and radio advertisements. The complaint alleges that when Giga stopped paying for downloads in August 2016, the app's rankings on the Apple Store plummeted. Rather than come clean about the fact that the spike in downloads was a result of paid download campaigns, Giga, Nerlinger, Streiner, and Colucci lied and told shareholders that the number of downloads continued to grow at the same high rate. Further, Nerlinger, Silver, Colucci, and Noska lied and falsified documents to conceal Nerlinger's role as Giga's de facto CEO to prevent the investors from discovering his prior criminal conviction for mail fraud.

Without admitting or denying the findings, Giga, Nerlinger, Silver, Colucci, Noska, and Streiner consented to the entry of an SEC order finding that they violated the antifraud provisions, and a finding that Giga violated registration provisions of the federal securities laws. Colucci and Noska each agreed to a US$25,000 penalty, and Streiner agreed to a US$15,000 penalty. The court will determine what penalty Silver will pay and what disgorgement and penalty Nerlinger will pay. In addition, Nerlinger, Silver, and Colucci each agreed to a permanent officer and director bar, and Streiner agreed to a five-year bar.

The SEC said that tech companies can buy clicks or employ other new marketing tools to improve their on-line image, but they have to be honest with investors when touting the fruits of such efforts.

美国证券交易委员会指控 Giga Entertainment Media 前高级人员和董事在付费下载活动中欺诈

2018年11月15日，美国证券交易委员会（证交会）指控 Giga Entertainment Media Inc. (Giga) 及其前任高级人员和董事 - Gary Nerlinger (Nerlinger), Jarret Streiner (Streiner), Lawrence Silver (Silver), Alfred Colucci (Colucci) 和 Charles Noska (Noska) – 涉嫌与欺诈投资者的计划有关。

根据证交会的起诉书，在2016年2月至8月期间，Giga 从外部营销公司购买了至少559,662次下载，以提升该公司移动应用程式 SELFEO 的关注。这些公司为 Giga 提供了一条捷径，可以将其应用程式推向 Apple Store 下载排名的前列。但 Giga 没有透露该应用程式人为疾速增长的真正原因，而是误导其股东相信成功是由于传统的营销策略，如广告牌和电台广告。该起诉书声称，当 Giga 在2016年8月停止支付下载费用时，该应用程式在 Apple Store 上的排名急剧下降。Giga, Nerlinger, Streiner 和 Colucci 向股东谎称下载数量继续同样高速增长，而不是说实话；下载量激增是因付费下载活动所导致。此外，Nerlinger, Silver, Colucci 和 Noska 谎称并伪造文件，以掩盖 Nerlinger 作为 Giga 事实上的首席执行官的角色，以防止投资者发现他先前因邮件欺诈而被刑事定罪。

在没有承认或否认调查结果的情况下，Giga, Nerlinger, Silver, Colucci, Noska 和 Streiner 同意证交会命令的认定，其违反了反欺诈条款，并且认定 Giga 违反了联邦证券法的注册条款。Colucci 和 Noska 各自同意罚款25,000美元，及 Streiner 同意罚款15,000美元。法院将确定 Silver 将支付的罚金以及 Nerlinger 将支付的罚款和罚金。此外，Nerlinger, Silver 和 Colucci 各自同意永久禁止担任高级人员和董事，而 Streiner 同意5 年的禁制令。

证交会表示: 科技公司可以购买点击率或使用其他新的营销工具来改善其的在线形象，但在宣传这方面的成果时，必须对投资者诚实。

Source 來源:
https://www.sec.gov/news/press-release/2018-263

Two Initial Coin Offerings Issuers Settle U.S. Securities and Exchange Commission's Registration Charges and Agree to Register Tokens as Securities

On November 16, 2018, the U.S. Securities and Exchange Commission (SEC) announced settled charges against two companies that sold digital tokens in initial coin offerings (ICOs). These are the SEC's first cases imposing civil penalties solely for ICO securities offering registration violations. Both companies have agreed to return funds to harmed investors, register the tokens as securities, file periodic reports with the SEC, and pay penalties.

According to the SEC's orders, both CarrierEQ Inc. (Airfox) and Paragon Coin Inc. (Paragon) conducted ICOs in 2017 after the SEC warned that ICOs can be securities offerings in its DAO Report of Investigation. Airfox, a Boston-based startup, raised approximately US$15 million worth of digital assets to finance its development of a token-denominated "ecosystem" starting with a mobile application that would allow users in emerging markets to earn tokens and exchange them for data by interacting with advertisements. Paragon, an online entity, raised approximately US$12 million worth of digital assets to develop and implement its business plan to add blockchain technology to the cannabis industry and work toward legalization of cannabis. Neither Airfox nor Paragon registered their ICOs pursuant to the federal securities laws, nor did they qualify for an exemption to the registration requirements.

These cases follow the SEC's first non-fraud ICO registration case, Munchee, Inc. (Munchee). The SEC did not impose a penalty or include undertakings from

Munchee, which stopped its offering before delivering any tokens and promptly returned proceeds to investors.

The orders impose US$250,000 penalties against each company and include undertakings to compensate harmed investors who purchased tokens in the illegal offerings. The companies also will register their tokens as securities pursuant to the Securities Exchange Act of 1934 and file periodic reports with the SEC for at least one year. Airfox and Paragon consented to the orders without admitting or denying the findings.

The SEC said that they have made it clear that companies that issue securities through ICOs are required to comply with existing statutes and rules governing the registration of securities. These cases tell those who are considering taking similar actions that the SEC continues to be on the lookout for violations of the federal securities laws with respect to digital assets.

两个初始代币发售的发行人就注册指控与美国证券交易委员会达成和解并同意将代币登记为证券

2018年11月16日, 美国证券交易委员会 (证交会) 宣布对两家在初始代币发售 (ICOs) 中销售数字代币的公司提起诉讼。 这两个案件是证交会首批仅针对注册违规的 ICO 证券实施民事处罚的案件。 两家公司已同意将资金返还给受损害的投资者, 将代币登记为证券, 向证交会提交定期报告, 并支付罚金。

根据证交会的命令, 在其 DAO 调查报告中提出警告 ICOs 可以属于证券销售后, CarrierEQ Inc.(Airfox) 和 Paragon Coin Inc. (Paragon) 都在2017年开展 ICOs 销售。总部位于波士顿的创业公司 Airfox 筹集了价值约1500万美元的数字资产, 以资助其开发以代币为单位的"生态系统", 首先开始使用移动应用程式,允许用户在新兴市场获取代币, 并通过与公告栏互动交换其数据。Paragon 是一家在线实体, 筹集了价值约1,200万美元的数字资产, 用于制定和实施其商业计划, 为大麻产业提高区块链技术的应用, 并努力实现大麻合法化。Airfox 和 Paragon 都没有根据联邦证券法注册其 ICOs, 也没有获得豁免注册要求的资格。

这两个案件遵循证交易会首个非欺诈性 ICO 注册案件, Munchee, Inc. (Munchee)。证交会没有对 Munchee 进行处罚或包括 Munchee 的承诺在交付任何代币之前停止了其发售, 并立即将所得款项退还给投资者。

这个命令对每家公司处以250,000美元的罚款, 并包括承诺赔偿在非法发售中购买代币的受损害的投资者。这两家公司还将根据《1934年证券法》将其代币登记为证券, 并向证交会提交至少一年的定期报告。 Airfox 和 Paragon 在不承认或否认调查结果的情况下同意了这个命令。

证交会表示: 其已明确表示, 通过 ICOs 发行证券的公司必须遵守有关证券登记的现行法规和规则。这些案件告诫那些正在考虑采取相似做法的人, 证交会将继续关注数字资产违反联邦证券法的行为。

Source 來源:
https://www.sec.gov/news/press-release/2018-264

Shanghai Stock Exchange Formulates Relevant Business Rules to Support Listed Companies' Legal Shares Repurchases

The Standing Committee of the National People's Congress deliberated and approved the "Decision on Revising the 'Company Law of the People's Republic of China' by the Standing Committee of the National People's Congress" (Decision) on October 26, 2018. It has revised the rules on the corporate shares repurchase system in Article 142 of the Company Law, and the revision shall come into force from the date of issuance, marking an important step in the fundamental system reform of the Chinese capital market. The Decision has newly added the situations for shares repurchase, simplify the repurchase routing and set up the treasury stock system according to the demand for market development. All these have granted more decision-making power to companies, allowing them to have more convenient and more marketized choices in safeguarding corporate value, repaying investors and carrying out long-term incentive mechanism, and they are of great significance to improving the quality of listed companies and actively repaying investors.

The Decision requires that a listed company, when repurchasing its shares, should fulfill its information disclosure obligation according to the Securities Law with a view to protect investor's right to know. Previously, when the amendment to the "Company Law" was soliciting public opinions, the Shanghai Stock Exchange (SSE) had started to formulate and revise the relevant business rules on shares repurchase and its format guideline under the guidance of the China Securities Regulatory Commission (CSRC), to guide listed companies to fulfill their information disclosure obligation according to law and help companies to manage specific businesses on trading, ownership transfer, inventory, deregistration, transfer and creditor protection arrangement related to shares repurchase. Currently, the drafts of the relevant business rules and the format guideline of shares repurchase have been formed. The SSE will, under the unified deployment and arrangement of the CSRC, revise and improve them as soon as possible for their early release and implementation.

Listed companies on the SSE have actively responded to the Decision since its issuance, and an increase has

been seen in the number of Shanghai listed companies in releasing repurchase scheme and carrying out shares repurchase. A total of 30 listed companies on the SSE have released their notices on shares repurchase in these two days since the issuance of the Decision on October 26, among which 14 have released the shares repurchase proposal or plan, and 16 have released the progress in shares repurchase. At this point, the SSE will adhere to its idea of laying equal stress on regulation and service, focus on the policy consultation and rules interpretation for the Decision, especially the information disclosure and business handling for the newly-added situation of shares repurchase in the Decision, support and guide listed companies to carry out shares repurchase according to law, and maintain the corporate value and the shareholders' rights and interests.

Meanwhile, the SSE will continue to exert strict requirement on the information disclosure of the companies and their controlling shareholders, directors, supervisors and senior executives, and prevent such inappropriate behaviors as benefit transfer, insider trading and market manipulation through shares repurchase, thus giving full play to the role of the new shares repurchase system and promoting the sound and stable development of the capital market.

上海证券交易所尽快制定配套业务规则支持上市公司依法合规实施股份回购

2018年10月26日，全国人大常委会审议通过了《全国人民代表大会常务委员会关于修改<中华人民共和国公司法>的决定》(修改决定)，对《公司法》第一百四十二条有关公司股份回购制度的规定进行了专项修改，自公布之日起施行。此次对股份回购制度的修改，是中国资本市场基础制度改革的重要一步。《修改决定》根据市场发展需要，新增了可实施股份回购的情形，简化了回购程序安排，建立了库存股制度。这些安排赋予了公司更多自主权，使公司在维护公司价值、积极回报投资者和推行长效激励机制上，有了更便捷、更市场化的选择，对于提升上市公司质量，积极回报投资者，意义重大。

《修改决定》要求，上市公司收购本公司股份应当依照《证券法》的规定履行信息披露义务，旨在充分满足投资者的知情权。前期，在《公司法》修正案公开征求意见后，上海证券交易所(上交所)即已在中国证监会(中证监)的指导下，着手制定修订股份回购的相关配套业务规则、公告格式指引，以引导上市公司依法依规履行好信息披露义务，帮助公司办理好股份回购相关的交易、过户、库存、注销、转让及债权人保护安排等各项具体业务。目前，相关股份回购相关配套业务规则、公告格式指引已形成初稿。上交所将按照中证监的统一部署和安排，抓紧予以修订和完善，尽快发布实施。

此次《修改决定》发布实施后，上海市上市公司主动响应，发布回购预案、实施回购的沪市公司家数明显增加。10月26日《修改决定》发布后的两天内，沪市已有30家上市公司披露股份回购相关公告，其中有14家披露股份回购提议或预案，16家披露股份回购实施进展。就此，上交所坚持监管与服务并重的理念,重点做好对《修改决定》的政策咨询、规则解读等工作，尤其是对《修改决定》新增的股份回购情形做好信息披露、业务办理等服务，支持引导上市公司依法合规开展股份回购，维护好公司价值和股东权益。

同时，上交所也将继续严格公司及其控股股东和董监高信息披露要求，防范利用回购实施利益输送、内幕交易、市场操纵等不当行为，以充分发挥新股份回购制度的积极作用，推动资本市场稳定健康发展。

Source 來源:
http://www.sse.com.cn/aboutus/mediacenter/hotandd/c/c_20181028_4665279.shtml

Shanghai Stock Exchange and Japan Exchange Group Sign a Memorandum of Understanding on Closer Cooperation to Promote China-Japanese ETF Connect

On October 26, 2018, Jiang Feng, President of the Shanghai Stock Exchange (SSE), and Akira Kiyota, CEO of Japan Exchange Group (JPX), signed a Memorandum of Understanding (MOU) on Closer Cooperation on behalf of the two exchanges. The two sides agreed to carry out the feasibility study on ETF products cooperation to jointly promote the China-Japan ETF Connect and strengthen their cooperation.

The MOU was signed when Japanese Prime Minister was visiting China. The China Securities Regulatory Commission (CSRC) and the Japan Financial Services Agency signed the "Memorandum of Understanding on Promoting the Cooperation between Chinese and Japanese Stock Markets" under the witness of Premier of the State Council Li Keqiang and Japanese Prime Minister Shinzo Abe. The ETF cooperation between the SSE and the JPX marked an active measure to respond to the in-depth cooperation and exchange between the two sides' futures and securities regulation institutions and expand the China-Japan pragmatic cooperation in the financial field.

The SSE signed a memorandum of understanding with the Tokyo Stock Exchange and the Osaka Securities Exchange in 2002 and 2004, successively. Afterwards, they had high-level visits and personnel and information exchanges and maintained long-term good cooperation relations.

In recent years, the SSE has committed to promoting the

internationalization of the exchange under the arrangement and guidance of the CSRC. In the future, the SSE will continue to strengthen talks and cooperation with overseas exchanges, explore innovative cooperation modes for domestic and overseas capital markets, and earnestly facilitate the two-way opening-up of the Chinese capital market.

上海证券交易所与日本交易所集团签署更紧密合作谅解备忘录共同推动中日 ETF 互通

2018年10月26日，上海证券交易所(上交所)总经理蒋锋、日本交易所集团(日本交易所)首席执行官清田瞭代表两所签署了更紧密合作谅解备忘录(该备忘录)。双方约定，将就 ETF 产品领域合作开展可行性研究，共同推动实现中日 ETF 互通，深化两所合作。

该备忘录签署，正值日本首相访华期间。中国证监会(中证监)与日本金融厅在国务院总理李克强和安倍晋三的共同见证下签署了《促进两国证券市场合作的谅解备忘录》。上交所与日本交易所开展 ETF 合作，是响应两国期货证券监管机构深化合作交流，拓展中日在金融领域开展务实合作的积极举措。

上交所曾于2002年和2004年，与当时的东京交易所、大阪交易所先后签订了备忘录。此后，两所进行了高层互访、人员交流、信息交换等交往与合作，保持了长期良好的合作关系。

近年来，在中证监统一部署和指导下，上交所一直致力于推动交易所国际化。未来，上交所将继续加强与境外交易所的交流合作，探索境内外资本市场合作创新模式,切实推进中国资本市场双向开放。

Source 來源:
http://www.sse.com.cn/aboutus/mediacenter/hotandd/c/c_20181026_4664241.shtml

Financial Conduct Authority of the United Kingdom Launches Cost Transparency Initiative on Charges Payable by Institutional Investors

November 7, 2018, Financial Conduct Authority (FCA) of the United Kingdom announced that the Cost Transparency Initiative (CTI) was launched. The CTI is an independent group working to improve cost transparency for institutional investors with the responsibility for progressing the work already undertaken by the Institutional Disclosure Working Group (IDWG). The CTI is supported by Pensions and Lifetime Savings Association, Investment Association and Local Government Pension Scheme Advisory Board and was recommended as part of the IDWG's report to the FCA on June 15 2018. The IDWG was set up to support consistent and standardized disclosure of costs and charges to institutional investors.

The FCA launched the IDWG as part of the Asset Management Market Study remedies package.

The main focus of the IDWG was on the provision of helpful information to assist institutional investors by detailing what costs they are paying. It has not focused specifically on creating a method of delivering compliance with MiFID and other requirements. However, the IDWG templates have been designed to be aligned with the relevant disclosure obligations in MiFID II. So while firms must continue to ensure that they individually meet all relevant regulatory requirements, if these templates are completed in a comprehensive and accurate way, including all costs and associated charges, the information in the templates should assist firms in meeting those requirements.

The FCA wants to see more consistent and standardized disclosure of costs and charges to institutional investors. The FCA thinks a standardized disclosure template should provide institutional investors with a clearer understanding of the costs and charges for a given fund or mandate. This should allow investors to compare charges between providers and give them a clear expectation of the disclosure they can expect.

英国金融行为监管局成立机构投资者应付费用的成本透明化机制

2018年11月7日，英国金融行为监管局 (英国金管局) 宣布推出针对机构投资者应付费用的成本透明化机制。成本透明倡议组织是一个致力于提高机构投资者成本透明度的独立组织，负责推进的机构披露工作小组 (机构披露小组) 已经开展工作。成本透明倡议组织得到养老金和终身储蓄协会，投资协会和地方政府养老金计划咨询委员会的支持，并被推荐为机构披露小组于2018年6月15日向英国金管局提交报告的一部分。机构披露小组的成立是为了支持对机构投资者的成本和收费作一致和标准化的披露。

英国金管局启动了机构披露小组作为资产管理市场研究补救措施一揽子计划的一部分。

机构披露小组的主要重点是提供有用的信息，通过详细说明其支付的成本来协助机构投资。 它没有专注于创建一种提供符合金融工具市场指令和其他要求的合规方法。但是，机构披露小组范本的设计与金融工具市场指令 II 中的相关披露责任保持一致。因此，虽然公司必须继续确保它们可以满足所有相关监管的个别要求，但如果这些范本以全面和准确的方式完成包括所有成本和相关收费，范本中的信息应该有助于公司满足这些要求。

英国金管局希望看到对机构投资者的成本和收费作更加一致和标准化的披露。英国金管局认为标准化的披露范本应使机构投资者更清楚地了解特定基金或任务的成本和收费。这应让投资者比较供应商之间的收费，并给他们明确的期望其可以期待的披露。

Source 來源:
https://www.fca.org.uk/news/statements/fca-statement-launch-cost-transparency-initiative-cti

The United Kingdom's Upper Tribunal Upholds the Financial Conduct Authority's Decision to Fine and Ban Former Keydata Investment Services Ltd Executives

On November 6, 2018, the Upper Tribunal (Tribunal) upheld the decision of the Financial Conduct Authority (FCA) of United Kingdom to fine and ban Stewart Ford (Ford) and Mark Owen (Owen), the former CEO and sales director respectively of Keydata Investment Services Ltd (Keydata).

The Tribunal ruled that both had acted without integrity and had failed to deal with the FCA's predecessor the Financial Services Authority in an open and cooperative way. The Tribunal has directed the FCA to fine Ford £76 million and Owen £3,240,787 and agreed that both should be prohibited from performing any role in regulated financial services.

Keydata produced and distributed structured products designed for retail consumers. In 2005, Keydata began marketing products based on bonds issued by a Luxembourg-based company called SLS Capital SA (SLS) and underpinned by US life settlement policies. However, it did so without conducting adequate due diligence and using misleading brochures. In 2006, Ford replicated the SLS structure using a company, Lifemark SA (Lifemark), beneficially owned by himself. As a result, over the following 3 years, he was able to extract fees from the structure totalling some £73.3 million. The Tribunal found that these payments were received either for "no services whatsoever" or "for services unrelated to [the Lifemark] Products" and "could not be justified commercially".

The Tribunal found that Owen received £2,540,787 in undisclosed commissions from Ford. Although both Ford and Owen claimed these payments to have been unrelated loans, the Tribunal concluded that this was a "fabrication" which "in itself, both for Ford and Owen, displays a lack of integrity".

Despite being made aware of various concerns about the SLS and Lifemark products, Ford and Owen failed to disclose these to investors, independent financial advisers or the FCA. The Tribunal considered "A constant theme is the deliberate and calculated concealment by Ford of material information, both as to the fees extracted by Ford, and as to the serious issues that arose with respect to both the SLS and Lifemark Products".

The Tribunal found that both Ford and Owen had made false statements to the FCA in compelled interviews, had failed to instruct Keydata's compliance officer not to mislead the FCA and had failed to disclose, in Ford's case, his true involvement with Lifemark and, in Owen's case, the commissions received by him.

FCA said that Keydata sold complex structured products backed by life settlements based on misleading brochures and without properly assessing whether the products could meet what was promised. Those who commit such misconduct have no place in the financial services industry.

英国上级审裁处维持英国金融行为监管局对前 Keydata Investment Services Ltd 主管人员的罚款和禁制令

2018年11月6日，上级审裁处 (审裁处) 维持英国金融行为监管局 (英国金管局) 决定对 Keydata Investment Services Ltd (Keydata) 的前任首席执行官及销售总监，分别是 Stewart Ford (Ford) 及 Mark Owen (Owen)，的罚款和禁制令决定。

审裁处裁定，两人都毫无诚信，并未能以坦诚和合作的方式应对英国金管局的前身金融服务管理局。审裁处指令英国金管局向 Ford 罚款7600万英镑及向 Owen 罚款3,240,787英镑，并同意禁止两人在受监管的金融服务行业担任任何角色。

Keydata 创造和分销专为零售消费者设计的结构性产品。2005年，Keydata 开始销售基于债券的产品，这是由一家设在卢森堡的公司，称为 SLS Capital SA（SLS）发行，并以美国人寿结算保单为基础。 但是，Keydata 没有进行充分的尽职调查和使用具误导性的说明书。 2006年，Ford 利用其实益拥有的公司 Lifemark SA (Lifemark) 沿用 SLS 模式。结果，在接下来的3年里，他得以从该模式中收取总计约7330万英镑的款项。法庭认为，这些款项是在"没有提供任何服务"或"与[Lifemark]产品无关的服务"和"并无充分商业理由"的情况下而收取的。

审裁处认为 Owen 从 Ford 获得了2,540,787英镑的未披露佣金。尽管 Ford 和 Owen 都声称这些款项是不相关的贷款，但审裁处的结论是这是一种"捏造"，而"Ford 和 Owen 本身都表现出缺乏诚信"。

尽管知悉 SLS 和 Lifemark 的产品有各种关切问题，但 Ford 和 Owen 没有向投资者，独立财务顾问或英国金管局披露

这些信息。审裁处认为"一个不变的主题是Ford故意和经计算的隐瞒重要信息，包括 Ford 提取的款项，以及有关 SLS 和 Lifemark 产品出现的严重问题"。

审裁处认为 Ford 和 Owen 在强制面谈中向英国金管局作出虚假陈述，没有指示 Keydata 的合规主管不得误导英国金管局，并在 Ford 的案件中，没有披露其切实参与 Lifemark 的工作，以及在 Owen 的案件中，没有披露其收取的佣金。

英国金管局表示: Keydata 销售复杂的结构性产品，这些产品以人寿结算为基础，基于具误导性的说明书，并且没有正确评估产品是否能达到承诺的水平。这些犯有此类不当行为的人在金融服务行业中是没有容身之地。

Source 來源:
https://www.fca.org.uk/news/press-releases/upper-tribunal-upholds-fca-decision-fine-and-ban-former-keydata-executives

European Securities and Markets Authority Launches Call for Evidence on Periodic Auctions for Equity Instruments

On November 9 2018, the European Securities and Markets Authority (ESMA) published a call for evidence on periodic auctions for equity instruments. Following the introduction of MiFIDII/MiFIR on January 3 2018, a new type of periodic auction trading system for equity instruments consisting of auctions of a very short duration during the trading day triggered by market participants has been rapidly gaining market share - frequent batch auctions.

ESMA, following the first suspensions in March 2018 under the double volume cap (DVC) mechanism, has been approached by stakeholders raising concerns that frequent batch auctions may be used to circumvent the DVC.

Furthermore, since the end of the first suspensions under the DVC, trading under the waivers subject to the DVC has increased, whereas trading on frequent batch auction systems has decreased. ESMA has observed that the trend for frequent batch auction trading seems to be in a large extent driven by instruments that have been suspended under the DVC.

This call for evidence aims to gather relevant information to inform ESMA in developing its understanding of frequent batch auction trading systems, to assess whether and to which extent these systems can be used to circumvent the MiFID II transparency requirements and, should this be the case, to develop appropriate policy measures.

ESMA said that MiFID II aims to increase transparency of equity markets and foster competition between different type of market participants on a level-playing field. In order to deliver on this objective it introduces various provisions. In noting both the growth in market share of frequent batch auctions and stakeholders' concerns, this call for evidence will allow ESMA to gather more information on the functioning of frequent batch auction trading systems. Using this evidence, ESMA will assess whether they can be used to circumvent the DVC and other pre-trade transparency requirements under MiFID II. If ESMA comes to the conclusion that frequent batch auction systems violate the spirit and the rules of MiFID II, they will develop appropriate policy responses.

Stakeholders are invited to provide feedback on this call for evidence until January 11, 2019.

欧洲证券和市场管理局启动股票工具定期拍卖的证据征集

2018年11月9日，欧洲证券和市场管理局 (ESMA) 发布了关于股票工具定期拍卖的证据征集。随着金融工具市场指令 II/金融工具市场监管 (MiFIDII/MiFIR) 于2018年1月3日推出，一种新型的股票工具定期拍卖交易系统，包括在交易日期间由市场参与者引发的持续非常短时间的拍卖已经迅速争取更多占有率 - 频繁的批量拍卖。

继2018年3月在双倍数额上限(DVC)机制下的首次中断事件之后，利益相关方与 ESMA 接触，并担心频繁的批量拍卖可能会被用来规避 DVC。

此外，自 DVC 下的第一次中断结束以来，受 DVC 授予的豁免交易增加，而频繁批量拍卖系统的交易减少。ESMA 观察到频繁批量拍卖交易的趋势似乎在很大程度上受到 DVC 中断影响的工具所推动。

这次证据征集旨在收集相关信息知会 ESMA，有助其对频繁批量拍卖交易系统的了解，以评估这些系统是否以及在何种程度上可用于规避 MiFID II 透明度的要求，如果是有这种情况，将制定适当的政策措施。

ESMA 表示: MiFID II 旨在提高股票市场的透明度，并促进不同类型的市场参与者在公平的参与环境中的竞争。为实现这一目标，其引入了各种规定。 在注意到频繁批量拍卖的市场占有率的增长和利益相关者的担忧，这种证据征集将允许 ESMA 收集有关频繁批量拍卖交易系统运作的更多信息。利用这些证据，ESMA 将评估它们是否可用于规避 MiFID II 下的 DVC 和其他交易前的透明度要求。如果 ESMA 得出的结论是频繁的批量拍卖系统违反了 MiFID II 的精神和规则，其将制定适当的政策回应。

ESMA 邀请利益相关者在2019年1月11日之前就此证据征

集提供意见。

Source 來源:
https://www.esma.europa.eu/sites/default/files/library/esma71-99-1054_esma_launches_call_for_evidence_on_periodic_auctions_for_equity_instruments_0.pdf

European Securities and Markets Authority Consults on Future Guidelines for Money Market Funds' Disclosure

On November 13, 2018, to facilitate funds' regulatory disclosure, the European Securities and Markets Authority (ESMA) has opened a public consultation on draft guidelines providing further specifications on how to fill-in the Money Market Fund (MMF) Regulation reporting template.

ESMA's consultation paper represents the first step in the development of such specifications by setting out detailed proposals on which ESMA is seeking the views of its stakeholders.

ESMA's Guidance will complement the information included in the Implementing Technical Standard, which ESMA delivered in November 2017 and which were endorsed by the European Commission in April 2018. Together with the ESMA Guidance, managers of MMFs have all the necessary information to fill in the reporting template they will have to send to National Competent Authorities (NCAs) of their MMF, as specified in article 37 of the MMF Regulation.

MMF managers will need to send their first quarterly reports mentioned in Article 37 to NCAs in Q1 2020. In addition, there will be no requirement to retroactively provide historical data for any period prior to the starting date of the reporting.

ESMA will consider all comments received by February 14, 2019.

欧洲证券和市场管理局就货币市场基金披露的未来指引展开咨询

2018年11月13日，为促进基金的监管信息披露，欧洲证券和市场管理局 (ESMA) 已就指引草案；提供如何填写《货币市场基金条例》报告范本的进一步规范，展开公众咨询。

ESMA 的谘询文件提出了详细的建议，以寻求其利益相关者的意见，此举是开展该等规范的第一步。

ESMA 的指引将补充执行技术标准 (ITS) 中包含的信息。ITS 由 ESMA 于2017年11月发布，并于2018年4月得到欧盟委员会的批准。连同 ESMA 的指引一起，货币市场基金的管理人员拥有填写其货币市场基金的报告范本所需的所有必要信息，其将必须按照《货币市场基金条例》第37条的规定，将其货币市场基金报告范本送呈给国家主管机构 (NCAs)。

货币市场基金的管理人员需要在2020年第一季度向 NCAs 送呈第37条中提到的第一季度报告。此外，当局没有要求追溯提供报告生效日期之前任何时期的历史数据。

ESMA 将考虑2019年2月14日之前收到的所有意见。

Source 來源:
https://www.esma.europa.eu/press-news/esma-news/esma-consults-future-guidelines-money-market-funds%E2%80%99-disclosure