



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

# Financial Services Regulatory Update 金融服务监管资讯

2019.10.11

## Australian Securities and Investments Commission Releases Report on Director and Officer Oversight of Non-financial Risk

On October 2, 2019, the Australian Securities and Investments Commission (ASIC) urges companies to apply a greater focus and sense of urgency to the oversight and management of non-financial risk.

ASIC's report found:

- All too often, management was operating outside of board-approved risk appetites for non-financial risks, particularly compliance risk. Boards need to actively hold management accountable for operating within stated risk appetites.
- Reporting of risk against appetite often did not effectively communicate the company's risk position. Boards need to take ownership of the form and content of information they are receiving so that they can adequately oversee the management of material risks.
- Material information about non-financial risk was often buried in dense, voluminous board packs. It was difficult to identify key non-financial risk issues in information presented to the board. Boards should require reporting from management that has a clear hierarchy and prioritization of non-financial risks.
- The effectiveness of board risk committees (BRCs) could be improved. BRCs should meet more regularly, devote enough time and be actively engaged to oversee material risks in a timely and effective manner.

## 澳洲证券及投资监察委员会发布关于董事和高级职员监督非金融风险的报告

2019年10月2日, 澳洲证券及投资监察委员会(澳洲证监会)敦促公司对非金融风险的监督和管理给予更大的关注和保持一种迫切感。

澳洲证监会的报告发现:

- 现在管理层经常在董事会批准的非财务风险承受能

力(尤其是合规风险)之外开展业务。董事会需要积极要求管理层在规定的风险承受能力范围内负责地营运。

- 对风险承受能力的报告通常无法说明公司的风险状况。董事会需要对所接收信息的形式和内容行使主导权,以便能够充分监督重大风险的管理。
- 有关非财务风险的重要信息通常被埋藏在密集的大量成包的信息中。在提交给董事会的信息中很难确定主要的非财务风险问题。董事会应要求管理层提交的报告具有清晰层次结构和非金融风险优先事项。
- 董事会风险委员会(BRCs)的效率还有待改进。BRCs应该定期召开会议,投入足够的时间并积极参与以及时有效地监督重大风险。

Source 来源:

[asic.gov.au/about-asic/news-centre/find-a-media-release/2019-releases/19-271mr-asic-releases-report-on-director-and-officer-oversight-of-non-financial-risk](https://asic.gov.au/about-asic/news-centre/find-a-media-release/2019-releases/19-271mr-asic-releases-report-on-director-and-officer-oversight-of-non-financial-risk)

## European Banking Authority Consults on its Proposals to Create a Simple, Transparent and Standardized Framework for Synthetic Securitization

On September 25, 2019, the European Banking Authority launched a 2-month public consultation on its proposals for a simple, transparent and standardized (STS) framework for synthetic securitization.

The proposed STS criteria for balance sheet synthetic include requirements on simplicity, standardization and transparency similar to those applied to traditional securitization. In addition, the criteria need to meet a number of synthetic-specific requirements, such as those on mitigating counterparty credit risk, including on eligible protection contracts.

The discussion paper also examines the rationale of the STS synthetic product and assesses positive and negative implications of its possible creation and label as "STS".

The discussion paper further provides a balanced analysis of possible introduction of a limited and clearly defined differentiated regulatory treatment of the STS synthetic securitization.

The deadline for the submission of comments is November 25, 2019.

### 欧洲银行管理局就其建议创建一个简单、透明和标准化的合成型资产证券化框架进行咨询

2019年9月25日,欧洲银行管理局就其关于合成型资产证券化的简单、透明和标准化(STS)框架的建议启动了为期两个月的公众咨询。

建议合成型资产的资产负债表的 STS 标准包括简便性、标准化和透明度的要求,这类似对传统证券化的要求。此外,这些标准还需要满足许多合成型资产的特定要求,例如有关降低交易对手信用风险的要求,包括有关符合保护条件的合同。

讨论文件也探讨 STS 合成型资产的基本原理,并评估其可能创造和标签为“STS”的正面和负面影响。讨论文件还规定均衡分析;可能引入明确界定 STS 合成型资产证券化的监管方法的区别对待。

提交意见的截止日期是 2019 年 11 月 25 日。

Source 来源:

[eba.europa.eu/-/eba-consults-on-its-proposals-to-create-asts-framework-for-synthetic-securitisation](http://eba.europa.eu/-/eba-consults-on-its-proposals-to-create-asts-framework-for-synthetic-securitisation)

### Financial Conduct Authority of the United Kingdom Confirms New Rules for Certain Open-Ended Funds Investing in Inherently Illiquid Assets

On September 30, 2019, the Financial Conduct Authority (FCA) of the United Kingdom has confirmed new rules which apply to certain types of open-ended fund investing in inherently illiquid assets such as property. The new rules apply to these funds, known as non-UCITS retail schemes, but will not apply to other types of fund, such as UCITS.

The FCA's new rules include introducing a new category of "funds investing in inherently illiquid assets". The new rules require that investors are provided with clear and prominent information on liquidity risks, and the circumstances in which access to their funds may be restricted. The new rules place additional obligations on the managers of funds investing in inherently illiquid assets to maintain plans to manage liquidity risk. The rules also aim to reduce the potential for some investors to gain at the expense of others.

The new rules come into effect on September 30, 2020.

### 英国金融行为监管局确认某些本质上具有非流动性资产投资开放式基金的新规定

2019年9月30日,英国金融行为监管局(英国金管局)确认适用于某些类型本质上具有非流动性资产投资的开放式基金诸如房地产的新规则。新规则适用于这些称为非可转让证券集体投资基金零售计划的基金,但不适用于其他类型的基金,例如可转让证券集体投资基金。

英国金管局的新规定包括引入“投资于本质上具有非流动性资产的基金”这新类别。新规则要求向投资者提供有关流动性风险的清晰明确资料,以及在什么情况下限制其的资金使用。新规则对投资于本质上具有非流动性资产的基金经理赋予额外的责任,以制定计划去管理流动性风险。该规则还旨在减低某些投资者以牺牲其他人而获取利益的潜在风险。

新规则将于 2020 年 9 月 30 日生效。

Source 来源:

[fca.org.uk/news/press-releases/fca-confirms-newrulescertain-open-ended-funds-investing-inherently-illiquid-assets](http://fca.org.uk/news/press-releases/fca-confirms-newrulescertain-open-ended-funds-investing-inherently-illiquid-assets)

### Financial Conduct Authority of the United Kingdom Updates its Directions under the Temporary Transitional Power

On September 26, 2019, the Financial Conduct Authority (FCA) of the United Kingdom (UK) has updated and published draft directions under its Temporary Transitional Power (TTP). The TTP gives the FCA flexibility in applying post-Brexit requirements, allowing firms to transition to a new UK regulatory framework. The directions would only come into effect on exit day if the UK leaves the EU without an implementation period.

The main updates relate to the following areas:

- extending the proposed duration of the directions issued under the TTP from June 30, 2020 to December 31, 2020;
- updating the provisions relating to prudential requirements in the directions to reflect new HM Treasury legislation;
- revoking certain directions in relation to payment services, provided by European Economic Area (EEA) credit institutions in the financial services contracts regime;
- applying a standstill direction to allow EEA Central Banks and the European Central Bank to continue to rely upon their status as exempt persons until December 31, 2020.

英国金融行为监管局根据临时过渡权力更新其指示

2019年9月26日,英国金融行为监管局(英国金管局)更新并发布其临时过渡权力下的指示草案。临时过渡权力为英国金管局对应英国脱离欧洲联盟(脱欧)后的要求提供灵活性,使企业可以过渡到新的英国监管框架。如果英国在没有缓冲期的形式脱欧,则这些指示将在脱欧日生效。

更新主要涉及以下领域:

- 将根据临时过渡权力发布的指示的建议期限从2020年6月30日延长至2020年12月31日;
- 更新有关审慎监管要求的指示规定,以反映新的英国财政部立法;
- 撤销欧洲经济区信贷机构在金融服务合同制度中提供的有关支付服务的某些指示;
- 实行停顿指示,以允许欧洲经济区中央银行和欧洲中央银行继续依赖其豁免者身份,直至2020年12月31日。

Source 来源:

[fca.org.uk/news/press-releases/updates-fcasdirectionsunder-temporary-transitional-power](https://fca.org.uk/news/press-releases/updates-fcasdirectionsunder-temporary-transitional-power)

### Swiss Financial Market Supervisory Authority Finds HNA Group in Breach of Disclosure Obligations

On September 25, 2019, the Swiss Financial Market Supervisory Authority (FINMA) finds that HNA Group repeatedly provided false reporting of the beneficial owners of the company's former stake in Swiss-listed company Dufry AG (Dufry).

FINMA's investigation showed that HNA Group consistently cited the Cihang Foundation as the beneficial owner of the stake in Dufry. However, the Co-Chairmen of HNA Group, Feng Chen and the now deceased Jian Wang, retained wide-ranging powers of control, and together bore the greatest economic risk in connection with the Dufry stake.

FINMA registered a complaint with the Federal Department of Finance.

### 瑞士金融市场监督管理局指出海航集团违反披露责任的规则

2019年9月25日,瑞士金融市场监督管理局(FINMA)指出海航集团反复提供该公司先前在瑞士上市公司Dufry AG (Dufry) 股份中的实益拥有人的虚假报告。

FINMA 的调查显示,海航集团一贯指称慈航公益基金会为Dufry 股份的实益拥有人。但是海航集团联席主席陈峰和已故的王健保留了广泛的控制权,并共同承担与Dufry 股份有关的最大经济风险。

FINMA 向联邦财政部作出投诉。

Source 来源:

[fnma.ch/en/news/2019/09/20190925-mm-hna](https://fnma.ch/en/news/2019/09/20190925-mm-hna)

### New Zealand Financial Markets Authority Seeks Feedback on Responsible Investment Products

On September 26, 2019, the New Zealand Financial Markets Authority (FMA) is seeking views on how green bonds and other responsible investment products should be described, labelled and promoted to investors.

The FMA's guidance will not set out prescriptive definitions of 'green', 'ethical' or 'responsible' but will set expectations for issuers and product providers about good conduct and good disclosure so investors can make an informed choice.

Submissions on the draft guidance close on October 24, 2019

### 新西兰金融市场管理局征求对有关具有责任的投资产品的意见

2019年9月26日,新西兰金融市场管理局(FMA)就如何描述,标记和推广向投资者推介绿色债券以及其他具有责任的投资产品征求意见。

FMA 的指引不会对“绿色”,“道德”或“具有责任”作出规定性的定义,但会为发行人和产品提供商设定有关良好行为和良好披露的期望,以便投资者做出明智的选择。

有关提交指引草案的意见将于2019年10月24日截止。

Source 来源:

[fma.govt.nz/news-and-resources/mediareleases/fmaseeking-feedback-on-responsible-investment-products](https://fma.govt.nz/news-and-resources/mediareleases/fmaseeking-feedback-on-responsible-investment-products)

### Hong Kong Exchanges and Clearing Limited Expands Coverage of Closing Auction Session for its Securities Market

On October 8, 2019, Hong Kong Exchanges and Clearing Limited announced that Closing Auction Session (CAS) has expanded to cover all equities and funds in its securities market.

The list of CAS securities now covers all equities (including depository receipts, investment companies, preference shares and stapled securities) and funds including exchange-traded funds and real estate investment trusts. Meanwhile, structured products, leveraged and inverse products, equity warrants, rights and debt securities are not included in CAS. The newly-included securities also use the existing CAS model, including the price limit of five per cent during CAS.

## 香港交易及结算所有限公司扩大收市竞价交易时段复盖的证券

2019年10月8日, 香港交易及结算所有限公司在旗下证券市场的收市竞价交易时段已顺利扩大至包括所有股本证券及基金。

现在, 收市竞价交易时段适用的证券复盖所有股本证券(包括预托证券、投资公司、优先股及合订证券)及基金, 包括交易所买卖基金及房地产投资信托基金。而结构性产品、杠杆及反向产品、股本认股权证、供股权及债务证券则不包括在内。新纳入的证券亦采用现行的收市竞价交易时段模式, 包括收市竞价交易时段内的5%价格限制。

Source 来源:

[hkex.com.hk/News/NewsRelease/2019/1910082news?sc\\_lang=en](https://www.hkex.com.hk/News/NewsRelease/2019/1910082news?sc_lang=en)

## Hong Kong Exchanges and Clearing Limited Publishes Announcement not to proceed with the Offer for London Stock Exchange Group PLC

On October 8, 2019, Hong Kong Exchanges and Clearing Limited (HKEX) released the announcement in the United Kingdom to announce it does not intend to make an offer for London Stock Exchange Group PLC.

HKEX said that its shareholders and potential investors should exercise caution when dealing or investing in HKEX's shares.

## 香港交易及结算所有限公司公告不继续进行对伦敦证券交易所集团有关要约

2019年10月8日, 香港交易及结算所有限公司(香港交易所)于英国刊登有关其不拟对伦敦证券交易所集团作出要约之公告。

香港交易所表示其股东及潜在投资者于买卖或投资香港交易所股份时务请审慎行事。

Source 来源:

[hkexgroup.com//media/HKEXGroupSite/ccd/PossibleOffer/28-Announcement--HK-cover-ENGcombined.pdf](https://www.hkexgroup.com//media/HKEXGroupSite/ccd/PossibleOffer/28-Announcement--HK-cover-ENGcombined.pdf)

## Hong Kong Insurance Authority Authorizes First Non-life Virtual Insurer under Fast Track

On October 8, 2019, the Hong Kong Insurance Authority (IA) announced that it has granted the first authorization of a non-life insurer owning and operating solely through digital distribution channels under Fast Track. The first life virtual insurer under Fast Track was authorized in December 2018.

The IA said that the first non-life virtual insurer authorized under Fast Track is a local company, whose strategic focus is providing innovative and customer-centric products, like health and travel insurance, for under-served segments through bespoke digital distribution channels without the involvement of intermediaries.

## 香港保险业监管局授权首间经快速通道申请的非人寿虚拟保险公司

2019年10月8日, 香港保险业监管局(保监局)宣布, 透过快速通道, 首次授权一间持有和使用全数码分销渠道的非人寿保险公司。快速通道的首个授权于2018年12月发出, 获授权的是一间人寿虚拟保险公司。

保监局表示: 首间经快速通道获得授权的非人寿虚拟保险公司为一间本地公司, 其策略重点是透过特定数码分销渠道, 不经中介人, 为某些被忽略的消费群提供创新和以客为本的产品, 包括医疗和旅游保险产品。

Source 来源:

[https://www.ia.org.hk/en/infocenter/press\\_releases/20191008.html](https://www.ia.org.hk/en/infocenter/press_releases/20191008.html)

## The Stock Exchange of Hong Kong Limited Updates Guidance Materials

On September 30, 2019, The Stock Exchange of Hong Kong Limited updated revised listing rules, checklists, frequently asked questions and other regulatory guidelines as a result of the rule changes on backdoor listing, continuing listing criteria and other rule amendments effective October 1, 2019.

## 香港联合交易所有限公司更新上市指引材料

2019年9月30日, 香港联合交易所有限公司因应借壳上市、持续上市准则及其他上市规则条文修订, 更新经修订的上市规则, 检查清单, 常见问题和其他监管指引, 并于2019年10月1日生效。

Source 来源:

[hkex.com.hk/listing/rulesandguidance/whatsnew?sc\\_lang=en](https://www.hkex.com.hk/listing/rulesandguidance/whatsnew?sc_lang=en)

## The Listing Committee of The Stock Exchange of Hong Kong Limited Criticizes Yashili International Holdings Limited for Breaching the Listing Rules

On September 27, 2019, the Listing Committee of The Stock Exchange of Hong Kong Limited (Listing Committee)

## CRITICISES:



Yashili International Holdings Limited (Company (Stock Code: 1230), together with its subsidiaries, the Group) for breaching Rules 14A.35 and 14A.36 of the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (Listing Rules) for failing to comply with the announcement and independent shareholders' approval requirements for certain connected and continuing connected transactions.

## SETTLEMENT

As a consequence of settlement, the Company admits its breaches of the Listing Rules, and accepts the sanctions and directions imposed on it by the Listing Committee.

## FACTS

The Company had received two caution letters in 2014 and 2017 (2014 Caution and 2017 Caution respectively) in relation to delays in announcing connected transactions under Chapter 14A of the Listing Rules.

The Company failed to comply with the similar requirements in Chapter 14A of the Listing Rules again in respect of seven connected transactions (Transactions) conducted between January 1 and August 22, 2017.

## REGULATORY CONCERN

The Listing Committee regards the breaches in this matter as serious:

(1) The nature and causes of the Listing Rule non-compliances leading to the 2014 Caution and the 2017 Caution are similar to the subject matters of this case.

(2) However, the Company's failure to comply with the Listing Rules in respect of the Transactions and the causes of the failure suggests that the Company had not fully appreciated the importance of complying with the Chapter 14A requirements and maintaining an effective internal controls system for Listing Rule compliance after receiving the 2014 Caution.

(3) There were deficiencies in the Company's then internal controls for procuring the Company's compliance with Chapter 14A requirements, which led to the Company's breaches.

(4) The interest of the Company's shareholders had been prejudiced in terms of their right to timely receipt of information concerning the Transactions, and vote on those requiring their approval before they were carried out.

(5) The failure to comply with Chapter 14A destroys transparency, trust and confidence in the market.

## 香港联合交易所有限公司上市委员会批评雅士利国际控股有限公司违反《上市规则》

2019年9月27日, 香港联合交易所有限公司上市委员会(上市委员会)

### 批评

雅士利国际控股有限公司(该公司(股份代号: 1230), 连同旗下附属公司合称该集团)未有就若干关连及持续关连交易遵守公告及独立股东批准的规定, 违反《香港联合交易所有限公司证券上市规则》(上市规则)第14A.35及14A.36条的规定。

### 和解

经和解后, 该公司承认违反《上市规则》的事项, 并接受上市委员会向其作出制裁及指令。

### 实况

该公司曾因未有按《上市规则》第十四A章规定适时公布关连交易而先后于2014年及2017年收过两封告诫信(分别称2014年告诫及2017年告诫)。

其后, 该公司再就七项于2017年1月1日至8月22日期间进行的关连交易(有关交易)违反《上市规则》第十四A章的类似规定。

### 监管上关注事项

上市委员会认为事件中的违规情况严重:

(1) 导致2014年告诫及2017年告诫的《上市规则》违规事项的性质及起因与本个案类似。

(2) 然而, 该公司就有关交易未有遵守《上市规则》的情况以及其起因, 均显示该公司收到2014年告诫后, 其实仍未完全理解遵守《上市规则》第十四A章的规定以及就遵守《上市规则》维持有效的内部监控系统的重要。

(3) 该公司当时就遵守《上市规则》第十四A章规定的内部监控措施有缺失, 导致该公司违规。

(4) 违规事项侵害了该公司股东及时收到有关交易的资料及就须事先经股东批准的事项投票表决的权利, 损害了股东权益。

(5) 上市发行人未能遵守《上市规则》第十四A章会破坏市场的透明度、信任及信心。

Source 来源:

[hkex.com.hk/News/NewsRelease/2019/190927newsscangen](http://hkex.com.hk/News/NewsRelease/2019/190927newsscangen)

### **Two Automakers Pay US\$40 Million to Settle U.S. Securities and Exchange Commission Charges for Misleading Investors**

On September 27, 2019, the U.S. Securities and Exchange Commission (SEC) charged automaker FCA US LLC (FCA US), and its parent company, Fiat Chrysler Automobiles N.V., for misleading investors about the number of new vehicles sold each month to customers in the United States.

According to the SEC's order, between 2012 and 2016, FCA US issued monthly press releases falsely reporting new vehicle sales. The growth streak had in fact been broken in September 2013.

Without admitting or denying the SEC's findings, the two companies have agreed to cease and desist from committing or causing any future violations of provisions and to pay a civil penalty of US\$40 million on a joint and several basis.

### **两家汽车制造商就误导投资者的指控支付 4,000 万美元与美国证券交易委员会达成和解**

2019 年 9 月 27 日, 美国证券交易委员会 (美国证监会) 指控汽车制造商 FCA US LLC (FCA US) 及其母公司 Fiat Chrysler Automobiles NV 误导投资者其每月在美国向客户售出的新车数量。

根据美国证监会的命令, 在 2012 年至 2016 年期间, FCA US 每月发布的新闻稿, 错误地报告了新车销量。实际上, 增长连胜已经在 2013 年 9 月被打破。

两家公司在不承认或否认美国证监会的调查结果的情况下, 同意停止并终止作出或引起任何将来违反规定的行为, 并在共同及个别的基础上处以 4,000 万美元的民事罚款。

Source 来源:

[sec.gov/news/press-release/2019-196](http://sec.gov/news/press-release/2019-196)

### **Herbalife Nutrition Ltd. Pays US\$20 Million to Settle U.S. Securities and Exchange Commission Charges for Misleading Investors**

On September 27, 2019, the U.S. Securities and Exchange Commission (SEC) announced that Herbalife Nutrition Ltd. (Herbalife) has agreed to pay US\$20 million to settle charges that it made false and misleading statements about its China business model in numerous U.S. regulatory filings over a six-year period.

According to the SEC's order, in quarterly and annual SEC filings between 2012 and 2018, Herbalife told investors that while direct selling is permitted in China, multi-level marketing is not, and that as a result, Herbalife's business model in China differed from that used in other countries. The SEC order finds that Herbalife's public statements concerning service provider compensation were false and misleading and deprived investors of the information they needed to fully evaluate the risk of investing in Herbalife stock.

Without admitting or denying the SEC's findings, Herbalife consented to the SEC's order finding that it violated certain antifraud and reporting provisions of the federal securities laws.

### **康宝莱营养有限公司就误导投资者的指控支付 2,000 万美元与美国证券交易委员会达成和解**

2019 年 9 月 27 日, 美国证券交易委员会 (美国证监会) 宣布, 康宝莱营养有限公司 (Herbalife) 已同意支付 2,000 万美元和解费用, 以了结该公司在过去的六年期间, 在众多美国监管存档文件中均对其中国业务模式作出了虚假和误导性陈述。

根据美国证监会的命令, 在 2012 年至 2018 年之间的季度和年度与美国证监会存档文件中, Herbalife 告知投资者, 尽管中国允许直销, 但不允许进行层压式销售, 因此, Herbalife 在中国的商业模式与其他国家/地区不同。美国证监会的命令指出, Herbalife 关于服务提供商报酬的公开声明是虚假和误导性的, 并且剥夺了投资者充分评估投资 Herbalife 所需的信息。

Herbalife 在不承认或否认美国证监会的调查结果的情况下, 同意美国证监会的裁定, 认为其违反了联邦证券法的某些反欺诈和报告规定。

Source 来源:

[sec.gov/news/press-release/2019-195](http://sec.gov/news/press-release/2019-195)

### **U.S. Securities and Exchange Commission Orders Blockchain Company to Pay US\$24 Million Penalty for Unregistered Initial Coin Offering of Digital Tokens**

On September 30, 2019, the U.S. Securities and Exchange Commission (SEC) announced settled charges against blockchain technology company Block.one for conducting an unregistered initial coin offering of digital tokens (ICO) that raised the equivalent of several billion dollars over approximately one year.

According to the SEC's order, Block.one, which has operations in Virginia and Hong Kong, conducted an ICO between June 2017 and June 2018. Block.one did not register its ICO as a securities offering pursuant to

the federal securities laws, nor did it qualify for or seek an exemption from the registration requirements.

Block.one consented to the order without admitting or denying its findings. Block.one agreed to settle the charges by paying a US\$24 million civil penalty.

### 美国证券交易委员会命令区块链公司为未注册的数字代币初始发行支付 2400 万美元的罚款

2019 年 9 月 30 日, 美国证券交易委员会 (美国证监会) 宣布与区块链技术公司 Block.one 达成和解, 指控其在大约一年的时间内进行未经注册的数字代币初始发行 (ICO), 筹集了数十亿美元的资金。

根据美国证监会的命令, 在弗吉尼亚州和香港设有业务的 Block.one 在 2017 年 6 月至 2018 年 6 月之间进行了 ICO。Block.one 并未根据联邦证券法将其 ICO 注册为证券发行, 也没有资格或寻求豁免注册要求。

Block.one 同意该命令, 但不承认或否认其调查结果。Block.one 同意通过支付 2400 万美元的民事罚款来解决这些指控。

Source 来源:  
sec.gov/news/press-release/2019-202

### U.S. Securities and Exchange Commission Adopts New Rule to Allow All Issuers to “Test-the-Waters”

On September 26, 2019, the U.S. Securities and Exchange Commission (SEC) announced that it has adopted a new rule that extends a “test-the-waters” accommodation—currently a tool available to emerging growth companies or “EGCs”—to all issuers.

Under the new rule, all issuers will be allowed to gauge market interest in a possible initial public offering or other registered securities offering through discussions with certain institutional investors prior to, or following, the filing of a registration statement.

The rule will become effective 60 days after publication in the Federal Register.

### 美国证券交易委员会通过新规则容许所有发行人采用“初步试探”规则

2019 年 9 月 26 日, 美国证券交易委员会 (美国证监会) 宣布已通过一项新规则, 以扩展 “初步试探” 措施 (目前可供高成长公司或 “EGC” 使用的工具) 至所有发行人。

根据新规定, 将允许所有发行人在提交注册声明之前或之后, 通过与某些机构投资者的讨论来衡量可能的首次公开发行或其他注册证券发行的市场兴趣。

该规则将在联邦公报上公布 60 天后生效。

Source 来源:  
sec.gov/news/press-release/2019-188

### U.S. Securities and Exchange Commission Announces to Simplify Volcker Rule

On October 8, 2019, the U.S. Securities and Exchange Commission (SEC) announced to simplify compliance requirements relating to the “Volcker rule.” The Volcker rule generally prohibits banking entities from engaging in proprietary trading or investing in hedge funds or private equity funds.

Under the revised rule, firms that do not have significant trading activities will have simplified and streamlined compliance requirements, while firms with significant trading activity will have more stringent compliance requirements.

The rules will be effective on January 1, 2020, with a compliance date of January 1, 2021.

### 美国证券交易委员会宣布简化 “沃尔克规则”

2019 年 10 月 8 日, 美国证券交易委员会 (美国证监会) 宣布简化与 “沃尔克规则” 有关的合规要求。“沃尔克规则” 通常禁止银行实体从事自营交易或投资对冲基金和私募股权基金。

根据修订后的规则, 没有大量交易活动的公司将简化并精简合规要求, 而拥有大量交易活动的公司将有更严格的合规要求。

该规则将于 2020 年 1 月 1 日生效, 从 2021 年 1 月 1 日起要符合规则。

Source 来源:  
sec.gov/news/press-release/2019-207

### Hong Kong Securities and Futures Commission Bans a Former Licensed Representative of Sun Hung Kai Investment Services Limited for 30 Months

On October 2, 2019, the Hong Kong Securities and Futures Commission (SFC) has banned Mr Vincent Ng Lok Kan (Ng), a former licensed representative of Sun Hung Kai Investment Services Limited (SHKIS), from re-entering the industry for 30 months from September 27, 2019 to March 26, 2022.

The disciplinary action follows an SFC investigation which found that Ng, an account executive of SHKIS at the material time, placed a number of buy orders for a warrant through a client’s account on February 27, 2015,



causing the price of the warrant to increase significantly. Ng then immediately sold his entire personal holdings in the warrant to the client. In doing so, he made a profit of HK\$14,510 while his client suffered a nominal loss of HK\$13,040.

The SFC considers Ng's conduct in ramping up the warrant's price to facilitate the offloading of his personal holdings in the warrant for his own benefit and to the detriment of his client dishonest and unfair to the client. Ng's conduct was also unfair to other market participants because it interfered with the impartiality and objectivity of the normal price formation and may have affected their trading strategy and investment decision in the warrant.

The SFC also found that Ng effected transactions in the client's account on a discretionary basis without obtaining the client's prior written authorization, and without the knowledge and approval of SHKIS. This prevented SHKIS from monitoring and supervising the operation of the account and, in turn, deprived the client of SHKIS's protection in monitoring the discretionary trades conducted by Ng in his account.

In deciding the sanction against Ng, the SFC took into account all relevant circumstances, including the client's financial loss resulting from Ng's conduct, his relative inexperience in the industry at the time of his misconduct, and his otherwise clean disciplinary record.

#### 香港证券及期货事务监察委员会禁止一名新鸿基投资服务有限公司前持牌代表重投业界 30 个月

2019 年 10 月 2 日, 香港证券及期货事务监察委员会 (证监会) 禁止新鸿基投资服务有限公司 (新鸿基投资) 前持牌代表伍乐勤 (伍) 重投业界, 为期 30 个月, 由 2019 年 9 月 27 日起至 2022 年 3 月 26 日止。

这项纪律处分源于证监会的调查, 当中发现伍于关键时间身为新鸿基投资的客户主任, 在 2015 年 2 月 27 日, 透过一名客户的帐户就某权证发出多个买盘, 致使该权证的价格明显上涨。伍之后随即将个人持有的该权证全数售予该客户, 藉此获利 14,510 港元, 而该客户则蒙受了 13,040 港元的帐面损失。

证监会认为, 伍抬高该权证的价格以便抛售个人持有的该权证及从中获利, 并使其客户蒙受损失, 乃属不诚实的行为, 并且对客户不公平。伍的行为对其他市场参与者亦不公平, 因为此举干扰到正常定价过程的中立性和客观性, 并可能影响到同业对该权证所制定的交易策略及投资决定。

证监会亦发现, 伍在没有事先取得该客户的书面授权, 并在新鸿基投资不知情及没有作出批准的情况下, 以委托形

式在客户的帐户内进行交易。这令新鸿基投资无法监察及监督该帐户的运作情况, 进而剥夺客户从新鸿基投资透过监督伍在其帐户内进行的委托交易所获得的保障。

证监会厘定对伍的罚则时已考虑到所有相关情况, 包括客户因伍的行为而蒙受的财务损失, 伍在犯下失当行为时在行业内年资相对较浅, 及伍过往并无遭受纪律处分的纪录。

Source 来源:

sfc.hk/edistributionWeb/gateway/EN/newsandannouncement/news/doc?refNo=19PR89

#### Hong Kong Securities and Futures Commission Reprimands and Fines SEAVI Advent Ocean Private Equity Limited HK\$1 Million

On October 3, 2019, the Hong Kong Securities and Futures Commission (SFC) has reprimanded and fined SEAVI Advent Ocean Private Equity Limited (SAOPEL) HK\$1 million for breach of the Code of Conduct.

The disciplinary action follows an SFC investigation which found that SAOPEL had allowed its director and an investment manager, both of whom were not licensed by the SFC, to perform regulated functions for its business in regulated activities between March 2013 and April 2014. They introduced clients to invest in the fund managed by SAOPEL, answered clients' queries and arranged for the execution of the subscription agreements for the fund.

In determining the sanction, the SFC took into account all relevant circumstances, including that SAOPEL:

- had failed to ensure that the persons it employed/appointed to conduct its licensed business were fit and proper;
- cooperated with the SFC in resolving its concerns; and
- has an otherwise clean disciplinary record.

#### SEAVI Advent Ocean Private Equity Limited 遭香港证券及期货事务监察委员会谴责及罚款 100 万港元

2019 年 10 月 3 日, SEAVI Advent Ocean Private Equity Limited (SAOPEL) 因违反《操守准则》而遭香港证券及期货事务监察委员会 (证监会) 谴责及罚款 100 万港元。

证监会经调查后采取上述纪律行动。调查发现, SAOPEL 曾容许其董事及一名投资经理 (两位均不是证监会持牌人) 于 2013 年 3 月至 2014 年 4 月期间就其受规管活动的业务执行受规管职能。他们介绍客户投资由 SAOPEL 管理的基金、回应客户的查询, 并安排签署该基金的认购协议。



证监会厘定罚则时，已考虑到所有相关情况，当中包括 SAOPEL:

- 没有确保其聘用或委任进行其持牌业务的人员是适当人选;
- 与证监会合作解决其提出的关注事项; 及
- 过往并无遭受纪律处分的纪录。

Source 来源:

[sfc.hk/edistributionWeb/gateway/EN/newsandannouncement/s/news/doc?refNo=19PR92](http://sfc.hk/edistributionWeb/gateway/EN/newsandannouncement/s/news/doc?refNo=19PR92)

### **Hong Kong Securities and Futures Commission Seeks Disqualification Orders against Former Chairman and Executive Directors of Inno-Tech Holdings Limited**

On October 4, 2019, the Hong Kong Securities and Futures Commission (SFC) obtained disqualification orders in the Court of First Instance against former chairman and executive director, Ms Wong Yuen Yee, and three former executive directors, namely, Mr Robert Wong Yao Wing, Mr Wong Kwok Sing and Mr Lam Shiu San, of Inno-Tech Holdings Limited (Inno-Tech).

They were disqualified from being a director or taking part in the management of any corporation in Hong Kong, without leave of the Court, for a period of three years effective from October 3, 2019.

Disqualification orders were made after all of them admitted that they were in breach of their duty to exercise due and reasonable skill, care and diligence in the course of acting as directors of Inno-Tech by failing to:

- carry out adequate investigation into or due diligence prior to the acquisitions of the interests in three Mainland hotels in 2007 and 2008; and
- negotiate the consideration for these acquisitions.

In granting the orders, the Court accepted that there was no dishonesty, bad faith, illicit gain or conflict of interest involved in their conduct and that the three-year disqualification period is appropriate in the circumstances.

### **香港证券及期货事务监察委员会取得针对汇创控股有限公司前主席及执行董事的取消资格令**

2019年10月4日，香港证券及期货事务监察委员会（证监会）已在原讼法庭取得针对汇创控股有限公司（汇创）前主席兼执行董事黄婉儿和三名前执行董事黄祐荣，黄国声及林兆燊的取消资格令。

除非经法庭许可，否则四人不得在香港担任任何法团董事或参与任何法团的管理，为期三年，由2019年10月3日起生效。

取消资格令是在上述人士承认他们于担任汇创董事期间违反了以适当及合理的技巧、小心谨慎和勤勉尽责的态度行事的职责后颁布的，原因是他们没有：

- 于2007年和2008年收购三家内地酒店的权益前，进行充分的调查或尽职审查；及
- 就有关收购所需支付的代价进行协商。

法庭在颁令时同意，他们的行为并没涉及不诚实、不真诚、非法收益或利益冲突，故在有关情况下，三年的取消资格期是适当的。

Source 来源:

[sfc.hk/edistributionWeb/gateway/EN/newsandannouncement/s/news/doc?refNo=19PR93](http://sfc.hk/edistributionWeb/gateway/EN/newsandannouncement/s/news/doc?refNo=19PR93)

### **Hong Kong Securities and Futures Commission Concludes Consultation on the Enhanced Investor Compensation Regime**

On October 8, 2019, the Hong Kong Securities and Futures Commission (SFC) released consultation conclusions on proposed enhancements to the Investor Compensation Regime, including raising the compensation limit from HK\$150,000 to HK\$500,000 per investor per default and covering northbound trading under Mainland-Hong Kong Stock Connect.

Subject to the legislative process, the SFC expects to implement the changes in early 2020.

### **证券及期货事务监察委员会就优化投资者赔偿制度发表咨询总结**

2019年10月8日，香港证券及期货事务监察委员会（证监会）就投资者赔偿制度的优化建议发表咨询总结。有关建议包括将就每项违责向每名投资者支付的赔偿上限由150,000港元提高至500,000港元，并涵盖内地与香港股票市场交易互联互通机制下的沪股通及深股通。

视乎立法程序的进度，证监会预期在2020年初落实有关改动。

Source 来源:

[sfc.hk/edistributionWeb/gateway/EN/newsandannouncement/s/news/doc?refNo=19PR94](http://sfc.hk/edistributionWeb/gateway/EN/newsandannouncement/s/news/doc?refNo=19PR94)

### **Hong Kong Securities and Futures Commission Issues Circular on Terms and Conditions for Licensed Corporations which Manage Portfolios that Invest in Virtual Assets**

On October 4, 2019, the Hong Kong Securities and Futures Commission (SFC) issued a circular to inform that the proforma set of terms and conditions for Licensed Corporations which Manage Portfolios that

Invest in Virtual Assets (terms and conditions) is now available on the SFC's website.

On November 1, 2018, the SFC issued a Statement on regulatory framework for virtual asset portfolio managers, fund distributors and trading platform operators. Among other things, the SFC announced that terms and conditions will be imposed on licensed corporations which manage or plan to manage portfolios with (i) a stated investment objective to invest in virtual assets; or (ii) an intention to invest 10% or more of the gross asset value of the portfolio in virtual assets (collectively referred to as Virtual Asset Fund Managers).

Going forward, the terms and conditions will be imposed on all Virtual Asset Fund Managers, subject to minor variations and elaborations depending on individual Virtual Asset Fund Manager's business model and circumstances.

香港证券及期货事务监察委员会发出适用于管理投资于虚拟资产的投资组合的持牌法团的条款及条件

2019年10月4日, 香港证券及期货事务监察委员(证监会)发出通函, 通告适用于管理投资于虚拟资产的投资组合的持牌法团的备考条款及条件(条款及条件)现已载于其网站。

2018年11月1日, 证监会发表了一份《有关针对虚拟资产投资组合的管理公司、基金分销商及交易平台营运者的监管框架的声明》。除其他事项外, 证监会宣布将会向管理或计划管理(i)已述明投资目标为投资于虚拟资产的投资组合; 或(ii)有意将投资组合中10%或以上的总资产价值投资于虚拟资产的投资组合的持牌法团(统称为“虚拟资产基金经理”)施加条款及条件。

今后, 条款及条件将施加于所有虚拟资产基金经理, 但可能须视乎个别虚拟资产基金经理的业务模式及情况而作出轻微修订及说明。

Source 来源:

[sfc.hk/edistributionWeb/gateway/EN/circular/intermediaries/supervision/doc?refNo=19EC62](http://sfc.hk/edistributionWeb/gateway/EN/circular/intermediaries/supervision/doc?refNo=19EC62)

### **Hong Kong Securities and Futures Commission Seeks Compensation and Disqualification orders against Perfect Optronics Limited's Chairman and Board Members**

On October 8, 2019, the Hong Kong Securities and Futures Commission (SFC) commenced legal proceedings in the Court of First Instance to seek court orders against Mr Cheng Wai Tak (Cheng), the chairman and executive director of Perfect Optronics Limited (Perfect Optronics), and the rest of its directors for their alleged breach of fiduciary duties.

The other directors involved in the SFC's legal proceedings are: Mr Tse Ka Wing and Mr Liu Ka Wing, both of whom are executive directors of Perfect Optronics; and Mr Li Shui Yan, Mr Wong Chi Chiu and Mr John Wong Yik Chung, all of them being independent non-executive directors of Perfect Optronics.

Specifically, the SFC is seeking disqualification and compensation orders against all the directors under section 214 of the Securities and Futures Ordinance. If a compensation order is obtained, it would compel the directors to compensate Perfect Optronics for the alleged loss caused by their misconduct.

The SFC's action follows an investigation arising from Cheng's guarantee that if a group of companies that he had sold to Perfect Optronics in April 2015 failed to meet a minimum profit of HK\$34 million for the two years ending December 31, 2016, he would compensate Perfect Optronics a sum equivalent to 9.513 times the shortfall in the guaranteed minimum profit.

On December 22, 2016, nine days before the expiry of the minimum profit guarantee period, Perfect Optronics sold part of the group of companies that it acquired from Cheng. The gain from the transaction boosted the profit of the group of companies by HK\$26.5 million.

As a result, the compensation payable by Cheng to Perfect Optronics due to the shortfall in the guaranteed minimum profit was significantly reduced by HK\$251.9 million.

The SFC alleges that Cheng had a material interest in the transaction in light of the significant reduction in the compensation payable by him under the minimum profit guarantee. But he failed to, among other things, avoid any involvement in the negotiations for the transaction, properly disclose to the other directors his material interests in it and abstain from voting in the approval of the transaction. Therefore, Cheng was in breach of his fiduciary duty as a director of Perfect Optronics.

The SFC also alleges that the other directors of Perfect Optronics failed to properly investigate the terms of the transaction and/or balance the pros and cons of postponing the transaction after December 31, 2016. Therefore, they deliberately and/or recklessly preferred the interests of Cheng over that of Perfect Optronics and as such, they were in breach of their fiduciary duties as directors of the company.

香港证券及期货事务监察委员会寻求对圆美光电有限公司的主席及董事会成员作出赔偿令和取消资格令

2019年10月8日, 香港证券及期货事务监察委员会(证监会)在原讼法庭展开法律程序, 寻求法庭对圆美光电有

限公司(圆美光电)的主席兼执行董事郑伟德(郑)以及其余的董事作出命令,原因是他们涉嫌违反了受信责任。

证监会是次法律程序亦涉及以下其他董事:圆美光电的执行董事谢家荣及廖嘉荣,以及圆美光电的独立非执行董事李瑞恩、黄智超及黄翼忠。

具体而言,证监会是根据《证券及期货条例》第214条寻求针对所有董事作出取消资格令及赔偿令,而赔偿令(如取得)将会强制他们就涉嫌失当行为所造成的损失向圆美光电作出赔偿。

证监会就郑所作的一项担保展开调查后,采取上述行动。在该项担保中,郑表示若他在2015年4月向圆美光电出售的公司集团在截至2016年12月31日为止的两个年度均未能达到3,400万港元的最低盈利水平,他便会向圆美光电作出赔偿,款项相等于最低盈利保证不足之数的9.513倍。

2016年12月22日,即最低盈利担保期届满前九日,圆美光电出售其向郑收购的公司集团当中的一部分。有关交易的收益为该公司集团带来2,650万元的盈利。此举令郑因最低盈利保证的不足之数而应向圆美光电支付的赔偿额大幅减少2.519亿港元。

证监会指,由于郑在最低盈利保证下的应付赔偿大幅减少,故在有关交易中有重大利益。但他没有(除其他事项外)避免参与有关交易的磋商,亦没有向其他董事妥为披露他在交易中的重大利益,更没有放弃投票通过有关交易。因此,郑违反了他作为圆美光电董事的受信责任。

证监会亦指,圆美光电的其他董事没有妥为调查有关交易的条款,及/或平衡延迟该项交易至2016年12月31日之后的利弊。因此,他们蓄意及/或罔顾后果地将郑的利益置于圆美光电的利益之上,因而违反了他们作为该公司董事的受信责任。

Source 来源:

[sfc.hk/edistributionWeb/gateway/EN/newsandannouncements/news/doc?refNo=19PR95](http://sfc.hk/edistributionWeb/gateway/EN/newsandannouncements/news/doc?refNo=19PR95)

### **Hong Kong Securities and Futures Commission Proposes to Regulate Trustees and Custodians of Public Funds**

On September 27, 2019, the Hong Kong Securities and Futures Commission (SFC) launched a consultation on a proposal to regulate depositaries of SFC-authorized collective investment schemes (CIS). Depositaries operating in Hong Kong would be licensed by or registered with the SFC for a new type of regulated activity, RA 13, and be subject to the ongoing

supervision of the SFC or the Hong Kong Monetary Authority.

Depositaries are trustees for CIS in unit trust form, and custodians for CIS in other forms, who are at the top of the custodial chain. They have the responsibility to safeguard scheme assets and perform independent oversight of scheme operations.

The public is invited to submit their comments to the SFC on or before December 31, 2019.

### **香港证券及期货事务监察委员会建议规管公众基金的受托人和保管人**

2019年9月27日,香港证券及期货事务监察委员会(证监会)就建议规管证监会认可集体投资计划的存管人展开咨询。在香港营运的存管人将须就新一类受规管活动—第13类受规管活动获证监会发牌或注册,并受到证监会或香港金融管理局的持续监督。

存管人指在保管安排中处于顶层位置的受托人(如属单位信托形式的集体投资计划)和保管人(如属其他形式的集体投资计划)。他们有责任保障集体投资计划的资产及对计划的运作进行独立监察。

证监会邀请公众于2019年12月31日或之前提交意见。

Source 来源:

[sfc.hk/edistributionWeb/gateway/EN/newsandannouncements/news/doc?refNo=19PR88](http://sfc.hk/edistributionWeb/gateway/EN/newsandannouncements/news/doc?refNo=19PR88)

### **Hong Kong Securities and Futures Commission Issues Restriction Notices to a Broker to Freeze Client Accounts Related to a Corporate Officer's Suspected Breach of Duties**

On September 27, 2019, the Hong Kong Securities and Futures Commission (SFC) has issued restriction notices to KGI Asia Limited (KGI), prohibiting the broker from dealing with or processing certain assets held in several client accounts which are beneficially owned by an individual who is suspected of breaching his duties towards a listed corporation.

The SFC is not investigating KGI, which has cooperated with the SFC's investigation. The restriction notice does not affect KGI's operations or its other clients.

The restriction notice prohibits KGI, without the SFC's prior written consent, from disposing of or dealing with, assisting, counselling or procuring another person to dispose of or deal with certain assets in those accounts in any way. KGI is also required to notify the SFC if it receives any of these instructions.



The SFC will soon commence civil proceedings under section 214 of the Securities and Futures Ordinance in the Court of First Instance against the listed corporation's management team which includes the individual who holds those accounts. The SFC will also seek court orders against that individual to pay compensation to the listed corporation concerned.

The SFC considers that the issue of the restriction notice, which preserves the assets in those accounts, is desirable in the interest of the investing public and in the public interest.

**香港证券及期货事务监察委员会向一家经纪行发出限制通知书冻结与涉嫌违反责任的某法团人员有关的多个客户帐户**

2019年9月27日,香港证券及期货事务监察委员会(证监会)向凯基证券亚洲有限公司(凯基证券)发出限制通知书,禁止该经纪行处置或处理在多个客户帐户内持有的若干资产。该等帐户是由一名涉嫌违反对某上市法团的责任的人士实益拥有。

凯基证券并非证监会今次的调查对象,并已就有关调查作出配合。限制通知书并不影响凯基证券的运作或它的其他客户。

限制通知书禁止凯基证券在未取得证监会事先书面同意的情况下,以任何方式处置或处理、辅助、怂使或促致另一人以任何方式处置或处理有关帐户内的若干资产。若凯基证券接获任何上述指示,亦须通知证监会。

证监会即将根据《证券及期货条例》第214条在原讼法庭对该上市法团的管理团队(当中包括持有该等帐户的人士)展开民事法律程序,并将寻求法庭对该名人士颁布须向相关上市法团作出赔偿的命令。

证监会认为,就维护投资大众的利益或公众利益而言,发出限制通知书以保存该等帐户内的资产是可取的做法。

Source 来源:  
sfc.hk/edistributionWeb/gateway/EN/newsandannouncement/s/news/doc?refNo=19PR87

### **Hong Kong Securities and Futures Commission Releases Frequently Asked Questions on its Guidelines for Securities Margin Financing Activities**

On September 30, 2019, the Hong Kong Securities and Futures Commission (SFC) issued guidance on compliance with the new Guidelines for Securities Margin Financing Activities.

Frequently Asked Questions (FAQs) posted on the SFC website address concerns of the industry about compliance with the benchmarks set out in the guidelines, which will be implemented on October 4, 2019. The FAQs state that the objective of the guidelines is to help brokers identify the financial risks in relation to their securities margin financing business and to assist them in properly managing these risks to their excess liquid capital buffers.

**香港证券及期货事务监察委员会发表有关《证券保证金融资活动指引》的《常见问题》**

2019年9月30日,香港证券及期货事务监察委员会(证监会)就如何遵从新的《证券保证金融资活动指引》发表相关指引。

登载于证监会网站的《常见问题》处理业界对如何遵从即将在2019年10月4日实施的《指引》内的基准所提出的关注事项,当中列明《指引》的目标是协助经纪行识别其证券保证金融资业务带来的财务风险,及协助它们适当地管理这些财务风险对速动资金盈余缓冲造成的影响。

Source 来源:  
sfc.hk/edistributionWeb/gateway/EN/newsandannouncement/s/news/doc?refNo=19PR91

### **Hong Kong Securities and Futures Commission Takeovers and Mergers Panel does not Permit Broadford Global Limited to Deduct Dividend from Offer Price**

On October 2, 2019, the Hong Kong Securities and Futures Commission (SFC) Takeovers and Mergers Panel (Panel) has ruled that Broadford Global Limited (Broadford) will not be allowed to deduct the final dividend approved by shareholders of Dalian Port (PDA) Company Limited (Dalian Port) from its offer price in a possible mandatory general offer.

The Panel considered that the joint announcement issued by Broadford and Dalian Port did not mention that the final dividend may be deducted from the offer price. Readers of the announcement would have expected Dalian Port's shareholders to receive the full offer price of HK\$1.0127 per share.

The Takeovers Code requires that all statements made during the course of an offer must satisfy the highest standards of accuracy and, in normal circumstances, the price stated in an offer announcement should not be reduced.

On June 14, 2019, Broadford's advisers approached the Takeovers Executive seeking confirmation that the terms of the possible offer permitted Broadford to deduct the final dividend from the offer price. The matter was



referred to the Panel as there were particularly novel, important or difficult points at issue.

#### 香港证券及期货事务监察委员会收购及合并委员会裁定 布罗德福国际有限公司不得从要约价扣除股息

2019年10月2日,香港证券及期货事务监察委员会(证监会)收购及合并委员会(委员会)裁定,布罗德福国际有限公司(布罗德福)将不得在可能作出的一项强制全面要约中,从要约价扣除经大连港股份有限公司(大连港)股东批准的末期股息。

委员会认为,布罗德福及大连港发出的联合公布并无提及要约价可能会扣除末期股息。该公布的读者因而会预期大连港的股东可全额收取要约价每股1.0127港元。

《收购守则》规定在要约过程中作出的所有声明都必须达到最高的准确程度,而在一般情况下,要约公布所述的价格不应被调低。

布罗德福的顾问于2019年6月14日接洽收购执行人员,寻求确认该可能要约的条款允许布罗德福从要约价扣除末期股息。由于当中涉及特别罕见、事关重大或难于处理的争论要点,收购执行人员遂将个案转介委员会处理。

Source 来源:

[sfc.hk/edistributionWeb/gateway/EN/newsandannouncement/s/news/doc?refNo=19PR90](http://sfc.hk/edistributionWeb/gateway/EN/newsandannouncement/s/news/doc?refNo=19PR90)

#### Shenzhen Stock Exchange Revises ETF Implementation Rules to Promote Sound Development of its ETF Market

On September 27, 2019, Shenzhen Stock Exchange (SZSE) released the Implementation Rules for Trading, Creation and Redemption of Securities Investment Funds on SZSE (revised in 2019), which will take effect on October 21. The revision of the Rules improves the settlement mode of SZSE ETF trading, adjusts the creation and redemption mode of cross-market ETFs on SZSE. The move better meets the actual market demand, increases the efficiency of market creation and redemption, and contributes to the long-term sound development of the SZSE's ETF market.

The revision of the Rules mainly includes two aspects: First, the trading settlement mode of SZSE ETF was transformed from T+1DVP to the A-share mode. After the adjustment, the settlement time of ETF shares was advanced, from "T+1" day to "T" day, while the fund settlement time remained "T+1" day, which is consistent with the A-share settlement time. Second, the creation and redemption mode of the cross-market ETFs on SZSE was altered. With the OTC share purchase and redemption mode retained, the creation and redemption

mode of cross-market ETFs traded on SZSE was changed from "full-cash substitution" to "in-kind creation and redemption of SZSE shares and cash substitution of Shanghai Stock Exchange shares" mode, and the China Securities Depository and Clearing Corporation Limited was responsible for the guaranteed settlement.

SZSE said that the adjustment of the settlement mode of ETF trading on SZSE has the following advantages. First, the ETF operation mode has been streamlined and the operating costs and operational risks of all market participants been lowered, helping to ensure the safe and stable operation of the ETF market. Second, the ETF market liquidity has been enhanced and the role of ETF products as a tool been strengthened, helping to guide the wide participation of medium- and long-term funds represented by institutional investors on the A-share market through the allocation of ETF. It is notable that after adjusting the exchange-traded creation and redemption mode of the cross-market ETFs, the ETF share created can be sold on the same day of purchase, and the stocks gained from the shares redeemed can be sold on the same day of redemption. Investors and liquidity service providers also see significant improvement in ETF shares and capital use efficiency.

#### 深圳证券交易所修订 ETF 实施细则推动其 ETF 市场健康发展

2019年9月27日,深圳证券交易所(深交所)发布《深圳证券交易所证券投资基金交易和申购赎回实施细则(2019年修订)》,并自10月21日起施行。这次规则修订优化了深交所ETF交易结算模式,调整了深交所跨市场股票ETF申赎模式,进一步适应市场实际需求,提升市场申赎效率,对促进深交所ETF市场长期健康发展具有积极意义。

这次规则修订主要包括两个方面:一是深交所ETF的交易结算模式由T+1DVP调整为A股模式。调整后,ETF份额交收时间由T+1日提前至T日,资金交收时间仍为T+1日,与A股交收时间一致。二是变更深交所跨市场股票ETF申赎模式。在保留场外实物申赎模式的基础上,深交所跨市场股票ETF场内申赎模式由“全额现金替代”变更为“深交所股票实物申赎,上海证券交易所股票现金替代”模式,并由中国证券登记结算有限责任公司实行担保交收。

深交所表示,其ETF交易结算模式调整,一是简化ETF运作模式,降低市场参与各方的运行成本和操作风险,有利于保障ETF市场安全稳定运行;二是增强ETF市场流动性,进一步强化ETF产品的工具属性,有利于引导以机构投资者为代表的中长期资金通过配置ETF广泛参与A股市场。特别值得一提的是,跨市场股票ETF场内申赎模式调整后,实现当日申购的ETF份额当日即可卖出,当日赎回所获的

股票当日即可卖出, 投资者和流动性服务商的份额及资金使用效率均得到显著提升。

Source 来源:

[szse.cn/English/about/news/szse/t20190930\\_571113.html](http://szse.cn/English/about/news/szse/t20190930_571113.html)

*Information in this update is for general reference only and should not be relied on as legal advice.*

本资讯内容仅供参考及不应被依据作为法律意见。