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Financial Services Regulatory Update
金融服务监管资讯

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The European Union's New Rules for a Single European Crowdfunding Framework

Introduction

On October 5, 2020, the European Parliament of the European Union (EU) approved the regulation on European crowdfunding service providers (ECSPs) for business (Regulation) and the directive amending Directive 2014/65/EU on markets in financial instruments (Directive). The Regulation, European Regulation (EU) 2020/1503 of 7 October 2020, and the Directive, Directive (EU) 2020/1504, were published in the Official Journal of the EU on October 20, 2020. The Regulation provides a single legal framework for crowdfunding platforms / crowdfunding service providers the accompanying Directive broadening the access to finance for small companies.

Authorization, Register of ECSPs and Supervision

The Regulation applies to all ECSPs up to offers of EUR5,000,000 calculated over a period of 12 months per project owner. A legal person who intends to provide crowdfunding services need to apply to the competent authority of the member state where it is established for authorization. The national competent authority shall within three months from the receipt of the application assess whether the applicant complies with the requirements set out in the Regulation, taking into account the nature, scale and complexity of the services intended to provide.

The European Securities and Markets Authority (ESMA) shall establish and maintain a register of all ECSPs which is publicly available on its website and updated on a regular basis. If an ECSP intends to provide cross-border service, the member state granting the authorization shall within 10 working days provide relevant information to the ESMA.

ECSPs are supervised by the competent authority of the member states granted authorization. The relevant competent authority shall assess the compliance of ECSPs with the obligations set out in the Regulation with the frequency and depth of the assessment determined by the competent authority itself. ESMA will facilitate and coordinate the cooperation between member states.

Organizational and Operational Requirements of ECSPs

The Regulation sets out the organizational and operational requirements of ECSPs, including, among others,

- ECSPs shall act honestly, fairly and professionally in accordance with the best interests of their clients;

- ECSPs shall not pay or accept any remuneration, discount or non-monetary benefit for routing investors' orders to a particular crowdfunding offer;

- *Effective and prudent management*: The management body of an ECSP shall:
  - establish and oversee the implementation of, adequate policies and procedures to ensure effective and prudent management (including the segregation of duties, business continuity and prevention of conflicts of interest) and the implementation of appropriate systems and controls to assess to risks related to the loans intermediated on the crowdfunding platform;
  - review the crowdfunding services provided at least once every two years;
  - undertake a reasonable assessment of credit risk where the ECSP determines the price of a crowdfunding offer and establish, implement, publish and maintain clear and effective policies and procedures for such assessments;
  - conduct a valuation of each loan;

- establish and use a risk-management framework for the compliance with the Regulation;
- maintain a record of credit risk assessment and price of the crowdfunding offer;

- *Due diligence:* ECSPs shall undertake at least a minimum level of due diligence in respect of project owners to obtain following evidence that:
  - The project owner has no criminal record in respect of infringement of national rules in fields of commercial law, insolvency law, financial services law, anti-money laundering laws, fraud law or professional liability law;
  - The project owner is not established in a non-cooperative jurisdiction as recognised by the relevant EU policy;

- *Individual portfolio management of loans*: ECSPs shall offer individual portfolio management of loans;

- *Complaints handling*: ECSPs shall:
  - have in place effective and transparent procedures for prompt, fair and consistent handling of complaints received from clients and shall publish descriptions of those procedures;
  - investigate all complaints in a timely and fair manner, and communicate the outcome within a reasonable period of time to the complainant;

- *Conflicts of interest*: ECSPs shall:
  - Not participate in any crowdfunding offer on their crowdfunding platforms;
  - Not accept as project owners in relation to the crowdfunding services offered on their platform any of the following:
    - their shareholders holding 20% or more of share capital or voting rights;
    - their managers or employees;
    - any natural or legal person linked to those shareholders, manager or employees by control;
  - maintain and operate effective internal rules to prevent conflicts of interest;

- *Prudential requirements:* Prudential safeguards shall be in place with
  - an amount equal to at least the higher of the following:
    - EUR25,000;
    - one quarter of the fixed overheads of the preceding year, reviewed annually, which are to include the cost of servicing loans for three months where an ECSP also facilitates the granting of loans;
  - taking the forms of either:
    - ECSP's own fund;
    - An insurance policy covering the territories where crowdfunding offers are actively marketed; or
    - A combination of the two of the above.

Investor Protection

The Regulation also imposes requirements and obligations on ECSPs and member states to safeguard the interest of investors:

- *Information to client:* The Regulation stipulates that all information, including market communications, from ECSPs to their clients relating to crowdfunding services or investments shall be fair, clear and not misleading;

- *Default rate disclosure*: The Regulation requires that ECSPs which provide crowdfunding services consisting of the facilitation of granting of loans shall:
  - disclose annually the default rates of the crowdfunding projects offered on their crowdfunding platform over at least the preceding 36 months;
  - publish an outcome statement within 4 months of the end of each financial year indicating:
    - the expected and actual default rate of all loans the ECSP has facilitated;
    - a summary of assumptions used in determining expected default rates;
    - the actual return achieved where the ECSP offered a target rate in relation to individual portfolio management of loans;

- *Key investment information sheet*: The Regulation requires ECSPs to provide a standardized key investment information sheet drawn up by the project owner for each crowdfunding offer and a key investment information sheet at platform level where the ECSPs provide individual portfolio management of loans. The Regulation also requires member states to ensure the responsibility and the civil liability of the project owner or its administrative, management or supervisory bodies or, in case of individual portfolio management of loans, the ECSPs for the key investment information sheet.

The Regulation distinguishes sophisticated investors and non-sophisticated investors and affords additional protection to non-sophisticated investors, including:

- *Entry knowledge test*: Requiring ECSPs to assess whether and which crowdfunding services offered are appropriate for the non-sophisticated investors, taking into account the experience, past investments, financial situation and understanding of the risks of the non-sophisticated investors;

- *Simulation of ability to bear loss*: Requiring ECSPs to simulate the ability of non-sophisticated investors to bear loss, calculated as 10% of their net worth;

- Requiring ECSPs to, if the prospective investment exceeds the higher of either EUR1,000 or 5% of the net worth of a non-sophisticated investors, ensure that the non-sophisticated investor
    - Receives a risk warning;
    - Provides explicit consent to the ECSPs;
    - Proves to the ECSPs that he/she understands the investment and its risks;

- *Pre-contractual reflection period*: Requiring ECSPs to provide a pre-contractual reflection period of 4 calendar days allowing non-sophisticated investors to revoke their offer to invest or expression of interest without giving a reason and without incurring a penalty.

Effective Date and Transitional Period

The Regulation will become applicable on November 10, 2021. There is a transitional period of 12 months, i.e. until November 10, 2022, for existing platforms to obtain the authorisation of ECSP. The transitional period can be extended by the European Commission for a further 12 months.

Remarks

The Regulation addresses the legal uncertainty and discouragement of investment in projects in different countries and the provision of cross-border services by ECSPs stemming from the lack of uniform crowdfunding rules across the EU. It is expected that the Regulation would facilitate pan-European crowdfunding for companies, especially European start-ups and small and medium-sized enterprises, while ensuring sufficient protection of the interest of the investors.

欧洲联盟通过新规例以成立统一欧洲众筹框架

引言

2020 年 10 月 5 日，欧洲联盟（欧盟）的欧洲议会批准了有关欧洲商业众筹服务提供商 (European crowdfunding service providers，ECSPs) 的规例 (规例) 以及关于金融工具市场指令 2014/65/EU 的修订指令 (指令) 。规例 (European Regulation (EU) 2020/1503 of 7 October 2020) 及指令 (Directive (EU) 2020/1504)，已于 2020 年 10 月 20 日发布在欧盟官方公报上。规例提供了一个统一的众筹平台/众筹服务提供商法律框架，而随附的指令扩大了小型公司的融资渠道。

授权，ECSP 登记册和监督

该规例适用于所有 ECSPs 而要约金额不高于 500 万欧元 (以在 12 个月内每位项目所有者的报价计算)。打算提供众筹服务的法人必须向其成立地的成员国的权责单位申请授权。国家权责单位应在收到申请之日起三个月内，考虑拟提供的服务的性质、规模和复杂性以评估申请人是否符合规例中规定的要求。

欧洲证券及市场管理局 (ESMA) 应建立并维持所有 ECSPs 的登记册，该登记册可在其网站上公开获得并定期更新。 如果 ECSPs 打算提供跨境服务，则授权成员国应在 10 个工作日内向 ESMA 提供相关信息。

ECSPs 受授权的成员国权责单位的监督。 有关权责单位应根据权责单位自行确定的评估频率和深度，评估 ECSPs 是否遵从规例规定的义务。 ESMA 将促进和协调成员国之间的合作。

ECSPs 的组织结构及运营要求

该规例规定了 ECSPs 的组织结构及运营要求，其中包括：

- ECSPs 应根据客户的最大利益诚实、公平和专业地行事；

- ECSPs 不得为将投资者的指令发送至特定的众筹要约而支付或接受任何报酬、折扣或非金钱利益；

- *有效和审慎的管理*：ECSPs 的管理机构应：
  - 建立并监督适当政策和程序的实施，以确保有效和审慎的管理（包括职责分工、业务连续性和防止利益冲突），以及适当系统和控制措施的实施以评估与众筹平台上作中介的贷款的相关风险；
  - 每两年至少审查一次提供的众筹服务；
  - 若 ECSP 确定众筹要约的价格，承诺对信用风险进行合理的评估，并制定、实施、发布和维护清晰、有效的评估政策和程序；
  - 对每笔贷款进行评估；
  - 建立并使用风险管理框架以符合规例；
  - 保持信用风险评估和众筹价格的记录；

- *尽职调查*：ECSs 应至少对项目所有者进行最低限度的尽职调查，以获取以下证据：
  - 项目所有者在商业法、破产法、金融服务法、反洗钱法、欺诈法或专业责任法等领域没有违反国家规则的记录；
  - 项目所有者并非在欧盟相关政策的认定的非合作管辖区建立；

- *个人贷款组合管理*：ECSPs 应提供个人贷款组合管理；

- *投诉处理*：ECSPs 应：
  - 制定有效、透明的程序，以迅速、公正、一致地处理从客户收到的投诉，并应发布这些程序的说明；
  - 及时、公正地调查所有投诉，并在合理的时间内将结果告知投诉人；

- *利益冲突*：ECSPs 应：
  - 不参与其众筹平台上的任何众筹活动；
  - 不能项目所有者接受其平台上提供的众筹服务而与以下任何一项有关的：
    - 持有股本或投票权 20%或以上的股东；
    - 他们的经理或雇员；
    - 通过控制与这些股东、经理或雇员有联系的任何自然人或法人；
  - 维持并执行有效的内部规则以防止利益冲突；

- *审慎要求*：准备审慎保障措施而该措施
  - 至少等于以下较高者的数量：
    - 25,000 欧元；
    - 前一年的固定管理费用(每年审核)的四分之一，其中，当 ECSPs 亦协助发放贷款时，包括三个月的贷款服务成本；
  - 采用以下形式之一：
    - ECSP 的自有资金；
    - 涵盖积极开展众筹活动的地区的保险政策；
    - 上述两项的组合。

投资者保护

该规例亦对 ECSPs 和成员国施加了要求和义务，以维护投资者的利益：

- *提供给客户的信息*：该规例规定，ECSPs 给其客户的与众筹服务或投资有关的所有信息，包括市场通讯，均应公正、清晰且没有误导性；

- *违约率披露*：该规例要求提供涉及协助发放贷款的众筹服务的 ECSPs 应当
  - 至少披露每年其众筹平台上提供的众筹项目的违约率而该数据最少涵盖先前的 36 个月；
  - 在每个财政年度结束后的 4 个月内发布结果声明，其中要指出：
    - ECSPs 促成的所有贷款的预期和实际违约率；
    - 确定预期违约率时的假设摘要；
    - 当 ECSP 提供与个人贷款组合管理有关的目标利率时，获得的实际收益；

- *关键投资信息表*：该规例要求 ECSPs 提供针对项目所有者每个众筹要约拟定的标准化关键投资信息表，以及，若 ECSPs 提供个人贷款组合管理，平台级别的关键投资信息表。该规例还要求成员国确保项目所有者或其行政、管理或监督机构，或者 (在有个人贷款组合管理时)ECSP，对关键投资信息表的责任和民事责任。

该规例区分了资深投资者和非资深投资者，并为非资深投资者提供了额外的保护，包括：

- *入门知识测试*：要求 ECSPs 在考虑到非资深投资者的经验、过去投资、财务状况以及对风险的了解等，评估 ECSPs 是否提供以及提供哪种众筹服务适合于非资深投资者；

- *模拟承受亏损的能力*：要求 ECSPs 模拟非资深投资者承受亏损的能力 (以其净资产的 10%计算)；

- 如果潜在投资额超过的 1,000 欧元或非资深投资者资产净值的 5%的较高者，则要求 ECSPs 确保非资深投资者
  - 收到风险警告；
  - 明确向 ECSPs 表示同意；
  - 向 ECSPs 证明他/她了解投资及其风险；

- 合同前考虑期：要求 ECSPs 提供 4 个日历日的合同前考虑期，以允许非资深的投资者在无需给出理由及不造成任何罚款的情况下撤回其投资要约或意向表达。

生效日期和过渡期

该规例将于 2021 年 11 月 10 日生效。现有平台将有过渡期为 12 个月，即至 2022 年 11 月 10 日，以获得 ECSP 授权。欧盟委员会会可以将过渡期再延长 12 个月。

总结

该规例解决由于整个欧盟缺乏统一的众筹规则而导致的法律上的不确定性和对不同国家项目的投资及 ECSPs 提供跨境服务的阻碍。 预计该规例将促进公司，特别是欧洲初创企业和中小企业的泛欧洲众筹，同时确保投资者的利益得到充分的保护。

Source 来源:
https://www.europarl.europa.eu/news/en/headlines/economy/20201001STO88312/new-rules-to-facilitate-eu-crowdfunding
https://www.europarl.europa.eu/news/en/press-room/20201002IPR88439/final-vote-on-eu-rules-for-crowdfunding-platforms
https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R1503&from=en
https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020L1504&from=en

The Stock Exchange of Hong Kong Limited Announces the Cancellation of Listing of Centron Telecom International Holding Limited (In Provisional Liquidation) (Stock Code: 1155)

The Stock Exchange of Hong Kong Limited (the Exchange) announced on November 26, 2020 that the listing of the shares of Centron Telecom International Holding Limited (Centron) will be cancelled with effect from 9:00 am on December 1, 2020 in accordance with the delisting procedures under Practice Note 17 to the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (Listing Rules).

Trading of Centron's shares was suspended on April 3, 2018 due to failure to publish its results announcements for the year ended December 31, 2017 and subsequent financial periods.

Subsequently, winding-up proceedings were commenced against Centron due to its inability to pay debts. As a result, in June 2018, joint and several liquidators were appointed to Centron. The winding-up proceedings are on-going.

On June 6, 2018, the Listing Division placed Centron into the first delisting stage under Practice Note 17 to the Listing Rules given its failure to have sufficient operations or assets as required under Rule 13.24. Without any resumption proposal, Centron was placed into the second and third delisting stages on December 6, 2018 and June 26, 2019, respectively.

Before expiry of the third delisting stage on December 27, 2019, Centron submitted a resumption proposal to the Exchange. On February 21, 2020, the Listing Committee considered the resumption proposal not viable and therefore decided to cancel Centron's listing under Practice Note 17 to the Listing Rules.

On February 28, 2020, Centron sought a review by the Listing (Review) Committee on the delisting decision. On July 8, 2020, the Listing (Review) Committee upheld the Listing Committee's decision to cancel the listing of Centron's shares on the Exchange.

On July 15, 2020, Centron sought a review by the Listing Appeals Committee on the delisting decision. On November 24, 2020, Centron withdrew the review application. Accordingly, the Exchange will cancel Centron's listing with effect from 9:00 am on December 1, 2020.

The Exchange has notified Centron of its obligations under paragraph 3.1 of PN17 to issue an announcement informing the public of the cancellation of Centron's listing.

The Exchange advises shareholders of Centron who have any queries about the implications of the delisting to obtain appropriate professional advice.

香港联合交易所有限公司宣布取消星辰通信国际控股有限公司（临时清盘中）（股份代号：1155）的上市地位

于 2020 年 11 月 26 日，香港联合交易所有限公司（联交所）宣布，由 2020 年 12 月 1 日上午 9 时起，星辰通信国际控股有限公司（星辰）的上市地位将根据香港联合交易所有限公司证券上市规则(《上市规则》)第 17 项应用指引下的除牌程序予以取消。

星辰由于未能刊发截至 2017 年 12 月 31 日止年度及其后财政期间的业绩公告，其股份自 2018 年 4 月 3 日起已暂停买卖。

其后，星辰因未能偿还债务而遭启动清盘程序。结果，法庭于 2018 年 6 月就星辰委任共同及个别清盘人。清盘程序仍在进行中。

由于星辰未能按《上市规则》第13.24条的规定拥有足够业务营运或资产，上市科于 2018 年 6 月 6 日根据《上市规则》第 17 项应用指引将星辰置于除牌程序的第一阶段。由于星辰未有递交任何复牌建议，联交所分别于 2018 年 12 月 6 日及 2019 年 6 月 26 日将星辰置于除牌程序的第二及第三阶段。

星辰于 2019 年 12 月 27 日除牌程序第三阶段届满之前向联交所提交复牌建议。于 2020 年 2 月 21 日，上市委员会认为该复牌建议并不可行，因此决定根据《上市规则》第 17 项应用指引取消星辰的上市地位。

于 2020 年 2 月 28 日，星辰寻求由上市（复核）委员会复核有关除牌决定。于 2020 年 7 月 8 日，上市（复核）委员会维持上市委员会取消星辰股份在联交所上市地位的决定。

于 2020 年 7 月 15 日，星辰寻求由上市上诉委员会复核有关除牌决定。于 2020 年 11 月 24 日，星辰自行撤回复核申请。按此，联交所将于 2020 年 12 月 1 日上午 9 时起取消星辰的上市地位。

联交所已知会星辰，指根据第 17 项应用指引第 3.1 段，星辰有责任就其上市地位被取消一事发出公告通知公众。

联交所建议，星辰股东如对除牌的影响有任何疑问，应征询适当的专业意见。

Source 来源:
https://www.hkex.com.hk/News/Regulatory-Announcements/2020/201126news?sc_lang=en

The Stock Exchange of Hong Kong Limited Announces the Cancellation of Listing of Chong Sing Holdings Fintech Group Limited (In Official Liquidation) (Stock Code: 8207)

The Stock Exchange of Hong Kong Limited (the Exchange) announced on November 25, 2020 that with effect from 9:00 am on November 30, 2020, the listing of the shares of Chong Sing Holdings Fintech Group Limited (In Official Liquidation) (Chong Sing Holdings) will be cancelled under Rule 9.14A of the Rules Governing the Listing of Securities on GEM of The Stock Exchange of Hong Kong Limited (the GEM Rule).

Trading in Chong Sing Holdings' securities has been suspended since July 8, 2019. Under GEM Rule 9.14A, the Exchange may delist Chong Sing Holdings if trading does not resume by July 7, 2020.

Chong Sing Holdings failed to fulfil all the resumption guidance set by the Exchange and resume trading in its securities by July 7, 2020. On November 13, 2020, the GEM Listing Committee decided to cancel the listing of Chong Sing Holdings' shares on the Exchange under GEM Rule 9.14A.

The Exchange has requested Chong Sing Holdings to publish an announcement on the cancellation of its listing.

The Exchange advises shareholders of Chong Sing Holdings who have any queries about the implications of the delisting to obtain appropriate professional advice.

香港联合交易所有限公司宣布取消中新控股科技集团有限公司 （正式清盘中）（股份代号：8207）的上市地位

于 2020 年 11 月 25 日，香港联合交易所有限公司（联交所）宣布，由 2020 年 11 月 30 日上午 9 时起，中新控股科技集团有限公司 （正式清盘中）（中新控股）的上市地位将根据香港联合交易所有限公司 GEM 证券上市规则(《GEM 规则》)第 9.14A 条予以取消。

中新控股的股份自 2019 年 7 月 8 日起已暂停买卖。根据《GEM 规则》第 9.14A 条，若中新控股未能于 2020 年 7 月 7 日或之前复牌，联交所可将中新控股除牌。

中新控股未能于 2020 年 7 月 7 日或之前履行联交所订下的所有复牌指引而复牌。于 2020 年 11 月 13 日，GEM 上市委员会决定根据《GEM 规则》第 9.14A 条取消中新控股股份在联交所的上市地位。

联交所已要求中新控股刊发公告，交代其上市地位被取消一事。

联交所建议，中新控股股东如对除牌的影响有任何疑问，应征询适当的专业意见。

Source 来源:
https://www.hkex.com.hk/News/Regulatory-Announcements/2020/201125news?sc_lang=en

The Stock Exchange of Hong Kong Limited Announces the Cancellation of Listing of DBA Telecommunication (Asia) Holdings Limited (Stock Code: 3335)

The Stock Exchange of Hong Kong Limited (the Exchange) announced on November 25, 2020 that with effect from 9:00 am on November 30, 2020, the listing of the shares of DBA Telecommunication (Asia) Holdings Limited (DBA) will be cancelled under Rule 6.04 of the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (Listing Rules).

Trading of DBA's shares was suspended on June 6, 2013 pending release of a clarification announcement on certain press releases. Subsequently, DBA failed to publish audited annual results for the year ended December 31, 2012 and did not have sufficient level of operation and assets under Rule 13.24. The Exchange placed DBA into the first, second and third delisting stage under Practice Note 17 to the Listing Rules on January 15, 2015, July 28, 2015 and March 9, 2016, respectively.

Before expiry of the third delisting stage on September 8, 2016, DBA submitted a resumption proposal to the Exchange which involved, among others, an acquisition of a target which constituted a reverse takeover under the then Rule 14.06(6)(a). On November 13, 2020, the Listing Committee considered that DBA has not taken adequate action to submit the new listing application for the target, fulfil all the resumption conditions and resume trading as required under Rule 6.04. Hence, we consider it appropriate for the Exchange, as it is entitled, to cancel DBA's listing under Rule 6.04.

The Exchange has requested DBA to publish an announcement on the cancellation of its listing.

The Exchange advises shareholders of DBA who have any queries about the implications of the delisting to obtain appropriate professional advice.

香港联合交易所有限公司宣布取消 DBA 电讯（亚洲）控股有限公司（股份代号：3335）的上市地位

于 2020 年 11 月 25 日，香港联合交易所有限公司（联交所）宣布，由 2020 年 11 月 30 日上午 9 时起，DBA 电讯（亚洲）控股有限公司（DBA）的上市地位将根据的上市地位将根据香港联合交易所有限公司证券上市规则(《上市规则》)第 6.04 条予以取消。

DBA 股份自 2013 年 6 月 6 日起已暂停买卖，以待就若干新闻稿刊发澄清公告。随后，DBA 未能刊发截至 2012 年 12 月 31 日止年度经审核全年业绩，亦未能符合《上市规则》第 13.24 条须拥有足够业务运作及资产的规定。联交所先后于 2015 年 1 月 15 日、2015 年 7 月 28 日及 2016 年 3 月 9 日根据《上市规则》第 17 项应用指引将 DBA 置于除牌程序的第一、第二及第三阶段。

DBA 于 2016 年 9 月 8 日除牌程序第三阶段届满之前向联交所提交复牌建议，其中所涉的收购目标公司构成当时《上市规则》第 14.06(6)(a)条下的反收购行动。于 2020 年 11 月 13 日，上市委员会认为 DBA 未有按《上市规则》第 6.04 条所规定采取充分行动以就目标公司递交新上市申请以及符合所有复牌条件而复牌。因此，我们认为联交所应当根据《上市规则》第 6.04 条行使权力取消 DBA 的上市地位。

联交所已要求 DBA 刊发公告，交代其上市地位被取消一事。

联交所建议，DBA 股东如对除牌的影响有任何疑问，应征询适当的专业意见。

Source 来源:
https://www.hkex.com.hk/News/Regulatory-Announcements/2020/2011252news?sc_lang=en

Hong Kong Exchanges and Clearing Limited Releases Cash Market Transaction Survey 2019

On November 25, 2020, Hong Kong Exchanges and Clearing Limited (HKEX) presented the results of its Cash Market Transaction Survey 2019, which examines the trading composition of participants (Exchange Participants) of The Stock Exchange of Hong Kong Limited (the Exchange) on Hong Kong's securities market.

The survey found that the contribution of local Hong Kong retail investors to the cash market trading value, increased to 13.6 per cent in 2019, from 10.3 per cent in 2018. The contribution of overseas institutional and retail investors also rose, to 36.6 per cent and 6.7 per cent respectively for 2019, from 35.1 per cent, and 6.0 per cent respectively in 2018.

The survey also found that investors from over 50 jurisdictions participated in Hong Kong's securities market during 2019, with those from Asia continuing to be the largest regional group among overseas investors. Conducted by HKEX, the survey series seeks to understand the relative contribution of trading value in the Hong Kong listed securities market (covering the Main Board and GEM), by investor type. The market share of online trading is also assessed. The 2019 survey covered trading during the period between January and December 2019.

The 2019 survey's respondents were Exchange Participants that had traded on the HKEX securities market during 2019. The previous survey was conducted in 2019 for trading in the year 2018.

Key findings:

- Overseas investors' contribution to the total market turnover value was 43 per cent, up from 41 per cent in 2018.
- Local (Hong Kong) investors' contribution to total market turnover value was at 30.4 per cent (comparable to the 30 per cent in 2018), with the share of local retail investors rising to 13.6 per cent from 10.3 per cent in 2018.
- Overseas investor trading came mainly from institutions – 37 per cent of the total market turnover value (up from 35 per cent in 2018), compared with 7 per cent from overseas retail investors (6 per cent in 2018).
- Overseas investor trading came from over 50 jurisdictions.
- Asian-based investors continued to be the largest contributor group from overseas, contributing 42 per cent of overseas investor trading (42 per cent in 2018) and 18 per cent of total market turnover value (17 per cent in 2018).
- Retail online trading accounted for 57 per cent of total retail investor trading, down from 61 per cent in 2018, and 11 per cent of the total market turnover value.

Please refer to the survey results report on the HKEX website for further information in relation to the survey: https://www.hkex.com.hk/-/media/HKEX-Market/News/Research-Reports/HKEX-Surveys/Cash-Market-Transaction-Survey-2019/CMTS2019_e.pdf?la=en

香港交易及结算所有限公司发布《现货市场交易研究调查 2019》

于 2020 年 11 月 25 日，香港交易及结算所有限公司（香港交易所）公布《现货市场交易研究调查 2019》的调查结果，该调查旨在研究香港联合交易所有限公司（联交所）参与者（联交所证券市场交易的参与者）于香港证券市场各交易类别之分布情况。

调查发现本地个人投资者参与整体市场的交易金额比重由 2018 年的 10.3%增加至 2019 年的 13.6%；而外地机构投资者与外地个人投资者的占比亦分别由 2018 年的 35.1%与 6.0%增加至 2019 年的 36.6%与 6.7%。

此外，调查亦发现 2019 年内有超过 50 个地区的投资者参与香港的证券市场，而来自亚洲的投资者继续是外地投资者地区群体中占比最大的一群。

此系列的市场调查由香港交易所进行，旨在了解香港上市证券市场（包括主板及 GEM）各投资者类别交投的分布情况，调查范围亦包括网上交易的比重。2019 年度调查涵盖 2019 年 1 月至 12 月期间的交易。

2019 年度调查的调查对象涵盖在联交所证券市场交易的参与者。上一次的《现货市场交易研究调查 2018》于 2019 年进行。

调查的主要结果如下：

- 外地投资者的交易占市场总成交金额由 2018 年的 41%增加至 43%。
- 本地（香港）投资者的交易占市场总成交金额的 30.4%（与 2018 年的 30.0%相若），当中本地个人投资者的交易占比由 2018 年的 10.3%增加至 13.6%。
- 外地投资者的交易主要来自机构投资者，占市场总成交金额的 37%（高于 2018 年的 35%）；而外地个人投资者的交易则占 7%（2018 年：6%）。
- 外地投资者的交易来自全球超过 50 个国家或地区。
- 亚洲投资者继续是最主要的外地投资者群组，其交易合计占整体外地投资者总交易金额的 42%（2018

年：42%），占市场总成交金额的 18%（2018 年：17%）。

- 个人网上交易占整体个人投资者交易金额的 57%（较 2018 年的 61%稍为下跌），及占市场总成交金额的 11%。

有关调查的详情，可参阅香港交易所网站的研究调查结果报告：https://www.hkex.com.hk/-/media/HKEX-Market/News/Research-Reports/HKEX-Surveys/Cash-Market-Transaction-Survey-2019/CMTS2019_c.pdf?la=zh-CN

Source 来源:
https://www.hkex.com.hk/News/News-Release/2020/2011253news?sc_lang=en

Hong Kong Exchanges and Clearing Limited to Introduce Synapse, a Settlement Acceleration Platform for Stock Connect

On November 24, 2020, Hong Kong Exchanges and Clearing Limited (HKEX) introduced HKEX Synapse, a new settlement acceleration platform for its landmark Stock Connect program.

Using DAML smart contracts, HKEX Synapse will standardize and streamline the post-trade workflows of Northbound Stock Connect, maximizing efficiencies for market participants in a transparent, secure and reliable manner. Asset managers, brokers, global custodians, local custodians, and clearing participants will all benefit from the improved connectivity and enhanced capacity to handle the growing volume of trades flowing through Stock Connect.

HKEX is partnering with The Depository Trust & Clearing Corporation (DTCC) to link HKEX Synapse to DTCC's Institutional Trade Processing (ITP) services. With this integration, global investors and HKEX participants will be able to take advantage of the benefits of central matching of cross-border transactions on the Synapse platform, automating the trade confirmation and settlement notification process. Digital Asset has been selected as the vendor to develop HKEX Synapse.

HKEX Synapse will help institutional investors participating in Northbound Stock Connect to better manage their post-trade operations across different time zones, in particular with regard to adhering to the Mainland securities market's T+0 settlement cycle.

"HKEX is raising the bar for securities markets worldwide," said Yuval Rooz, CEO & Co-founder, Digital Asset. "HKEX Synapse solves a major business problem for capital markets that legacy message-based approaches have not been able to address. Synapse uses DAML smart contracts to automate, update and synchronise information across the market in real time - ensuring errors can be caught, exceptions can be handled and that HKEX Northbound Stock Connect can continue to grow at the pace the market demands."

DAML is a type of programming language used to build smart contracts. A smart contract is a computer program or a transaction protocol which is intended to automatically execute, control or document relevant events and actions.

Since its launch, institutional investors' interest and participation in Northbound Stock Connect has grown significantly, especially following the inclusion of China's A-shares in major global indices. Stock Connect's Northbound average daily turnover in the first three quarters this year has more than doubled from the same period of 2019, to a record RMB90 billion.

Mainland China's tight settlement cycle has created the need for a more efficient settlement infrastructure, and HKEX Synapse will address this, helping investors to manage their portfolios and their risks.

By deploying DAML smart contracts, HKEX Synapse will be able to simultaneously create settlement instructions and provide status updates to all parties along the settlement chain, facilitating concurrent processing and greatly improving transparency for market participants. HKEX Synapse is an optional platform, and is expected to begin testing in 2021 with a group of pilot users, ahead of production deployment targeted for Q1 2022.

Upon launch, HKEX Synapse will extend Northbound Stock Connect's global reach via DTCC's ITP services, currently used by more than 6,000 clients across 52 markets globally, further realizing the potential of Stock Connect for China's A-share market.

香港交易及结算所有限公司拟推 HKEX SYNAPSE 平台加快沪深港通结算流程

于 2020 年 11 月 24 日，香港交易及结算所有限公司（香港交易所）宣布开发沪深港通交易结算加速平台 HKEX Synapse（Synapse），进一步提高沪深港通交易结算效率。

Synapse 将利用 DAML 智能合约简化沪深港通北向交易的交易后工作流程，以透明、安全和可靠的方式提高市场参与者的结算效率和结算能力。Synapse 旨在帮助资产管理机构、证券经纪、全球及本地托管机构和结算参与者，更加高效地处理不断增长的沪深港通交易量带来的结算工作。

香港交易所将与美国证券存管结算公司（DTCC）合作，将 Synapse 与 DTCC 的机构交易处理（Institutional Trade Processing） 服务连接起来。通过这种整合，全球投资者和香港交易所参与者在 Synapse 平台上既可利用 DTCC 综合分仓匹配平台服务，又可实现交易确认和结算通知流程的自动化。香港交易所选择 Digital Asset 为 Synapse 的项目开发商。

Synapse 将帮助参与沪深港通北向交易的国际机构投资者更好地管理跨时区交易后流程，尤其是方便它们满足内地证券市场的 T + 0 结算周期要求。

Digital Asset 首席执行官兼联合创始人 Yuval Rooz 表示：「香港交易所正在提高全球证券市场的营运标准。香港交易所的 Synapse 解决了资本市场中一个无法通过传统方法解决的主要业务问题，Synapse 将使用 DAML 智能合约语言实现资讯的即时自动化更新和发布，以确保及时发现错误和处理异常情况，支持沪深港通北向交易业务的不断增长。」

DAML 是一种用于构建智能合约的编程语言。智能合约是一种计算机交易协议，主要用于自动执行、控制或记录相关事件和行爲。 自沪深港通推出以来，尤其是在中国内地 A 股纳入全球主要指数之后，机构投资者对沪深港通北向交易的参与度持续增长。沪深港通今年首三季度北向交易日均成交额创新高，达 900 亿元人民币，较 2019 年同期增长了一倍以上。

内地证券市场的结算周期相对较短，因此沪深港通共同市场需要更高效的结算基础设施以更好的配合内地市场的结算周期，Synapse 将满足这一市场需求。 通过 DAML 智能合约，Synapse 将能够为结算业务链上的各方同时设定结算指令并通知状态更新，从而允许多方共同处理结算流程，并为市场参与者大大提高结算流程的透明度。Synapse 是一项可选服务，预计 2021 年开始邀请用户进行测试，2022 年第一季度正式投入使用。

Synapse 推出后，将通过 DTCC 的机构交易处理服务提高沪深港通北向交易的全球影响力，有望进一步推动中国内地 A 股市场的对外开放。目前，全球 52 个市场中的 6,000 多家机构客户，已使用 DTCC 的机构交易处理服务。

Source 来源:
https://www.hkex.com.hk/News/News-Release/2020/201124news?sc_lang=en

Hong Kong Exchanges and Clearing Limited Seeks Views on New Proposal to Modernize Hong Kong IPO Settlement Process

On November 16, 2020, Hong Kong Exchanges and Clearing Limited (HKEX) published a Concept Paper seeking market feedback on its proposal to comprehensively modernize and digitalize Hong Kong's Initial Public Offering (IPO) settlement process. Please refer to this website for details of the Concept Paper: https://www.hkex.com.hk/-/media/HKEX-Market/Services/Next-Generation-Post-Trade-Programme/Fini/FINI_Concept-Paper_EN.pdf?la=en.

Under the proposal, HKEX will introduce a new web-based service called FINI (Fast Interface for New Issuance) that enables IPO market participants, advisers and regulators to interact digitally and seamlessly on the many steps that comprise the end-to-end IPO settlement process.

By modernising both the logic and the infrastructure of the Hong Kong IPO settlement, HKEX expects that the introduction of FINI will shorten the time gap between IPO pricing and trading from its current average of more than five business days to as little as one business day: reducing the settlement timeframe by as much as 80 per cent. This will give investors quicker access to new listings, reduce market risk and improve efficiency for all parties involved.

Specifically, FINI will provide a single user-friendly platform that brokers, share registrars, IPO sponsors, lawyers, underwriters and distributors can use to share information and coordinate workflows during the offering initiation, subscription, pricing, allotment, payment, regulatory approval and stock admission processes – all steps that precede a newly listed company "striking the gong" to mark its trading debut.

In addition, HKEX's Listing Division, wholly-owned subsidiary Hong Kong Securities Clearing Company (HKSCC), and the Securities and Futures Commission will use FINI to oversee the settlement process for each IPO as it happens, providing certain acknowledgements and approvals that may be required during the process directly via the new platform.

HKEX identified the shortening of Hong Kong's IPO settlement process as a key initiative in its Strategic Plan 2019-21, as part of a broader range of market microstructure improvements. While Hong Kong's primary market has evolved significantly in recent years, the logistics of how new shares start trading have not fundamentally changed in more than two decades.

"'Technology Empowered' is one of the key pillars of our strategy. Through FINI, we will deliver benefits to our market in three key ways: providing a globally competitive service for issuers seeking to list their shares, bringing our primary market firmly into the digital era and giving us an enhanced digital foundation on

which to enable a whole suite of better services for investors," said HKEX Chief Executive Charles Li.
FINI has been designed to reflect Hong Kong's unique listing regime and market structure, which will not be materially affected by the proposed reform. FINI will be managed by HKSCC alongside the existing Central Clearing and Settlement System (CCASS), which remains the central securities depository for the Hong Kong market.

"We believe that the FINI proposal put forward in the Concept Paper strikes the optimum balance between modernisation and continuity. We have sought to preserve the key strengths that have made our IPO market so successful, but also to embrace new thinking and technology to meet the ever-increasing expectations of global investors and issuers. We welcome your comments in helping shape the future with us," said Li.

If the proposed concept is supported by the market, HKEX will build FINI as the settlement mechanism for every Hong Kong IPO, fully replacing the existing "T+5" process. An on-boarding program will be organized in due course, allowing market participants to prepare for a one-time transition to become FINI-ready.

The launch date of FINI will be subject to market support and readiness, and is envisaged to take place no earlier than the second quarter of 2022.

The deadline for responding to the Concept Paper via the feedback form available at this link is 6:00 PM on Friday, January 15, 2021: https://www.hkex.com.hk/Services/Next-Generation-Post-Trade-Programme/Project-Fini?sc_lang=en

The key features of FINI are as follows:

Moving the market forward	
End-to-end IPO settlement, in one place	FINI will provide market participants and regulatory authorities with a consistent real-time 'golden source' view of every active Hong Kong IPO in one convenient place, as each deal progresses from launch to completion.
Improved workflows and interactions	Dozens of separate tasks that are currently performed manually will be replaced by convenient and streamlined digital workflows on FINI. This will enable automation, operational precision and more robust risk controls throughout every IPO's settlement journey.
Going paperless but staying inclusive	The IPO settlement process will go fully digital, meaning that paper-based documents, communications and payments will be replaced by more modern digital interactions. An open architecture will provide integration options and innovative service opportunities for market practitioners, while allowing intermediaries to continue catering to those investors who prefer an offline interaction.
Liquidity relief	FINI includes important alterations to the pre-funding mechanism for the Hong Kong public offer, whereby funds supporting IPO subscriptions will be validated at each broker's designated bank, with only the actual share allotment value of each broker collected by the issuer after balloting. This intends to alleviate the distortive impact that over-subscribed IPOs are known to have on Hong Kong dollar capital flows and interbank money markets.
Preserving the strengths	
Unchanged roles and responsibilities, with continuity for market participants	End-investors and issuers will not need to use FINI directly. Instead, the platform is intended to be used by professional market intermediaries (brokers, share registrars, IPO sponsors, lawyers, underwriters and distributors) whose roles, responsibilities and relationships will not fundamentally change with the introduction of FINI. It should be noted that certain key processes such as roadshows, book building, IPO pricing and balloting will remain conducted "off platform" in HKEX's proposal, with FINI serving only to capture their outcomes for downstream processing.
No changes to the legal framework and listing regime	FINI is designed to be compatible with the legal framework governing Hong Kong's securities market, and no material changes are contemplated to Hong Kong's listing regime or to existing regulations governing the IPO subscription, allotment and approval process. While some changes to the Listing Rules are expected, the FINI proposal is

	otherwise independent of any other regulatory reforms to the Hong Kong listing regime.
Integrated with securities market infrastructure	FINI will serve as the entry point for newly issued shares to enter into CCASS, while maintaining the continuity of the latter's Central Securities Depository function, as well as the rights and obligations of its participants. HKSCC Participants will be able to use their HKEX Client Connect credentials to access and use FINI via the internet.

香港交易及结算所有限公司香港首次公开招股结算程序现代化征询市场意见

于 2020 年 11 月 26 日，香港交易及结算所有限公司（香港交易所）香港交易及结算所有限公司（香港交易所）今天（星期一）刊发框架谘询文件，就香港首次公开招股结算程序全面现代化及数码化的建议（建议）征询市场意见。框架谘询文件可参阅：https://www.hkex.com.hk/-/media/HKEX-Market/Services/Next-Generation-Post-Trade-Programme/Fini/FINI_Concept-Paper_CH.pdf?la=zh-CN

香港交易所建议推出全新的线上服务平台 FINI (Fast Interface for New Issuance)，就有关端对端首次公开招股结算程序在内的多个步骤，供新股市场参与者、顾问以至监管机构透过这平台进行畅通无阻的数码化沟通。

香港交易所希望藉着 FINI 将香港首次公开招股结算的整个流程以至基建设施现代化，新股从定价到上市交易所需的时间料可由现时平均五个营业日或以上缩短至最短一个营业日，而结算周期减省高达八成。如此一来，投资者可更快进行交易，降低市场风险，提升整体效率。

FINI 是一个简单易用的单一平台，可供经纪、股份过户登记处、保荐人、律师、包销商及分销商，在新上市公司「敲锣」上市交易前，处理启动招股、认购、定价、配发、付款、监管机构批准及纳入股份等所有必要步骤，同时共享资讯、协调相关工作流程。

此外，香港交易所上市科及全资附属公司香港中央结算有限公司（香港结算）和证券及期货事务监察委员会，亦会利用 FINI 监督每只新股的结算流程，并直接从中确认及批准各所需项目。

缩短新股市场的结算程序是香港交易所《战略规划 2019-2021》中的重要计划，亦是整体市场微结构优化措施之一。香港的集资市场近年几经变革，惟新股上市前的结算流程在二十多年来仍沿用至今。

香港交易所集团行政总裁李小加表示：「拥抱科技是我们的核心战略之一。FINI 可为市场带来三方面裨益：为有意在香港上市的发行人提供具有全球竞争力的服务；引领我们的新股集资市场进入数字化时代；通过数字化改革，为将来提升对投资者的服务奠定基础。」

FINI 是特别为香港独有的上市制度及市场架构而设的平台，将连同香港市场的中央证券存管处 — 中央结算系统（CCASS）一并由香港结算营运。

李小加续说：「我们相信建议中的 FINI 平台能够兼顾市场发展的现代化与持续性，既保持了香港新股市场得以成功的关键优势，又积极拥抱新思维、新科技，满足全球投资者和发行人不断提高的需求。欢迎大家发表意见，与我们携手共创未来。」

若市场支持这建议，香港交易所将全面使用 FINI 处理日后所有的新股结算程序，并取代现行「T+5」程序。香港交易所将适时向市场提供使用指引及登录用户课程，让市场参与者可以为无缝转用 FINI 作好准备。

FINI 的推出日期要视乎市场支持和准备情况而定，预期不早于 2022 年第二季推出。

框架谘询文件提交回应的截止日期为 2021 年 1 月 15 日（星期五）下午六时正，表格登载于此连结：https://sc.hkex.com.hk/TuniS/www.hkex.com.hk/Services/Next-Generation-Post-Trade-Programme/Project-Fini?sc_lang=zh-CN。

FINI 的主要特色如下：

推动市场发展	
集中进行新股结算的各个程序	市场参与者和监管机构可以透过 FINI 平台实时浏览所有新股从其开始发售至完成招股期间的相关数据和运作情况。
优化工作流程与互动	FINI 操作方便，精简并数码化现时以人手处理的各个工作程序，令所有新股的结算流程全面自动化、运作更准确并提升风险监控。 。
推动无纸化同时照顾	新股结算程序将全面数码化，取代现有的纸本文件、通讯及付款模式，改以现代化的数码方式处理。平台的开放性设计让市

不同投资者需要	场从业人士可选择把 FINI 整合至其系统，并提供及创新服务的机会；市场中介机构仍可满足喜好使用传统线下服务的投资者。
舒缓流动资金紧张	FINI 包括对香港公开发售的预缴机制作重要改动：每家经纪将会透过指定银行验证认购新股的资金，新股抽签有结果后，发行人才向每家经纪收取其实际获配股数的股款。这方式有望舒缓新股超额认购对港元资金流及银行同业拆息市场引起影响和承受的压力。
保留现有优势	
市场参与者角色及责任不变	散户投资者和发行人不需直接使用 FINI。FINI 的用户对象是专业市场的中介机构（经纪、股份过户登记处、保荐人、律师、包销商及分销商），这些人士的角色、责任及关系都不会因推出 FINI 而有任何重大改变。注意：根据香港交易所的建议，新股上市流程中的路演、建簿、定价及抽签等主要工作均继续在「平台以外」进行，FINI 平台只会利用这些流程最后所得的结果，并负责处理后续程序。
法律框架及上市制度不变	FINI 平台与香港证券市场的法例框架没有冲突，预计不须对香港上市制度或现行有关新股认购、配发及批准程序的规例作任何重大修订。 除《上市规则》料须作一些修订外，设立 FINI 平台是一项独立的建议，与香港上市制度的任何其他监管改革概无关连。
与证券市场基建整合	新发行股份将会透过 FINI 接入中央结算系统（CCASS），但不影响 CCASS 作为中央证券存管处的功能，或其参与者的权利和义务。香港结算参与者可使用其「香港交易所 Client Connect」凭证资料经互联网进入 FINI 使用有关平台服务。

Source 来源:
https://www.hkex.com.hk/News/News-Release/2020/201116news?sc_lang=en

Hong Kong Securities and Futures Commission Bans Pang Hon Pan for 21 Months

On November 25, 2020, Hong Kong Securities and Futures Commission (SFC) announced that it has banned Mr Pang Hon Pan (Pang), a former private banking relationship manager of Standard Chartered Bank (Hong Kong) Limited (SCBHK) and a former senior relationship manager of Bank of Singapore Limited (BOS), for 21 months from November 25, 2020 to August 24, 2022.

Pang was a relevant individual engaged by: (i) SCBHK to carry on Type 1 (dealing in securities) and Type 4 (advising on securities) regulated activities under the Securities and Futures Ordinance (SFO) between April 17, 2010 and March 31, 2017; and (ii) BOS to carry on Type 1 regulated activity under the SFO between April 18, 2017 and March 16, 2020. Pang is currently not registered with the Hong Kong Monetary Authority (HKMA) or licensed by the SFC.

The SFC's disciplinary action follows a referral by the HKMA. The HKMA found in its investigation stemming from a self-reporting by SCBHK that Pang breached SCBHK's internal policies from April 17, 2010 to March 31, 2017 by:

- failing to disclose to his then employer SCBHK the existence of his personal securities accounts maintained with three external financial institutions;
- conducting a total of 48 securities transactions through these accounts without seeking pre-clearance from SCBHK, or reporting them to SCBHK post-execution; and
- falsely declaring to SCBHK on seven occasions that he had no existing securities account.

The HKMA issued a decision in November 2019 to impose a 15-month suspension against Pang for the above misconduct. Pang in turn applied to the Securities and Futures Appeals Tribunal (SFAT) for a review of the HKMA's decision in December 2019 (see SFAT Application No. 4/2019).

On February 12, 2020, Pang asked the SFAT to postpone a hearing scheduled for February 17, 2020 because he was in the midst of a 14-day home quarantine following a business trip to Mainland China on February 7, 2020. The SFAT agreed to Pang's request for postponement and adjourned the hearing. Upon the HKMA's verification with Pang's then employer BOS, it turned out that Pang went to Mainland China on February 7, 2020 on a personal trip instead of a business trip as he had told the SFAT, and he did not undergo self-quarantine at home afterwards.

Pang subsequently withdrew the review application, and the SFAT granted leave for Pang to discontinue the review proceedings, while commenting that his review application was wholly without merit, on May 14, 2020. Please refer to https://www.sfat.gov.hk/english/determination/AN-4-2019-Determination.pdf for the details of the SFAT's determination.

Pang ceased to be registered as a relevant individual with the HKMA from March 17, 2020 following his dismissal by BOS. As the statutory power to discipline a former relevant individual rests with the SFC, the HKMA referred the case to the SFC to consider appropriate disciplinary action against Pang. BOS summarily dismissed Pang on March 16, 2020. As Pang was no longer registered as a relevant individual with the HKMA as of March 17, 2020, the HKMA's power to discipline Pang under section 58A of the Banking Ordinance lapsed before the HKMA's decision against him could come into effect.

The SFC considers Pang's conduct regarding his personal securities accounts and wilful misrepresentation to the SFAT dishonest and call into question his character, reliability and his ability to carry on regulated activities competently and honestly.

In deciding the sanction, the SFC took into account all relevant circumstances, including the duration of Pang's conduct and his otherwise clean disciplinary record.

Pang, who had applied to the SFAT for a review of the SFC's decision, was granted leave to withdraw his application on November 25, 2020 by the SFAT and ordered to pay the SFC's legal costs. Please see SFAT Application No. 6/2020 published on the SFAT's website.

香港证券及期货事务监察委员会禁止彭汉彬重投业界 21 个月

于 2020 年 11 月 25 日，香港证券及期货事务监察委员会（证监会）公布其禁止渣打银行（香港）有限公司（渣打银行）前私人银行客户关系经理及新加坡银行有限公司（新加坡银行）前高级客户关系经理彭汉彬先生（彭）重投业界 21 个月，由 2020 年 11 月 25 日至 2022 年 8 月 24 日止的决定。

彭于 2010 年 4 月 17 日至 2017 年 3 月 31 日期间及 2017 年 4 月 18 日至 2020 年 3 月 16 日期间，分别是受聘于(i)渣打银行以进行《证券及期货条例》下第 1 类（证券交易）及第 4 类（就证券提供意见）受规管活动；及(ii)新加坡银行以进行该条例下第 1 类受规管活动的有关人士。彭现时没有名列于香港金融管理局（金管局）的纪录册，亦非证监会持牌人。

证监会在金管局转介个案后采取纪律行动。金管局在基于渣打银行的主动呈报而进行的调查中发现，彭于 2010 年 4 月 17 日至 2017 年 3 月 31 日期间的以下行为，违反了渣打银行的内部政策：

- 没有向其当时的雇主渣打银行披露他在另外三家金融机构持有的私人证券帐户；
- 透过上述帐户进行合共 48 宗证券交易，并且没有向渣打银行寻求预先审批，或在执行后向渣打银行汇报该等交易；及
- 七度向渣打银行作出虚假声明，表示他当时没有任何证券帐户。

金管局于 2019 年 11 月决定基于上述失当行为，暂时中止彭的注册 15 个月。彭继而于 2019 年 12 月向证券及期货事务上诉审裁处（上诉审裁处）申请覆核金管局的决定，上诉审裁处申请编号为 2019 年第 4 号。

2020 年 2 月 12 日，彭要求上诉审裁处延期举行原定于 2020 年 2 月 17 日的聆讯，原因是他在 2020 年 2 月 7 日前往中国内地公干后，正在接受 14 天的家居检疫。上诉审裁处同意彭的延期要求，并将聆讯押后。

在金管局与彭当时的雇主新加坡银行核实后，发现彭于 2020 年 2 月 7 日是因私人事务到访中国内地，而非他向上诉审裁处所指的公干，其后他亦没有自行于家居接受检疫。

彭后来撤回覆核申请，而上诉审裁处于 2020 年 5 月 14 日准许彭中止覆核的申请，并指他的覆核申请完全缺乏理据。请参阅上诉审裁处载于其网站的决定：https://www.sfat.gov.hk/chinese/determination/AN-4-2019-Determination_c.pdf。

彭被新加坡银行解雇后，于 2020 年 3 月 17 日起已不再是获金管局注册的有关人士。由于对前有关人士采取纪律行动的法定权力归证监会所有，故金管局将本案转交证监会，以考虑对彭采取适当的纪律行动。彭于 2020 年 3 月 16 日被新加坡银行即时解雇。由于彭在 2020 年 3 月 17 日已不再是获金管局注册的有关人士，故金管局根据《银行业条例》第 58A 条对彭采取纪律行动的权力，在其针对他的决定生效前已经失效。

证监会认为彭关涉其私人证券帐户的行为及蓄意向上诉审裁处作出失实陈述，乃属不诚实的行为，令其品格、可靠程度及其是否有能力称职地及诚实地进行受规管活动受到质疑。

在决定有关处分时，证监会已考虑到所有相关情况，包括彭的行为所持续的时间，及他过往并无遭受纪律处分的纪录。

彭曾就证监会的决定向上诉审裁处提出覆核申请。上诉审裁处其后于 2020 年 11 月 25 日批准彭撤回其覆核申

请，并作出命令将讼费判给证监会。请参阅载于上诉审裁处网站的上诉审裁处申请（编号：2020 年第 6 号）。

Source 来源:
https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=20PR115#

Hong Kong Securities and Futures Commission Bans Chan Shun King for 24 Months

On November 25, 2020, Hong Kong Securities and Futures Commission (SFC) announced that it has as banned Ms Chan Shun King (Chan), a former account executive of Sun Hung Kai Investment Services Limited (SHKIS), from re-entering the industry for 24 months from 25 November 2020 to 24 November 2022 for breaches of the provisions of the SFC's the Code of Conduct for Persons Licensed by or Registered with the SFC (Code of Conduct) listed below:

- General Principle 2 of the Code of Conduct provides that a licensed person should act with due skill, care and diligence, in the best interests of its clients and the integrity of the market in conducting its business activities. Paragraph 7.1(a) of the Code of Conduct requires a licensed person to obtain a written authorization before it can operate a discretionary account for a client.

- Paragraph 7.1(c) of the Code of Conduct requires a licensed person to designate such account as a discretionary account. Paragraph 7.1(d) of the Code of Conduct requires senior management to approve the opening of a discretionary account.

Chan was licensed under the Securities and Futures Ordinance to carry on Type 1 (dealing in securities), Type 2 (dealing in futures contracts), Type 3 (leveraged foreign exchange trading) and Type 9 (asset management) regulated activities and accredited to SHKIS, Sun Hung Kai Commodities Limited, Sun Hung Kai Forex Limited and SHK Fund Management Limited on various dates between November 22, 2007 and April 21, 2016. Chan is currently not licensed by the SFC.

The disciplinary action follows an SFC investigation which found that between October 2008 and August 2015, Chan effected transactions in two clients' accounts on a discretionary basis without obtaining the clients' prior written authorizations as well as the approval of SHKIS's senior management. In doing so, Chan not only breached the regulatory requirements on the authorization and operation of discretionary accounts under the Code of Conduct, but also SHKIS's policies and procedures for discretionary accounts.

The SFC considers that Chan had failed to act with due skill, care and diligence and in the best interests of the clients. Chan's conduct was prejudicial to the clients' interests as it prevented SHKIS from monitoring and supervising the operation of the accounts and the clients were deprived of protection against the risk of unauthorized trades carried out in their accounts.

In deciding the sanction, the SFC took into account all relevant circumstances, including the duration of Chan's misconduct and her otherwise clean disciplinary record.

香港证券及期货事务监察委员会禁止陈舜琼重投业界 24 个月

于 2020 年 11 月 25 日，香港证券及期货事务监察委员会（证监会）公布其就新鸿基投资服务有限公司（新鸿基投资）前客户主任陈舜琼女士（陈）违反证监会的《证券及期货事务监察委员会持牌人或注册人操守准则》（《操守准则》），禁止她重投业界，为期 24 个月，由 2020 年 11 月 25 日起至 2022 年 11 月 24 日止的决定。陈违反证监会的有关《操守准则》如下：

- 《操守准则》第 2 项一般原则规定，持牌人在经营其业务时，应以适当的技能、小心审慎和勤勉尽责的态度行事，以维护客户的最佳利益及确保市场廉洁稳健。《操守准则》第 7.1(a)段规定，持牌人应获得客户的书面授权，方可为其操作委托账户。

- 《操守准则》第 7.1(c)段规定，持牌人应指明该等账户为"委托账户"。《操守准则》第 7.1(d)段规定，委托账户的开立应由高级管理层审批。

陈曾根据《证券及期货条例》获发牌进行第 1 类（证券交易）、第 2 类（期货合约交易）、第 3 类（杠杆式外汇交易）及第 9 类（提供资产管理）受规管活动，并于 2007 年 11 月 22 日至 2016 年 4 月 21 日期间的不同时段，隶属新鸿基投资、新鸿基期货有限公司、新鸿基外汇有限公司及新鸿基投资管理有限公司。陈现时并非证监会持牌人。

证监会经调查后采取上述纪律行动。调查发现，陈于 2008 年 10 月至 2015 年 8 月期间，在没有事先获得两名客户的书面授权及新鸿基投资高级管理层审批的情况下，以委托形式在该等客户的帐户内进行交易。陈的做法违反了《操守准则》内有关委托账户的授权及操作的监管规定，以及新鸿基投资有关委托帐户的政策和程序。

证监会认为，陈没有以适当的技能、小心审慎和勤勉尽责的态度行事，以维护客户的最佳利益。陈的行为令新鸿基投资未能对有关账户的操作进行监察及监督，以及

无法保障客户免其承受在账户内出现未经授权买卖的风险，以致他们的利益受到损害。

证监会在决定上述处分时，已考虑到所有相关情况，包括陈的失当行为所持续的时间，以及她过往并无遭受纪律处分的纪录。

Source 来源:
https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=20PR113

Hong Kong Securities and Futures Commission and Israel Securities Authority Sign Fintech Cooperation Agreement

On November 17, 2020, Hong Kong Securities and Futures Commission (SFC) has entered into a cooperation agreement (the agreement) with the Israel Securities Authority (ISA) to establish a framework for cooperation on financial technology (Fintech), details of the agreement can be found at: https://www.sfc.hk/-/media/EN/files/ER/MOU/20201117-SFCISA-Fintech-MoU-Final.pdf.

Under the agreement, the SFC and the ISA will cooperate on information sharing, potential joint innovation projects and referrals of innovative firms seeking to enter one another's markets.

"This agreement underscores the SFC's continued efforts to strengthen regulatory cooperation with counterparts and to keep abreast of innovation in financial services," said Mr Ashley Alder, the SFC's Chief Executive Officer. "We look forward to working closely with the ISA to provide innovative firms seeking to develop and grow their business with internationally enhanced channels for commdunication with regulators."

Ms Anat Guetta, Chairwoman of the ISA, announced that, "Israel, as a start-up nation, therefore naturally aspires to allow the companies that are founded and grow here the regulatory infrastructure and environment that supports the development of Fintech innovation. We have set innovation as our strategic goal. The agreement with the SFC is an additional milestone of our fruitful cooperation, and is another step that will provide the ISA and many Israeli companies with a broad international perspective on the latest trends and opportunities that will support Fintech growth in Israel and worldwide."

The SFC established its Fintech Contact Point in March 2016 to enhance communication with businesses involved in the development and application of Fintech in Hong Kong. The purpose of the Fintech Contact Point is to facilitate the Fintech community's understanding of the current regulatory regime and to enable the SFC to stay abreast of the development of Fintech in Hong Kong. In July 2018, the ISA established a Fintech Innovation Hub. This initiative is aimed at promoting common discourse between the ISA and relevant players in the field of Fintech. The ISA is set to promote and enable technological and business innovation in the area of financial services. The ISA aims at establishing trust and providing certainty to the Fintech industry and encourages market actors in the Fintech industry to contact its staff with the purpose of becoming familiar with the relevant regulatory framework and to examine any required adjustments to their activity, through guidance of the ISA's staff.

The agreement follows the launch of the SFC's Fintech Contact Point in March 2016 and the ISA's Fintech Innovation Hub in July 2018.

香港证券及期货事务监察委员会与以色列证券局签订金融科技合作协议

于 2020 年 11 月 17 日，香港证券及期货事务监察委员会（证监会）与以色列证券局（Israel Securities Authority）就建立金融科技合作框架，签订合作协议（该协议），有关该协议的详情可参阅 https://www.sfc.hk/-/media/EN/files/ER/MOU/20201117-SFCISA-Fintech-MoU-Final.pdf。

根据该协议，证监会与以色列证券局将会在信息共享、具潜力的联合创新项目，及寻求进入对方市场的创新型企业的转介等方面，展开合作。

证监会行政总裁欧达礼先生（Mr Ashley Alder）表示："这份协议突显了证监会不断努力加强与同业的监管合作及掌握有关金融服务创新的最新信息。我们期待与以色列证券局紧密合作，为有意开拓及扩展国际业务的创新型企业提供与监管机构加强沟通的途径。"

以色列证券局主席 Anat Guetta 女士表示："以色列作为一个新兴国家，自然期望在这里成立及崛起的公司可以享有支持金融科技创新发展的监管基础设施及环境。我们将创新设定为战略目标。这次与证监会签订的协议标志着双方之间的合作再次取得丰硕成果，亦为以色列证券局及众多以色列公司提供广阔的国际视野，让它们得以掌握有助推动以色列及全球金融科技发展的最新趋势和机遇。"

证监会于 2016 年 3 月成立金融科技联络办事处，藉以加强与在香港从事金融科技开发及应用的公司和人士的沟通。设立金融科技联络办事处的目的是协助金融科技业界了解现行的监管制度，以及让证监会紧贴金融科技在

香港的发展。以色列证券局于 2018 年 7 月设立金融科技创新中心，旨在促进其与金融科技领域的相关参与者之间的共同对话。以色列证券局致力在金融服务领域促进和实现科技和业务的创新，其目标是在金融科技业内建立信任，并为业界提供明确指引，以及鼓励业内的市场参与者与其人员沟通，以加深对相关监管框架的了解，并在他们的指导下，检视有关活动是否需要作出调整。

该协议是继证监会于 2016 年 3 月成立金融科技联络办事处及以色列证券局于 2018 年 7 月设立金融科技创新中心后的另一举措。

Source 来源:
https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=20PR112

U.S. Commodity Futures Trading Commission Unanimously Approves Final Rule for Granting Exemptions from Derivatives Clearing Organization Registration

On November 18, 2020, the U.S. Commodity Futures Trading Commission (CFTC) unanimously approved a final rule establishing a framework for the CFTC to grant an exemption from registration as a derivatives clearing organization (DCO) to a clearing organization organized outside of the U.S. for the purpose of clearing proprietary swap transactions for U.S. persons.

Section 5b(h) of the Commodity Exchange Act permits the CFTC to exempt a non-U.S. clearing organization from registration for clearing swaps if the CFTC determines that the clearing organization is subject to comparable, comprehensive supervision and regulation by its home country authorities. The rule codifies the CFTC's existing policies and procedures for granting such exemptions and establishes procedures the CFTC can use to modify or terminate an exemption. As at November 18, 2020, the CFTC has exempted four non-U.S. clearing organizations from registration.

美国商品期货交易委员会一致通过授予衍生品结算组织注册豁免的最终规例

2020 年 11 月 18 日，美国商品期货交易委员会（CFTC）一致通过了一项最终规例，该规例为 CFTC 建立了框架，以向美国境外结算组织授予衍生品结算组织注册的豁免，以为美国人结算自营掉期交易。

《商品交易法》第 5b(h)条允许 CFTC 豁免 CFTC 认定某非美国结算组织接受其国家当局的可比及全面的监督和管制，以免于进行美国结算掉期登记。 该规例将 CFTC 授予此类豁免的现有政策和程序进行了整理，并建立了 CFTC 可以用来修改或终止豁免的程序。 截至 2020 年 11 月 18 日，CFTC 已豁免了四个非美国结算组织的注册资格。

Source 来源:
https://cftc.gov/PressRoom/PressReleases/8312-20

U.S. Commodity Futures Trading Commission Unanimously Approves Final Rule Amending Swap Execution Facility Requirements

On November 18, 2020, the U.S. Commodity Futures Trading Commission (CFTC) unanimously approved a final rule amending certain parts of its regulations relating to the execution of "package transactions" on swap execution facilities (SEFs) and the resolution of error trades on SEFs. Both matters have been the subject of relief in CFTC staff no-action letters.

The final rule amends part 37 of CFTC regulations to allow the swap components of certain categories of package transactions to be executed on-SEF but through flexible means of execution rather than through the required methods of execution for "required transactions." In addition, the final rule amends part 36 of CFTC regulations to include an exemption from the trade execution requirement for swap transactions that are executed as a component of a package transaction that also includes a component that is a new issuance bond. The final rule codifies the majority of relief provided in CFTC No-Action Letter No. 20-31.

Further, the final rule enables SEFs to permit market participants to execute swaps transactions to correct operational or clerical errors using execution methods other than those required by CFTC regulations for required transactions. The final rule codifies the intent of CFTC No-Action Letter Nos. 17-27 and 20-01 to allow SEFs and market participants to correct operational or clerical errors.

美国商品期货交易委员会一致通过修改掉期执行设施要求的最终规例

2020 年 11 月 18 日，美国商品期货交易委员会（CFTC）一致通过了一项最终规例，以修订其法规中有关在掉期执行设施（SEF）上执行"包揽交易"和解决 SEF 上的错误交易的某些规定。此两个事项均为 CFTC 工作人员不采取行动信的豁免事项。

最终规例对 CFTC 法规的第 37 部分进行了修订，以允许含有掉期的某些类别的包揽交易可以通过灵活的执行方式(而不是通过“要求交易”的要求执行方法)在 SEF 执行 。此外，最终规例对 CFTC 法规的第 36 部分进行了修改，以加入对作为包揽交易 (而该包揽交易包括新发行债券) 的一部分而执行的掉期交易的交易执行要求豁免。最终规例将 CFTC 不采取行动信第 20-31 号中提供的大多数豁免编成法律。

此外，最终规例使 SEF 可以允许市场参与者使用 CFTC 法规要求的交易方法以外的执行方法来执行掉期交易，以纠正操作或文书错误。最终规例将 CFTC 不采取行动信第 17-27 号和第 20-01 号的目的编成法律，以允许 SEF 和市场参与者纠正操作或文书错误。

Source 来源:
https://cftc.gov/PressRoom/PressReleases/8313-20

U.S. Securities and Exchange Commission Adopts Rules to Facilitate Electronic Submission of Documents to the Agency

On November 17, 2020, the U.S. Securities and Exchange Commission (SEC) voted to adopt rules and rule amendments that will provide additional flexibility in connection with documents filed with the SEC by permitting the use of electronic signatures in authentication documents, and facilitate electronic service and filing in the SEC's administrative proceedings. These new rules and amendments are part of a series of initiatives designed to modernize and strengthen the agency's operations.

In the first action, the SEC adopted rule amendments to permit the use of electronic signatures when executing authentication documents in connection with many documents filed with the SEC. Rule 302(b) of Regulation S-T requires that each signatory to an electronic filing manually sign a signature page or other document (authentication document) before or at the time of the electronic filing to authenticate the signature that appears in typed form within the electronic filing. The amendments permit a signatory to an electronic filing who follows certain procedures to sign an authentication document through an electronic signature that meets certain requirements specified in the Electronic Data Gathering, Analysis, and Retrieval (EDGAR) Filer Manual. In addition, the SEC amended certain rules and forms under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940 to allow the use of electronic signatures in authentication documents in connection with certain other filings when these filings contain typed, rather than manual, signatures. These amendments recognize the widespread use of electronic signatures and technological developments in the authentication and security of electronic signatures, as well as the continuing need to support remote workforces, and follow a rulemaking petition joined by nearly 100 public companies. The rule amendments will be effective upon publication of the adopting release in the U.S. Federal Register.

In the second action, the SEC adopted rule amendments to require electronic filing and service of documents in administrative proceedings. These rule amendments also require redaction of sensitive personal information from many of these documents before filing with the SEC. These amendments will become effective 30 days after publication of the adopting release in the U.S. Federal Register. However, compliance will not be required until April 12, 2021, and there will be an initial 90-day phase-in period following the compliance date.

美国证券交易委员会通过规则以便利向机构以电子方式提交文件

2020 年 11 月 17 日，美国证券交易委员会（美国证交会）表决通过规则和规则修正案，该规则和规则修正案将允许在验证文件中使用电子签名及促进电子服务和在美国证交会行政诉讼中进行归档，从而为与美国证交会提交的文件提供更大的灵活性。 这些新规例和修正案是旨在使机构现代化和加强其运作的一系列举措的一部分。

在第一个举措中，美国证交会通过了规则修正案，允许在向美国证交会提交的许多文件相关的验证文件时使用电子签名。《S-T 条例》(Regulation S-T) 302(b)要求电子文件的每个签名者在电子文件提交之前或之时手动签署签名页或其他文件(验证文件)，以验证以电子形式出现在电子文件中的签名。

这些修订允许遵循某些程序提交电子文件的签名人，以通过符合《电子数据收集、分析和检索（Electronic Data Gathering, Analysis, and Retrieval (EDGAR)）申报者手册》中的某些要求的电子签名来签署认证文件。此外，美国证交会修订了《1933 年证券法》、《1934 年证券交易法》和《1940 年投资公司法》中的某些规则和表格，以允许在与某些文件提交(而该些文件包含打字签名而不是亲笔签名) 有关的验证文件中使用电子签名。这些修订反映对电子签名的广泛使用、电子签名验证和安全的和技术发展的认证及对持续支持远程工作的需求。这些修订亦是

遵循将近 100 家上市公司加入的规则制定请愿书。该规则修正案将在美国联邦公报上发布采用的发布版本后生效。

Source 来源:
https://www.sec.gov/news/press-release/2020-286

U.S. Securities and Exchange Commission Adopts Amendments to Modernize and Enhance Management's Discussion and Analysis (MD&A) and other Financial Disclosures

On November 19, 2020, the U.S. Securities and Exchange Commission (SEC) voted to adopt amendments that will modernize, simplify and enhance certain financial disclosure requirements in Regulation S-K. The amendments are intended to enhance the focus of financial disclosures on material information for the benefit of investors, while simplifying compliance efforts for registrants.

The changes to Items 301, 302, and 303 of Regulation S-K sharpen the focus on material information by:

- Eliminating Item 301 (Selected Financial Data); and

- Modernizing, simplifying and streamlining Item 302(a) (Supplementary Financial Information) and Item 303 (MD&A). Specifically, these amendments:
    - Revise Item 302(a) to replace the existing requirement for quarterly tabular disclosure with a principles-based requirement for material retrospective changes;
    - Add a new Item 303(a), Objective, to state the principal objectives of MD&A;
    - Amend the existing Item 303(a)(1) and (2) (amended Item 303(b)(1)) to modernize, enhance and clarify disclosure requirements for liquidity and capital resources;
    - Amend the existing Item 303(a)(3) (amended Item 303(b)(2)) to clarify, modernize and streamline disclosure requirements for results of operations;
    - Add a new Item 303(b)(3), Critical accounting estimates, to clarify and codify SEC guidance on critical accounting estimates;
    - Replace the existing Item 303(a)(4), Off-balance sheet arrangements, with an instruction to discuss such obligations in the broader context of MD&A;
    - Eliminate the existing Item 303(a)(5), Tabular disclosure of contractual obligations, in light of the amended disclosure requirements for liquidity and capital resources and certain overlap with information required in the financial statements; and
    - Amend the existing Item 303(b), Interim periods (amended Item 303(c)) to modernize, clarify and streamline the item and allow for flexibility in the comparison of interim periods to help registrants provide a more tailored and meaningful analysis relevant to their business cycles.

In addition, the SEC adopted certain parallel amendments to the financial disclosure requirements applicable to foreign private issuers, including to Forms 20-F and 40-F, as well as other conforming amendments to the SEC's rules and forms, as appropriate.

The amendments reflect the SEC's long-standing commitment to a principles-based, registrant-specific approach to disclosure. This approach, as applied to Management's Discussion and Analysis, should yield material information relevant to an assessment of the financial condition and results of operations of the registrant, and allow investors to view the registrant from management's perspective. The amendments are also intended to improve disclosure by enhancing its readability, discouraging repetition and eliminating information that is not material.

美国证券交易委员会通过修正案以现代化和增强管理层讨论及分析以及其他财务披露

2020 年 11 月 19 日，美国证券交易委员会（美国证交会）投票通过了将使《S-K 条例》中的某些财务披露要求现代化、简化和增强的修订。该修正案旨在，为了投资者的利益，使财务披露更加侧重于重要信息同时简化了注册人的合规工作。

对《S-K 条例》第 301、302 和 303 项作出以下更改以加强对重要信息的关注:

- 消除第 301 项（选定财务数据）； 和

- 现代化、简化和精简第 302(a)项 (补充财务信息) 和第 303 项 (MD＆A)。具体有以下修正:

- 修订第 302(a)项，以对重大追溯变更的基于原则的要求代替当前对季度表格披露的要求；
- 添加新的第 303(a)项: 目标，以阐明管理层讨论及分析的主要目标；
- 修改当前的第 303(a)(1)和(2)项（经修订的第 303(b)(1)项），以现代化、增强和澄清流动资金和资本资源的披露要求；
- 添加新的第 303(b)(3)项：关键会计概算，以澄清和将美国证交会关于关键会计概算的指导编纳成规则；
- 替换现有的第 303(a)(4)项：帐外安排，及指示在更广泛的管理层讨论及分析范围内讨论此类义务；
- 鉴于对流动资金和资本资源的修订披露要求以及与财务报表中所需信息的某些重叠，消除了现有的第 303(a)(5)项，即合同义务的表格披露； 和
- 修改现有第 303(b)项的: 中期（经修订的第 303(c)项），以使该项现代化、明确和精简，并允许比较中期时具有灵活性，以帮助注册人提供与其商业周期相关的更量身定制且有意义的分析。

此外，美国证交会对适用于外国私人发行人的财务披露要求进行了一些并行修订，包括对表格 20-F 和 40-F 的修订，以及对美国证交会规则和表格的其他适当修订。

此外，美国证交会对适用于外国私人发行人的财务披露要求进行了一些并行修订，包括对表格 20-F 和 40-F 的修订，以及对美国证交会规则和表格的其他适当修订。

Source 来源:
https://www.sec.gov/news/press-release/2020-290

U.S. Securities and Exchange Commission Proposes Temporary Rules to Facilitate Measured Participation by Certain "Platform Workers" in Compensatory Offerings Under Rule 701 and Form S-8

On November 24, 2020, the U.S. Securities and Exchange Commission (SEC) proposed rules that, on a temporary basis and subject to percentage limits (no more than 15% of annual compensation), dollar limits (no more than US$75,000 in three years) and other conditions, would permit an issuer to provide equity compensation to certain "platform workers" who provide services available through the issuer's technology-based platform or system.

The proposed rules would amend Rule 701 by adding a temporary rule provision that, for five years, would enable issuers to use Rule 701 to compensate certain platform workers, subject to specified conditions. Under the amendments, an issuer would be able to use the Rule 701 exemption to offer and sell its securities on a compensatory basis to platform workers who, pursuant to a written contract or agreement, provide bona fide services by means of an internet-based platform or other widespread, technology-based marketplace platform or system provided by the issuer if:

- the issuer operates and controls the platform, as demonstrated by its ability to provide access to the platform, to establish the principal terms of service for using the platform and terms and conditions by which the platform worker receives payment for the services provided through the platform, and by its ability to accept and remove platform workers participating in the platform;

- the issuance of securities to participating platform workers is pursuant to a compensatory arrangement, as evidenced by a written compensation plan, contract, or agreement, and is not for services that are in connection with the offer or sale of securities in a capital-raising transaction, or services that directly or indirectly promote or maintain a market for the issuer's securities;

- no more than 15% of the value of compensation received by a participating worker from the issuer for services provided by means of the platform during a 12-month period, and no more than US$75,000 of such compensation received from the issuer during a 36-month period, shall consist of securities, with such value determined at the time the securities are granted;

- the amount and terms of any securities issued to a platform worker may not be subject to individual bargaining or the worker's ability to elect between payment in securities or cash; and

- the issuer must take reasonable steps to prohibit the transfer of the securities issued to a platform worker pursuant to this exemption, other than a transfer to the issuer or by operation of law.

The proposed amendments would also permit a Securities Exchange Act of 1934 reporting company to make registered securities offerings to its platform workers using Form S-8. The same conditions proposed for Rule 701 issuances would apply to issuances to platform workers on Form S-8, except for the proposed transferability restriction.

The SEC has been proposing these amendments on a temporary basis to allow it to assess whether issuances of securities to platform workers under Rule 701 or Form S-8 are being made for legitimate compensatory purposes, and not for capital-raising purposes. The SEC would also be able to assess whether such issuances have the expected beneficial effects for issuers in the "gig economy" and their investors, including those platform workers who have received securities as compensation, and whether such issuances have resulted in any unintended consequences. These assessments, in turn, should help the SEC to determine whether to modify or expand the scope of Rule 701 and Form S-8 on an extended or permanent basis. In order to help in the evaluation of the proposed expanded scope of Rule 701 and Form S-8, the proposed amendments would require an issuer that sells securities to platform workers to furnish certain information to the SEC at six-month intervals.

美国证券交易委员会提出临时规则以便利某些「平台员工」根据规则 701 和表格 S-8 参与补偿性发行

2020 年 11 月 24 日，美国证券交易委员会（美国证交会）提出临时性规则提案，该规则以百分比限制(不超过年度补偿的 15％) 及金额限制(三年内不超过 75,000 美元) 和其他条件为准，允许发行人向某些通过发行人技术平台或系统提供服务的「平台员工」提供股本补偿。

拟议规则将透过增加一项临时规则对规则 701 进行修订，该规定将使发行人在指定条件下使用规则 701 补偿某些平台员工，期限为五年。根据修正案，发行人将能够透过规则 701 的豁免，以补偿形式向平台员工提供和出售其证券，平台员工根据书面合同或协议，通过互联网平台或发行人提供的其他广泛技术市场平台或系统提供真正的服务，如果：

- 发行人操作和控制平台，以其提供访问平台的能力为基础，建立该平台使用的主要服务条款以及条款和条件 (而平台员工按此为通过平台提供的服务收取费用)， 并具有接受和遣散参与平台的平台员工的能力；
- 向参与的平台员工发行证券是按照有书面补偿计划、合同或协议证明的补偿性安排进行的，并且不适用于与集资交易中提供或出售证券有关的服务或直接或间接促进或维持发行人证券市场的服务；
- 在 12 个月内参与员工为通过平台提供的服务从发行人处获得的补偿超于 15％的价值，及在 36 个月内从发行人处获得的补偿价值超过 75,000 美元，不能由证券组成。价值在授予证券时确认；
- 发行给平台员工的任何证券的数量和条款可能不受个人谈判或员工选择以证券或现金支付的能力影响； 和
- 发行人必须采取合理步骤，禁止根据本项豁免将发行给平台员工的证券转让，除非转让给发行人或转让通过法律实施。

拟议的修正案还将允许《1934 年证券交易法》管辖的公司使用表格 S-8 向其平台员工进行注册证券发行。相同的规则 701 建议发行条件将适用于以表格 S-8 向平台员工的发行，但可转让性限制除外。

美国证交会提出这些临时性修正案，以使其能够评估是否根据规则 701 或表格 S-8 向平台员工发行证券是出于合法补偿目的，而不是出于筹资目的。美国证交会还将能够评估此类发行是否对「零工经济」中的发行人及其投资者（包括那些已经收到证券作为补偿的平台员工）产生了预期的有利影响，以及此类发行是否会导致任何意料之外的后果。这些评估反过来应有助于美国证交会确定是在延长还是永久的基础上修改或扩展规则 701 和表格 S-8 的范围。为了帮助评估规则 701 和表格 S-8 的提议扩大范围，提议的修订将要求向平台员工出售证券的发行人，每六个月向美国证交会提供某些信息。

Source 来源:
https://www.sec.gov/news/press-release/2020-293

Australian Securities and Investments Commission Urges Insurers to Respond to New Accounting Standard

Australian Securities and Investments Commission (ASIC) is calling on insurers to respond to a new accounting standard for insurance contracts. Accounting Standard AASB 17 Insurance Contracts (AASB 17) is

effective for reporting periods beginning on or after January 1, 2023. Insurers are required to disclose the impacts of the new standard in December 31, 2020 financial reports.

ASIC has outlined a number of key matters to be considered as part of any implementation plans. These include identifying changes to accounting treatments, required system changes, business impacts, impacts on compliance with financial requirements, disclosures required in financial reports prior to the effective dates of the standards, possible continuous disclosure obligations, and the impact on any fundraising or other transaction documents.

Implementation

- Determining how the new standard will impact on future financial reports in areas such as:

a. *Contracts affected* – Identifying which contracts or elements of contracts are covered by the new standard and which are subject to the financial instruments standard, the revenue standard or another standard. Insurers are required to apply the new financial instruments standard from the reporting period to which the new insurance standard is first applied.

b. *Realistic assumptions* – Ensuring that the valuation of insurance contract liabilities is based on realistic cash flows and other assumptions having regard to past experience, market changes, court decisions on claims settlements, and other relevant information. Where prior period cash flow projections have not been met for groups of contracts, careful consideration should be given to whether current assumptions are reasonable and supportable.

c. *Groups of contracts* - In determining whether there is a need to provide for onerous contracts:

    i. contracts should be grouped at an appropriately low level so that cash flows from one portfolio are not used to support the value of contracts in another portfolio; and
    ii. a portfolio comprises contracts subject to similar risks and managed together. In assessing whether contracts are subject to similar risks careful consideration should be given to whether the legal form of an insurance contract reflects the substance (for example, when separate contracts are bundled into one legal contract for administrative purposes).

d. *Coverage period* – Careful consideration should be given to the appropriate determination of contract periods (boundaries) as this can significantly affect the expected future cash flows to be taken into account when valuing insurance contracts and assessing whether there needs to be a provision for onerous contracts. In determining contract periods, consideration is given to factors such as:

    i. whether the insurer can refuse to renew a contract; and
    ii. the practical ability of the insurer to reassess risks and set a price or a new level of benefits for those risks.

e. *Deferred acquisition cost assets* – In determining whether to include contract renewals for the purposes of establishing the periods over which deferred acquisition cost assets are amortized and over which future cash flows are considered for impairment testing of those assets, careful consideration should be given to expected contracts renewals having regard to past history and other relevant factors.

f. *Separating components* – Identifying product components and accounting for them separately, including distinct investment and risk components, and any embedded derivatives.

g. *Measurement model* – Considering all relevant facts and circumstances in determining whether to apply the General Measurement Model (GMM) or the simplified Premium Allocation Approach (PAA) to each portfolio of insurance contracts. An insurer can only use PAA if the liability for a group of contracts would not be materially different from applying GMM at the inception of the group or if the coverage period of each contract in the group is one year or less.

h. *Risk adjustments* – Ensuring that any risk adjustments in valuing insurance contract liabilities are determined on a consistent basis from period to period (e.g. consistent confidence levels are applied) unless there are good reasons for a change and those reasons and the impact are clearly disclosed. Different risk bases may need to be applied for financial reporting and prudential solvency purposes (e.g. different levels of probability of sufficiency, risk volatility and components of risk adjustments).

i. *Disclosure* – Ensuring adequate information on matters such as:

    i. key assumptions, significant accounting treatments and sources of estimation uncertainty;

ii. information that enables users to evaluate the nature, amount, timing and uncertainty of future cash flows that arise from contracts;
iii. the effect of the regulatory frameworks in which the insurer operates, such as minimum capital requirements; and
iv. sensitivities to changes in risk exposures arising from insurance contracts, including a sensitivity analysis that shows how profit or loss and equity would have been affected by changes in risk exposures that were reasonably possible at the end of the reporting period.

j. *Transition* – Ensuring that the requirements on applying the modified retrospective or fair value approach rather than the full retrospective approach on adoption of the new standard are met.

- Ensuring that implementation plans are developed, progress is monitored against those plans and action is taken where milestones are not met.
- Management applying appropriate accounting, actuarial and other experience and expertise in making significant judgements on accounting treatments and estimates under the new standard. Directors appropriately challenge accounting treatments and estimates.
- Identifying system and process changes needed to produce information required under the new standard, including related disclosures.
- Determining the impact on compliance with financial condition requirements (e.g. APRA capital or solvency requirements and loan covenants), future tax liabilities, the ability to pay dividends, and employee incentive schemes.
- Ensuring contracts that are currently loss-making under existing standards continue to be treated as loss-making when adopting the new insurance standard in the absence of evidence of sufficient changes in pricing, claims experience, claims handling costs, benefits offered, risks or investment income.

澳大利亚证券投资委员会敦促保险公司对最新会计准则做出回应

澳大利亚证券投资委员会呼吁保险公司对保险合同的最新会计准则做出回应。会计准则 AASB 17 保险合同（AASB 17）适用于自 2023 年 1 月 1 日或之后开始的报告期间。保险公司必须在 2020 年 12 月 31 日的财务报告中披露新准则的影响。

澳大利亚证券投资委员会概述了一些需要作为实施计划一部分加以考虑的关键事项，其中包括识别会计处理方法的变化、所需系统的变化、对业务的影响、对财务要求合规性的影响、在标准生效日期之前财务报告中所要求披露的信息、可能的连续披露义务以及对任何融资或其他交易文件的影响。

实施

- 明确最新会计准则将如何影响诸如以下领域的未来财务报告：

a. *受影响的合同* – 确定新标准涵盖哪些合同或合同要素，哪些受金融工具标准、收入标准或其他标准约束。保险公司必须从首次采用新保险标准的报告期开始采用新金融工具标准。

b. *现实假设* – 确保保险合同负债的估值是基于实际现金流和考虑到过去经验的其他假设、市场变化、法院对索赔和解的决定以及其他相关信息。如果合同组未达到前期现金流预估，则应仔细考虑当前的假设是否合理。

c. *保险合同组* – 在决定是否有必要提供有偿合同时：

i. 合同应当在一个相对低水平上进行归类，从而使一个投资组合的现金流不被用于支持另一投资组合中的合同价值；及
ii. 投资组合包括风险相似的合同并共同管理。 在评估合同是否受类似风险影响时，应仔细考虑保险合同的法律形式是否反映实质内容（例如，当出于行政目的将单独的合同捆绑于一个法律合同中时）。

d. *保险期间* - 应仔细考虑确定合适当的合同期间 (边界)，因为这可能严重影响在评估保险合同价值以及是否需要作为有偿合同的条款时需要被考虑的预期未来现金流。在确定合同期间时，应考虑以下因素：

i. 保险公司是否可以拒绝续签合同；及
ii. 保险公司重新评估风险并为这些风险设定价格或新的利益水平的实际能力。

e. *递延取得成本资产* – 在确定是否包括合同续期以建立递延取得成本资产摊销及考虑未来现金流以进行这些资产减值测试的期间时，应仔细考虑预期合同续约时要考虑到的过往历史和其他相关因素。

f. *单独要素* – 识别产品要素并对其分别进行会计处理，包括不同的投资和风险因素以及任何嵌入式衍生工具。

g. *计量模型* – 在确定是否对每个保险合同组合应用通用计量模型（GMM）或简化后之保费分配方法（PAA 法）时要考虑所有相关事实和情况。只有在合同组合的负债与该合同组合成立时使用 GMM 没有实质区别或者在合同组合内每一份合同的期限为一年或更短的情况下，保险公司才能使用 PAA 法。

h. *风险调整* – 除非有充分理由进行更改并明确披露此类原因及影响，否则在确定保险合同负债时所进行的任何风险调整均应在各个期间以一致的基础确定（例如，采用一致的置信度）。出于财务报告和审慎偿付的目的，可能需要使用不同的风险基础（例如，不同水平的充足度的概率、风险波动性和风险调整要素）。

i. *披露* – 确保有关以下方面的足够信息：

   i. 关键假设、重大会计处理和预估不确定性的来源；
   ii. 使用户能够评估合同产生的未来现金流的性质、金额、时间和不确定性的信息；
   iii. 保险公司经营所在的监管框架的影响，例如最低资本要求；及
   iv. 对保险合同产生的风险敞口变化的敏感性，包括显示了在报告期末合理可能的风险敞口变化将如何影响损益和权益的敏感性分析。

j. *过渡* – 确保满足在采用新准则时采用经调整的追溯或公允价值方法而不是完全追溯方法的要求。

   - 确保制定实施计划，对照这些计划监控进度，并在未达到里程碑时采取措施。
   - 管理层运用适当的会计、精算及其他经验和专业知识对新准则下的会计处理和估计做出重要判断。董事适当质疑会计处理与预估。
   - 确定产生新准则要求的信息（包括相关披露）所需的系统及程序变更。
   - 确定对遵守财务状况要求（例如，APRA 资本或偿付能力要求以及贷款契约）、未来税项负债、支付股息的能力及员工激励计划的影响。
   - 确保在采用新准则时，在价格、索赔经验、索赔处理费用、所提供的利益、风险或投资收益方面没有充分变化的证据，按照现有标准目前处于亏损的合同继续被视为亏损。

Source 来源:
https://asic.gov.au/about-asic/news-centre/find-a-media-release/2020-releases/20-286mr-insurers-urged-to-respond-to-new-accounting-standard/

Joint Statement on the Implementation of Prudential Reforms in the Financial Services Bill

Joint statement from HM Treasury, the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA) of the United Kingdom (UK) on the implementation of prudential reforms contained in the Financial Services Bill.

As the Financial Services Bill continues its progress through Parliament, HM Treasury, the FCA and the PRA consider it appropriate to update industry on planned timelines for introducing the UK's Investment Firms Prudential Regime (IFPR) and implementation of those Basel 3 reforms which make up the UK equivalent to the outstanding elements of the EU's 2nd Capital Requirements Regulation. FCA has decided to target an implementation date of January 1, 2022 for these two regimes. This follows feedback from industry in relation to these specific proposals and in response to the most recent Regulatory Initiatives Grid (September 2020), where industry raised concerns about the general volume of regulatory reform in 2021. HM Treasury will ensure the relevant secondary legislation is in place in good time, and the regulators will endeavor to provide industry with as much sight of the final rules as possible ahead of this date, to support effective implementation.

关于实施《金融服务法案》所载审慎改革的联合声明

英国财政部、英国审慎监管局及英国金融行为监管局（英国金管局）就实施《金融服务法案》所载审慎改革发布联合声明。

随着《金融服务法案》通过议会继续取得进展，英国财政部、英国金管局及英国审慎监管局认为，有必要按照计划对行业进行更新，以引入英国投资公司审慎制度并实施《巴塞尔协议 3》改革，这些改革使英国相当于欧欧盟资本要求指令 II 的突出元素。英国金管局已决定将此两项制度的实施日期定为 2022 年 1 月 1 日。在此之前，业界对这些具体提案进行了反馈并回应了最新的监管倡议网格（2020 年 9 月）对 2021 年的监管改革总体规模表示了关心。英国财政部将确保相关二级立法及时到位，监管机构将努力在此之前向业界提供尽可能多的最终规则以支持有效实施。

Source 来源:
https://www.fca.org.uk/news/statements/joint-statement-implementation-prudential-reforms-financial-services-bill

Financial Conduct Authority of the United Kingdom Warns Firms to Be Responsible When Handling Client Data

The current economic climate is changing the way many firms operate and may cause some to leave the market or merge with other firms. When this happens, firms

must make sure they lawfully process and transfer client data.

What firms need to consider

Principles in the Financial Conduct Authority (FCA) Handbook require firms to organize and control their affairs responsibly and effectively, with adequate risk management systems (Principle 3). Before transferring clients' personal data, firms should consider whether this is fair to and in the interests of their clients (Principle 6). Firms should also pay due regard to the information needs of their clients and communicate with them clearly and fairly (Principle 7).

Data protection legislation and the Information Commissioner's Office

Data protection legislation applies to data controllers such as firms, compliance consultants, insolvency practitioners and liquidators. The Information Commissioner's Office (ICO) is responsible for regulating, and enforcing, information and privacy rights in the United Kingdom (UK). Relevant legislation includes:

- Data Protection Act 2018 (DPA)
- General Data Protection Regulation (EU) 2016/679 (GDPR)
- Privacy and Electronic Communications Regulations (EC Directive) 2003 (PECR)

How firms must protect client data

GDPR requires firms to provide information to clients clearly setting out 'privacy information', which includes the purposes for which they are collecting or processing client data, and individuals' rights when their data is processed.

Firms should generally ensure they maintain a record of how and why they process, share and retain personal data. In addition, firms should also record the lawful basis for processing data. If they are processing data based on consent, they should maintain an effective audit trail of how and when consent was given.

How we protect consumer interests

FCA will act where it identifies breaches of relevant parts of the FCA Handbook. Firms that intend to transfer or receive personal client data must be able to demonstrate how they have considered the fair treatment of consumers and how their actions comply with data protection and privacy laws.

The impact of Brexit

GDPR currently has direct effect in the UK. At the end of the Brexit transition period the GDPR provisions will form part of retained EU law.

英国金融行为监管局提醒公司处理客户数据须承担责任

当前的经济环境正在改变许多公司的运营方式，同时可能导致部分公司退出市场或与其他公司合并。当这种情况发生时，公司必须确保合法处理和传输客户数据。

公司应该考虑什么

《FCA 手册》要求公司使用适当的风险管理系统，负责且有效地组织和控制其事务（原则 3）。在传输客户个人数据前，公司应考虑这是否公平并符合客户利益（原则 6）。公司还应充分考虑客户的信息需求，并与其进行沟通（原则 7）。

资料保护法规和信息专员办公室

资料保护法规适用于公司、合规顾问、破产从业人员和清算人等数据控制者。信息专员办公室（ICO）负责规范和执行英国的信息权和隐私权。有关立法包括:

- 《2018 年资料保护法》（DPA）
- 《通用数据保护条例》（GDPR）
- 《隐私与电子通信条例》（PECR）

公司如何保护客户数据

《通用数据保护条例》要求公司向客户提供明确列为 "隐私信息" 的信息种类，内容应包括公司收集或处理客户数据的目的以及数据处理时客户的权利。

一般来说，公司应记录如何处理、共享和保留个人数据以及这样做的原因。另外，公司还应记录处理数据的合法依据。如果他们征得客户同意来处理数据，则应保持如何以及何时获得同意的有效审核记录。

如何保护消费者利益

英国金融行为监管局表示，将在发现公司存在违反 FCA 手册的行为时采取行动。计划转移或接收个人客户数据的公司必须能够证明消费者如何得到公平对待以及其行为如何符合资料保护法和隐私法。

英国脱欧的影响

《通用数据保护条例》目前在英国具有直接影响。在英国脱欧过渡期结束时该条例将成为保留的欧盟法律的一部分。

Source 来源:
https://www.fca.org.uk/news/statements/fca-warns-firms-be-responsible-when-handling-client-data

HM Treasury, Bank of England and Financial Conduct Authority of the United Kingdom Convene Working Group to Facilitate Investment in Productive Finance

The HM Treasury (Treasury), the Bank of England (Bank) and the Financial Conduct Authority (FCA) of the United Kingdom (UK) will be convening an industry working group to facilitate investment in productive finance. Investment in productive finance refers to investment that expands productive capacity, furthers sustainable growth and can make an important contribution to the real economy. Examples of this include plant and equipment (which can help businesses achieve scale), research and development (which improves the knowledge economy), technologies (for example, green technology), infrastructure and unlisted equities related to these sectors.

Productive finance investment can generate desirable outcomes for investors. It also provides various challenges, including that it may necessitate long-term commitments from investors in some cases. The economic uncertainty created by coronavirus (Covid-19) means that it is now more crucial than ever that a long-term investment culture is fostered that ensures good outcomes for consumers, while aiding economic recovery.

The working group's mandate will be to agree the necessary foundations that could be implemented by firms and investment platforms, to facilitate investment in long-term assets by a wide range of investors. The working group will:

- Propose solutions for barriers to investment: to be implemented by industry participants. This includes considering potential fund structures, such as an LTAF, to invest viably in long-term assets, and that meet the demands of wide range of investors, including defined contribution pension funds; and
- Propose a roadmap, timetable and set of actions: to implement those solutions.

The working group will be co-sponsored by the Economic Secretary to the Treasury; Andrew Bailey, Governor of the Bank; and Nikhil Rathi, Chief Executive of the FCA. The membership will be drawn from a diverse set of market participants, including but not limited to banks, asset management firms, pension funds and insurance companies, corporates, infrastructure firms, wealth managers, investment platforms and trade associations representing relevant sectors and markets.

Membership will be by invitation from the Treasury, the Bank and FCA who will determine the final membership against a set of transparent criteria, including market footprint in UK, relevance to the mandate of productive finance, contribution to overall representativeness to the group, and engagement with productive finance issues.

英国财政部、英国央行和英国金融行为监管局召集工作组以促进对生产性融资领域的投资

英国财政部、英国央行和英国金融行为监管局（英国金管局）将召集一个行业工作组来促进对生产性融资领域的投资。对生产性融资领域的投资是指扩大生产能力、促进可持续增长并可以对实体经济做出重要贡献的投资，例如工厂和设备（可帮助企业实现规模发展）、研究开发（可促进知识经济）、技术（例如绿色技术）、基础设施和与此相关的非上市股权。

对生产性融资领域进行投资能够为投资者带来理想结果，同时也带来各种挑战，包括在某些情况下可能需要投资者的长期承诺。新型冠状病毒（Covid-19）造成的经济不确定性意味着，培育长期投资文化以确保消费者获得良好成果同时帮助经济复苏，比以往任何时候都更加重要。

该工作组的任务是商定公司和投资平台可实施的必要基准以促进广泛投资者对长期资产的投资。工作组将：

- 提出解决投资壁垒的方案：由行业参与者实施。这包括考虑潜在的基金结构，如长期资产投资基金，以有效地投资于长期资产，并满足广泛投资者包括定额供款养老基金在内的需求；及
- 提出指引、时间表和系列措施：实施此类解决方案。

该工作组将由英国财政部经济部长、英国央行行长 Andrew Bailey 及英国金管局首席执行官 Nikhil Rathi 共同发起。成员将来自不同的市场参与者，包括但不限于银行、资产管理公司、养老基金和保险公司、企业、基础设施公司、财富管理公司、投资平台以及代表相关行业和市场的行业协会。

成员资格由英国财政部、英国央行和英国金管局邀请并将根据一系列透明标准来确定最终成员资格，包括在英国市场中的足迹、与生产性融资要求的相关性、对集团整体代表性的贡献以及参与生产性融资事项。

Source 来源:
https://www.fca.org.uk/news/press-releases/treasury-bank-england-fca-productive-finance

Financial Conduct Authority of the United Kingdom Announces Benefits of New Data Collection Platform RegData

RegData will replace Gabriel as the data collection platform of the Financial Conduct Authority (FCA). RegData is informed by user feedback, is faster, easier to use and built with flexible technology, making it possible to fix issues quicker and to make ongoing improvements to user experience. RegData is central to FCA's Data Strategy which sets out its plan to harness the power of data and advanced analytics to transform financial regulation.

Addressing user feedback for a better reporting experience

In 2019, FCA asked firms and other users about their experience of Gabriel and met with firms to explore their feedback. As well as informing the plans to move 120,000 users and the data of 52,000 firms across from Gabriel to RegData, they identified 3 key areas for improvement in Gabriel, for which FCA has made initial enhancements in RegData.

1. Accessing the system – speed of the system and support when accessing Gabriel

- Increased speed and faster navigation – It will be faster and easier to navigate and complete submissions in RegData due to user journey improvements.
- Support across the platform – It will be easier to find information within RegData and on the FCA website.
- New online resources – FCA has produced a series of individual explainer videos and user guides for each aspect of the functionality in RegData.
- Single sign-on between Connect and RegData – Users will use the same username and password for Connect (FCA's online system that can be used to submit applications and notifications) and RegData. Firms must enable this by logging into Gabriel and completing a short one-time registration ahead of their move, unless already completed.

2. Viewing reporting schedules – improvements to the layout of a firm's schedule and submission history

- An intuitive layout – A firm's reporting schedule in RegData will have improved navigation and functionality, with messages that make it clearer when data items are due and overdue.
- Finding draft, past, due or overdue data items – In RegData, users can sort draft and past submissions by date and status. The schedule automatically brings overdue items to the top of the page and users can expand or collapse details for each item.

3. Submitting data – better guidelines when making data submissions and enhancements to the data validation feature

- Helpful messaging and clearer error flags – Submission issues in RegData will be easier to identify, particularly on a user's schedule and in a form.
- Step-by-step and smarter validation – The validation features are improved. RegData validates data as it is inputted into the field. FCA has also included guidelines in each field and across the form to clarify the data it is expecting – such as currencies, types of files, entry type (numbers or text), as well as a form's status (e.g. draft).
- Form navigation and auto-save – Forms have a clearer layout, with improved navigation using features such as the ability to zoom in and out on tables. Inputted data will also be automatically saved every 2 minutes.

Moving from Gabriel to RegData

FCA is moving firms and their users to RegData in groups to minimize impact on firms. All users must register for RegData ahead of their move by logging in to Gabriel and completing the one-time registration when prompted. Until they are moved, firms should continue reporting via Gabriel using their existing Gabriel login details.

英国金融行为监管局宣布新数据收集平台 RegData 的好处

RegData 将取代 Gabriel 成为英国金融行为监管局（英国金管局）的数据收集平台。收到用户反馈，相比之下 RegData 平台的速度更快、更易于使用，且采用灵活的技术构建，从而使其能够更快地解决问题并不断提升用户体验。RegData 平台是英国金管局数据战略的核心，该战略计划利用数据的力量和先进的分析来改变金融监管。

处理用户反馈以获得更好报告体验

2019 年，英国金管局要求公司和其他用户反映他们在 Gabriel 平台的体验，并与公司会面以探讨他们的反馈意见。除了对从 Gabriel 平台迁移 120,000 名用户和 52,000 家公司的数据至 RegData 平台这一计划进行通知之外，还确定了 Gabriel 平台的三个需要改进的关键领域，为此英国金管局对 RegData 平台进行了初步增强。

1. 访问系统 – 访问 Gabriel 平台时的系统速度和支持

- 更快的速度和导航 – 在 RegData 平台上导航和完成提交都将更快、更便捷。
- 整个平台的支持 – 在 RegData 平台范围内和英国金管局网站上查找信息将更加容易。

- 新的在线资源 – 针对 RegData 平台功能的各个方面，制作了一系列单独的解释视频和用户指南。
- Connect 在线系统（英国金管局的可用于提交申请和通知的在线系统）和 RegData 平台之间的单点登录 – 用户将对 Connect 在线系统和 RegData 平台使用相同的用户名和密码。除非已完成，否则公司必须通过登录 Gabriel 平台并在其迁移之前完成短暂的一次性注册来实现此目的。

2. 查看报告日程安排 - 改进公司日程安排和历史提交记录的布局

- 直观的布局 – 公司在 RegData 平台中的报告日程安排将改进导航和功能并具有使数据项在到期和过期时更加清晰的信息。
- 查找草稿、过往、到期或过期的数据项 – 在 RegData 平台中，用户可以按日期和状态对草稿和过往的提交进行排序。计划表将自动将过期项目带到页面顶部，用户可以展开或折叠每个项目的详细信息。

3. 提交数据 – 进行数据提交和增强数据验证功能时的更好指引

- 有用信息传递和更为清晰的错误标志 – RegData 平台中提交的问题将更容易识别，尤其是在用户的日程安排和表单中。
- 分步骤的更加智能的验证 - 验证功能得到了改进。RegData 平台对输入到计算机字段中的数据进行验证。英国金管局还在每个字段和整个表单中都包含了指引以阐明其期望的数据，例如货币种类、文件类型、条目类型（数字或文本）以及表单状态（例如草稿）。
- 表单导航和自动保存 – 表单具有更清晰的布局，并使用诸如放大和缩小表格的功能改进了导航功能。输入的数据也将每 2 分钟自动保存一次。

从 Gabriel 平台迁移至 RegData 平台

英国金管局正在将公司及其用户分组迁移到 RegData 平台，以最大程度地减少对公司的影响。所有用户都必须在迁移之前通过登录 Gabriel 平台并在出现提示时完成一次性注册来完成注册 RegData 平台。在迁移之前，公司应继续使用其现有的 Gabriel 平台登录详细信息通过 Gabriel 平台进行报告。

Source 来源:
https://www.fca.org.uk/news/news-stories/fca-announces-benefits-new-data-collection-platform-regdata

Monetary Authority of Singapore Enhances RMB Liquidity Through a New RMB 25 Billion Initiative for Banks

On November 23, 2020, the Monetary Authority of Singapore (MAS) announced the launch of a new initiative to provide up to RMB 25 billion of funding to banks in Singapore. The initiative will deepen RMB liquidity and further strengthen banks' ability to meet the growing RMB business needs of their customers in Singapore and the region.

Under this new initiative, RMB funding of up to 3 months will be channeled to the Primary Dealers (PDs) through MAS' money market operations. The RMB funds provided to the PDs will enhance their credit intermediation capabilities and the overall RMB market liquidity in Singapore.

To support the development of the offshore RMB market in Singapore, MAS previously established the MAS Overnight RMB Liquidity Facility, and the MAS RMB Facility. Banks could access these backstop facilities, to obtain overnight and term RMB liquidity respectively, as needed to facilitate settlement needs and financing of cross-border trade and investment.

With the introduction of the new RMB 25 billion initiative, MAS will discontinue the current RMB 5 billion MAS Overnight RMB Liquidity Facility from November 23, 2020. Market participants have indicated that the placement of longer tenors and larger amount of RMB funding by the initiative represent significant enhancements over the MAS Overnight RMB Liquidity Facility. The MAS RMB Facility remains in operation and will continue to provide additional term funding as needed.

新加坡金融管理局计划向银行系统注资 250 亿元人民币以增强人民币流动性

2020 年 11 月 23 日，新加坡金融管理局（新加坡金管局）宣布推出一项新举措，向新加坡的银行提供高达 250 亿元人民币的资金。该举措将深化人民币流动性，进一步增强银行满足新加坡及该区域客户日益增长的人民币业务需求的能力。

根据这项新举措，最长 3 个月的人民币资金将通过新加坡金管局的货币市场业务输送给一级交易商。向一级交易商提供的人民币资金将增强其信用中介能力，提高新加坡整体人民币市场的流动性。

为支持新加坡离岸人民币市场的发展，新加坡金融管理局早前设立了新加坡金融管理局隔夜人民币流动资金融通及新加坡金融管理局人民币融通。银行可以根据需要分别使用这些后援机制，获得隔夜和定期人民币流动性，以方便跨境贸易和投资的结算需求和融资。

随着 250 亿元人民币新举措的推出，新加坡金管局将从 2020 年 11 月 23 日起停止目前 50 亿元人民币的新加坡金管局隔夜人民币流动资金机制。市场人士表示，该举措投放的人民币资金期限更长、金额更大，较新加坡金管局隔夜人民币流动资金便利有显着提升。新加坡金融管理局人民币融资机制仍在运作，并将继续在需要时提供额外的定期融资。

Source 来源:
https://www.mas.gov.sg/news/media-releases/2020/mas-enhances-rmb-liquidity-through-a-new-rmb-25-billion-initiative-for-banks

Monetary Authority of Singapore Launches World's First Grant Scheme to Support Green and Sustainability-Linked Loans

On November 24, 2020, the Monetary Authority of Singapore (MAS) announced the launch of the Green and Sustainability-Linked Loan Grant Scheme (GSLS), which will be effective as of January 1, 2021. The first of its kind globally, the GSLS seeks to support corporates of all sizes to obtain green and sustainable financing by defraying the expenses of engaging independent service providers to validate the green and sustainability credentials of the loan. The grant also encourages banks to develop green and sustainability-linked loan frameworks to make such financing more accessible to small and medium-sized enterprises (SMEs).

The GSLS will enhance corporates' ability to obtain green and sustainability-linked loans. The grant will cover expenses incurred by corporates to engage independent sustainability assessment and advisory service providers to develop green and sustainability frameworks and targets, obtain external reviews (which includes a second party opinion, verification, certification or rating), and report on the sustainability impact of the loan. MAS will defray up to S$100,000 of these expenses per loan.

The GSLS will also encourage banks to develop frameworks for green and sustainability-linked loans. The grant will cover expenses incurred by banks to engage independent sustainability assessment and advisory service providers to develop frameworks, obtain external reviews, and report on the allocated proceeds of loans originated under the framework. MAS will defray up to 60% of these expenses, capped at S$120,000 for such green and sustainability-linked loan frameworks.

MAS will also defray by 90% the expenses incurred by banks to develop frameworks specifically targeted at SMEs and individuals, capped at S$180,000 per framework. This is to further encourage banks to provide greater support to SMEs, which are a key driver of economies, and enable individuals to contribute to the sustainability agenda by integrating sustainability considerations in their financing decisions.

MAS will expand the scope of the existing Sustainable Bond Grant Scheme (SBGS) to include sustainability-linked bonds, effective immediately. Beyond grant support for pre-issuance costs which have been covered under SBGS since 2017, the enhanced SBGS will now cover the post-issuance costs of engaging independent sustainability assessment and advisory service providers to obtain external reviews or report for bonds under the scheme.

The GSLS is an initiative under MAS' Green Finance Action Plan, and will support MAS' aim to develop green and sustainable financial markets and products to support Asia's transition to a low-carbon future. The grant will help to channel more financing towards green projects and enhance corporates' sustainability practices. To promote the transparency and integrity of green and sustainable financing flows, MAS will require corporates to engage independent sustainability assessment and service providers and obtain independent external reviews on these loans to demonstrate alignment with internationally recognized standards.

Accompanying the launch of the GSLS, BNP Paribas, OCBC Bank and UOB have introduced innovative green and sustainability-linked loan frameworks that will qualify for the scheme. The banks' frameworks feature standardized criteria and processes, which will streamline assessments of green and sustainable lending to corporates, and support the banks' clients, including both SMEs and large corporates, in financing circular economy projects, renewable energy, energy efficiency activities, and promote sustainable supply chain practices. Through these frameworks, the banks seek to direct financing to activities that promote sustainable development in Singapore and the region.

新加坡金融管理局推出全球首个绿色可持续发展贷款津贴计划

2020 年 11 月 24 日，新加坡金融管理局（新加坡金管局）宣布启动绿色与可持续发展相关贷款津贴计划（GSLS），该计划将于 2021 年 1 月 1 日生效。作为全球首个此类计划，旨在通过支付聘请独立服务提供商验证绿色可持续贷款资质的费用支持各种规模的企业获得绿色可持续融资。此项津贴还鼓励银行制定与绿色和可持续发展相关的贷款框架，使中小企业更容易获得此类融资。

GSLS 将增强企业获得绿色和可持续相关贷款的能力。津贴款项将用于企业聘请独立的可持续发展评估和咨询服务供应商以制定绿色及可持续发展框架和目标，进行外部审核 (包括第三方意见、核实、认证或评级)，以及报

告贷款的可持续影响。新加坡金管局将为每笔贷款支付不超过 10 万新元的此类费用。

GSLS 还鼓励银行制定绿色和可持续相关贷款框架。津贴款项将用于支付银行聘请独立的可持续发展评估和咨询服务供应商制定框架，进行外部审查以及就框架下贷款的分配收益作出报告的费用。新加坡金管局将支付这些费用的 60%，最高限额达 12 万新元，用于与绿色和可持续发展相关的贷款框架。

新加坡金管局还将支付银行用于开发专门针对中小型企业和个人的框架的费用的 90%，每个框架的上限为 18 万新元。这是为了进一步鼓励银行为作为经济关键驱动力的中小企业提供更大的支持，通过将可持续发展的考虑纳入到融资决策中，使个人能够为可持续发展做出贡献。

新加坡金管局将立即扩大现有的可持续债券津贴计划（SBGS）的范围，纳入与可持续发展有关的债券。除了自 2017 年以来已由 SBGS 涵盖的对发行前成本的津贴支持外，增强后的 SBGS 现在还将涵盖发行后聘请独立的可持续发展评估和咨询服务提供商就计划下的债券进行外部审查或提交报告的成本。

GSLS 是新加坡金管局绿色金融行动计划下的一项举措，将支持新加坡金管局发展绿色和可持续的金融市场和产品，以支持亚洲向低碳未来过渡的目标。这笔津贴将有助于为绿色项目分配更多资金，并增强企业的可持续发展实践。为了提高绿色和可持续融资流的透明度和完整性，新加坡金管局将要求企业聘请独立的可持续发展评估和服务提供商，并对这些贷款进行独立的外部审查，以证明其与国际认可的标准保持一致。

伴随 GSLS 的推出，法国巴黎银行、华侨银行和大华银行也推出了符合该计划条件的创新绿色与可持续发展相关的贷款框架。银行的框架具有标准化的准则和流程，这将简化对公司绿色和可持续贷款的评估并在循环经济项目、可再生能源、能源效率活动和促进可持续的供应链等实践中支持包括中小型企业和大型企业在内的银行客户。通过这些框架，银行寻求为促进新加坡和地区可持续发展的活动提供直接融资。

Source 来源:
https://www.mas.gov.sg/news/media-releases/2020/mas-launches-worlds-first-grant-scheme-to-support-green-and-sustainability-linked-loans

Association of Banks in Singapore and Singapore Exchange Regulation Enhance Due Diligence Standards

On November 13, 2020, the Association of Banks in Singapore (ABS) announced an enhancement of the ABS Listings Due Diligence Guidelines, which have been revised in close collaboration with Singapore Exchange Regulation (SGX RegCo) to raise standards of due diligence conducted on companies planning to list on Singapore Exchange (SGX).

The updated Guidelines are an enhancement from the previous guidelines which were last revised in 2016. They set out expectations and recommendations on due diligence work that issue managers and full sponsors carry out during the initial public offer (IPO) / reverse takeover (RTO) and listing process.

Key updates in the revised guidelines include:

- An increased focus on the assessment of the adequacy and effectiveness of the issuer's internal controls to meet its business needs and challenges as a listed company;
- The assessment of the sustainability and viability of the issuer's business, taking into consideration, in particular, the challenges posed by the prevailing economic climate; and
- Targeted guidelines for due diligence on issuers operating in specialized, restricted or niche industries, and/or in higher risk jurisdictions.

Mrs. Ong-Ang Ai Boon, Director, ABS, said, "ABS is pleased to have worked closely with SGX RegCo once again to update, strengthen and refine the standards of due diligence that our members are expected to carry out. These guidelines represent an important supporting pillar of robustness to Singapore's positioning as a leading listing venue for sectors including healthcare, commodities, oil and gas, REITs and business trusts – and regular updates are necessary to ensure that the guidelines continue to be relevant to the constantly-changing economic climate. With the increase in issuers from more nascent sectors such as technology that are seeking equity capital, it becomes especially important for issue managers, full sponsors and their professionals to adapt due diligence practices that address the particular needs of the new market environment."

Mr. Tan Boon Gin, CEO, SGX RegCo, said, "Issue managers and full sponsors are our fellow frontline gatekeepers to our market. That is their first and foremost role and responsibility. They must therefore emphasize substance over form and exhibit a healthy dose of professional skepticism when conducting listings due diligence. Where due diligence is robust and of a high standard, increased investor confidence and quality listings will follow."

新加坡银行业协会与新加坡交易所监管公司携手提升尽职调查标准

2020 年 11 月 13 日，新加坡银行业协会宣布强化上市尽职调查指引，该指引是与新加坡交易所监管公司密切合

作共同完成，以提高计划于新加坡交易所（新交所）上市的企业进行尽职调查的标准。

最新指引是对 2016 年修订版本的改进，对发行经理和全面保荐人在首次公开发行（IPO）/反向收购上市（RTO）以及上市过程中开展的尽职调查工作提出了期许和建议。

修订后指引的主要内容更新包括:

- 更加注重评估发行人的内部控制是否充分且有效，以满足作为上市公司的业务需要和挑战;
- 评估发行人业务的可持续性以及可行性，尤其是在当前经济形势的挑战下；以及
- 就特定、限制性或利基行业和/或高风险司法管辖区发行人的针对性尽职调查指引。

新加坡银行业协会董事 Ong-Ang Ai Boon 女士表示：“新加坡银行业协会十分荣幸能够再次与新交所监管公司密切合作，更新、加强并完善我们的会员期望执行的尽职调查标准。这些指引是新加坡作为医疗保健、大宗商品、石油和天然气、房地产投资信托和商业信托等行业领先上市场所的重要支撑，而定期更新是确保该指引能与持续变化的经济形势紧密衔接的必要手段。随着越来越多来自新兴行业（如科技行业）的发行人寻求股权融资，发行经理、全面保荐人及其他专业人士尤其需要调整尽职调查方法，以满足新市场环境的特定需要。”

新交所监管公司首席执行官陈文仁先生表示：“发行经理和全面保荐人是进入市场的前线守门人。这是他们最重要的角色和职责。因此在进行上市尽职调查时，必须重视实质而非形式，表现出合理的专业怀疑态度。如果尽职调查保持稳健且高标准，投资者信心和高质量上市也将随之而来。”

Source 来源:
https://www.sgx.com/media-centre/20201113-abs-and-sgx-regco-enhance-due-diligence-standards

Shenzhen Stock Exchange Establishes the 1st Accounting Advisory Committee to Build Market Synergy and Improve Quality of Financial Information Disclosure in Capital Market

On November 19, 2020, to fully implement the guiding principles of the Fifth Plenary Session of the 19th CPC Central Committee and the requirements specified by the State Council in the Suggestions on Further Improving the Quality of Listed Companies, Shenzhen Stock Exchange (the “SZSE”) recently set up the Accounting Advisory Committee. It’s a measure taken by SZSE to further pool market wisdom and leverage the synergy of market participants to jointly improve the financial information disclosure quality in the capital market, support the reform of the registration-based IPO system with “information disclosure at its core”, and ensure steady advancement of the key tasks of deepening the reform of the capital market in all respects and the comprehensive authorization reform of the pilot demonstration zone of socialism with Chinese characteristics.

After relevant procedures are duly performed, the list of members of the 1st Accounting Advisory Committee was officially generated and made public. On November 19, 2020, SZSE held the 1st Accounting Advisory Committee Inaugural Meeting & Forum, which discussed how the Accounting Advisory Committee can leverage its role as the bond between self-disciplinary regulation and the market, improve the financial information disclosure quality in the capital market and the quality and efficiency of accounting and audit regulation, and upgrade regulatory approaches against financial frauds such as false financial information disclosure.

The 1st Accounting Advisory Committee consists of 26 members from relevant ministries, securities regulators, industry associations, universities, accounting firms, appraisal agencies, securities companies, investment institutions and listed companies. They have profound theoretical knowledge and rich practical experience and possess the qualification required for duty performance. All members serve part-time with a two-year term. The members will provide advisory opinions on major accounting and audit issues involved in SZSE’s relevant work such as issuance and listing review, self-disciplinary regulation and business innovation, conduct researches on strengthening construction of basic systems of SZSE and enhancing the capability of the capital market to serve the real economy, and propose initiatives.

An officer from SZSE pointed out that high-quality financial information disclosure is a necessary requirement to improve the quality of listed companies, an effective means to forestall and defuse major market risks, and an important cornerstone to ensure implementation of measures for deepening reform in all respects, so it is of great significance to the sustainable and healthy development of the capital market. The reform of the registration-based IPO system stresses “information disclosure at its core”, with accounting information as the key and accounting regulation at its center. By giving play to role of the Accounting Advisory Committee, it can pool experience and wisdom of experts from various fields, improve the authority and professionalism of issuance and listing review and self-disciplinary regulation, and securely guard the access and exit of the market so as to ensure the high-quality operation of the ChiNext Board and the registration-based IPO system, and foster a good capital market ecosystem. SZSE will, working with those experts, actively practice the principles of “system building, non-

intervention, and zero tolerance", and follow the requirements of "standing in awe of the market, rule of law, professionalism and risks and developing the capital market demands the efforts of people of all walks of life". SZSE will uphold the working philosophy of "openness, transparency, integrity and impartiality", and thoroughly understand the requirement of improving the quality of listed companies in the context of the registration-based IPO system. SZSE will act proactively and fulfill its duties and leverage the synergy among market participants to improve the financial information disclosure quality in the capital market. Besides, SZSE will guard the market access and clear the exit channel, continue to consolidate the achievements of the reform of the ChiNext Board and the pilot project of the registration-based IPO system, in a bid to build a group of high-quality listed companies as required, and speed up the building of a quality innovation capital center and world-class exchange.

深圳证券交易所第一届会计专业咨询委员会成立以凝聚市场合力提升资本市场财务信息披露质量

2020 年 11 月 19 日，为深入贯彻党的十九届五中全会精神，认真落实国务院《关于进一步提高上市公司质量的意见》要求，深圳证券交易所（下称"深交所"）设立会计专业咨询委员会，进一步凝聚市场智慧，更好发挥各方合力，共同推动提升资本市场财务信息披露质量，为"以信息披露为核心"的注册制改革保驾护航，保障全面深化资本市场改革和先行示范区综合授权改革重点任务扎实推进。

经认真履行相关程序，第一届会计专业咨询委员会委员名单正式产生并向社会公布。2020 年 11 月 19 日，深交所召开第一届会计专业咨询委员会成立大会暨座谈会，就委员会如何发挥自律监管与市场之间纽带的作用，如何提升资本市场财务信息披露质量和会计审计监管质效，如何完善打击财务造假等虚假财务信息披露行为的监管方式方法等方面进行了讨论交流。

第一届会计专业咨询委员会共 26 名委员，分别来自相关部委、证券监管机构、行业协会、高等院校、会计师事务所、评估机构、证券公司、投资机构及上市公司等单位。委员来源分布广泛，理论水平精深，实务经验丰富，具备履行职责所要求的任职资格。本届委员均为兼职，任期两年。委员将对深交所在发行上市审核、自律监管、业务创新等工作涉及的重大会计、审计问题提供咨询意见，并就加强深市基础制度建设、提升资本市场服务实体经济能力等开展研究，提供倡导性建议。

深交所负责人表示，高质量的财务信息披露是提高上市公司质量的必然要求，是防范化解重大市场风险的有效手段，是保障全面深化改革举措落地的重要基石，对资本市场持续健康发展具有重大意义。注册制改革强调"以信息披露为核心"，关键是会计信息，核心是会计监管。通过发挥会计专业咨询委员会的功能作用，汇集来自各方面专家的经验智慧，提高企业发行上市审核以及自律监管工作的权威性和专业性，守住市场"入口""出口"两道关，确保创业板注册制高质量运行，促进形成资本市场良性生态。深交所将携手各位专家，积极践行"建制度、不干预、零容忍"方针，按照"四个敬畏、一个合力"要求，秉承"开明、透明、廉明、严明"工作思路，深刻理解注册制背景下提高上市公司质量的要求，主动作为、扎实履职，合力提升资本市场财务信息披露质量，把好"入口关"，畅通"出口关"，持续巩固创业板注册制改革成果，努力打造体现高质量发展要求的上市公司群体，加快建设优质创新资本中心和世界一流交易所。

Source 来源:
http://www.szse.cn/aboutus/trends/news/t20201119_583265.html

Questions & Answers on the Guidelines of Shanghai Stock Exchange No. 3 for the Application of Self-Regulation Rules for Listed Companies - Classified Supervision and Administration of Information Disclosure

On November 24, 2020, the Shanghai Stock Exchange (SSE) officially issued the Guidelines of Shanghai Stock Exchange No. 3 for the Application of Self-Regulation Rules for Listed Companies - Classified Supervision and Administration of Information Disclosure (the "Classified Supervision Guidelines"). Regarding the release of the Classified Supervision Guidelines, an SSE official in charge of relevant businesses has answered related questions.

Question 1: Can you brief us on the origin and main contents of the Classified Supervision Guidelines?

Answer: On October 9, 2020, the State Council of the People's Republic of China issued the "Opinions on Further Improving the Quality of Listed Companies" (the "Opinions"), requiring all parties concerned to strengthen prudential supervision in the whole process and promote scientific supervision, classified supervision, professional supervision and continuous supervision to continuously improve the regulatory efficiency. Furthermore, it emphasizes that the stock exchanges shall also fully paly their responsibilities of front-line supervision and self-discipline management. In order to effectively implement the requirements of the Opinions issued by the State Council, the SSE has formulated the Three-year Action Plan for Advancing the Quality Improvement of the Companies Listed on the Shanghai Stock Exchange (the "Three-year Action Plan"). The release of the Classified Supervision Guidelines is also an arrangement of the Three-year

Action Plan. According to the deployment of the China Securities Regulatory Commission (the “CSRC”), it requires the stock exchanges to better perform their front-line supervision and service duties by optimizing their supervision methods.

Classified supervision is put forward under the proposition of how to balance the relationship between supervision, development and providing service. The Classified Supervision Guidelines summarize the practices of classified supervision of information disclosure at the stock exchanges’ level and upgrade them to a public institutional arrangement for the purpose of guiding front-line self-regulation and improving regulatory efficiency. Its core connotation is that "managing less and managing fine can manage well", which requires all parties concerned to formulate different policies case by case. In terms of specific methods, all parties concerned are required to intensify supervisory resources, focus on a small number of key companies and matters, improve the pertinence and effectiveness of supervision and avoid trivialities. At the same time, they shall also adhere to the principle of simultaneous development of supervision and services providing, freeing up more energy to provide better services for the most honest and dedicated companies and supporting these companies to take advantage of the transformation and upgrading of the capital market to become better and stronger and then improving their qualities.

Question 2: What is the background of the Classified Supervision Guidelines released by SSE?

Answer: In the past two years, the domestic and international economic situation has become more complicated, and China's economy has shifted from rapid growth to high-quality development, which has caused difficulties for some listed companies. More investment funds are needed to implement the "Six Stabilizations and Six Protection" policy of China. All parties concerned should support and provide good services for these listed companies to get out of difficulties and become better and stronger.

Under this background, the importance of classified supervision is more prominent. The Classified Supervision Guidelines were drafted to implement the deployment of the CSRC on classified supervision at the level of the front-line information disclosure of stock exchanges. On the one hand, effective supervision shall be carried out, focusing on those companies that are in material violation of supervision and making market chaos to safeguard the legitimate rights and interests of investors and keep the healthy development of the market. On the other hand, the stock exchanges shall actively respond to the reasonable demands of listed companies and provide more support and create more conditions for the development of listed companies in terms of information disclosure and market service provision. On the whole, the Classified Supervision Guidelines is mainly to systematize the way to answer what the stock exchanges should do and how to fulfill their front-line supervisory responsibilities. Disclosing the basic models and methods of classified supervision to the public through "system building" will help the public to clarify the supervision responsibilities and boundaries of the stock exchanges, enabling the market to have a clear expectation of supervision and establishing a new image of self-regulatory supervision on the front-line information disclosure of the SSE under the new situation.

Question 3: What is the relationship between classified supervision and previous supervisory transformations of the stock exchanges?

Answer: The Classified Supervision Guidelines perfects the classified supervision in the system level. At the same time, it is a review and a summary of existing supervision experience, and also an inheritance and development of the original supervision concept and supervision structure. Since 2013, the supervision on listed companies conducted by SSE has continued to promote important transformations such as providing one-stop information disclosure service and classified industry information disclosure. In particular, the one-stop information disclosure service specifies the boundary between pre-supervision, in-process supervision and post-supervision while classified industry information disclosure adjust its supervision methods and ideas according to the listed companies’ industry classification. These supervisory explorations and practices have unfolded the overall layout of front-line supervision, improving the effectiveness of supervision, and also included the concept and spirit of classified supervision. In the past two years, in face of new conditions in the market, the stock exchanges have paid attention to high-risk companies and material risks such as financial fraud, capital occupation and illegal guarantees. The stock exchanges distinguish the responsibilities of different entities, specify the scope of key supervision in accordance with the principle of separation responsibilities and clarify the content and focus of their management, so that the focus and methods of supervision will be clearer. In terms of market services, the stock exchanges have sorted out service items with high market demand and relatively mature operations, clarified the contents and mechanism of the service, and continued to carry out service actions such as relief of private enterprises and reform of state-owned enterprises, and correspondingly optimized various mechanisms to improve their services. Some experiences and achievements have been gained from these works, which provide the basis and conditions for the systematic summarization.

Question 4: In the Classified Supervision Guidelines, which key listed companies are under supervision and what kind of matters that should be paid attention to?

Answer: The Classified Supervision Guidelines focus on the supervision distinctions between company items and matter items, highlighting the focus of supervision and implementing differentiated supervision arrangements. The SSE will identify key companies based on the quality of information disclosure, standardized operation level and severity of risks while identify key matters based on the impact of disclosures on investor interests, securities prices and market order, so as to clarify the scope of “less management”. For listed companies and matters included in the scope of key supervision, attention shall be paid to the relevant information disclosure, prior review shall be carried out as the case may be and the one-stop information disclosure service may be suspended while on-site inspection may be carried out in combination with risk conditions. For listed companies and matters not included in the scope of key supervision, the SSE will simplify the information disclosure requirements in accordance with the laws and regulations, such as implementing post-event review and focusing on providing effective service support for daily information disclosure and business handling.

In terms of key companies under supervision, four types of companies are included in the scope with close attention paid to their information disclosure matters. Such listed companies mainly include the situations where their stocks are subject to risk warning, their annual information disclosure is rated D, disclaimer of opinions or negative opinions are issued for their annual reports, disclaimer of opinions or negative opinions are issued for their annual internal control, etc. Due to the concentration of risks and small number, this type of listed companies has always been the focus of attention by the market and supervision authorities, and the focus of the supervision on such listed companies meets the market expectation and the actual situation.

In terms of key matters under supervision, eight categories of matters are clarified according to their impacts on investors' interests, securities prices and market order. Strict supervision on these matters that violate the bottom line of the market is the consensus of the market and the responsibility of the front-line information disclosure supervision. These key matters under supervision mainly include false records, misleading statements or major omissions in the disclosure of financial information or major events; embezzling the interests of listed companies through occupying non-operating funds, illegal guarantees and related transactions; taking advantage of information disclosure to cause undue influence on the trading price of their shares and derivatives or on the investment decisions of investors; planning to carry out asset transactions that may generate significant risk on their brand reputation or involve significant uncertainty in their performance promises; randomly changing accounting policies or abusing accounting standards to conduct improper accounting dealings; pledging or freezing high proportion of the shares that are held directly or indirectly by the controlling shareholder, the largest shareholder and the actual controller; negligently performing the duties of directors, supervisors and other senior managers; being unable to properly undertake the responsibilities of board of shareholders, board of directors and board of supervisors and appearance of significant defects in internal governance such as the listed companies fail to fulfil their information disclosure obligations.

Question 5: What arrangements will the SSE have in terms of providing services for the listed companies?

Answers: The Classified Supervision Guidelines combine the concepts of conducting supervision and providing service, emphasizing that the improvement of the quality of listed companies shall be taken as the goal, and such companies shall be supported to improve the effectiveness of information disclosure and facilitate their financing so as to stimulate the market vitality and optimize the market ecology and cultivate a better market environment for the development of listed companies. The specific arrangements are as follows:

1. Providing services for all companies listed in SSE. All companies listed in the SSE are supported to carry out various activities on the capital markets in accordance with laws and regulations. In the meantime, the listed companies shall be provided target services based on their actual circumstances and requirements. For listed companies whose latest annual information disclosure work evaluation results are A or B, they are supported to simplify information disclosure requirements based on their actual conditions, and they are able to apply for fast review channels for refinancing, mergers and acquisitions and reorganization of the CSRC as required. For listed companies whose latest annual information disclosure work evaluation results are C or D, the SSE will provide targeted services for them, which are focused on guiding and supporting them to operate in a standardized manner to eliminate risks and improve the quality of information disclosure.

2. Enrich the service content. The SSE will provide listed companies with special business support in accordance with laws and regulations, including but not limit to policy consulting, market training, mergers and acquisitions, refinancing, equity incentives, innovative products and others. In addition, the SSE will support the listed companies to actively carry out investor relationship management to deepen market communication, for improving the industrial

information disclosure quality and strengthening the technical exchanges between companies in the same industry.

3. Perfect the service mechanism. The corporate supervisory department of the SSE has established a smooth communication channel with listed companies and actively communicates with them on a regular basis. Since the beginning of this year, in order to further properly carry out the work, the SSE has also established such working mechanisms as time-limited response, two-person reception and etc. based on the actual situation. Judging from the actual operation, these efforts have made a great achievement and the Classified Supervision Guidelines have also upgraded these mechanisms to specific norms.

Question 6: How does the SSE regulate its supervision behaviors in conducting classified supervision?

Answers: To do a good job in classified supervision, it requires the SSE to build up a standardized operation mechanism for supervision, set up a unified supervision standard as well as a team that is responsible, capable, service-oriented and well behaved. To this end, the Classified Supervision Guidelines clarify the code of supervision conducts in a separate chapter, striving to achieve a balance between proactive and standardized supervision. One of the objectives of classified supervision is to build up mutual trust in supervision and jointly form a strong joint force in improving the quality of listed companies by regulating the supervision activities. In terms of mechanisms and standards, the Classified Supervision Guidelines follow the principles of openness, fairness and justice to implement information disclosure supervision on listed companies in accordance with laws and regulations, such as applying unified supervision standards and then disclosing it to the market in a timely manner.

The Classified Supervision Guidelines also clarify the principle of prudential supervision which requires the SSE strictly comply with the prescribed procedures and notify the supervised of supervision basis. Supervision on information disclosure shall be carried out by industry, and industry supervision groups shall also be set up to take charge of the supervision and administration of information disclosure and services such as daily consulting and business handling shall also be provided. In terms of the performance of duties and responsibilities, the supervisors of the SSE are required to be loyal, diligent and responsible, strictly abide by the requirements of integrity and self-discipline and establish a healthy "close" and "clean" relationship with listed companies in practice.

After the issuance of the Classified Supervision Guidelines, the SSE will focus on the implementation, carefully solicit and follow the opinions of all parties, continuously perfect and improve the methods and mechanisms of classified supervision and work with all market parties, especially listed companies, to promote the improvement of the quality of companies listed on the SSE through practical actions.

上海证券交易所就《上市公司自律监管规则适用指引第 3 号——信息披露分类监管》答记者问

2020 年 11 月 24 日，上海证券交易所（下称“上交所”）发布《上市公司自律监管规则适用指引第 3 号——信息披露分类监管》（下称《指引》）。就此，上交所公司监管部门相关负责人回答了记者的提问。

一、能否简要介绍一下这次发布《指引》的由来和主要内容？

2020 年 10 月 9 日，国务院印发《关于进一步提高上市公司质量的意见》（下称“《意见》”），要求加强全程审慎监管，推进科学监管、分类监管、专业监管、持续监管，持续提升监管效能，并提出要充分发挥证券交易所一线监督及自律管理职责。为了落实好国务院《意见》要求，上交所前期已经制定了《推动提高沪市公司质量的三年行动计划》(下称“三年行动计划”)。这次发布《指引》是三年行动计划中的一项工作安排，主要是按照中国证券监督管理委员会（下称“证监会”）的部署，优化监管方式方法，更好地履行一线监管和服务职责。

分类监管是在如何平衡好规范与发展、监管和服务这个命题下提出的。《指引》总结了交易所层面信息披露分类监管的实践做法，将其上升为公开的制度安排，以指导一线自律监管工作，提高监管效能。其核心内涵是“管少管精才能管好”，区分情况、分类施策。具体方法上，要集约监管资源，盯住少数重点公司、重点事项，提高监管的针对性、有效性，避免事无巨细。同时，坚持监管与服务并举，腾出更多精力为大多数讲诚信、专主业的公司做好服务，支持这些公司借力资本市场转型升级、做优做强、提升质量。

二、上交所当前开展信息披露分类监管的背景是什么？

近两年，国内外经济形势趋于复杂，中国经济由高速增长转向高质量发展阶段，有些公司出现困难。落实好国家“六稳”“六保”要求，支持、服务好上市公司利用资本市场走出困境、做优做强，需要有更多的投入。但同时，个别公司财务造假、资金占用、违规担保等问题“水落石出”，投资者、市场反响也比较强烈，对依法严格监管的期待也很高。为此，既要坚持监管主责主业，对重大违法违规行为“零容忍”，把“该管的”管住管好，也要践行

“不干预”理念，进一步减少管制，腾出更多的精力来支持、服务好上市公司的发展，推动提高上市公司质量。

在这一背景下，分类监管的重要性更加突出。起草制定《指引》，主要是在交易所一线信息披露监管层面，落实好证监会关于分类监管的部署。一方面做好监管主责主业，对重大违规公司和市场乱象要重点聚焦、严格监管，维护好投资者合法权益和市场健康发展秩序。另一方面，积极回应上市公司的合理诉求，在信息披露和市场服务上为上市公司发展提供更多支持，创造更多条件。总体上，《指引》主要是以制度化的方式，回答当前交易所一线监管和服务做什么、怎么做的问题。将分类监管的基本模式和方法，通过“建制度”对外公开，将有助于厘清监管职责和边界，让市场对监管有明确预期，树立新形势下上交所一线信息披露自律监管新形象。

三、分类监管和交易所历次监管转型之间是什么关系？

这次制定《指引》，在制度上深化推进分类监管，是梳理总结现有监管经验，对原有监管理念和监管架构的传承和发展。2013 年以来，上交所公司监管持续推动实现了信息披露直通车、分行业信息披露监管等重要转型。其中，信息披露直通车明确了事前监管和事中、事后监管的界限，分行业监管按公司行业分类调整监管阵型和思路。这些监管探索和实践，展开了一线监管的整体布局，提高了监管效能，也蕴含着分类监管的理念和精神。

近两年，面对市场出现的新情况，注意紧盯高风险公司和财务造假、资金占用、违规担保等重大风险事项。交易所依据责任区分等原则，区分了不同主体的责任并厘清了其的重点监管范围，明确了其“管少”的内容和关注要点，使得监管的重点和方法更加清晰。在市场服务方面，交易所梳理了市场需求度高、运行较为成熟的服务事项，明确了服务的内容和机制，持续开展民企纾困、国企改革等服务行动，相应优化各项机制以提升其的服务质量。这些工作取得了一些经验和成效，具备了制度化总结的条件和基础。

四、《指引》规定了哪些重点监管公司和事项？

《指引》着眼公司、事项“两区分”，突出监管重点，实施差异化监管安排。根据信息披露质量、规范运作水平、风险严重程度等确定重点监管公司，根据披露事项对投资者利益、证券价格和市场秩序的影响等确定重点监管事项，以明确“管少”的范围。对于纳入重点监管范围的公司和事项，对其相关信息披露予以重点关注，视情况实行事前审核，并可结合风险情况暂停其信息披露直通车业务、开展现场检查。对于未纳入重点监管范围的公司和事项，依法依规简化信息披露要求，实行事后审核，并重点做好其日常信息披露和业务办理的服务支持。

重点公司方面，将 4 类公司纳入范围，对其信息披露事项予以重点关注。主要包括股票被实施风险警示、年度信息披露评价为 D、年报被出具无法表示意见或否定意见、年度内控被出具无法表示意见或否定意见等。这类公司风险集中、家数较少，一直以来是市场和监管重点关注的对象，对其重点监管符合市场期待和实际情况。

重点事项方面，根据对投资者利益、证券价格和市场秩序的影响，明确重点监管的 8 类事项。对这些触犯市场“底线”的事项严格监管，是市场共识，也是一线信息披露监管的职责所在。主要包括：财务信息或重大事项的披露存在虚假记载、误导性陈述或重大遗漏；通过非经营性资金占用、违规担保、关联交易等形式侵占上市公司利益；利用信息披露影响公司股票及其衍生品种交易价格或者投资者投资决策；筹划可能产生大额商誉减值风险或业绩承诺实现存在重大不确定性的资产交易；随意变更会计政策或者滥用会计准则进行不当会计处理；控股股东或第一大股东、实际控制人直接或间接所持股份被质押或者冻结比例较高；董监高怠于履职，“三会一层”无法正常运转，或者公司出现无法正常履行信息披露义务等内部治理重大缺陷。

五、上交所在做好公司服务方面会有哪些工作安排？

《指引》结合了监管与服务的理念，强调要以提高上市公司质量为目标，支持推动其提升信息披露有效性、增进融资便利度，激发市场活力、优化市场生态，为上市公司发展培育更好的市场环境。具体安排上：

一是服务对象全覆盖。支持全体沪市公司依法依规开展资本市场各项活动。同时，根据公司实际情况和需求，提供针对性服务。对于最近一个年度信息披露工作评价结果为 A 或 B 的公司，支持其根据实际情况简化信息披露要求，按规定申请适用证监会再融资、并购重组快速审核通道。对于最近一个年度信息披露工作评价结果为 C 或 D 的公司，提供针对性服务，重点引导和支持其规范运作、化解风险、提升信息披露质量。

二是丰富服务内容。面向上市公司依法依规提供政策咨询、市场培训、并购重组、再融资、股权激励、创新产品等专项业务支持，支持上市公司积极开展投资者关系管理、深化市场沟通，推动上市公司提高行业信息披露质量、加强同行业公司交流。

三是完善服务机制。上交所公司监管部门已经与上市公司建立畅通的沟通渠道，定期主动与上市公司交流情况。今年以来，为进一步做好工作，还根据实际情况，建立了限时回复、双人接待等工作机制。从实际运行情况看，这些工作畅通了交流、凝聚了共识。《指引》也将这些机制提升为了具体规范。

六、上交所在开展分类监管中如何规范好监管行为？

做好分类监管，要求有规范的监管运行机制、统一的监管标准，也要有一支能担当、善监管、肯服务、守规矩的公司监管队伍。为此，《指引》以专章形式明确了监管行为规范，努力做到监管主动性、规范性“两兼顾”。开展分类监管的目标之一，也是希望通过规范监管行为，建立监管互信，共同形成提高上市公司质量的强大合力。

在机制、标准方面，《指引》要求遵循公开、公平、公正原则，依法依规对上市公司实施信息披露监管，执行统一监管标准，并及时向市场公开。明确审慎监管原则，要求严格遵守规定程序、告知监管依据。实行信息披露分行业监管，设置行业监管组承担信息披露监管职责，提供日常咨询和业务办理等服务。履职尽责方面，要求交易所监管人员忠于职守、勤勉尽责，严格遵守廉洁自律要求，在实际工作中与上市公司建立健康的“亲”“清”关系。

《指引》发布实施后，上交所也将抓好落实执行，并认真听取吸收各方意见，不断优化完善分类监管的方法、机制，以实际行动与市场各方尤其是上市公司一道，推动提高沪市公司质量。

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Officials from Relevant Departments of the China Securities Regulatory Commission Answers Reporter's Questions Regarding Audit Oversight Cooperation with the U.S.

On November 20, 2020, officials from relevant departments of the China Securities Regulatory Commission (the "CSRC") answered reporter's questions regarding audit oversight cooperation with the U.S.

Reporters: A U.S. Senator recently sent an open letter to every Chinese-based company listed on the U.S. stock exchanges, requesting explanations as to how these companies comply with the U.S. Public Company Accounting Oversight Board (PCAOB) supervisory rules. Further, according to the media, the U.S. Securities and Exchange Commission (SEC) is proposing new rules requiring companies with shares listed in the U.S. to get a second review of their books by an accounting firm from a country where the PCAOB can inspect; otherwise, the companies will face delisting. What's the CSRC's comment on this matter?

CSRC officials: The CSRC has noted the Senator's letter as well as the media reports. The CSRC would like to make the following two clarifications. First, Chinese companies listed in the U.S. stock exchanges follow the U.S. laws and regulations for financial reporting and information disclosure. Otherwise, their securities cannot be registered with the U.S. regulatory authorities. It is an issue of cross-border regulatory cooperation that for the time being the U.S regulatory authorities are unable to inspect the Chinese audit firms who provide audit services for Chinese companies listed in the U.S. This does not mean that Chinese companies fail to comply with the relevant laws and regulations of the United States. Second, The CSRC's position with respect to audit inspections has been consistent that such inspections shall be conducted under a regulatory cooperative mechanism. On August 4, 2020, after thoroughly considering the concerns of the U.S. regulators, the CSRC sent the fourth version of proposal for joint inspection over audit firms to the U.S. Public Company Accounting Oversight Board (PCAOB). The PCAOB confirmed the receipt of the proposal and suggested that it would examine the proposal in due course. The CSRC looks forward to starting a meaningful dialogue with the U.S. regulator on the details of the proposal. The CSRC believes that with openness and professionalism, the two sides will certainly reach a consensus on a joint inspection scheme, which will effectively enhance Sino-US audit oversight cooperation and create a sound supervisory environment for cross-border listings.

中国证券监督管理委员会有关部门负责人就中美审计监管合作事宜答记者问

2020年11月20日，中国证券监督管理委员会（下称“中国证监会”）有关部门负责人就中美审计监管合作事宜答答了记者的提问。

问题：近期美国会参议员向全体在美上市中国公司致公开信，要求在美上市中国公司解释如何遵守美国公众公司会计监督委员会（PCAOB）有关监管要求。此外，有媒体报道，美国证券交易委员会正在起草新规，要求在美上市公司接受美国可检查的会计师事务所二次审计，否则将面临退市。中国证监会对此有何评论？

回答：中国证监会注意到了美参议员的公开信和相关新闻报道。在此澄清两点。一是中国公司在美上市，均按美国相关法律和规则要求编制财务报表和履行信息披露义务，否则无法在美国监管机构注册。美国监管机构暂时不能检查为在美上市中国公司提供审计服务的中国会计师事务所，是跨境监管合作领域的问题，并不代表中国公司不遵守美国的相关法律和规则要求。二是关于中美审计监管合作，中国证监会一贯的立场是通过跨境监管合作机制开展会计师事务所检查。2020年8月4日，中方监管部门在积极考虑美方诉求的基础上，向美国公众公司会计监督委员会（PCAOB）发送了关于会计师事

务所联合检查的第四版方案建议，PCAOB 确认收到并表示会积极研究。中国证监会期待美方监管机构尽快与中国就具体方案开展磋商。相信双方秉持开放、专业态度，一定能就联合检查方案达成共识，有效推进中美审计监管合作，共同为跨境上市企业营造良好的监管环境。

Source 来源:
http://www.csrc.gov.cn/pub/newsite/zjhxwfb/xwdd/202011/t20201120_386573.html

Chengdu Huaze Cobalt and Nickel Material Co., Ltd. Violates the Laws and Regulations on Important Information Disclosure

Background

Chengdu Huaze Cobalt and Nickel Material Co., Ltd. is a listed company (the "Chengdu Huaze"), controlled by the Wang Tao family, with Wang Tao serving as the chairman and one of the actual controllers, and several relatives of it serving as directors. In order to provide financial support for the family group, Wang Tao instructed others to set up several shell companies to provide funds to the family group through bogus business. At the end of 2013, the balance of non-operating occupation of Chengdu Huaze was approximately RMB 820 million, but it reached approximately RMB 1.15 billion and RMB 1.33 billion at the end of 2014 and the end of June 2015 respectively. In order to conceal the facts that the related party occupied the fund, Wang Tao arranged the staff to enter invalid bills as repayments. Moreover, Chengdu Huaze issued commercial acceptance bills in the name of its subsidiaries to provide guarantees for financing Wang Tao's family business. At the same time, it also provided guarantees for Wang Tao's personal loans in the name of Chengdu Huaze, with the total guaranteed amount of 335 million yuan. However, Chengdu Huaze failed to disclose the above information in its relevant periodic reports, and the financial figures in the relevant periodic reports were false records.

Processing results

After reviewing, the China Securities Regulatory Commission (the "CSRC") believed that the information disclosed by a listed company in accordance with the law must be authentic, accurate and complete, and shall not contain any false record, misleading statement or major omission. Chengdu Huaze violated the laws and regulations on important information disclosure with clear facts and sufficient evidence. Wang Tao, as the actual controller, chairman of the board and director of Chengdu Huaze, led, participated in or instructed others to conduct all of the illegal acts involved in the case. His subjective intention was obvious, the amount involved was huge and the violations were serious. All directors, supervisors, and senior managers should actively understand and continue to pay attention to the operation and financial status of listed companies. They should also possess professional knowledge required for performing their duties to help them actively investigate and obtain information required for decision-making, and independently issue professional opinions. Unawareness, failure to participate in or relying on audit results shall not be grounds for liability exemption.

In January 2018, the CSRC issued an administrative penalty decision and a market banning decision against Chengdu Huaze and the relevant responsible persons. In the decisions, the CSRC held that the above acts of Chengdu Huaze violated the provisions of Articles 63, 65, 66 and 67 of the "Securities Law of the People's Republic of China" revised in 2005 (the "2005 Securities Law") and committed the crime of illegal disclosure of important information as specified in Paragraph 1 of Article 193 of the 2005 Securities Law.

The CSRC ordered Chengdu Huaze to make corrections, giving it a warning and imposing it a fine of RMB 600,000 while imposing a fine of RMB 900,000 on Wang Tao, of which RMB 300,000 was fined for the direct responsibility and RMB 600,000 for the actual controlling. And the other responsible persons were fined for an amount ranging from RMB 30,000 to RMB 300,000. At the same time, Wang Tao was banned from entering the securities market for life, and other responsible personnel were banned from entering the securities market for 5 to 10 years. In the same year, the CSRC imposed punishment on the illegal acts of the intermediary agencies and their practitioners involved in the case.

The chief financial officer of Chengdu Huaze refused to accept the above-mentioned punishment decision and filed a lawsuit. Both the court of first instance and the court of second instance rejected the lawsuit. At the same time, the CSRC transferred the suspected criminal evidence of Chengdu Huaze to the public security organizations in accordance with the law.

Educational significance of the case

1. The CSRC will severely cracks down violations of information disclosure and strives to improve the ecological environment of the capital market. This case is a typical case in which the actual controller of a listed company concealed the fact that the capital was occupied and instructed the listed company to disclose information in violation of regulations. These actions seriously undermined the principle of openness, fairness and justice in the capital market and infringed the interests of investors. The truthfulness, accuracy and completeness of information disclosure are the cornerstones of the capital market and they are also the premise and foundation for the steady development of the capital

market. The CSRC imposed top punishments on Chengdu Huaze, its actual controllers, chairman of the board and adopted market banning measures, which reflected the attitude and determination of it on severely cracking down the illegal information disclosure acts and urged listed companies, actual controllers, intermediary agencies and others with the obligation of information disclosure to perform their duties. The CSRC adopts various measures to promote the quality of listed companies, which consolidates the foundation for the stable operation of the market and protects the system of a standardized, transparent, open, dynamic and resilient capital market.

2. The controlling shareholders and actual controllers shall be held accountable for "instructing" illegal information disclosure activities in accordance with the law, so as to achieve a precise attack on the "critical minority". In recent years, the social financing environment has changed. The long-term internal control mechanism of some listed companies is not sound. The controlling shareholders and actual controllers occupy the listed company's funds from time to time. This case is a typical case of actual controllers and their related parties tunneling listed companies. Mrs. Wang Tao's leading, participating in, or instructing others to commit illegal information disclosure activities has exceeded the scope of the chairman's duties and constituted an instigation behavior performed by the actual controller beyond the scope of the Sichuan Huaze's collective will. The CSRC identified and punished Wang Tao's two acts under his two identities in accordance with the law, achieving a precise attack on the "key minority", which could effectively warn the controlling shareholders and actual controllers to abide the law and rules, directing them to shoulder the main responsibility of standardized development, improving the internal control of listed companies, and improving the standardized operation and the quality of information disclosure. Combining with the practices, the "Securities Law of the People's Republic of China" revised in 2019 (the "New Securities Law") stipulates that controlling shareholders and actual controllers who "organize" information disclosure offenses or "concealment" of information disclosure shall also bear the corresponding liability for such offenses and the amount of punishment shall be increased, ranging from RMB0.5 million to RMB10 million. The CSRC will continue to promote the implementation of the new Securities Law, effectively increase the costs of violations, enhance the deterrence of law enforcement and purify the market ecology.

3. The CSRC will urge the directors, supervisors and senior managers of listed companies to correctly understand and consciously assume the social responsibilities and legal obligations of listed companies as public companies, and to perform their duties faithfully and diligently. In recent years, occupation of funds and provision of guarantees in violation of regulations by listed companies frequently occur, the root of which lies in the unsound internal governance and the imperfect internal control. The directors, supervisors, and senior managers of some listed companies lack independence and fail to fulfill their duties while it also lacks effective supervision over the control of the controlling shareholder or actual controller. Moreover, some listed companies ignore or even condone the occurrence of illegal activities, and try to use unawareness, unprofessionalism and concealment and other reasons as an exemption shield. The CSRC will continue to severely crack down on such directors, supervisors and senior managers that fail to perform their due diligence obligations and warn the "key minorities" of listed companies to raise their awareness of law-abiding, rule-consciousness and contractual spirit for performing their duties diligently and actively. These measures as mentioned above are of great significance for protecting the rights of the small and medium shareholders and improving the overall quality of listed companies.

成都华泽钴镍材料股份有限公司信息披露违法案

基本案情

成都华泽钴镍材料股份有限公司系上市公司（下称"成都华泽"），由王涛家族控股，王涛担任董事长，系实际控制人之一，多名亲属担任董事。为向家族集团公司提供资金支持，王涛指示他人成立若干壳公司，通过虚假业务向该家族集团公司提供资金。2013 年末成都华泽非经营性占用资金余额约人民币 8.2 亿元，2014 年末占用余额约人民币 11.5 亿元，2015 年 6 月末占用余额约人民币 13.3 亿元。为掩盖关联方占用资金，王涛安排员工将无效票据入账充当还款。成都华泽还以子公司名义开具商业承兑汇票，为家族企业融资提供担保，同时以成都华泽的名义为王涛个人借款提供担保，担保金额共计 3.35 亿元。成都华泽的相关定期报告未披露上述情况，同时相关定期报告的财务数据存在虚假记载。

处理结果

本案听证过程中，当事人成都华泽主张，其不存在信息披露违法行为；责任人员王涛主张，即使构成违法，其主观上没有违法故意，客观上情节轻微，配合调查积极整改，申请不处罚或减轻处罚；其他责任人员主张其主观上没有违法故意或不知悉、未参与信息披露违法行为，是被王涛家族刻意隐瞒等。

中国证券监督管理委员会（下称“证监会”）复核认为：上市公司依法披露的信息必须真实、准确、完整，不得有虚假记载、误导性陈述或者重大遗漏，成都华泽构成信息披露违法事实清楚、证据充分。王涛作为实际控制人、董事长和董事，成都华泽所有涉案违法行为均由王涛主导、参与或指使他人实施，其主观故意明显，涉案金额巨大，违法情节严重。全体董事、监事、高级管理人员应主动了解并持续关注上市公司的生产、经营和财务状况，具备与职责相匹配的专业知识和水平，主动调查并获取决策所需资料，独立发表专业判断，不知情、未参与及参考借鉴审计结果等不能构成免责理由。

2018 年 1 月，证监会对成都华泽及相关责任人员作出行政处罚决定和市场禁入决定，认定成都华泽的上述行为违反了 2005 年《证券法》第六十三条、第六十五条、第六十六条及第六十七条的规定，构成 2005 年《证券法》第一百九十三条第一款所述的信息披露违法行为。证监会决定，对成都华泽责令改正，给予警告并处以 60 万元罚款；对王涛处以 90 万元的罚款，其中作为直接负责的主管人员罚款 30 万元，作为实际控制人罚款 60 万元；对其他责任人员分别处以 3 万元至 30 万元不等的罚款。同时，对王涛采取终身证券市场禁入措施，对其他部分责任人员分别采取 5 年至 10 年的证券市场禁入措施。同年，证监会对本案中介机构及其从业人员的违法行为作出处罚。

成都华泽的财务总监不服上述处罚和决定并提起诉讼，一审法院和二审法院均判决驳回起诉。同时，证监会将成都华泽的相关人员涉嫌犯罪线索依法移送公安机关。

典型意义

1. 严厉打击信息披露违法违规行为，着力改善资本市场生态环境。本案系上市公司实际控制人为掩盖资金占用的事实，指使上市公司违规信息披露的典型案件，严重损害了资本市场公开公平公正原则，侵害了投资者利益。信息披露真实、准确、完整是资本市场的基石，也是资本市场稳健发展的前提和基础，证监会对成都华泽及其实际控制人、董事长予以顶格处罚并采取市场禁入措施，体现了严厉打击信息披露违法行为，督促上市公司、实际控制人及中介机构等各类信息披露义务主体归位尽责的态度和决心。证监会将多措并举，进一步提升上市公司质量，夯实市场稳定运行基础，为建设规范、透明、开放、有活力、有韧性的资本市场保驾护航。

2. 依法追究控股股东、实际控制人“指使”信息披露违法行为的责任，实现对“关键少数”的精准打击。近年来，社会融资环境产生变化，有的上市公司长期内部控制机制不健全，控股股东、实际控制人占用上市公司资金行为时有发生，本案即是实际控制人及其关联方掏空上市公司的典型案例。王涛主导、参与或指使他人实施信息披露违法的行为，已经超出上市董事长职务行为的范畴，构成实际控制人实施的超出公司集合意志范畴的指使行为。证监会依法对王涛两种身份下的两个行为分别予以认定和处罚，实现了对“关键少数”的精准打击，能够有效警示控股股东、实际控制人敬畏法律、敬畏规则，引导其肩负起规范发展的主体责任，完善上市公司内部控制，提升规范运作水平和信息披露质量。依据执法实践，新《证券法》在“指使”行为的基础上，明确控股股东、实际控制人“组织”信息披露违法或“隐瞒”导致信息披露违法发生的，也应承担相应违法责任，并将处罚幅度提高为 50 万至 1,000 万元。证监会将持续推进贯彻实施新《证券法》，切实加大违法成本，提升执法威慑，净化市场生态。

3. 督促上市公司董事、监事、高级管理人员正确认识、自觉承担上市公司作为公众公司的社会责任及法定义务，忠实勤勉履职。近年来，上市公司资金占用、违规担保现象频发，根源在于其内部治理不健全、内部控制不完善。部分董事、监事、高级管理人员独立性不足，未恪尽职守，对控股股东、实际控制人的控制权缺乏有效监督，忽视乃至纵容违法行为的发生，试图以不知情、不专业、被隐瞒等理由作为免责盾牌。证监会将继续严厉打击此类未尽勤勉义务的董事、监事、高级管理人员，警示上市公司“关键少数”提升守法意识、规则意识和契约精神，勤勉履职，积极作为，保护中小股东知情权，提升上市公司整体质量。

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http://www.csrc.gov.cn/pub/newsite/zjhxwfb/xwdd/202011/t20201106_385807.html
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