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Financial Services Regulatory Update
金融服务监管资讯

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The Stock Exchange of Hong Kong Limited Updates and Streamlines its Guidance Materials

On February 28, 2020, The Stock Exchange of Hong Kong Limited (the Exchange), a wholly owned subsidiary of Hong Kong Exchanges and Clearing Limited (HKEX), updates three Guidance Letters and eight sets of Frequently Asked Questions (FAQs), and withdrew 15 Guidance Materials.

The Exchange publishes Guidance Materials from time to time to provide the market with guidance and clarity on the application of certain Listing Rules and practices. The Exchange noted its Guidance Materials had increased significantly over the years, and a number of professional advisers commented that the Guidance Materials should be streamlined. In response to the market feedback, the Exchange began a review of over 200 Guidance Materials in early 2018.

It is part of the Exchange's continuous effort to streamline its guidance and related materials. The first three sets of updates were published in July 2018, March 2019 and April 2019, respectively. The Exchange said it will continue to review and streamline its Guidance Materials as appropriate.

Details of the changes can be found via https://www.hkex.com.hk/News/News-Release/2020/200228news?sc_lang=en

They do not affect policy direction, which remains the same.

Below are some highlights of the changes:

- Three updated Guidance Letters – HKEXGL89-16 (Guidance on issues related to "controlling shareholder" and related Listing Rules implications, mainly to extend "controlling shareholders" to potentially cover largest shareholder(s) with less than 30% shareholding); HKEX-GL52-13 (Guidance for mineral companies); and HKEX-GL36-12 (Guidance on due diligence to be conducted by the sponsor and disclosure in the listing document relating to a distributorship business model).

- Eight sets of updated FAQs – FAQ Series 1, 5, 8, 20, 24, 26, 31; and FAQ No.008-2017 to 022-2017 and 023-2018.

- 15 withdrawn Guidance Materials – Eight Guidance Materials have been consolidated into the revised GL52-13 as mentioned above; four outdated Listing Decisions (LD106-1, LD46-3, LD21-2 and LD12-3) and three Interpretative Letters (RL4-05, RL6-05 and RL22-07) have been withdrawn.

The latest updated Guidance Materials can be found on the HKEX website. The withdrawn Guidance Materials can be found in the Archive section on the HKEX website.

香港联合交易所有限公司更新及精简上市指引材料

2020 年 2 月 28 日，香港交易及结算所有限公司（香港交易所）旗下全资附属公司香港联合交易所有限公司（香港联交所）更新 3 份指引信及 8 个常问问题系列，并撤回 15 份指引材料。

香港联交所不时就《上市规则》条文及常规应用向市场提供更清晰的指引及说明。香港联交所注意到近年的指引材料数量大增，部分专业顾问亦建议可加以精简。为响应市场意见，香港联交所于 2018 年初开始对超过 200 份指引材料进行检讨。

这是香港联交所定期更新及精简其上市指引及相关材料的工作之一。首三批更新的指引材料已先后于 2018 年 7 月、2019 年 3 月及 2019 年 4 月刊发，香港联交所会继续因应需要检讨及精简其指引材料。

是次生效的变动详情见 https://www.hkex.com.hk/-/media/HKEX-Market/News/News-Release/2020/200228news/200228news_c.pdf?la=zh-HK.

有关变动并不影响原有政策方向。

香港联交所指引材料的一些主要变动包括：

- 更新 3 份指引信 — HKEXGL89-16（有关「控股股东」事宜及相关上市规则影响的指引， 主要扩阔「控股股东」至可包括持股比例低于 30%的最大单一的股东或股东群）； HKEX-GL52-13（有关矿业公司的指引）；及 HKEX-GL36-12（有关保荐人进行尽职调查及于上市文件中披露分销权业务模式相关事宜的指引）。

- 更新 8 个常问问题系列 — 常问问题系列 1、5、8、20、24、26、31；及常问问题编号 008-2017 至 022-2017 及 023-2018。

- 撤回 15 份指引材料 — 8 份指引材料如上文所述并入经修订的 GL52-13；以及撤回 4 项过时的上市决策（LD106-1、LD46-3、LD21-2 及 LD12-3）及 3 份诠释函件（RL4-05、RL6-05 及 RL22-07）。

已更新的最新指引材料载于香港交易所网站，已撤回的指引材料亦载于香港交易所网站的档案数据。

Source 来源:
https://www.hkex.com.hk/News/News-Release/2020/200228news?sc_lang=en

The Stock Exchange of Hong Kong Limited Publishes Frequently Asked Questions on the Joint Statement in Relation to Results Announcements in Light of Travel Restrictions Related to the Severe Respiratory Disease Associated with a Novel Infectious Agent (Joint Statement)

On February 28, 2020, The Stock Exchange of Hong Kong Limited (the Exchange) has published a set of frequently asked questions (FAQs) during the course of the discussions on the Joint Statement between the Exchange, the Securities and Futures Commission (SFC) and various stakeholders and listed issuers.

Below are some highlights of the FAQs:

A. Publication of results by issuers with December 31 financial year end

Can trading in its securities continue?

(i) If an issuer is able to publish a preliminary results announcement but without agreement with auditors by March 31, 2020

Yes. As explained in the Joint Statement, the Exchange will not normally suspend trading of the securities of the issuer.

(ii) If an issuer has management accounts available but is uncertain as to potential adjustments to the financial figures (whether due to the lack of supporting evidence or relating to the impairment or valuation of assets or liabilities)

As explained in the Joint Statement, it is our overall objective to minimize trading disruptions. In this regard the issuer should provide the investing public with sufficient information to make investment decisions. For example, the Exchange will not normally require trading suspension:

a) if there are uncertainties on certain financial items and the issuer can highlight the areas of uncertainties in its announcement.

b) if the issuer cannot provide breakdown of financial figures normally in notes to financial statements.

What should the announcement include?

(i) If an issuer is able to publish a preliminary results announcement but without agreement with auditors by March 31, 2020

In addition to the preliminary results, the issuer may consider including:

a) a statement to the effect that the results have not been agreed with its auditors;

b) an explanation for the lack of agreement with auditors and where available, the expected date that the results may be agreed with auditors; and

c) whether the results have been agreed with the audit committee and if there is disagreement, details of the disagreement.

(ii) If an issuer has management accounts available but is uncertain as to potential adjustments to the financial figures (whether due to the lack of supporting evidence or relating to the impairment or valuation of assets or liabilities)

The announcement should provide details of the uncertainties. In preparing the financial information for publication, issuers may refer to the e-News published by the Financial Reporting Council (the FRC) on February 6, 2020 *(Note 1)* for advice to the board of directors and audit committees.

The announcement should comply with the standards for disclosure for issuers' communication (see Main Board Listing Rule 2.13/ GEM Listing Rule 17.56). In particular, information presented in the announcement should be, taken as a whole, accurate and complete in all material respects and not be misleading or deceptive.

If the issuer's financial results are subsequently agreed by auditors, should it publish a further announcement?

(i) If an issuer is able to publish a preliminary results announcement but without agreement with auditors by March 31, 2020

Yes, the announcement can simply state that the previously published results have been agreed with auditors. If there are adjustments to the accounts, the announcement should clearly explain the adjustments and where appropriate, publish the revised results that have been agreed with auditors.

(ii) If an issuer has management accounts available but is uncertain as to potential adjustments to the financial figures (whether due to the lack of supporting evidence or relating to the impairment or valuation of assets or liabilities)

Where the issuer is subsequently aware of any material differences and/or has obtained the outstanding information, it should publish a supplemental announcement to clearly explain the differences and/or disclose the outstanding information when the information is available and where appropriate, revised results that have been agreed with auditors.

If an issuer's operations are severely affected by the outbreak of SRD and cannot prepare its management accounts

As recommended in the Joint Statement, the issuer should consult with the Exchange on the financial information that it is able to report on as soon as possible. The Exchange will assess whether the publication of this information will be sufficient to maintain an orderly, informed and fair market so that trading in the issuer's securities can continue.

If the issuer's business operations, reporting controls, systems, processes or procedures are materially disrupted by the SRD outbreak and/or the related travel restrictions, management should assess whether any inside information has arisen under Part XIVA of the Securities and Futures Ordinance (the SFO) and, if so, make a separate announcement as soon as reasonably practicable, independent of any announcement required under the Listing Rules.

The original form can be found at:
https://www.frc.org.hk/enus/enews/202002/enewsletter_202002_en_Final_website.pdf

Should an issuer make a written submission to the Exchange and/or apply for a waiver if its preliminary results announcement does not fully comply with Main Board Listing Rules 13.49(1) and (2)/ GEM Listing Rule 18.49?

To reduce the administrative burden of issuers the Exchange welcomes issuers to make verbal enquiries.

A waiver application is not required where an issuer publishes a preliminary results announcement that does not fully comply with the requirements in Main Board Listing Rules 13.49(1) and (2)/ GEM Listing Rule 18.49 and/or where the Exchange exercises its discretion under Main Board Listing Rule 13.50/ GEM Listing Rule 17.49A not to suspend trading in the issuer's securities.

If an issuer has concerns that its management accounts may have material differences compared to its later audited financial statements:

i. what should the issuer do?

To minimize potential material differences, the audit committee is encouraged to discuss the key audit matters with the auditors as early as possible. Please see the advice from the FRC in its e-News released on February 6, 2020:

(https://www.frc.org.hk/enus/enews/202002/enewsletter_202002_en_Final_website.pdf).

The SFC and the Exchange will not take disciplinary action solely because of material differences. The Exchange will consider whether the issuer and its directors have been diligent and reasonable in their treatment of accounts or put a good faith effort on the available information. Issuers can also refer to the Hong Kong Institute of Directors' response to the Joint Statement published on February 7, 2020 (https://www.hkiod.com/7Feb2020_final.pdf) and guidance provided by the FRC in its February e-News.

ii. can the issuer postpone the publication of the preliminary results announcement until the audit is completed?

The issuer is reminded of its obligation to timely disclose inside information under Part XIVA of the SFO. Withholding of unaudited financial information may expose the issuer to a risk of non-compliance with Part XIVA of the SFO

B. Publication of audited financial statements and Listing Rules requirements related to published financial information and requirements of holding annual general meetings (AGMs)

If an issuer cannot publish its annual report by April 30, 2020 (for GEM issuers, March 31, 2020), can the issuer postpone the publication of its annual report? Could the issuer postpone the date of its annual

general meeting beyond six months as a result of the delayed publication of audited financial statements?

Yes, the Exchange may waive the requirements and allow a later publication date case by case based on the particular circumstances of the issuer and the information it obtained during the consultation process. The Exchange will consider, among others, the financial information the issuer is able to publish before March 31, 2020 and the effect of the outbreak of SRD on the particular issuer.

The issuer should also take note of the deadline for holding an annual general meeting and plan accordingly. For overseas and PRC issuers, the Exchange may consider waiving the relevant Listing Rules requirement under Main Board Listing Rule 13.46(2)(b)/ GEM Listing Rule 18.03 Note 3 on a case-by-case basis. However, the directors should also observe the relevant requirements under the laws and regulations in their jurisdictions and the issuers' own articles of association. *(Note: PRC, Cayman and Bermuda company laws require companies to hold AGMs at least once every year. The PRC also requires listed companies to hold AGMs within six months of the closing of the financial year.)*

For Hong Kong issuers, the Companies Ordinance requires the issuer to hold the AGM within six months and directors to lay the issuer's annual financial statements at its AGM within the period of six months after the end of the financial year. While Main Board Listing Rule 13.46(1) Note 2/ GEM Listing Rule 18.03 Note 3 also requires Hong Kong issuers to lay accounts within six months of its financial year end, the Exchange will not grant any waiver that would result in contravention with company laws.

When does the blackout period for an issuer that publishes a preliminary results announcement without auditors' agreement on March 31, 2020 end?

By now, all issuers with December year end should have started the blackout date (based on the expected publication time on or before March 31, 2020).

Rule A.3 of Appendix 10/ note to GEM Listing Rule 5.56 states that "Directors should note that the period during which they are not allowed to deal under rule A.3 will cover any period of delay in the publication of a results announcement."

Accordingly, the blackout period ends when the issuer releases the audited financial results (or an announcement confirming that the released results have now been agreed with auditors).

香港联合交易所有限公司发布有关在严重新型传染性病原体呼吸系统病的旅游限制下刊发业绩公告的联合声明（联合声明）的常问问题

2020 年 2 月 28 日，香港联合交易所有限公司（联交所）刊发了一系列联交所、证券及期货事务监察委员会（证监会）、不同持份者及上市发行人就联合声明进行的讨论过程中的常问问题（常问问题）。

以下是常问问题的一些要点：

A. 刊发业绩（于 12 月 31 日财政年结的发行人）

其证券可以继续买卖吗？

(i) 如果发行人能在 2020 年 3 月 31 日之前刊发未与其核数师议定的初步业绩公告

可以。如联合声明所述，联交所一般不会将发行人的证券停牌。.

(ii) 如果发行人有可提供的管理账目，但不确定对财务数字的潜在调整（无论是由于缺乏支持证据或是与资产或负债的减值或估值有关）

如果发行人在 2020 年 3 月 31 日之前刊发该等账目，正如联合声明所述，联交所旨在尽量避免影响股份买卖。发行人应向 广大投资者提供充足的信息以便他们作出投资决定。例如，在下列情况，联交所一般不会要求发行人的证券停牌：

a. 如果某些财务项目存在不确定性，而发行人能于公告中强调存在不确定性的地方。

b. 如果发行人无法提供正常载于财务报表附注中的财务数据分项明细。

该公告应包含甚么内容？

(i) 如果发行人能在 2020 年 3 月 31 日之前刊发未与其核数师议定的初步业绩公告

除初步业绩外，发行人还可以考虑包含：

a. 表示该等业绩并未经与核数师议定的声明；

b. 解释为何未有取得核数师的同意，以及如有的话，预期将会与 核数师议定业绩的日期； 及

c. 业绩是否经与审核委员会议定，以及如果存在分歧，提供该等分歧的详细信息。

(ii) 如果发行人有可提供的管理账目，但不确定对财务数字的潜在调整（无论是由于缺乏支持证据或是与资产或负债的减值或估值有关）

该公告应提供不确定性的细节。在准备刊发财务资料时，发行人可以参考财务汇报局于 2020 年 2 月 6 日刊发的电子简讯 *(附注 1)* 中向董事会和审核委员会提供的建议。

公告应符合发行人的通讯披露标准（见《主板上市规则》第 2.13 条/《GEM 上市规则》第 17.56 条）。特别是，公告中的资料整体上在各重 要方面均须准确完备，且没有误导或欺诈成份。

如果核数师随后议定发行人的财务业绩，发行 人应否刊发进一步公告？

(i) 如果发行人能在 2020 年 3 月 31 日之前刊发未与其核数师议定的初步业绩公告

是，该公告可以说明先前刊发的业绩已与核数师议定。如账目有调整，公告应清楚解释该等调整并在适当情况下刊发经与核数师议定的经修订业绩。

(ii) 如果发行人有可提供的管理账目，但不确定对财务数字的潜在调整（无论是由于缺乏支持证据或是与资产或负债的减值或估值有关）

如果发行人随后注意到存在任何重大差别和/或取得之前尚欠的资料，其应刊发补充公告以清楚地解释该等差别和/或披露之前尚欠问题回答 的数据，以及（如适用）经与核数师议定的经修订业绩。

如果发行人的运作因受新型冠状病毒感染疫情严重影响而无法准备其管理账目

正如联合声明建议，发行人应及早就可以汇报的财务数据咨询联交所。联交所将评估刊发这些资料是否足以维持一个有秩序、信息灵通和公平的 市场，从而使发行人的证券可以继续买卖。

若新型冠状病毒感染疫情及/或相关的旅游限制对发行人的业务运作、汇报监控措施、系统、流程或程序造成重大扰乱，管理层应评估是否已出 现任何《证券及期货条例》第 XIVA 部界定的内幕消息；如是的话，管理层应在合理地切实可行的范围内，尽快另行发出公告（该公告将独立于《上市规则》的任何适用规定）。

原文可在以下网站查询:
https://www.frc.org.hk/zhhk/enews/202002/enewsletter_202002_tc_final_website.pdf

如果其初步业绩公告不完全符合《主板上市规则》第 13.49(1)及(2) 条/《GEM 上市规则》第 18.49 条的规定，发行人是否应向联交所提交书面陈述及/或申请豁免？

为了减轻发行人的行政负担，联交所欢迎发行人作口头咨询。

发行人刊发的初步业绩公告不完全符合《主板上市规则》第 13.49(1)及(2) 条/ 《GEM 上市规则》第 18.49 条的要求及/或联交所行使其于《主板上市规则》第 13.50 条/《GEM 上市规则》第 17.49A 条项下的酌情权不要求发行人的证券停牌，均是毋须作豁免申请的。

如果发行人担心其管理账目与其后来的经审核财务 报表相比可能存在重大差别:

(i) 发行人应该怎么做？

为了最大程度地减少潜在的重大差别，联交所鼓励审核委员会及早与核数师讨论关键审计事项。请查阅财务汇报局在 2020 年 2 月 6 日刊发的电子简讯中的建议(https://www.frc.org.hk/zhhk/enews/202002/enewsletter_202002_tc_final_website.pdf)。

证监会及联交所将不会仅因重大差别而采取纪律行动。联交所将考虑发行人及其董事在处理账目方面是否勤勉合理，或对现有资料作出了真诚的努力。发行人亦可参考香港董事学会于 2020 年 2 月 7 日就联合声明作出的响应（https://www.hkiod.com/7Feb2020_final_cn.pdf）以及财务汇报局在其 2 月电子简讯中提供的指引。

(ii) 发行人是否可以延迟刊发初步业绩公告，直到审计完成？

发行人应注意其根据《证券及期货条例》第 XIVA 部须及时披露内幕消息的责任。暂缓披露未经审核的财务资料可能会使发行人面临违反《证券及期货条例》第 XIVA 部的风险。

B. 刊发已审核的财务报表以及与已刊发的财务数据相关的《上市规则》要求及召开年度股东大会的要求

如果发行人未能在 2020 年 4 月 30 日（对于 GEM 发行人而言，2020 年 3 月 31 日）之前刊发年报，发行人可以延迟刊发年报吗？由于延迟刊发经审核财务报表，发

行人是否可以将其年度股东大会的日期延至六个月期限后？

可以，联交所可根据发行人的特定情况及联交所于咨询过程中所获得的资料，个别豁免要求并允许延迟刊发年报。联交所将考虑（其中包括）发行人能够在 2020 年 3 月 31 日之前刊发的财务数据以及新型冠状病毒感染疫情对个别发行人的影响。

发行人亦应注意召开年度股东大会的期限，并作出相应的计划。对于海外和中国发行人，联交所可能会根据个别情况豁免《主板上市规则》第 13.46(2)(b) 条/《GEM 上市规则》第 18.03 条附注 3 的相关要求。 但董事亦应遵守所在豁区的法律法规和发行人章程的相关要求。（附注：中国、开曼 群岛及百慕大的公司法规定必须每年最少举行一次股东周年大会。中国亦要求上市公司在会计年度结束后的六个月内举行股东周年大会。）

就香港发行人而言，《公司条例》要求发行人在六个月内举行股东周年大会及董事须在财政年度结束后的六个月内在年度股东大会上提交发行人的年度财务报表。尽管《主板上市规则》第 13.46(1)条附注 2 /《GEM 上市规则》第 18.03 条附注 3 亦要求香港发行人在其财政年度结束后的六个月内提交账目，联交所将不会授予任何将会违反公司法的豁免。

对于在 2020 年 3 月 31 日刊发未与核数师议定的初步业绩公告的发行人而言，其禁止买卖期何时结束？

到目前为止，所有于 12 月年结的发行人都应该已经进入了禁止买卖期（基于预计刊发时间为 2020 年 3 月 31 日或之前）。

《主板上市规则》附录 10 规则 A.3 项/《GEM 上市规则》第 5.56 条的注释列明"董事须注意，根据 A.3 项所规定禁止董事买卖其所属上市发行人证券的期间，将包括上市发行人延迟公布业绩的期间。"

因此，禁止买卖期限在发行人刊发经审核财务业绩（或其确认所刊发的业绩已经与核数师议定的公告）时结束。

Source 来源:
https://www.hkex.com.hk/-/media/HKEX-Market/Listing/Rules-and-Guidance/Other-Resources/Listed-Issuers/Joint-Statement-with-SFC/faqs_jointstate.pdf?la=en

Hong Kong Securities and Futures Commission Issues Quarterly Report

On February 21, 2020, Hong Kong Securities and Futures Commission (SFC) publishes its latest Quarterly Report which summarizes key developments from October to December 2019.

Highlights of the quarter included the launch of a consultation on proposed changes to the open-ended fund companies regime to encourage more private funds to set up in Hong Kong and the release of a position paper setting out a new licensing framework for virtual asset trading platforms.

The SFC also published consultation conclusions on enhancements to the investor compensation regime which raised the compensation limit to HK$500,000 per investor per default and on proposals to impose margin requirements for non-centrally cleared over-the-counter derivatives to help reduce systemic market risks.

As part of ongoing efforts to address corporate misconduct, the SFC issued a statement in November to remind listed companies not to disclose false, incomplete or misleading information about their counterparties in a transaction, together with a circular reminding asset managers to properly assess potentially dubious arrangements and transactions involving private funds or discretionary accounts which are proposed or directed by investors.

A report published by the SFC in December shared the findings of its survey on integrating environmental, social and governance factors and climate risks in asset management.

Key figures for the quarter include:

- The number of licensees and registrants rose 2.3% from last year to 47,437, including the number of licensed corporations, which grew 6.2% to 3,084.
- The SFC conducted 76 on-site inspections of licensed corporations to review their compliance with regulatory requirements.
- The SFC authorized 50 unit trusts and mutual funds and 18 unlisted structured investment products for public offering.
- 51 new listing applications were vetted.
- In reviewing corporate disclosure, the SFC issued section 179 directions to gather additional information in 14 cases and wrote to detail its concerns in six transactions.
- It made 2,345 requests to intermediaries for trading and account records triggered by untoward price and turnover movements.

- Five licensed corporations and five individuals were disciplined, resulting in total fines of HK$413.3 million.

The report is available on the SFC website.

香港证券及期货事务监察委员会发表季度报告

2020年2月21日，香港证券及期货事务监察委员会（证监会）发表最新的《季度报告》，概述2019年10月至12月期间的重要发展。

季内的重点工作包括就建议修订开放式基金型公司制度，以鼓励更多私人基金在香港成立展开谘询，以及发表一份立场书，载述向虚拟资产交易平台发牌的新框架。

证监会亦发表了两份谘询总结，其中一份关于投资者赔偿制度的优化措施，包括将向每名投资者就每项违责支付的赔偿上限提高至500,000港元。另一份则关于建议对非中央结算的场外衍生工具施加保证金规定，以协助减少市场的系统性风险。

为配合一直以来打击企业失当行为的工作，证监会于11月发出声明，提醒上市公司不得就其交易对手方披露虚假、不完整或具误导性的资料；同时亦发出通函，提醒资产管理公司妥善评估由投资者提议或指示涉及私人基金及委托帐户的安排或交易。

证监会于12月就有关在资产管理中纳入环境、社会及管治因素和气候风险的调查结果发表报告。

本季的主要数字包括：

- 持牌机构及人士和注册机构的数目较去年增加2.3%至47,437；其中，持牌机构的数目上升6.2%至3,084家。
- 证监会对持牌机构进行了76次现场视察，以查核它们遵守相关监管规定的情况。
- 证监会认可了公开发售的50只单位信托及互惠基金和18项非上市结构性投资产品。
- 证监会审阅了51宗新上市申请。
- 证监会在检视各上市公司的披露情况时，根据第179条就14宗个案发出指示以收集更多资料，及就六宗交易以书面形式阐述证监会所关注的事项。
- 证监会因应股价及成交量的异动，向中介机构提出了2,345项索取交易及帐户纪录的要求。
- 证监会对五家持牌机构及五名人士采取了纪律处分，涉及的罚款总额达4.133亿港元。

季度报告可于证监会网站下载浏览。

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The Listing Committee of the Stock Exchange of Hong Kong Limited Censures Yorkshine Holdings Limited (Previous Stock Code: 1048), and Censures or Criticizes a Number of its Former Directors for Breaching the Listing Rules and/or the Director's Undertaking

On February 27, 2020, The Listing Committee ("Listing Committee") of The Stock Exchange of Hong Kong Limited (the Exchange)

CENSURES:

(1) Yorkshine Holdings Limited (previous Stock Code: 1048) (the listing of the Company's shares on the Exchange was cancelled with effect from 27 December 2019 under Rule 6.01A) ("Company"),

for (i) breaching Rule 13.49(2) of the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited ("Exchange Listing Rules") by failing to seek its auditor's agreement prior to the publication of the Company's preliminary announcement of annual results for the year ended 30 April 2016; and (ii) for breaching Rules 14.34, 14A.34, 14A.35, 14A.36, 14A.39, 14A.46, 14A.49, 14A.53, 14A.55, 14A.56 and 14A.57 of the Exchange Listing Rules by failing to comply with the relevant requirements for disclosable and/or continuing connected transactions;

FURTHER CENSURES:

(2) Mr. Chow Kin Wa ("Mr. Chow"), former executive director ("ED") and Chief Executive Officer of the Company; and

(3) Mr. Yu Wing Keung Dicky ("Mr. Yu"), former ED and Chairman of the Company,

for breaching (i) Rule 3.08(f), (ii) their obligations under the Declaration and Undertaking with regard to Directors given to the Exchange in the form set out in Appendix 5B to the Exchange Listing Rules (the "Undertaking") to comply with the Exchange Listing Rules to the best of their ability, and (iii) their Undertakings to use their best endeavors to ensure the Company's compliance with the Exchange Listing Rules and that the Company had adequate and effective internal controls;

AND:

(4) Mr. Foo Teck Leong ("Mr. Foo"), former independent non-executive director ("INED") of the Company, and

(5) Mr. Tang Chi Loong ("Mr. Tang"), former INED of the Company,

for breaching their obligations under their Undertakings to use their best endeavors to ensure that the Company had adequate and effective internal controls.
AND CRITICISES:

(6) Mr. Chow Kin San, former ED of the Company,

for breaching his obligations under his Undertaking to use his best endeavors to ensure that the Company had adequate and effective internal controls.

(The directors identified at (2) to (6) above are collectively referred to as the "Directors".)

For the avoidance of doubt, the Exchange confirms that the sanctions and directions in this news release apply only to the Company and the Directors, and not to any other past or present members of the board of directors ("Board") of the Company.

HEARING

On March 13, 2019, the Listing Committee conducted a hearing into the conduct of, among others, the Company and the Directors in relation to their obligations under the Exchange Listing Rules and the Undertakings.

On October 14, 2019, the Listing Committee conducted a disciplinary (review) hearing on the applications by, among others, Mr. Foo, Mr. Tang and Mr. Chow Kin San for a review of the decisions of and the sanctions imposed by the Listing Committee at first instance (the "Disciplinary (Review) Hearing"). The Disciplinary (Review) Hearing was adjourned and reconvened on December 13, 2019.

FACTS

This news release concerns two separate cases involving breaches of the Exchange Listing Rules by the Company, being:

(a) Case 1 – The Company published its unaudited final results for the year ended April 30, 2016 on June 29, 2016 ("2016 Results Announcement"). Rule 13.49(2) requires that the preliminary announcement of annual results shall have been agreed with the Company's auditors. The Company admitted that it breached Rule 13.49(2) of the Exchange Listing Rules in respect of the 2016 Results Announcement.

(b) Case 2 – The Company's subsidiary ("Tianjin Shifa") entered into certain transactions with a connected party ("Wanshida") during the financial years ended April 30, 2014, April 30, 2015 and April 30, 2016 ("Transactions"). The Transactions were subject to Chapters 14 and 14A of the Exchange Listing Rules. The Company admitted that it failed to comply with the annual review, reporting, announcement and independent shareholders' approval requirements of the Exchange Listing Rules in respect of the Transactions.

The Company admitted that its breaches of the Exchange Listing Rules in respect of Case 2 were due to internal control deficiencies at the relevant time. The Company submitted that there were no written internal control policies in relation to compliance with Chapters 14 and 14A of the Exchange Listing Rules, and that it did not maintain a list of connected parties.

Mr. Chow and Mr. Yu were both on the board of Tianjin Shifa and were aware that Wanshida was a connected party. By June 2014, both Mr. Chow and Mr. Yu were aware that the Transactions had possibly breached the Exchange Listing Rules, but they did not take any action or raise this with the rest of the Board. This resulted in the Company's continued breaches of the Exchange Listing Rules in respect of the Transactions. Mr. Yu admitted that he breached his Undertaking to ensure the Company's Exchange Listing Rule compliance. Both Mr. Chow and Mr. Yu admitted that there were internal control deficiencies which led to the Company's breaches.

Mr. Chow Kin San placed excessive reliance on other members of the Board and the chief financial officer / company secretary of the Company ("CFO/Company Secretary") to procure the Company's compliance with the Exchange Listing Rules. Mr. Foo and Mr. Tang as members of the audit committee of the Company, did not take adequate steps to review the Company's internal control system, or to ensure that the Company's internal control procedures were being followed and regularly updated.

Exchange Listing Rule Requirements

In respect of Case 1, the 2016 Results Announcement was subject to Rule 13.49(2) of the Exchange Listing Rules, which requires that the preliminary announcement of annual results shall have been agreed with the Company's auditors.

In respect of Case 2, the Transactions were subject to the following requirements of the Exchange Listing Rules:

(a) Rule 14.34 provides that a listed issuer must inform the Exchange and publish an announcement as soon as

possible after the terms of, inter alia, a disclosable or a major transaction have been finalized.

(b) Rule 14A.34 provides that a listed issuer's group must enter into a written agreement for a connected transaction.

(c) Rule 14A.35 provides that a listed issuer must announce a connected transaction as soon as practicable after its terms have been agreed.

(d) Rules 14A.36, 14A.39 and 14A.46 provide that (i) a connected transaction must be conditional upon shareholders' approval at a general meeting held by the listed issuer, (ii) the listed issuer must set up an independent board committee and appoint an independent financial adviser, and (iii) a circular must be issued to shareholders.

(e) Rule 14A.49 provides that a listed issuer must disclose its connected transactions conducted during the financial year in its annual report.

(f) Rules 14A.53, 14A.55, 14A.56 and 14A.57 set out the requirements for continuing connected transactions, including an annual cap, review by INEDs, engaging auditors to report on the continuing connected transactions, and providing a copy of the auditors' letter to the Exchange.

Rule 3.08 provides that the Exchange expects the directors to fulfil fiduciary duties and duties of skill, care and diligence to a standard at least commensurate with the standard established by Hong Kong law. These include duties to apply such degree of skill, care and diligence as may reasonably be expected of a person of his knowledge and experience and holding his office within the listed issuer (Rule 3.08(f)).

The Directors were under the obligations, pursuant to their respective Undertakings, to comply to the best of their ability with the Exchange Listing Rules and to use their best endeavors to procure the Company's compliance with the Exchange Listing Rules, and to ensure that the Company had adequate and effective internal controls.

LISTING COMMITTEE'S FINDINGS OF BREACH

The Listing Committee considered the written and oral submissions of the Division, the Company and the Directors and concluded as follows:

Company's breaches

The Listing Committee noted that the Company admitted that it breached Rule 13.49(2) in respect of Case 1, and Rules 14.34, 14A.34, 14A.35, 14A.36, 14A.39, 14A.46, 14A.49, 14A.53, 14A.55, 14A.56 and 14A.57 in respect of Case 2, and found that the Company did breach these Rules.

Directors' breaches

The Listing Committee concluded that:

(a) Mr. Chow and Mr. Yu breached (i) Rule 3.08(f), (ii) their Undertakings to comply with the Exchange Listing Rules to the best of their ability, and (iii) their Undertakings to use their best endeavors to procure the Company's compliance with the Exchange Listing Rules (these breaches were admitted by Mr. Chow and Mr. Yu):

(i) Mr. Chow admitted that he was aware of the Transactions and that Wanshida was a connected party. However, he failed to take any steps to ensure that the Company complied with the Exchange Listing Rules at the time of the Transactions.

(ii) The evidence showed that, by June 2014, Mr. Chow and Mr. Yu were both aware of the potential breaches of the Exchange Listing Rules as a result of the Transactions. They did not take any action to consider the implications of the Company's breaches, or to ensure that the Company did not continue to breach the relevant Exchange Listing Rules. They did not discuss the Transactions with the rest of the Board, nor did they seek advice from professional parties. This resulted in the Company's continued breaches of the Exchange Listing Rules and demonstrated a disregard for compliance with the same.

(b) The Directors breached their respective Undertakings for failing to use their best endeavors to ensure that the Company had adequate and effective internal controls (this was admitted by Mr. Chow and Mr. Yu):

(i) There was conflicting evidence about the existence of written internal control procedures on compliance with Chapters 14 and 14A of the Exchange Listing Rules. Regardless of whether written internal control procedures existed, these were clearly not implemented, followed, updated or even communicated to staff, given that the Company and most of the Directors were not aware of the existence of the same. None of the Directors demonstrated that they took an active role in implementing, reviewing and monitoring the effectiveness of the Company's internal control procedures, whether written or otherwise.

(ii) Even Mr. Chow Kin San, who submitted that written internal control procedures existed, took no steps to ensure that these were properly implemented and updated.

(iii) The evidence showed that the Directors placed excessive reliance on the CFO/Company Secretary to

procure the Company's compliance with the Exchange Listing Rules, and there was no evidence of any supervision and/or regular reporting to the Board. Delegation did not absolve directors from their duty to supervise the discharge of the delegated functions, for which they, collectively and individually, retained ultimate responsibility.

At the Disciplinary (Review) Hearing, the Listing Committee on review considered that Mr. Foo and Mr. Tang also breached their respective Undertakings for failing to use their best endeavors to ensure that the Company had adequate and effective, in that although the 2016 Annual Report expressly contained a note that Tianjin Shifa had made an interest-free advance of approximately US$5.6 million to a related party during that financial year, Mr. Foo (the chairman of the audit committee) and Mr. Tang (a member of the audit committee) both failed to identify the connected transactions or raise queries about the large advance. The Listing Committee on review noted that the Division in fact made enquiries about the advance after the 2016 Annual Report was published on August 30, 2016.

The Listing Committee on review decided to uphold the decision of the Listing Committee at first instance that Mr. Chow Kin San, Mr. Foo and Mr. Tang breached their respective Undertakings for failing to use their best endeavors to ensure that the Company had adequate and effective internal controls. The Listing Committee on review: (i) endorsed the sanction of public statement which involves criticism imposed on Mr. Chow Kin San; and (ii) imposed a public censure and directors' training on Mr. Foo and Mr. Tang as set out below.

REGULATORY CONCERN

This case reveals a serious concern over the Company's corporate governance, the Directors' ability to procure the Company's Exchange Listing Rule compliance, and the adequacy and effectiveness of the Company's internal control system in relation to compliance with Chapters 14 and 14A of the Exchange Listing Rules.

In Case 1, the Company's failure to comply with Rule 13.49(2) of the Exchange Listing Rules arose from the Directors' misunderstanding of the requirements of Rule 13.49(2). The rationale behind Rule 13.49(2) is to ensure that the preliminary results announcement published by listed issuers contain accurate and reliable financial information.

In Case 2, the Company's failure to comply with Chapters 14 and 14A of the Exchange Listing Rules in relation to the Transactions were attributable to (i) Mr. Chow's and Mr. Yu's conduct, and (ii) the Company's internal control deficiencies. The Company's breaches of disclosure obligations, announcement and shareholders' approval requirements in Case 2 deprived the Company's investors and shareholders of their timely receipt of information in relation to the Transactions, and for shareholders, their right to vote on those Transactions. As a consequence, the rights and interests of the shareholders of the Company had been prejudiced.

The evidence in this case suggested there were internal control deficiencies and over-reliance on the CFO/Company Secretary by the Directors, which contributed in part to the Company's breaches of the Exchange Listing Rules. An adequate and effective internal control system includes the proper implementation of the relevant procedures, which is fundamental in ensuring the Company's compliance with the Exchange Listing Rules.

The Listing Committee is concerned about Mr. Chow and Mr. Yu's failure to take action to ensure the Company's compliance with the Exchange Listing Rules, particularly after they became aware that the Transactions had possibly breached the Exchange Listing Rules. This illustrates a disregard for compliance on the part of Mr. Chow and Mr. Yu.

SANCTIONS AND DIRECTIONS

Having made the findings of breach stated above, the Listing Committee decided to:

(1) censure the Company for its breach of Rule 13.49(2) in respect of Case 1 and Rules 14.34, 14A.34, 14A.35, 14A.36, 14A.39, 14A.46, 14A.49, 14A.53, 14A.55, 14A.56 and 14A.57 in respect of Case 2;

(2) censure Mr. Chow and Mr. Yu for their breach of Rule 3.08(f) and their respective Undertakings;

(3) censure Mr. Foo and Mr. Tang for their breach of their respective Undertakings;

(4) criticize Mr. Chow Kin San for his breach of the Undertaking.

The Listing Committee further directed:

(5) as a pre-requisite of any future appointment as a director of any company listed on the Exchange, each of Mr. Foo and Mr. Tang, who is not currently a director of any company listed on the Exchange to (a) attend 40 hours of training on Exchange Listing Rule compliance and director's duties, of which not less than 20 hours of training on the requirements under the Exchange Listing Rules in respect of director's duties and corporate governance (the "Training"), to be provided by institutions such as the Hong Kong Institute of Chartered Secretaries, the Hong Kong Institute of Directors or other course providers approved by the Division. The Training is to be completed before the effective date of

any such appointment; and (b) to provide the Division with the Training provider's written certification of full compliance; and

(6) following the publication of this news release, any changes necessary and any administrative matters which may emerge in the management and operation of the directions set out in paragraph (5) above are to be directed to the Division for consideration and approval. The Division should refer any matters of concern to the Listing Committee on review for determination.

香港联合交易所有限公司上市委员会谴责煜新控股有限公司（前股份代号：1048），并谴责或批评该公司数名前任董事违反《上市规则》及／或《董事承诺》

2020 年 2 月 27 日，香港联合交易所有限公司（联交所）上市委员会（「上市委员会」）

谴责：

(1) 煜新控股有限公司（前股份代号：1048）（该公司的上市地位已于 2019 年 12 月 27 日按《上市规则》第 6.01A 条予以取消）（「该公司」）

(i) 违反《香港联合交易所有限公司证券上市规则》（「《上市规则》」）第 13.49(2)条，未能在刊发该公司截至 2016 年 4 月 30 日止年度的初步年度业绩公告前取得其核数师同意；及(ii) 违反《上市规则》第 14.34、14A.34、14A.35、14A.36、14A.39、14A.46、14A.49、14A.53、14A.55、14A.56 及 14A.57 条，未能遵守须予披露及/或持续关连交易规定；

进一步谴责：

(2) 该公司前执行董事及行政总裁周建华先生（「周先生」）；及

(3) 该公司前执行董事及主席余永强先生（「余先生」）

(i) 违反《上市规则》第 3.08(f)条；(ii) 违反有关董事以《上市规则》附录五 B 表格所载形式向联交所作出的《董事声明及承诺》（「《承诺》」）所载的责任，未有尽力遵守《上市规则》；(iii) 违反其《承诺》，未有尽力确保该公司遵守《上市规则》及设有充足和有效的内部监控；及

(4) 该公司前独立非执行董事符德良先生（「符先生」）；及

(5) 该公司前独立非执行董事曾子龙先生（「曾先生」），

违反其《承诺》所载的责任，未有尽力确保该公司设有充足和有效的内部监控。

并批评：

(6) 该公司前执行董事周建新先生，

违反其《承诺》所载的责任，未能尽力确保该公司设有充足和有效的内部监控。

（上述(2)至(6)项所述的董事统称为「该等董事」）。

为免引起疑问，联交所确认本新闻稿所载制裁及指示仅适用于该公司及该等董事，而不涉及该公司董事会其他前任或现任董事。

聆讯

上市委员会于 2019 年 3 月 13 日就该公司及该等董事的行为及其在《上市规则》及《承诺》下的有关责任进行聆讯。

上市委员会于 2019 年 10 月 14 日就（其中包括）符先生、曾先生及周建新先生的申请进行纪律（复核）聆讯，复核上市委员会于首次聆讯中对他们施加的决定及制裁（「纪律（复核）聆讯」）。纪律（复核）聆讯被押后及延至 2019 年 12 月 13 日重新进行。

实况

是次新闻稿涉及该公司违反《上市规则》的两个不同个案，分别是：

(i) 个案 1 — 该公司于 2016 年 6 月 29 日刊发截至 2016 年 4 月 30 日止年度的未经审核年度业绩（「2016 业绩公告」）。《上市规则》第 13.49(2)条规定，年度业绩的初步公告须经核数师协议同意。该公司承认，就 2016 业绩公告而言，其违反《上市规则》第 13.49(2)条的规定。

(ii) 个案 2 — 于截至 2014 年 4 月 30 日、2015 年 4 月 30 日及 2016 年 4 月 30 日止的三个财政年度，该公司附属公司（「天津实发」）与关连方（「万事达」）订立了若干交易（「该等交易」）。该等交易须遵守《上市规则》第十四及十四 A 章的规定。该公司承认其未能就该等交易遵守《上市规则》有关年度审核、汇报、公告及独立股东批准的规定。

该公司承认个案 2 中其违反《上市规则》规定是当时内部监控措施不足所致。该公司指其并无任何有关遵守

《上市规则》第十四及十四 A 章规定的书面内部监控政策，亦无设存关连方名单。

周先生及余先生均为天津实发董事会成员，且知悉万事达为关连方。及至 2014 年 6 月，周先生及余先生得悉该等交易可能违反《上市规则》，但并无采取任何行动或与其他董事会成员谈及此问题，导致该公司就该等交易持续违反《上市规则》。余先生承认其违反《承诺》，未能确保公司遵守《上市规则》。周先生及余先生均承认公司内部监控不足导致违规。

周建新先生过度依赖董事会其他成员以及该公司首席财务官/公司秘书去促使该公司遵守《上市规则》。符先生及曾先生身为该公司审核委员会成员，未有采取充分措施检讨该公司内部监控系统或确保该公司遵守及定期更新其内部监控程序。

《上市规则》规定

在个案 1 中，2016 业绩公告须遵守《上市规则》第 13.49(2)条，当中规定年度业绩的初步公告须经该公司核数师同意。

在个案 2 中，该等交易须遵守《上市规则》的以下规定：

(i) 第 14.34 条：须予披露的交易或主要交易的条款最后确定下来后，上市发行人须尽快通知联交所并刊发公告。

(ii) 第 14A.34 条：上市发行人集团进行关连交易必须签订书面协议。

(iii) 第 14A.35 条：上市发行人必须在协议关连交易的条款后尽快公布有关交易。

(iv) 第 14A.36、14A.39 及 14A.46 条：(i)关连交易必须事先在上市发行人的股东大会上取得股东批准；(ii)上市发行人必须成立独立董事委员会及委任独立财务顾问；及(iii)必须向股东送发通函。

(v) 第 14A.49 条：上市发行人必须在年报内披露于财政年度内进行的关连交易。

(vi) 第 14A.53、14A.55、14A.56 及 14A.57 条：载有持续关连交易的相关规定，包括年度上限、独立非执行董事审核、委聘核数师报告持续关连交易以及将核数师函件副本送交联交所。

《上市规则》第 3.08 条：联交所要求董事履行诚信责任及以应有技能、谨慎和勤勉行事的责任，而履行上述责任时，至少须符合香港法例所确立的标准。该等职责包括以应有的技能、谨慎和勤勉行事，程度相当于别人合理地预期一名具备相同知识及经验，并担任上市发行人董事职务的人士所应有的程度（第 3.08(f)条）。

根据该等董事各自的《承诺》，他们有责任尽力遵守《上市规则》，并竭力促使该公司遵守《上市规则》，并确保该公司设立充足和有效的内部监控措施。

上市委员会裁定的违规事项

上市委员会考虑上市科、该公司及该等董事的书面及口头陈述后，作出以下裁定：

该公司的违规行为

上市委员会留意到该公司承认就个案 1 违反《上市规则》第 13.49(2)条，以及就个案 2 违反《上市规则》第 14.34、14A.34、14A.35、14A.36、14A.39、14A.46、14A.49、14A.53、14A.55、14A.56 及 14A.57 条，并裁定该公司违反上述规则的情况属实。

<u>该等董事违规</u>

上市委员会裁定：

(I) 周先生及余先生(i) 违反《上市规则》第 3.08(f)条；(ii) 违反其《承诺》所载的责任，未有尽力遵守《上市规则》；及(iii) 违反其《承诺》，未有尽力促使该公司遵守《上市规则》（周先生及余先生二人均承认此等违规）；

(i) 周先生承认其知悉该等交易并得悉万事达为关连方。然而，他并无采取任何措施确保该公司在进行该等交易时遵守《上市规则》。

(ii) 证据显示，及至 2014 年 6 月，周先生及余先生已察觉该等交易有可能违反《上市规则》。他们并无采取任何行动权衡该公司违规的潜在影响，又或确保该公司不会继续违反相关《上市规则》的规定。他们并没有与董事会其他成员商讨该等交易，亦没有向专业人士寻求意见，导致该公司持续违反《上市规则》，更显示该公司漠视合规的要求。

(II) 该等董事违反各自的《承诺》，未有尽力确保该公司设有充足和有效的内部监控（周先生及余先生均承认此项违规）：

(i) 就该公司是否订有书面的内部监控程序以遵守《上市规则》第十四及十四 A 章的规定的问题上，相关证据可说互相矛盾。但不论书面内部监控程序是否存在，从该公司及大部分该等董事均不知有该等程序来看，该等程

序即使存在亦显然并未施行、遵守、更新甚至未有通报员工。该等董事概无积极实施、检讨及监察该公司内部监控程序（不论是书面又或其他形式）的成效。

(ii) 即使周建新先生声称该公司确有书面内部监控程序，但他亦没有采取措施确保有关程序妥为实施及更新。

(iii) 证据显示该等董事过分依赖首席财务官/公司秘书去促使该公司遵守《上市规则》，同时概无证据显示该公司订有任何监察及/或向董事会定期汇报的机制。董事即使将部分职能转授他人，亦不会免去其监察相关职能履行的责任，董事会各人仍要就该等职责共同及个别承担最终责任。

在纪律（复核）聆讯中，上市委员会经复核后认为符先生及曾先生亦违反各自的《承诺》，未有尽力确保该公司设立充足和有效的内部监控措施，原因是尽管 2016 年报清楚注明天津实发于该会计年度向有关方作出免息垫款约 560 万美元，但符先生（审核委员会主席）及曾先生（审核委员会成员）均未有辨识有关的关连交易又或质疑这笔大额垫款。上市委员会经复核后指出，其实发行人于 2016 年 8 月 30 日刊发 2016 年报后，上市科已就该笔垫款作出查询。

上市委员会经复核后决定维持上市委员会于首次聆讯中作出的决定，裁定周建新先生、符先生及曾先生违反各自的《承诺》，未有尽力确保该公司设有充足和有效的内部监控措施。上市委员会经复核后决定：(i) 赞同以发出载有批评的公开声明作为对周建新先生的制裁；及(ii) 公开谴责符先生及曾先生，并指令二人接受董事培训（见下文）。

监管上关注事项

本案揭示的情况令人高度关注该公司的企业管治、董事促使该公司遵守《上市规则》的能力以及该公司因应《上市规则》第十四及十四 A 章规定所设立内部监控系统是否充足及有效。

在个案 1 中，该公司违反《上市规则》第 13.49(2)条乃因该等董事误解该条的规定。第 13.49(2)条的理念旨在确保上市发行人刊发的初步业绩公告载有准确及可信的财务数据。

在个案 2 中，该公司违反《上市规则》第十四及十四 A 章的规定乃因为 (i)周先生及余先生的操守及(ii)该公司内部监控不足。该公司在个案 2 中违反披露责任、公告及股东批准规定，剥夺了该公司投资者及股东的权利，令他们未能及时知悉该等交易的数据，股东亦未能就该等交易进行表决，因此令该公司股东的权利及利益受损。

本个案中的证据显示公司内部监控不足及该等董事过度依赖首席财务官/公司秘书，某程度导致该公司违反《上市规则》。充足及有效的内部监控系统包括妥善实施有关程序，是确保该公司遵守《上市规则》的关键。

上市委员会关注周先生及余先生没有采取行动确保该公司遵守《上市规则》（尤其是其得知该等交易有可能违反了《上市规则》后），证明二人漠视合规事宜。

实施的制裁及指示

经裁定上述违规事项后，上市委员会决定：

(1) 谴责该公司就个案 1 违反《上市规则》第 13.49(2)条，以及就个案 2 违反《上市规则》第 14.34、14A.34、14A.35、14A.36、14A.39、14A.46、14A.49、14A.53、14A.55、14A.56 及 14A.57 条；

(2) 谴责周先生及余先生违反《上市规则》第 3.08(f)条及各自《承诺》；

(3) 谴责符先生及曾先生违反各自《承诺》；

(4) 批评周建新先生违反《承诺》。

上市委员会进一步指令：

(5) 符先生及曾先生（现时并非任何联交所上市公司董事）日后若要再获委任为联交所上市公司的董事，必须(i) 完成由香港特许秘书公会、香港董事学会，或上市科认可的其他课程机构所提供有关《上市规则》合规事宜及董事职责的 40 小时培训，当中不少于 20 小时有关《上市规则》下董事职责及企业管治规定的培训（「培训」）。培训须于任何有关委任生效日期之前完成；及(ii) 向上市科提供培训机构发出的全面合规证书；及

(6) 刊发本新闻稿后，上文第(5)段所列载的任何指令的管理及运作中可能出现的任何必需变动及行政事宜，均须提交上市科考虑及批准。如有任何值得关注的事宜，上市科须转交上市委员会作决定。

Source 来源:
https://www.hkex.com.hk/News/News-Release/2020/200227news?sc_lang=en

HKMC Insurance Limited Introduces Special 100% Loan Guarantee Under the SME Financing Guarantee Scheme

On February 26, 2020, the Financial Secretary announces in the Budget that HKMC Insurance Limited

(HKMCI) will introduce special 100% Loan Guarantee under the SME Financing Guarantee Scheme (SFGS). The new measure aims to alleviate the burden of paying employee wages and rents by small and medium-sized enterprises (SMEs) which are suffering from reduced income, thereby help minimize enterprise shutting down and layoffs.

The loan guarantee is applicable to SMEs in all sectors, including those mostly affected by the coronavirus outbreak such as retail outlets, travel agents, restaurants, cinemas, karaoke establishments and transport operators, etc. The loans will be guaranteed by the Government, with a total loan amount of HK$20 billion. Eligible enterprises should have been operating for at least three months as at the end of December 2019 and have suffered at least a 30% decline in sales turnover in any month since February 2020 compared with the monthly average of any quarter in 2019. The maximum amount of the loan per enterprise is the total amount of employee wages and rents for six months, or HK$2 million, whichever is lower. An interest rate of the Prime Rate minus 2.5% per annum (i.e. current interest rate at 2.75%) will be charged. All guarantee fee will be waived. The maximum repayment period of a loan under the guarantee is 36 months, with an optional principal moratorium for the first six months, so as to lessen immediate repayment burden of the enterprises.

HKMCI is actively undertaking the preparatory work with the lending institutions and strives to roll out the scheme within one month after the Government obtains approval of funding from the Finance Committee of the Legislative Council. The application period will last for six months starting from the launch of the scheme, and the date for receiving applications will be further announced upon finalization.

香港按证保险有限公司将在中小企融资担保计划下推出「百分百担保特惠贷款」

2020 年 2 月 26 日，香港财政司司长于于《财政预算案》宣布，香港按证保险有限公司（按证保险公司）将在中小企融资担保计划下推出「百分百担保特惠贷款」。新措施旨在纾缓中小企因收入减少而无法支付薪金或租金的压力，有助减少企业倒闭和裁员。

特惠贷款适用于各行各业的中小企，包括最受疫情影响的行业如零售、旅游、饮食、戏院、卡拉 OK 及运输业等。贷款由政府作担保，总贷款额为 200 亿港元。合资格企业须在 2019 年底前已最少营运 3 个月，并自 2020 年 2 月份起的单月营业额较去年任何一个季度的平均每月营业额下跌 3 成或以上。每宗申请的最高贷款额为有关企业的 6 个月雇员薪金及租金的总和或 200 万港元，以较低者为准。年利率为最优惠利率减 2.5%（即现时实际利率 2.75%），担保费可获全免。新措施的还款期最长 36 个月，可选择首 6 个月还息不还本，以减轻企业即时的还款压力。

按证保险公司正与贷款机构积极进行准备工作，争取于政府取得立法会财务委员会通过拨款后一个月内推出，申请期将为计划推出后 6 个月，接受申请日期确定后会再作公布。

Source 来源: https://www.hkma.gov.hk/eng/news-and-media/press-releases/2020/02/20200226-3/

U.S. Securities and Exchange Commission Charges Wells Fargo US$500 Million for Misleading Investors About the Success of Its Largest Business Unit

On February 21, 2020, U.S. Securities and Exchange Commission (SEC) charged California-based Wells Fargo & Co. (Wells Fargo) for misleading investors about the success of its core business strategy at a time when it was opening fake accounts for unknowing customers and selling unnecessary products that went unused. Wells Fargo has agreed to pay US$500 million to settle the charges, which will be returned to investors. The US$500 million payment is part of a combined US$3 billion settlement with the SEC and the U.S. Department of Justice.

According to the SEC's order, between 2012 and 2016, Wells Fargo publicly touted to investors the success of its Community Bank's "cross-sell" strategy – selling additional financial products to its existing customers – which it characterized as a key component of its financial success. The order finds that Wells Fargo sought to induce investors' continued reliance on the cross-sell metric even though it was inflated by accounts and services that were unused, unneeded, or unauthorized. According to the order, from 2002 to 2016, Wells Fargo opened millions of accounts of financial products that were unauthorized or fraudulent. Wells Fargo's Community Bank also pressured customers to buy products they did not need and would not use. The order finds that these accounts were opened through sales practices inconsistent with Wells Fargo's investor disclosures regarding its purported needs-based selling model.

"Wells Fargo repeatedly misled investors, including through a misleading performance metric, about what it claimed to be the cornerstone of its Community Bank business model and its ability to grow revenue and earnings," said Stephanie Avakian, Co-Director of the SEC's Division of Enforcement. "This settlement holds Wells Fargo responsible for its fraud and furthers the SEC's goal of returning funds to harmed investors."

The SEC's order finds that Wells Fargo violated the antifraud provisions of the Securities Exchange Act of 1934. Wells Fargo has agreed to cease and desist from committing or causing any future violations of these provisions and to pay a civil penalty of US$500 million. The SEC will distribute this money to harmed investors.

美国富国银行因就其核心业务误导投资者被美国证券交易委员会罚款 5 亿美元

2020 年 2 月 21 日，美国证券交易委员会(美国证监会)对总部位于加州的富国银行 (Wells Fargo & Co.) 提出了指控。指控称，富国银行在为不知情的客户开设虚假账户、向客户推销他们用不上或者不需要的产品时误导了投资者对其核心业务战略的了解。富国银行同意支付 5 亿美元的和解费用作为赔偿返还给投资受害者。这笔 5 亿美元的赔偿是富国银行与美国证监会及司法部达成的 30 亿美元和解协议的一部分。

美国证监会称，2012 年至 2016 年间，富国银行公开向投资者兜售其社区银行"交叉销售"战略的成功——向现有客户销售额外的金融产品——并将其视为其财务成功的关键组成部分。富国银行试图诱导投资者继续看好其交叉销售业绩指标，尽管该指标存在虚假，即账户和服务未被使用、不需要或未经授权。美国证监会指出，从 2002 年到 2016 年，富国银行开设了数百万个未经授权或欺诈的金融产品账户。而富国银行的社区银行也向客户施压，要求他们购买他们不需要、也不会使用的产品。美国证监会指出，这些帐户是通过与富国银行向投资者声称的基于需求的销售模式的披露不符的销售行为开设的。

美国证监会执法部门联席主管 Stephanie Avakian 表示:"富国银行一再误导投资者，包括在其声称的社区银行业务模式的基础及其增加收入和收益的能力方面，采用了具有误导性的业绩指标。"

美国证监会裁定，富国银行违反了 1934 年《证券交易法》(Securities Exchange Act) 的反欺诈规定。富国银行已同意停止并承诺在未来不会做出任何违反这些条款的行为，并同意支付 5 亿美元的民事罚款。美国证券交易委员会将会把这笔赔偿金分发给遭受损失的投资者。

Source 来源:
https://www.sec.gov/news/press-release/2020-38

U.S. Securities and Exchange Commission Charges Wells Fargo in Connection with Investment Recommendation Practices

On February 27, 2020, U.S. Securities and Exchange Commission (SEC) announced settled charges against Wells Fargo Clearing Services and Wells Fargo Advisors Financial Network for failing reasonably to supervise investment advisers and registered representatives who recommended single-inverse Exchange-Traded Fund (ETF) investments to retail investors, and for lacking adequate compliance policies and procedures with respect to the suitability of those recommendations. The SEC ordered Wells Fargo to pay a US$35 million penalty, which will be distributed to harmed investors.

As noted in the SEC's order and reflected in Wells Fargo's internal guidance, when single-inverse ETFs are held for longer than a day, particularly in volatile markets, investors may experience large and unexpected losses. The SEC's order finds that from April 2012 through September 2019, Wells Fargo's policies and procedures were not reasonably designed to prevent and detect unsuitable recommendations of single-inverse ETFs. Further, Wells Fargo failed adequately to supervise its employees' recommendations regarding single-inverse ETFs and did not adequately train them concerning those products. The order finds that some Wells Fargo brokers and advisers did not fully understand the risk of losses these complex products posed when held long term. As a result, certain Wells Fargo investment advisers and registered representatives made unsuitable recommendations to certain clients to buy and hold single-inverse ETFs for months or years. According to the order, a number of these clients were senior citizens and retirees who had limited incomes and net worth, and conservative or moderate risk tolerances.

"Firms must maintain effective compliance and supervisory programs to ensure that the securities they recommend are suitable for their clients," said Antonia Chion, Associate Director of the SEC Enforcement Division. "As a result of Wells Fargo's failure to meet these important obligations, some of its employees recommended complex instruments to retail investors who did not understand the risks involved."

The order finds that Wells Fargo failed to adopt written compliance policies and procedures reasonably designed to prevent unsuitable recommendations of single-inverse ETFs and failed adequately to implement its existing written policies and procedures. The order also finds that Wells Fargo failed reasonably to supervise its financial professionals with a view to preventing their unsuitable recommendations. Without admitting or denying the findings, Wells Fargo agreed to pay a US$35 million penalty and distribute the funds to certain clients who were recommended to buy single-inverse ETFs and suffered losses after holding the positions for longer periods. The order also censures Wells Fargo and requires Wells Fargo to cease and desist from committing or causing any future violations of the relevant provisions.

美国证券交易委员会就投资建议服务指控富国银行

2020年2月27日，美国证券交易委员会（美国证监会）指控富国银行清算服务公司（Wells Fargo Clearing Services）和富国银行顾问金融网络（Wells Fargo Advisors Financial Network）未能对其投资顾问和代表鼓励散户投资者购买单倍反向交易所买卖基金（ETF）事宜进行合理监督，且缺乏足够的合规政策。美国证监会责令富国银行支付 3,500 万美元罚款以赔偿予受害投资者。

美国证监会的指令和富国银行的内部指引都有说明：当单倍反向 ETF 的持仓时间超过一天，特别是在市场不稳定时，投资者可能会遭受巨大的意料之外的损失。而美国证监会指出，从 2012 年 4 月至 2019 年 9 月，富国银行的政策和程序的设计宗旨不合理，无法防止和发现单倍反向 ETF 的不当建议。此外，富国银行未能充分监督其员工对单倍反向 ETF 的建议，也没有就这些产品进行充分的培训。美国证监会指出，富国银行的一些经纪人和顾问们并不完全理解长期持有这些复杂产品所造成的损失风险。结果导致富国银行的某些投资顾问和代表向客户提出了不当建议，甚而有客户被建议购买和持有 ETF 数月或数年。 根据美国证监会的指控，客户中有许多是收入和净资产有限且风险承受能力保守或中等的老年人和退休人员。

美国证监会执法部门副主任 Antonia Chion 道:"公司必须保持有效的合规和监督程序，以确保他们推荐的证券适合客户。由于富国银行未能履行这些重要义务，其部分员工向不了解相关风险的散户投资者推荐了复杂的金融工具。”

美国证监会指出，富国银行未采取合理设计的书面合规政策和程序，以防止就单倍反向 ETF 所提出的不当建议，并且未能充分实施其现有书面政策和程序。此外，富国银行未能合理地监督其金融专业人员，以防止他们提出不当建议。富国银行未承认或否认调查结果，同意支付 3500 万美元的罚款，并将资金分配给某些经建议购买单倍反向 ETF 并在长期持仓中遭受亏损的客户。美国证监会谴责富国银行，并要求富国银行停止并承诺在未来不会做出任何违反这些条款的行为。

Source 来源：
https://www.sec.gov/news/press-release/2020-43

U.S. Securities and Exchange Commission Charges Cardinal Health with Foreign Corrupt Practices Act Violations

On February 28, 2020, U.S. Securities and Exchange Commission (SEC) announced that Ohio-based pharmaceutical company Cardinal Health, Inc. has agreed to pay more than US$8 million to resolve charges that it violated the books and records and internal accounting controls provisions of the Foreign Corrupt Practices Act (FCPA).

According to the SEC's order, Cardinal's internal accounting controls were not sufficient to detect improper payments made by employees of its former Chinese subsidiary. The order finds that, between 2010 and 2016, Cardinal China retained thousands of employees and managed two large marketing accounts for the benefit of a European dermocosmetic company whose products Cardinal China distributed. The dermocosmetic company directed the day-to-day activities of the Cardinal China employees, who used the marketing account funds to promote the dermocosmetic company's products. According to the order, employees directed payments to government-employed healthcare professionals and to employees of state-owned retail companies who had influence over purchasing decisions. The order finds that Cardinal did not apply its full accounting controls to the accounts and regularly authorized the payments without reasonable assurances that the transactions were executed appropriately. A profit-sharing agreement with the dermocosmetic company provided Cardinal with a percentage of profits from sales derived from the improper payments. As a result, the order finds, Cardinal also failed to maintain complete and accurate books and records concerning the marketing accounts.

"Cardinal's foreign subsidiary hired thousands of employees and maintained financial accounts on behalf of a supplier without implementing anti-bribery controls surrounding these high-risk business practices," said Anita B. Bandy, an Associate Director in the SEC's Division of Enforcement. "The FCPA is designed to prohibit such conduct, which undermined the integrity of Cardinal's books and records and heightened the risk that improper payments would go undetected."

Without admitting or denying the SEC's findings, Cardinal consented to the entry of an order requiring the company to cease and desist from committing violations of the books and records and internal accounting controls provisions of the FCPA and to pay US$5.4 million in disgorgement, US$916,887 in prejudgment interest, and a civil penalty of US$2.5 million.

美国证券交易委员会以违反《反海外腐败法》的罪名指控康德乐

2020年2月28日，美国证券交易委员会（美国证监会）宣布康德乐公司 (Cardinal Health Inc.) 同意支付逾 880 万美元和解就其违反美国《反海外腐败法》(Foreign Corrupt Practices Act) 中帐簿和记录以及内部会计控制规定的行为的指控。

美国证监会表示，康德乐内部会计控制措施不足以发现其前中国子公司员工支付的不当款项。指控称，在 2010 年至 2016 年期间，其中国子公司（Cardinal China）聘用数千名员工，并管理两个大型营销客户，服务于其供应商，某欧洲皮肤美容公司。该皮肤美容公司指导中国员工的日常活动，使用营销帐户资金来推广皮肤美容公司的产品。美国证监会指出，员工将款项支付给政府雇用的医疗保健专业人员以及对购买决策有影响力的国有零售公司的员工。指控称康德乐没有对帐户应用完全的会计控制，并在没有合理保证交易正确执行的情况下定期授权付款。与皮肤美容公司达成的利润分成协议为康德乐提供了一定比例的销售收益，这些收益来自不当付款。因此，康德乐未能维护有关营销账户的完整及准确的账簿和记录。

美国证监会执法部门副主任 Anita Bandy 评论道：“康德乐的外国子公司雇佣了数千名员工，并代表一家供应商管理财务账户，却没有针对这些高风险的商业行为实施反贿赂控制。《反海外腐败法》的目的是禁止这种行为，这种行为破坏了康德乐的账簿和记录的真实完整性，加大了不当支付不能被发现的风险。”

康德乐不承认或否认美国证监会的调查结果，同意停止并保证不再违反《反海外腐败法》中关于账簿、记录和内部会计控制的规定，并支付非法所得 540 万美元，判决前的罚款 916,887 美元，以及 250 万美元的民事罚款。

Source 来源：
https://www.sec.gov/news/press-release/2020-48

U.S. Securities and Exchange Commission Amends Exemptions from Investment Adviser Registration for Advisers to Rural Business Investment Companies

U.S. Securities and Exchange Commission (SEC) adopted amendments to two rules in order to implement congressionally mandated exemptions from registration for investment advisers who advise rural business investment companies (RBICs). These exemptions were enacted as part of the RBIC Advisers Relief Act of 2018, which amended the Investment Advisers Act.

Amendments have been made to rules 203(l)-1 and 203(m)-1. These rules implement exemptions from SEC registration for advisers to venture capital funds and private funds. The amendments include RBICs in the definition of the term “venture capital fund” and exclude their assets from the definition of the term “assets under management” for purposes of the private fund adviser exemption.

Advisers to RBICs, which are licensed by the U.S. Department of Agriculture, use the equity raised in capitalizing their funds to make venture capital investments mostly in smaller enterprises located primarily in rural areas.

“These amendments implement congressionally-mandated exemptions to the Advisers Act that are intended to reduce regulatory burdens for advisers to RBICs,” said SEC Chairman Jay Clayton. “It is my hope that the reduction in regulatory burdens will encourage capital formation in rural areas where capital to form and grow a business all too often is scarcer than it should be.”

The amendments will be published on the Commission’s website and in the Federal Register. They will become effective upon publication in the Federal Register.

美国证券交易委员会将对于农村商业投资公司的投资顾问纳入注册豁免

美国证券交易委员会（美国证监会）通过了两项规则的修正案，以实施国会授权的对向农村商业投资公司（RBIC）提供建议的投资顾问的注册豁免。这些豁免是 2018 年《RBIC 顾问豁免法案》（RBIC Advisers Relief Act）的一部分，该法案修订了《投资顾问法案》（Investment Advisers Act）。

美国证监会通过了对规则 203（l）-1 和 203（m）-1 的修正。这些规则对风险投资基金和私人基金的顾问实施了美国证监会注册豁免。修正案将 RBIC 包括在“风险资本基金”一词的定义中，并且出于豁免私人基金顾问的目的，将其资产从“管理资产”一词的定义中排除。

RBIC 的顾问已获得美国农业部的许可，利用募集的股本将其资金资本化，主要用于位于农村地区的小型企业的风险投资。

美国证监会主席 Jay Clayton 表示：“这些修正案于《投资顾问法案》上新增实施了国会授权的豁免，旨在减轻 RBIC 顾问的监管负担。我希望减轻监管负担将鼓励农村地区的资本形成，因农村地区形成和发展企业的资本常常比应有的更为稀缺。”

修正案将在美国证监会网站和联邦公报上发布，并将在公布后生效。

Source 来源：
https://www.sec.gov/news/press-release/2020-51

U.S. Securities and Exchange Commission Amends Financial Disclosure Requirements Applicable to Registered Debt Offerings that Include Credit Enhancements to Improve Disclosure Quality and Encourage Issuers to Conduct Debt Offerings on a Registered Basis

U.S. Securities and Exchange Commission (SEC) adopted amendments to the financial disclosure requirements applicable to registered debt offerings that include credit enhancements, such as subsidiary guarantees. These changes are intended to both improve the quality of disclosure and increase the likelihood that issuers will conduct debt offerings on a registered basis.

The amended rules focus on the provision of material, relevant, and decision-useful information regarding guarantees and other credit enhancements, and eliminate prescriptive requirements that have imposed unnecessary burdens and incentivized issuers of securities with guarantees and other credit enhancements to offer and sell those securities on an unregistered basis. In doing so, the final amendments are intended to improve disclosure and reduce the SEC registration-related compliance burdens for issuers, including the time burden of collecting information that will no longer be required, and provide investors with protections that would not be present in an unregistered offering.

"The changes we are adopting today demonstrate how the Commission can modernize its rules and simultaneously increase investor protection, reduce compliance burdens and enhance capital formation," said SEC Chairman Jay Clayton. "This is another example of our career staff applying their unparalleled experience and expertise to bring forward a pragmatic and effective modernization of our disclosure requirements."

Existing Rules 3-10 and 3-16 both affect disclosures made in connection with registered debt offerings and subsequent periodic reporting:

- Rule 3-10 requires financial statements to be filed for all issuers and guarantors of securities that are registered or being registered, but also provides several exceptions to that requirement. These exceptions are typically available for individual subsidiaries of a parent company when certain conditions are met, including that the parent company provides certain disclosures in its consolidated financial statements. If the conditions are met, separate financial statements of each qualifying subsidiary issuer and guarantor may be omitted.

- Rule 3-16 requires a registrant to provide separate financial statements for each affiliate whose securities constitute a substantial portion of the collateral, based on a numerical threshold, for any class of registered securities as if the affiliate were a separate registrant.

The amendments are intended to:

- Improve the rules by requiring disclosures that focus investors on the information that is material given the specific facts and circumstances and by making the disclosures easier to understand;

- Reduce the cost of compliance for registrants and encourage potential issuers to offer guaranteed or collateralized securities on a registered basis, thereby affording investors protections they may not be provided in offerings conducted on an unregistered basis; and

- Facilitate, through lower costs and burdens of compliance, issuers' flexibility to include guarantees or pledges of affiliate securities as collateral when they structure debt offerings, which may increase the number of registered offerings that include these credit enhancements and could result in a lower cost of capital and an increased level of investor protection.

Amendments to Rule 3-10

Under the amendments, Rule 3-10 will continue to permit the omission of separate financial statements of subsidiary issuers and guarantors when certain conditions are met, and the parent company provides supplemental financial and non-financial disclosure about the subsidiary issuers and/or guarantors and the guarantees. Similar to the existing rule, the amended rule will provide the conditions that must be met in order to omit separate subsidiary issuer or guarantor financial statements. New Rule 13-01 will specify the accompanying amended disclosure requirements. The amendments will:

- Replace the condition that a subsidiary issuer or guarantor be 100%-owned by the parent company with a condition that it be consolidated in the parent company's consolidated financial statements;

- Replace condensed consolidating financial information, as specified in existing Rule 3-10, with certain new financial and non-financial disclosures. The amended financial disclosures will consist of summarized financial information, as defined in Rule 1-02(bb)(1) of Regulation S-X, of the issuers and guarantors, which may be presented on a combined basis, and reduce the number of periods presented. The amended non-financial disclosures, among other matters, will expand the qualitative disclosures about the guarantees and the issuers and guarantors. Consistent with the existing rule, disclosure of additional information about each

guarantor will be required if it would be material for investors to evaluate the sufficiency of the guarantee;

- Permit the amended disclosures to be provided outside the footnotes to the parent company's audited annual and unaudited interim consolidated financial statements in all filings; and

- Require the amended financial and non-financial disclosures for as long as an issuer or guarantor has an Exchange Act reporting obligation with respect to the guaranteed securities rather than for as long as the guaranteed securities are outstanding.

Amendments to Rule 3-16

The disclosure requirements in Rule 3-16 will be replaced with the amended disclosure requirements in new Rule 13-02 (although existing Rule 3-16 will remain in place for transitional purposes). Among other things, the amendments will:

- Replace the existing requirement to provide separate financial statements for each affiliate whose securities are pledged as collateral with amended financial and non-financial disclosures about the affiliate(s) and the collateral arrangement as a supplement to the consolidated financial statements of the registrant that issues the collateralized security. The registrant will be permitted to provide the amended financial and non-financial disclosures outside the footnotes to its audited annual and unaudited interim consolidated financial statements in all filings; and

- Replace the requirement to provide disclosure only when the pledged securities meet or exceed a numerical threshold relative to the securities registered or being registered with a requirement to provide the proposed financial and non-financial disclosures in all cases, unless they are immaterial.

The amendments will be effective on January 4, 2021, but voluntary compliance will be permitted in advance of the effective date.

美国证券交易委员会修订包含增信措施的注册债务发行之财务披露要求以提升披露质量并鼓励发行人基于注册进行发债

美国证券交易委员会（美国证监会）通过了对适用于包含增信措施的注册债务发行的财务披露要求的修订，例如子公司担保。这些修订旨在提高披露的质量，并增加发行人以注册方式进行债务发行的可能性。

修订后的规则侧重于提供有关担保和其他增信措施的重要的、相关的和利于决策的信息，并消除了带来不必要负担及促使具有担保和其他增信措施功能的证券发行人在未注册的基础上提供和出售这些证券的规定性要求。为此，最终修订将改善发行人的信息披露水平并减轻其与美国证监会注册相关的合规负担，包括收集不再必需的信息的时间负担以及为投资者提供在未注册证券交易中不存在的保护措施。

美国证监会主席 Jay Clayton 表示："是次采用的修订表明，美国证监会可以现代化其规则，同时增加对投资者的保护，减轻合规负担，并增强资本形成。这是我们的工作人员运用他们优秀的经验和专业知识对我们的披露要求进行的务实而有效的现代化的又一实例。"

现有规则 3-10 和 3-16 都涉及与注册债务发行和随后的定期报告相关的披露：

- 规则 3-10 要求所有已注册或正在注册证券的发行人和担保人提交财务报表，但该规定亦有一些例外。这些例外尤其适用于满足一定条件的母公司的各个子公司，如母公司在其合并财务报表中提供某些披露。在一定条件下，可以省略每个合格子发行人和担保人的单独财务报表。

- 规则 3-16 要求注册人根据数字阈值，针对各类别的注册证券，为证券构成抵押品重要组成的每个关联公司提供单独的财务报表，如同该关联公司是单独的注册人。

是次修正案旨在：

- 改进规则，要求就着重投资者于特定事实和情况的重要信息进行披露，并使披露更易于理解；

- 降低注册人的合规成本，并鼓励潜在发行人以注册为基础提供有担保或抵押的证券，从而为投资者提供在未注册债券中可能不会提供的保护；及

- 通过降低成本和合规负担，促进发行人在构造债务产品时灵活地将关联证券的担保或质押作为抵押，这可能会增加包括这些增信措施在内的注册产品的数量，并将使得资本成本降低以及投资者保护水平的增强。

规则 3-10 的修订

根据修正案，规则 3-10 将继续允许在满足条件的母公司提供有关子发行人和/或担保人的补充财务和非财务披露时，省略子发行人和担保人的单独财务报表。与现有规则类似，修订后的规则将提供省略单独的子发行人或担保人财务报表所必须满足的条件。新规则 13-01 将详细说明随附的修订披露要求。修订将：

- 取消子公司或担保人需由母公司 100%控股的要求，替换为其合并于母公司的合并财务报表；

- 用某些新的财务和非财务披露规则替换现有细则 3-10 中规定的简略合并财务信息。修订后的财务披露将包括 S-X 规则第 1-02（bb）（1）条所定义的发行人和担保人的摘要财务信息，这些信息可以合并列示，并减少列示的期间数。其中，修改后的非财务披露将扩大有关担保以及发行人和担保人的定性披露。与现行规则一致，于投资者评估担保充分性重要的每个担保人的其他信息亦需披露;

- 允许在所有备案中的母公司经审计的年度和未经审计的中期合并财务报表的脚注之外提供修订后的披露；及

- 以发行人或担保人对担保证券负有《证券交易法》（Exchange Act）规定的报告义务为前提要求修订之财务和非财务披露，而非以担保债券未偿还为前提。

规则 3-16 的修订

规则 3-16 中的披露要求将被新的规则 13-02 中的修订披露要求所代替（尽管现有的规则 3-16 仍将用于过渡目的）。其中，修正案将：

- 更改现有为每个以证券抵押为抵押品的关联公司提供单独的财务报表的要求，有关关联公司和抵押品安排的财务和非财务披露，作为发行抵押证券的注册人合并财务报表的补充。允许注册人在所有备案的经审核的年度和未经审核的中期合并财务报表的脚注之外提供经修改的财务和非财务披露；及

- 更改仅在质押证券达到或超过相对于已注册或正在注册证券的数字阈值时才提供披露的要求，在所有情况下均应提供建议的财务和非财务披露，除非这些要求不重要。

该修正案将于 2021 年 1 月 4 日生效，但允许在生效日期之前自愿遵守。

Source 来源：
https://www.sec.gov/news/press-release/2020-52

Shenzhen Stock Exchange Revises the Guidelines for the Standard Operation of Listed Companies to Seamlessly Align with the New PRC Securities Law

The new Securities Law of People's Republic of China officially becomes effective since March 1, 2020, which has provided rule-of-law guarantee for the high-quality development of listed companies and presented new tasks and requirements on the standard operation of listed companies. To do well in aligning with systems and adapting to new regulatory requirements after the new Securities Law is implemented, further refine the regulatory system of rules for listed companies and consolidate and enhance the institutional foundation for improving the quality of listed companies, Shenzhen Stock Exchange (SZSE) recently revised and issued the Guidelines for the Standard Operation of Listed Companies (Guidelines), which has been effective since March 1, 2020.

In the revision, SZSE combined the two separate guidelines for the standard operation of the Main Board and the SME Board into one. The Guidelines is now applicable to companies listed on the Main Board and the SME Board. The guidelines for the standard operation of ChiNext companies remains different and will be revised along with the ChiNext reform. On that basis, the revision followed a market-oriented and rule-of-law-based reform direction, adhered to on the principle of information disclosure as the core, summed up newly-learned experience, addressed new situations and made improvements in four aspects under the full consideration of the execution effects of higher laws and regulations and existing policies.

"Seamless alignment": doing well in the establishment of supporting system for implementing the new Securities Law. SZSE refined provisions on seven aspects, namely, disclosure of short-swing trading, information disclosure channels, situations for extraordinary reporting, voluntary information disclosure, scope of insiders, open solicitation for shareholder rights, and disclosure of changes in equity. SZSE also released announcement formats, laid down clear disclosure requirements such as on a 1% increase or decrease in big shareholders' shareholding ratio and emphasized that the information needed by investors for value judgment and investment decision-making shall be fully disclosed, ensuring orderly alignment with relevant requirements of the new Securities Law.

"Burden alleviation": assisting listed companies in "easing burdens". On the one hand, SZSE cut out the superfluous, refining regulatory requirements and giving more autonomy to the market in the capital use during the fundraising and capital flow replenishment period and in the governance of companies listed on the SME Board etc. On the other hand, SZSE gathered parts into a whole, absorbing and integrating over 20 provisions of business rules and guideline memorandums and built a user-friendly "set of specifications" that are easy to query and abide by to improve the quality of regulatory services.

"Precise regulation": focusing on major fields and "key minorities". SZSE strengthened the oversight over high-

risk fields such as external guarantee, fulfillment of business performance and goodwill impairments, enhanced the disclosure of situations when a controlling shareholder or de facto controller losing contact, being investigated or subject to coercive measures or severely punished and so on, and the independence requirement of its related parties, and further improved frontline regulatory efficiency.

“Advancing with the times”: meeting new market situations and new demands. Based on implementing pilot projects in the real estate and energy conservation & environmental protection industries, SZSE promoted “guarantee limit” across the board and allowed listed companies to make limit forecasts when providing guarantee to their controlled subsidiaries or joint or united companies. SZSE also canceled the review of the qualification of director, supervisor and senior management candidates by the Board of Directors and the Supervisory Committee, strengthened commitment restriction and public scrutiny, and enhanced the adaptability of rules to market development and changes in policies.

Earlier, in line with the principle of “establishing rules in an open, democratic fashion”, SZSE sought advice on the revision of the Guidelines from all companies listed on the Main Board and the SME Board and received 28 pieces of advice. Overall, the participants recognized the basic thinking and main content of the revision and put forward some refining suggestions. After careful studies, SZSE adopted 14 reasonable and feasible pieces of advice.

深圳证券交易所修订规范运作指引以衔接新证券法

新修订之中华人民共和国证券法于 2020 年 3 月 1 日正式实施，为上市公司高质量发展提供法治保障，对上市公司规范运作提出新任务、新要求。为全面做好新证券法实施的制度衔接和监管适应，进一步优化完善上市公司监管规则体系，筑牢推动提高上市公司质量的制度基础，近日，深圳证券交易所（深交所）修订发布《上市公司规范运作指引》（以下简称《指引》），自 3 月 1 日起施行。

是次修订将原主板和中小板两件规范运作指引“合二为一”，《指引》同时适用于主板和中小板上市公司。创业板规范运作指引的修订则保持差异，与创业板改革一并推进。在此基础上，修订工作遵循市场化、法治化的改革方向，坚持以信息披露为核心，在充分考虑上位法规定和现有制度执行效果的基础上，总结新经验，应对新情况，作出四个方面的优化完善。

“无缝衔接”，做好新证券法配套制度建设。对短线交易披露、信息披露渠道、临时报告情形、自愿信息披露、内幕信息知情人范围、公开征集股东权利、权益变动披露等七个方面的规定进行完善，并发布公告格式明确大股东持股每增减 1%等具体披露要求，强调应当充分披露投资者作出价值判断和投资决策所必需的信息，确保与新证券法相关要求衔接有序、落实到位。

“减负瘦身”，助力上市公司“轻装上阵”。一方面，“删繁就简”，优化监管要求，在募集资金补流期间的资金使用、中小板公司治理等方面给予市场更多自主空间；另一方面，“化零为整”，吸收整合 20 余件业务规则和指南备忘录的规定，打造便于查询、利于遵守的友好型“规范集”，提高监管服务水平。

“精准监管”，紧盯重点领域和“关键少数”。加强对对外担保、业绩承诺履行、商誉减值等高风险领域的监管，强化对控股股东、实际控制人出现失联、被调查或采取强制措施、受到重大处罚等情况的披露及其关联方的独立性要求，提升一线监管效能。

“与时俱进”，对标市场新形势新需求。在房地产和节能环保行业先行先试的基础上全面推广“担保额度”，允许上市公司向其控股子公司或合营、联营公司提供担保时进行额度预计；取消董事会、监事会对董监高候选人的资格核查，并强化承诺约束和公众监督，增强规则对市场发展和政策变化的适应性。

前期，深交所本着“开门立规、民主立规”的原则，就《指引》修订向全体主板、中小板上市公司征求意见，共收到反馈意见 28 份。各方整体上对修订的基本思路和主要内容表示认可，并提出了一些优化完善建议。经认真研究，是次修订对其中 14 条合理可行的建议予以采纳。

Source 来源：
http://www.szse.cn/English/about/news/szse/t20200303_574705.html

Shenzhen Stock Exchange Issues Notice on the Corporate Bond Registration-based System to Advance the Reform of the Securities Issuance System

On March 1, 2020, according to the unified arrangements of the China Securities Regulatory Commission (CSRC), Shenzhen Stock Exchange (SZSE) issued the Notice on Relevant Business Arrangements Concerning the Implementation of the Registration-based System for Publicly Issued Corporate Bonds, which has laid down the arrangements for the review of the issuance and listing of publicly-issued corporate bonds on SZSE and relevant business under the registration-based system. It’s an important measure adopted by SZSE to implement the new Securities Law of PRC, orderly

advance the reform of the securities issuance system and better serve the development of the real economy.

Since 2015, SZSE has, according to the arrangements of CSRC to streamline approval procedures and the concept of the registration-based system, conducted pre-review of the listing of publicly offered corporate bonds. SZSE is the first to make the entire acceptance and review procedure electronically, which has saved market cost and improved review efficiency. SZSE has released business rules and regulatory Q&As such as review standards and procedures, regulated review business and clarified market expectations. SZSE has also made public the materials for information disclosure, review opinions and review progress comprehensively and promptly, improved the transparency of work and accepted scrutiny by the social public. In the past five years, the issue volume of corporate bonds has continued to rise with a wider variety of innovative product and a table and efficient pre-review mechanism, which lays a solid practical foundation for the implementation of the registration-based system for publicly issued corporate bonds on all sides.

Earlier, the General Office of the State Council issued the Notice on Relevant Work Concerning the Implementation of the Revised Securities Law and CSRC released the Notice on Matters Relating to the Implementation of the Registration-based System for Publicly Issued Corporate Bonds, which have further confirmed that the Registration-based System for Publicly Issued Corporate Bonds shall become effective as of March 1, 2020. SZSE has fully implemented the arrangements and made quick responses by immediately releasing a business notice that has clearly listed the review standards, review procedures, entity responsibilities, etc. under the registration-based system, which mainly includes three aspects.

First, implementing the procedure arrangements of the registration-based system to ensure the stable transition of the reform. After the registration-based system is implemented, there will be no difference between the “small” and the “large” mutual bonds, and all publicly issued corporate bonds to be listed on SZSE will be reported to CSRC to undergo issuance registration procedures after being accepted, reviewed and approved by SZSE, while private placement corporate bonds are still subject to current regulations. Second, clarifying review standards for the convenience of market players. Publicly offered corporate bonds shall meet new issuance and listing conditions, while the content and formats of application documents and prospectuses are still subject to current provisions, and review procedures and time limit for the time being are also subject to current regulations on listing pre-review of corporate bonds. Third, improving relevant listing system to orderly adapt to changes in rules. It’s made clear that the issuance of corporate bonds shall meet statutory issuing conditions, and the listing suspension system shall be abolished. Corporate bonds that have been suspended from listing shall be traded pursuant to relevant provisions laid down by SZSE in the Notice on Matters Relating to Adjustment to the Trading Modes of Bonds during Listing. After the Notice is implemented, the public offering corporate bond applications and listing applications that were previously accepted will still be subject to the old regulations.

To earnestly fulfill the responsibility of reviewing the issuance and listing of corporate bonds, SZSE gathered forces in advance, systematically sorted out relevant business rules and made full use of existing paths to realize the registration-based system, which has reduced its impact on market players to the greatest extent. SZSE also designated specific personnel and setting up positions specially for the registration-based system, upgraded the technology for fixed-income product business and improved the list of application documents for corporate bond issuance and listing and the templates of application and reporting documents. SZSE continued to open green channels of review for innovative products and high-quality issuers’ projects. In carrying out the review work, SZSE targets to adhere to the fundamental philosophy of information disclosure as the core, follow the principles of compliance, openness, transparency, convenience and efficiency, and urge issuers to fulfill the primary responsibility of information disclosure and fully disclose information closely relating to their credit standing and solvency, and intermediaries to be industrious and responsible to ensure that information disclosure is authentic, accurate and complete. SZSE promises to strictly oversee fraudulent issuance and violations in information disclosure etc. to improve the market-oriented constraint mechanism and protect investors’ legal rights and interests.

The new Securities Law has provided a legal basis to guarantee the comprehensive implementation of the registration-based system for securities issuance. Corporate bonds are the first type of securities upon which the registration-based system is implemented following enforcement of the new Securities Law, which is another milestone in the market-oriented, rule-of-law-based development course of corporate bonds. SZSE aims to follow the requirements of the new Securities Law and accelerate formulating and improving the supporting rules and business guidelines for the implementation of the registration-based system for publicly issued corporate bonds. In the meantime, SZSE will actively strengthen the training and guidance of market institutions through online courses and other means and ensure that the work concerning the registration-based system is carried out steadily, in order to give better play to the function of the exchange bond market to serve the real economy.

深圳证券交易所发布公司债券注册制业务通知，推进证券发行制度改革

2020 年 3 月 1 日，按照中国证券监督管理委员会（中国证监会）统一部署，深圳证券交易所（深交所）发布《关于公开发行公司债券实施注册制相关业务安排的通知》，急用先行，明确注册制下公开发行公司债券在深交所发行上市审核及相关业务的衔接安排。这是深交所贯彻执行新证券法、有序推进证券发行制度改革、更好服务实体经济发展的重要举措。

2015 年以来，深交所根据证监会简化核准程序安排，按照注册制理念开展公开发行公司债券上市预审核工作。率先实现受理和审核全流程电子化，节约市场成本，提高审核效率；对外发布审核标准和审核流程等方面业务规则和监管问答，规范审核业务，明确市场预期；向市场全面及时公开信息披露材料、审核意见和审核进度，提高工作透明度，接受社会公众监督。五年来，公司债券发行规模持续攀升，创新产品序列不断丰富，预审核机制平稳高效运行，为全面推行公开发行公司债券实施注册制奠定了坚实的实践基础。

日前，中国国务院办公厅印发《关于贯彻实施修订后的证券法有关工作的通知》，中国证监会发布《关于公开发行公司债券实施注册制有关事项的通知》，进一步明确公开发行公司债券自 2020 年 3 月 1 日起实施注册制。深交所认真落实、快速响应，即时发布业务通知，向市场明确注册制下的审核标准、审核程序和各主体责任等，具体包括三个方面。

一是落实注册制程序安排，确保改革平稳过渡。注册制实施后，不再区分“大小公募”债券，所有拟在深交所上市的公开发行公司债券均由深交所受理、审核，审核通过后报送证监会履行发行注册程序，非公开发行公司债券仍按照现有规定执行。二是明确审核标准，便利市场参与人。公开发行公司债券应满足新的发行和上市条件，申请文件、募集说明书内容与格式等仍按现行规定执行，审核流程和时限暂按公司债券上市预审核现行规定执行。三是完善相关上市制度，有序衔接规则变化。明确公司债券上市应满足法定发行条件，不再执行暂停上市制度，已暂停上市的公司债券按照深交所《关于调整债券上市期间交易方式有关事项的通知》相关规定进行交易。通知实施后，此前已受理的公开发行公司债券申请及上市申请按照原规定执行。

为切实承担好公司债券发行上市审核职责，深交所提前集中力量，系统梳理审核业务规则，充分依托现有路径实现注册制，最大限度减少对市场参与人影响；建立注册制专人专岗，对固定收益品种业务专区进行技术升级改造，完善公司债券发行上市申请文件清单和申请报告文件模版；继续对创新产品和优质发行人项目开放审核绿色通道。在审核工作中，深交所将坚持以信息披露为核心的根本理念，遵循依法合规、公开透明、便捷高效的原则，督促发行人履行信息披露第一责任，充分披露与自身资信情况和偿债能力密切相关的信息，督促中介机构勤勉尽责，确保信息披露真实、准确、完整，对欺诈发行、信息披露违法违规等行为依法从严监管，完善市场化约束机制，保护投资者合法权益。

新证券法的颁布实施为全面推行证券发行注册制度提供了根本法律保障，公司债券是新证券法实施后率先实行注册制的证券种类，是公司债券市场化、法治化发展进程的又一里程碑。深交所将认真按照新证券法要求，加快制定并完善公开发行公司债券实施注册制的配套规则和业务指南，同时积极利用线上课程等形式加强对市场机构的培训辅导，确保注册制工作平稳落地，更好发挥交易所债券市场服务实体经济功能。

Source 来源：
http://www.szse.cn/English/about/news/szse/t20200303_574706.html

European Securities and Markets Authority Advises the European Commission on C6 Energy Derivatives and related obligations under the European Market Infrastructure Regulation

The European Securities and Markets Authority (ESMA) issued a report on C6 energy derivatives and related obligations under the European Market Infrastructure Regulation (EMIR) on March 2, 2020.

These derivatives are important for firms trading energy derivative contracts on coal and oil as well as for national regulator supervisors who enforce EMIR requirements.

The report assesses the adequacy of C6 energy derivative contracts, which currently benefit from a special regime. These contracts are currently subject to the clearing obligation and margin requirements of EMIR. ESMA analyzed the potential impact of including these contracts in the calculation to determine which counterparties are subject to clearing.

ESMA has developed this report to provide input to the European Commission regarding the assessment of the current special regime for C6 energy derivative contracts and whether this regime should be maintained.

欧洲证券和市场管理局就《欧洲市场基础设施监管规则》下 C6 能源衍生产品及相关义务向欧盟执行委员会提出意见与建议

欧洲证券和市场管理局于 2020 年 3 月 2 日就《欧洲市场基础设施监管规则》下 C6 能源衍生产品及相关义务发布报告。

此类衍生产品对交易煤炭和石油衍生产品的公司以及执行《欧洲市场基础设施监管规则》要求的国家监管机构来说非常重要。

该报告评估了目前受益于特殊制度的C6能源衍生合约的适当性。此类合约目前要遵守《欧洲市场基础设施监管规则》的清算义务和保证金要求。欧洲证券和市场管理局对将此类合同纳入计算的潜在影响进行了分析，以确定需要清算的交易对手。

欧洲证券和市场管理局进一步完善了该报告，旨在就 C6 能源衍生合同的现行特殊制度的评估以及该制度是否应继续维持向欧盟执行委员会提供意见与建议。

Source 来源:
https://www.esma.europa.eu/press-news/esma-news/emir-esma-advises-commission-c6-energy-derivatives

Dentons Europe LLP Ordered by the High Court of Justice in London to Disclose Documents Relating to Ex-client's Alleged Fraud

International firm Dentons Europe LLP (Dentons) has been ordered to disclose documents about a client accused of running a fraudulent investment scheme after the High Court of Justice in London (the High Court) found that letters sent by the law firm fell outside the normal lawyer/client relationship and the scheme itself bore "classic hallmarks"' of fraud.

Lee Victor Addlesee and others v Dentons Europe LLP concerns an allegedly fraudulent scheme which invited "everyday folk" to invest in gold dust. The scheme was run by Anabus – then a Dentons client – and was marketed as "essentially risk free". In a document called "Your Questions Answered", the company said that "£25,000 should become £100,000 within 4-5 months".

The claimants – some 240 investors – said they collectively lost €6.5 million in the scheme and alleged that Dentons "recklessly and/or negligently enabled the scheme, and induced many of the individual claimants to invest by affording the scheme apparent respectability by endorsing it as Anabus' legal adviser." Master Clark was asked to decide whether the fraud exception to privilege applied to the files held by Dentons for its former client. Dentons stated its position was neutral.

In her judgment, Clark said: "I am satisfied…that the claimants have shown a strong prima facie case that the scheme was fraudulent. Indeed, I consider that they have shown a very strong and compelling case." She added that the scheme bore the "classic hallmarks" of fraud such as the promise of impossibly high returns and reliance on exotic investments.

Clark also found that in 2010 Dentons sent letters "to encourage, directly or indirectly…investment in the scheme" by "providing reassurance that Anabus had a valid contract to purchase gold dust".

"This is a purpose which falls outside the normal lawyer/client relationship. I am satisfied that the claimants have a strong prima facie case that the defendant was instructed for the purpose of furthering the scheme," she said.

Clark concluded that the fraud exception applies to documents held by Dentons for Anabus which would otherwise be privileged.

伦敦高等法院命令国际律师事务所大成律师事务所披露与前客户涉嫌欺诈相关的文件

伦敦高等法院（以下简称高等法院）命令国际律师事务所大成律师事务所就有关被指控为实施欺诈性投资计划的客户的文件进行披露，因为高等法院发现该律师事务所发出的信件不属于正常的律师/客户关系范畴，而且该投资计划本身带有欺诈的"经典特征"。

Lee Victor Addlesee 起诉大成律师事务所欧洲所涉嫌一项邀请 "普通人" 投资于金粉的欺诈性投资计划，该计划由 Anabus（当时为大成律师事务所的客户）运营，并且以 "基本无风险" 的形式进行营销。该公司在一份名为《关于您的问题的解答》的文件中表示，"2.5 万英镑会在 4 至 5 个月内变成 10 万英镑" 。

索赔者（约 240 名投资人）表示，他们在该计划中总共损失了 650 万欧元，并声称大成律师事务所 "轻率地并/或疏忽地启用该计划，作为 Anabus 的法律顾问通过给予该计划显而易见的尊重从而诱使众多个人索赔者进行投资。" Clark 被要求针对是否将欺诈行为的特权排除适用于大成律师事务所为其前客户所持有的文件作出定论。大成律师事务所表达了其中立的立场。

Clark 在判决中表示，"我很欣慰……索赔者展现出了确凿的违法行为基本证据以证明该投资计划是具有欺诈性的。的确，我认为他们展示了非常有力及令人信服的证据。" 她进一步表示，该计划带有欺诈的 "经典特征"，例如承诺获得高额回报及对外国投资的依赖。

Clark 还发现，大成律师事务所在 2010 年通过 "保证 Anabus 拥有购买金粉的有效合同" 致信 "直接或间接鼓励……对该计划进行投资" 。

"此目的是超出正常律师/客户关系范畴的。我对索赔者提出有力的违法行为基本证据指控被告在指示下进一步推动此计划感到满意。"

Clark 得出结论，欺诈行为的特权排除适用于大成律师事务所为 Anabus 所持有的文件，若非如此，这些文件将享有法律特权。

Source 来源:
https://www.lawgazette.co.uk/news/dentons-ordered-to-disclose-documents-relating-to-ex-clients-alleged-fraud/5103308.article