



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

Financial Services Regulatory Update 金融服务监管资讯

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People's Bank of China, Hong Kong Securities and Futures Commission, and the Hong Kong Monetary Authority Jointly Release Enhancements, and Hong Kong Exchanges and Clearing Limited Implements Enhancements on Swap Connect to Advance High-quality Opening-up of China's Financial Markets

On May 13, 2024, the People's Bank of China (PBoC), the Securities and Futures Commission (SFC) of Hong Kong, and the Hong Kong Monetary Authority (HKMA) jointly announced significant enhancements to the Swap Connect program. This initiative marks a pivotal step in the ongoing high-quality opening-up of China's financial markets, aiming to facilitate greater cross-border investment and integration between the mainland and Hong Kong financial systems.

On May 20, 2024, the Hong Kong Exchanges and Clearing Limited (HKEX) also announced that its clearing subsidiary OTC Clearing Hong Kong Limited has implemented three enhancements to Swap Connect in partnership with China Foreign Exchange Trade System (CFETS) and Shanghai Clearing House (SHCH), marking a significant milestone in the development of this groundbreaking derivatives mutual market access initiative.

Latest Development in Recent Years of Swap Connect

Swap Connect is the latest addition to the suite of Connect programs launched by Hong Kong Exchanges and Clearing Limited (HKEX). Launched in May 2023, Swap Connect has witnessed a steady increase in trading volumes over the past year. By the end of April 2024, market participants had executed more than 3,600 interest rate swap transactions with an aggregate notional amount of approximately RMB1.8 trillion, representing an average daily turnover of around RMB7.6 billion. This performance underscores the growing demand from international investors for effective RMB risk management tools.

Benefit of Swap Connect

Swap Connect offers significant benefits for international investors by providing a simple and seamless solution to

execute trades in the onshore interest rate swap (IRS) market under familiar conditions. It helps bridge the gap between China's distinct market regulatory regime and infrastructure and the rest of the world, allowing investors to leverage Hong Kong's internationally-trusted market and renowned trading platforms to trade IRS products while ensuring clearing certainty within minutes, a global standard. As more international investors gain exposure to China's markets through programs like Stock Connect and Bond Connect, Swap Connect will expand the suite of offshore RMB products and services, offering greater investment and risk management tools. Beyond just access and efficiency, Swap Connect also provides investors with enhanced risk management capabilities by facilitating their participation in the onshore IRS market.

Swap Connect Enhancements

To further promote the coordinated development of financial derivatives markets in the Mainland and Hong Kong and establish a framework to facilitate high-quality opening-up in the realm of finance, the PBoC, the SFC and the HKMA have resolved to support the following enhancements to Swap Connect:

- **Enriching the Product Types :** Interest rate swap contracts with payment cycles based on the International Monetary Market dates will be accepted for clearing to align with mainstream products traded globally and meet the diverse risk management needs of Mainland and overseas investors.
- **Improving Ancillary Services:** Compression service and the clearing of backdated swap contracts will be introduced as supporting arrangements to facilitate participating institutions' management of notional amount outstanding, lower capital costs, and foster active trading.
- **Reducing Participation Costs:** The China Foreign Exchange Trade System (National Interbank Funding Center), the Shanghai Clearing House, and OTC Clearing Hong Kong Limited will roll out system enhancements and

incentive programmes to reduce the participation costs of Mainland and overseas investors.

HKEX's Enhancements on Swap Connect

HKEX's new enhancements, which came into effect on May 20, 2024, are designed to further align Swap Connect with international standards and provide market participants with greater flexibility and efficiency in their hedging strategies and portfolio management. These enhancements include:

- The introduction of International Monetary Market (IMM) trades based on IMM dates, i.e. the third Wednesday of March, June, September and December, to align with common practices on international interest rate swap markets.
- The launch of solo compression service that enables participating institutions to compress trades with equal but opposite economics. Through this service, Swap Connect participants may unwind their original cleared trades before the maturity date, reducing their capital costs and increasing transaction settlement efficiency.
- The introduction of backdated trades, which allow trades with a past effective date and can be used with solo compression for trade unwinding.

Remarks

The recent Swap Connect enhancements solidify Hong Kong's position as a key RMB risk management hub and strategic "superconnector" between China's and global financial markets. By aligning with international standards, the updates provide market participants greater flexibility and efficiency in managing RMB exposure, cementing Hong Kong's unique role in facilitating access to onshore Chinese markets while adhering to global best practices. The clearing and novation of Swap Connect transactions in Hong Kong, where counterparty risk resides, allows international investors to tap China's onshore liquidity and products while benefiting from the city's international clearing standards. This "superconnector" model reinforces Hong Kong's value proposition as a gateway for global investors to participate in China's markets.

These Swap Connect improvements mark a milestone in the Connect programs' continued development, which have enhanced China-world connectivity. As HKEX advances the Connect initiatives, Hong Kong's status as a premier international financial center and vital China-

global link will be further strengthened, driving RMB internationalization and regional prosperity. The enhancements are also expected to create new opportunities for Hong Kong's legal, financial, and advisory sectors.

中国人民银行、香港证券及期货事务监察委员会和香港金融管理局联合发布优化“互换通”机制安排联合新闻稿和香港交易所有限公司推出互换通优化措施促进中国金融市场高水平对外开放

2024年5月13日,中国人民银行、香港证券及期货事务监察委员会和香港金融管理局联合宣布利率互换市场互联互通合作(互换通)进行重大升级。这一举措标志着中国金融市场高质量开放的重要一步,旨在促进内地与香港金融体系之间的跨境投资和深度融合。

2024年5月20日,香港交易及结算所有限公司(香港交易所)集团旗下的香港场外结算有限公司与中国外汇交易中心、银行间市场清算所股份有限公司(上海清算所)亦宣布推出一系列互换通优化措施,标志着这一新兴的衍生产品互联互通机制发展的重要里程碑。

互换通近年来的最新进展

互换通是香港交易所推出的一系列"互联互通"计划中的最新成员。自2023年5月推出以来,交易互联互通机制的交易量持续增长。截至2024年4月底,市场参与者已执行超过3,600笔利率互换交易,名义金额共计约1.8万亿人民币,日均成交量约76亿人民币。这一表现凸显了国际投资者对人民币风险管理工具日益强烈的需求。

互换通的优势

互换通为国际投资者提供了一个简单高效的投资渠道,让他们能够在常用的交易和结算习惯下参与内地利率互换市场。它帮助缩小了中国独特的市场监管制度和基础设施与其他国际市场之间的差距,使投资者能够利用香港这个国际公认的市场和知名交易平台进行利率互换产品交易,同时确保在全球标准的几分钟内完成结算。随着更多国际投资者通过沪港通、债券通等计划进入中国市场,互换通将扩大离岸人民币产品和服务的范围,为投资者提供更多的投资和风险管理工具。互换通不仅提供了便利性和效率性,还通过促进投资者参与内地利率互换市场,增强了他们的风险管理能力。

互换通机制优化

为进一步推动内地与香港金融衍生品市场协同发展,建立有利于金融领域高质量开放的机制框架,中国人民银行、香港证券及期货事务监察委员会和香港金融管理局决定支持以下交易互联互通机制的升级措施:

- 丰富产品类型：推出以国际货币市场结算日为支付周期的利率互换合约，与国际主流交易品种接轨，满足境内外投资者多样化风险管理需求。
- 完善配套功能：推出合约压缩服务及配套支持的历史起息合约，便利参与机构管理存续期合约业务规模，降低资本占用，活跃市场交易。
- 降低参与成本：中国全国银行间同业拆借中心、银行间市场清算所股份有限公司、香港场外结算有限公司还将同步推出其他系统优化和优惠措施，降低境内外投资者业务参与成本。

香港交易所的互换通优化

于 2024 年 5 月 20 日生效的新优化措施旨在进一步将互换通与国际标准接轨,为市场参与者提供更大灵活性和效率以管理对冲策略和投资组合。这些优化措施包括:

- 新增了以国际货币市场 (International Monetary Market) 结算日 (即每年 3 月、6 月、9 月和 12 月的第三个周三) 为支付周期的 IMM 合约, 与国际利率互换产品市场接轨。
- 推出了合约压缩服务, 允许参与机构压缩具有相同交易要素但相反方向的合约, 方便参与机构在互换合约到期前提前终止, 降低参与机构的资金占用成本和提升交易结算效率。
- 新增与合约压缩服务配套的历史起息合约, 即起息日早于当前日期的合约。

结语

最新的互换通优化巩固了香港作为人民币风险管理中心和中国与全球金融市场之间的战略"超级联系人"地位。通过与国际标准接轨,这些更新措施为市场参与者提供了更大的灵活性和效率来管理人民币风险,巩固了香港在促进进入中国内地市场同时遵循国际最佳实践方面的独特地位。在香港进行互换通交易的清算和转让,使对手方风险得到控制,让国际投资者能够进入中国内地的流动性充足的市场并获得国际清算标准的好处。这种"超级联系人"模式进一步强化了香港作为全球投资者进入中国市场的门户的价值主张。

这些互换通的改进标志着"互联互通"计划持续发展的一个里程碑,进一步增强了中国与世界的联系。随着香港交易所推进互联互通计划,香港作为顶级国际金融中心和中国-全球联系的关键纽带的地位将进一步巩固,推动人民

币国际化和区域繁荣。这些优化措施也有望为香港的法律、金融和咨询行业创造新机遇。

Source 来源:

<https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=24PR85>
https://www.hkexgroup.com/media-centre/insight/insight/2022/hkex/swap-connect-a-new-channel-a-new-chapter?sc_lang=en
https://www.hkex.com.hk/News/News-Release/2024/240520news?sc_lang=en
https://www.hkexgroup.com/media-centre/insight/insight/2024/glenda-so/swap-connect-new-tools-enhanced-products-and-more-solutions?sc_lang=zh-HK

Regulatory Concerns Against Greenwashing in Hong Kong

On May 3, 2024, the Hong Kong Monetary Authority (HKMA) published a press release outlining the details of the "Hong Kong Taxonomy for Sustainable Finance." This taxonomy aims to provide a common framework for classifying green and sustainable economic activities in Hong Kong, with the goal of promoting transparency and integrity in the city's green finance market. This publication marked a significant step forward in Hong Kong's efforts to establish itself as a leading hub for sustainable finance in Asia.

Hong Kong's Current ESG Regulatory Framework

Hong Kong has been actively promoting environmental, social, and governance (ESG) principles and sustainable finance. The Hong Kong Securities and Futures Commission (SFC) has introduced various requirements for listed companies to disclose ESG information, while the Hong Kong Exchanges and Clearing Limited (HKEX) has implemented ESG reporting guidelines. Additionally, the HKMA has established the Green and Sustainable Banking Principle, which sets out best practices for the banking sector in managing climate and environmental risks.

Additionally, HKEX has introduced mandatory ESG reporting for listed companies, further strengthening the city's regulatory landscape. These regulatory developments have contributed to Hong Kong's growing reputation as a hub for sustainable finance, attracting increased investment and attention from global investors.

The Concern of Greenwashing

However, with the growing emphasis on sustainability and ESG considerations, the risk of "greenwashing" has also emerged as a significant concern in Hong Kong. Greenwashing refers to the practice of making misleading or exaggerated claims about the environmental or social benefits of a product, service, or

company, in order to create a false impression of sustainability.

Environmental groups like Friends of the Earth (HK) have also sounded the alarm on increasingly sophisticated corporate greenwashing tactics like "greencrowding," "greenlighting," and "greenshifting."

Greenwashing can undermine the integrity of the green finance market and erode investor confidence. It can also lead to misallocation of capital, as investors may be misled into investing in products or companies that do not truly meet their sustainability objectives. The danger of greenwashing is particularly acute in Hong Kong, given the city's ambition to become a leading hub for sustainable finance.

Overseas Regulatory Responses to Greenwashing

Recognizing the importance of addressing greenwashing, regulators in other jurisdictions have taken steps to strengthen their frameworks for sustainable finance. For example, the European Union has introduced the Sustainable Finance Disclosure Regulation (SFDR), which requires financial market participants to provide information about the sustainability characteristics of their products.

Similarly, the United Kingdom's Financial Conduct Authority (FCA) has introduced an "anti-greenwashing rule," which requires firms to ensure that any references to the sustainability characteristics of their products or services are fair, clear, and not misleading. The FCA has also published detailed guidance to help firms comply with this rule, providing examples of good and bad practices.

In the United States, the Securities and Exchange Commission (SEC) has also adopted new rules that would require public companies to disclose information about their climate-related risks and greenhouse gas emissions. The SEC's proposals are aimed at addressing concerns about greenwashing by ensuring that investors have access to consistent and reliable information about companies' sustainability-related activities.

Regulatory Measures and Prospects for Hong Kong to Combat Greenwashing Threats

In light of these developments, Hong Kong's regulators may consider implementing similar measures to address the risk of greenwashing in the city's green finance market. This could include the introduction of specific anti-greenwashing rules, enhanced disclosure requirements for ESG-related products and services, and stricter enforcement actions against firms that engage in misleading sustainability-related claims.

The HKMA has already taken steps in this direction, with the publication of the "Hong Kong Taxonomy for Sustainable Finance." This taxonomy provides a clear and consistent framework for classifying green and sustainable economic activities, which can help to reduce the risk of greenwashing by providing a common reference point for market participants.

As Hong Kong continues to position itself as a leading hub for green and sustainable finance, ensuring the integrity and transparency of the market will be of paramount importance. By taking proactive steps to address the risk of greenwashing, Hong Kong's regulators can help build investor confidence, promote the flow of capital into genuine sustainable investments, and strengthen the city's reputation as a responsible and trustworthy financial center.

The introduction of the "Hong Kong Taxonomy for Sustainable Finance" is a significant step in this direction, providing a framework for classifying and standardizing green and sustainable activities. However, more work needs to be done to ensure that the city's green finance market is not undermined by greenwashing practices.

By working collaboratively with industry stakeholders, international regulators, and other relevant authorities, Hong Kong can develop a comprehensive and robust regulatory framework to address the challenges posed by greenwashing. This will not only protect investors and consumers, but also help to solidify Hong Kong's position as a global leader in sustainable finance.

香港关注漂绿行为的监管

2024年5月3日,香港金融管理局(金管局)发布新闻公报,阐述"香港可持续金融分类目录"的详细内容。该分类目录旨在为本港绿色及可持续经济活动提供通用框架,以促进香港绿色金融市场的透明度和诚信,标志着香港致力打造亚洲可持续金融中心进程迈进一大步。

香港现行的环境、社会及管治(ESG)监管框架

香港一直在积极推动 ESG 原则及可持续金融。香港证券及期货事务监察委员会为上市公司订立多项披露 ESG 资讯规定,香港交易及结算所有限公司(港交所)亦实施 ESG 报告指引。此外,金管局颁布《绿色及可持续银行原则》,为银行业界在管理气候及环境风险方面订立最佳守则。

港交所更为上市公司引入强制 ESG 报告规定,进一步加强香港的监管环境。有关监管发展有助提升香港作为可持续金融中心的声誉,吸引全球投资者关注和投资。

关注"漂绿"现象

然而,随着可持续发展及 ESG 考虑因素日益受重视,"漂绿"的风险亦在香港浮现成为关注焦点。所谓"漂绿",是指发布具误导或夸大成分的环境或社会效益陈述,意图营造虚假的可持续发展印象。

环保组织如香港地球之友亦警示,企业采用日益精细的"漂绿"手法,例如"绿色拥挤"、"绿光照明"及"绿色转移"等。

"漂绿"行为可能会损害绿色金融市场的诚信,削弱投资者信心,亦可能导致资金错误分配。投资者可能被误导投资于未能真正符合其可持续发展目标的产品或公司。鉴于香港渴望成为领先的可持续金融中心,香港对"漂绿"行为的关注尤为迫切。

其他地区应对"漂绿"的监管措施

有见解决"漂绿"问题的重要性,其他司法管辖区已采取行动加强可持续金融框架。例如欧盟推出《可持续金融披露条例》(Sustainable Finance Disclosure Regulation),要求金融市场参与者就产品的可持续发展特征提供资讯。

英国金融行为监管局(Financial Conduct Authority)也引入"反漂绿"规则,要求公司确保对产品或服务的任何可持续发展特征的陈述属公平、清晰及无误导成分。该局亦发布详细指引,协助公司遵从规则,并提供良好与失当做法的例子。

美国证券交易委员会(Securities and Exchange Commission)也通过了新规则,要求上市公司披露与气候相关的风险和温室气体排放资料。有关建议旨在通过确保投资者能获取有关公司可持续发展相关活动的一致和可靠资讯,以回应"漂绿"的关注。

香港应对"漂绿"威胁的监管举措及前景

鉴于上述发展,香港监管当局可考虑采取类似措施,解决本港绿色金融市场的"漂绿"风险,包括引入具体"反漂绿"规则、加强 ESG 相关产品和服务的披露规定,以及对发布具误导可持续发展陈述的公司采取更严格执法行动。

金管局发布"香港可持续金融分类目录"已朝着这个方向迈进。该分类目录就界定绿色及可持续经济活动提供统一清晰的框架,为市场参与者提供共同参考,有助减低"漂绿"风险。

香港继续定位成为领先的绿色及可持续金融中心,确保市场诚信和透明度将极为重要。监管当局主动采取措施应对"漂绿"风险,不但有助提升投资者信心,促进资金流入真正的可持续投资项目,更可加强香港作为负责任及值得信赖金融中心的声誉。

"香港可持续金融分类目录"的出台为此迈出关键一步,为分类及规范绿色和可持续活动提供框架。然而,当局还需采取进一步行动,确保香港绿色金融市场不会受到"漂绿"行为的冲击。

香港若与业界持份者、国际监管机构及其他有关当局通力合作,必能制定全面及健全的监管框架,应对"漂绿"所带来的挑战,不但有助保障投资者及消费者权益,更可加强香港在全球可持续金融领域的领导地位。

Source 来源:

<https://www.hkqb.gov.hk/en/greenbond/greenbondintroduction.html>

<https://www.hkgreenfinance.org/research-report/greenwashing-regulatory-updates-2023/?lang=zh-hant>

https://www.hkgreenfinance.org/wp-content/uploads/2023/03/Daniel-Cash_Greenwashing-Regulatory-Updates.pdf

<https://www.fca.org.uk/publications/finalised-guidance/fq24-3-finalised-non-handbook-guidance-anti-greenwashing-rule>

<https://www.sec.gov/news/press-release/2024-31>

Hong Kong Exchanges and Clearing Limited Publishes Updated Guide for New Listing Applicants

On May 10, 2024, the Hong Kong Exchanges and Clearing Limited (HKEX) published a comprehensive update to its "Guide for New Listing Applicants" (the Guide), underscoring its commitment to maintaining a transparent and well-regulated capital market environment. The Guide serves as a consolidation of all previously published and currently effective guidance letters, listing decisions, and frequently asked questions related to new listings on the HKEX.

The Guide aims to provide listing applicants and their advisers with a comprehensive resource, offering clarity on the HKEX's interpretation of the Listing Rules and associated requirements. Additionally, it outlines the HKEX's expectations regarding the quality of disclosure in listing documents, a crucial aspect that enables investors to make informed assessments of potential investment opportunities.

Annex of Frequently Asked Questions Relating to New Listing

A notable addition to the Guide is Annex B, a dedicated section compiling streamlined Frequently Asked Questions (FAQs) specifically addressing common queries and concerns related to new listings. This annex serves as a valuable resource, directly addressing key issues encountered by market participants throughout the listing journey. The FAQs cover a wide range of topics, including eligibility requirements, disclosure obligations, and regulatory considerations, providing

clear and concise guidance to facilitate a smoother listing process.

Further Guidance on Placing-Related Matters

The Guide now incorporates guidelines outlined in the new Appendix F1 of the Main Board Rules (GEM Rule 10.12(1A)(a)) regarding the placing of equity securities. It specifies the required information fields for placee lists to be completed in the FINI system and any additional information stipulated in the relevant FAQs. Timely provision of this information and addressing inquiries from the Exchange within the set timeline is crucial to avoid delays in the listing timetable. The Guide also provides guidance on the additional documents required when seeking consent for placing to connected clients, addressing different placee types.

New Listing Decision on Company Name

The Guide introduces a new listing decision that addresses the circumstances under which a company must change its name during the listing process. The decision outlines the case of Company A, a PRC-incorporated applicant to the Main Board, whose original name contained a term unrelated to its core business. Despite Company A's arguments, the Exchange determined that the presence of the misleading term remained a concern and required the company to change both its Chinese and English names before proceeding with the listing process.

The comprehensive updates to the Guide for New Listing Applicants exemplify HKEX's dedication to maintaining the highest standards of transparency and regulatory clarity within Hong Kong's capital market. Market participants, including listed companies, company directors, advisers, and other relevant stakeholders, are strongly encouraged to familiarize themselves with this authoritative resource. By enhancing their understanding of HKEX's listing requirements and facilitating a smoother, more transparent listing process, the Guide fosters investor confidence and reinforces Hong Kong's position as a leading global financial center. Adherence to the guidance provided in this updated document is crucial for ensuring compliance with regulatory frameworks and promoting a well-governed, ethical, and sustainable capital market ecosystem.

香港交易及结算所有限公司发布更新的新上市申请人指南

于 2024 年 5 月 10 日,香港交易及结算所有限公司(港交所)发布了全面更新的新上市申请人指南(指南),突出了其维持透明和良好监管资本市场环境的承诺。该指南整合

了所有先前发布的及目前有效的与新上市相关的指引函、上市决策和常见问题。

指南旨在为上市申请人及其顾问提供全面的资源,阐明港交所对上市规则及相关要求的解释。此外,它概述了交易所对上市文件披露质量的期望,这是投资者做出知情投资评估的关键方面。

与新上市相关的常见问题附件

指南的一大亮点是新增了附件 B,一个专门编译简化常见问题(FAQ)的部分,专门解决市场参与者在上市过程中遇到的常见问题和关切。这份附件是一个宝贵的资源,直接解决了在整个上市过程中遇到的关键问题。这些常见问题涵盖了广泛的主题,包括资格要求、披露义务和监管考虑因素,提供了清晰和简明的指导,以促进更顺利的上市过程。

配售相关事项的进一步指引

该指南现在已经纳入了主板上市规则附录 F1(GEM 上市规则第 10.12(1A)(a)条)中概述的有关配售股票的指引。它规定了在 FINI 系统中填写的必填信息字段,以及相关常见问题中规定的任何其他信息。及时提供这些信息并在设定的时间线内答复交易所的询问对于避免上市时间表延误至关重要。该指南还就在寻求配售给关连客户的同意时需要提供的额外文件提供了指导,并针对不同类型的配售对象做出说明。

有关公司名称的新上市决策

指南引入了一项新的上市决策,阐述了在上市过程中公司必须更改名称的情况。该决定概述了公司 A 的案例,公司 A 是一家拟在主板上市的中国注册公司,其原名包含与其核心业务无关的字眼。尽管公司 A 提出论点,但交易所认为,存在误导性字眼仍然存在问题,要求公司在继续上市程序前更改中英文名称。

指南的全面更新体现了港交所致力于维持香港资本市场最高标准的透明度和监管明确性。上市公司、公司董事、顾问和其他相关利益相关方应该熟悉这一权威资源。通过提高对港交所上市要求的理解,并促进更顺畅、更透明的上市过程,该指南增强了投资者信心,巩固了香港作为全球领先金融中心的地位。遵守本更新文件提供的指引对于确保符合监管框架并促进良好治理、道德和可持续发展的资本市场生态系统至关重要。

Source 来源:

https://en-rules.hkex.com.hk/sites/default/files/net_file_store/HKEX4476_6179_VER35082.pdf

[https://en-rules.hkex.com.hk/sites/default/files/net_file_store/FAQ_Revised_Pages_\(2024_May\)_%28EN%29.pdf](https://en-rules.hkex.com.hk/sites/default/files/net_file_store/FAQ_Revised_Pages_(2024_May)_%28EN%29.pdf)

Hong Kong Exchanges and Clearing Limited Publishes Regrouped Frequently Asked Questions for Debt Securities Issuers

On May 10, 2024, the Hong Kong Exchanges and Clearing Limited (HKEX) published two consolidated sets of Frequently Asked Questions (FAQs) for debt securities issuers – one for debt issues to professional investors and another for debt securities offered to public investors. These publications provide guidance on various aspects of listing procedures, document submission, and continuing obligations. This move serves as a reminder to market participants, listed companies, company directors, and other relevant parties about the significance of the outlined rules and guidelines.

i. For Debt Issues to Professional Investors Only

Listing Procedures and Documents

The HKEX clarified that issuers of debt securities offered to professional investors are not required to submit a signed Declaration and Undertaking with regard to Directors or a signed Director's and Supervisor's Form as part of a listing application. This aligns with the amendments to the Main Board (MB) Rules and GEM Rules, which aim to codify the undertakings under the repealed forms without imposing new obligations on directors.

Online Publication, Display and Submission of Documents

The HKEX will establish a new online platform (Issuer Platform) as a designated channel for two-way communication between the Listing Division and new applicants/listed issuers, except for structured products issuers. Until the launch of the Issuer Platform, applicants and issuers should continue to submit documents through existing permitted electronic means, such as email or HKEX-ESS.

Continuing Obligations

The HKEX provided guidance on the term "false market," which refers to a situation where material misinformation or incomplete information compromises proper price discovery. The guidance outlines scenarios that may constitute a false market, such as false or misleading announcements, circulating false rumors, undisclosed inside information, or trading based on inside information not available to the market.

The HKEX also clarified the meaning of "such enquiry with respect to the issuer as may be reasonable in the circumstances." Issuers are generally not expected to contact controlling shareholders or counterparties unless there is information suggesting the inquiry is related to them. Implementing adequate internal control systems and procedures to identify, assess, and escalate material information to the Board is crucial for compliance. Additionally, the HKEX addressed various other aspects of continuing obligations, including the deferral of disclosure obligations under the Financial Institutions (Resolution) Ordinance (FIRO) (Cap. 628) and the implications for suspension of dealings in securities.

ii. For Debt Securities Offered to Public Investors

Listing Procedures and Documents

The HKEX provided guidance on the use of the term "modification" in the context of audit engagements and review engagements for financial information.

Online Publication, Display and Submission of Documents

The HKEX provided guidance on various aspects related to online publication, display, and submission of documents for debt securities offered to public investors. This included clarification on where and for how long documents on display should be published online, the types of listing documents that should be published solely in an electronic format, and the duration for which electronic listing documents should remain online. Additionally, guidance was provided on how documents should be submitted to the Exchange by electronic means under the paperless regime.

Continuing Obligations

The guidance on continuing obligations, including the definition of "false market" and the clarification on reasonable inquiries, is largely the same as that for professional investors.

The publication of the regrouped FAQs by HKEX serves as a reminder to market participants, listed companies, company directors, and other relevant parties about the importance of adhering to the outlined rules and guidelines. It highlights key areas such as listing procedures, document submission, continuing obligations, and the avoidance of false markets. Issuers are encouraged to carefully review the guidance and ensure compliance with the relevant requirements to maintain market integrity and protect investor interests.

香港交易及結算所有限公司刊發經重新組合有關債務證券發行人的常見問題

于 2024 年 5 月 10 日,香港交易及结算所有限公司(港交所)刊发了两份经重新组合的债务证券发行人常见问题(常问问题)综合版本 - 一份有关仅向专业投资者发行债务,另一份有关向公众投资者发售债务证券。该等刊物就上市程序、文件呈交及持续责任等各个方面提供指引。此举旨在提醒市场参与者、上市公司、公司董事及其他相关人士注意所列规则及指引的重要性。

一、有关仅售予专业投资者债券发行人

上市程序及文件

港交所阐明,发行仅向专业投资者发售债务的发行人无须于上市申请时呈交已签署关于董事的声明及承诺书或已签署董事及监事表格。这符合对《主板规则》及《GEM 规则》的修订,旨在将已废除表格项下承诺编纳成规,并非对董事施加任何新责任。

网上刊发、展示及呈交文件

港交所将设立新的网上平台(发行人平台),作为上市科与新申请人/上市发行人(结构产品发行人除外)双向通讯的指定渠道。新申请人/上市发行人及其专业人士将可利用该平台以电子方式向上市科呈交所有文件及电子表格。在发行人平台推出前,申请人和发行人应继续通过现有获准电子方式(如电邮或“披露易”)向上市科呈交文件。

持续责任

港交所就“虚假市场”的定义作出指引,指的是市场存在重大失实资料或重大不完整资料,从而妨碍适当定价发现的情况。例如可能由上市发行人作出虚假或具误导性公告、市场流传虚假谣言、上市发行人未披露内幕消息或个别市场分子依据内幕消息交易等情况引起。

港交所亦阐明“对于发行人可能在有关情况下作出的合理查询”一语的涵义。发行人一般无须联络非董事或高管的控股股东或交易对手方,除非掌握与他们相关的查询资料。发行人应建立适当内部控制系统和程序以识别、评估和上报重大信息至董事会。此外,港交所就其他持续责任事宜作出指引,包括根据第 628 章《金融机构(处置机制)条例》延迟披露责任及暂停证券买卖的影响。

二、有关向公众投资者发售债务证券

上市程序及文件

港交所就审计工作委聘及财务资料审阅工作委聘中使用“修订”一词提供了指引。

网上刊发、展示及呈交文件

港交所就网上刊发、展示及呈交文件的各个方面提供了指引,包括:在哪里及多长时间内在网上刊发展示文件、哪些上市文件应仅以电子格式发布、电子上市文件应在网上保留多长时间,以及在无纸化制度下如何以电子方式向港交所呈交文件。

持续责任

关于持续责任的指引,包括“虚假市场”的定义及合理查询的阐释,很大程度上与仅向专业投资者发行债务的指引相同。

港交所刊发经重新组合的常问问题,旨在提醒市场参与者、上市公司、公司董事及其他相关人士注意遵守所列规则及指引的重要性,重点包括上市程序、文件呈交、持续责任及避免虚假市场等领域。发行人应仔细审阅相关指引,并确保符合有关要求,以维护市场诚信及保护投资者利益。

Source 来源:

https://www.hkex.com.hk/-/media/HKEX-Market/Listing/Rules-and-Guidance/Other-Resources/Debt-Securities/DS_FAQ_Consolidated_public.pdf

https://www.hkex.com.hk/-/media/HKEX-Market/Listing/Rules-and-Guidance/Other-Resources/Debt-Securities/DS_FAQ_Consolidated_pro.pdf

Hong Kong Exchanges and Clearing Limited Publishes New and Regrouped Frequently Asked Questions for Structured Products Issuers

On May 10, 2024, the Hong Kong Exchanges and Clearing Limited (HKEX) published a consolidated version of frequently asked questions (FAQs) for structured products issuers, as well as updated guidance materials. This comprehensive publication, consolidating key information and clarifying regulatory expectations, serves as a centralized resource to enhance efficiency and transparency for market participants, listed companies, and their directors.

The guidance begins by explaining the circumstances under which the HKEX may exercise its power to limit or pause product issuances by structured products issuers. The HKEX retains absolute discretion to accept or reject applications for listing, and it may impose restrictions in cases of rapidly deteriorating credit situations or non-compliance with minimum eligibility requirements. The FAQs provide detailed insights into the market variables and criteria considered when determining the necessity for such risk mitigation measures.

Furthermore, the guidance addresses the guidelines governing the publication of marketing materials in relation to listed structured products. It emphasizes the importance of complying with the Guidelines on Marketing Materials for Listed Structured Products

issued from time to time by the Hong Kong Securities and Futures Commission (SFC) and prominently displaying the non-collateralized nature and associated risks of these products. The FAQs also offer clarity on the term "false market" and the obligations of issuers to avoid such situations. It outlines the scenarios that may constitute a false market and the actions issuers must take to ensure transparency and proper price discovery. Additionally, the guidance delve into the meaning of "reasonable enquiry" and the circumstances under which issuers and/or their guarantors are expected to contact controlling shareholders or counterparties.

Turning to liquidity provision, the FAQs provide guidance on various aspects, including the provision of one-sided quotes, minimum holding times for quotes, and the obligation to provide active quotes. It also highlights best practices for issuers in monitoring their liquidity provision performance, emphasizing the importance of internal systems, record-keeping, and reporting to the HKEX. In terms of trading arrangements, the FAQs address the potential suspension of dealings in structured products and the implications of deferred disclosure obligations under the Financial Institutions (Resolution) Ordinance (Cap.628) (FIRO).

The updated FAQs from HKEX serve as a comprehensive resource for market participants, providing invaluable insights and guidelines on various aspects of structured products. It is crucial for issuers and other relevant parties to familiarize themselves with these regulatory requirements and incorporate them into their business practices to ensure compliance and foster a well-functioning structured products ecosystem.

香港交易及结算所有限公司发布新及经重新组合的结构性产品发行人常问问题

于 2024 年 5 月 10 日,香港交易及结算所有限公司(港交所)发布了一份经重新组合的结构性产品发行人常问问题解答(常问问题解答),以及更新的指引材料。这一综合出版物整合了关键信息,并阐明了监管预期,为市场参与者、上市公司及其董事提供了一个集中的指引以提高效率和透明度。

指引首先阐明了联交所行使权力限制或暂停结构性产品发行人发行产品的情况。联交所保留绝对酌情权接受或拒绝产品上市申请,如发行人信用状况迅速恶化或不符合最低资格要求,联交所可能施加限制。常问问题解答对于确定实施此类风险缓解措施时所考虑的市场变量和标准提供了详细见解。

此外,文件阐述了有关上市结构性产品推广资料的指引。它强调必须遵守香港证券及期货事务监察委员会不时发布的《上市结构性产品推广材料指引》,并以显眼方式说

明结构性产品的非抵押性质及相关风险。常问问题解答还阐明了"虚假市场"的含义,并概述了发行人为避免此种情况而必须采取的行动。它列举了可能构成虚假市场的情况,以及发行人为确保透明度和适当价格发现机制而必须采取的行动。此外,材料还探讨了"合理查询"的含义,以及发行人及/或担保人在何种情况下应联系控股股东或交易对手。

关于流通量供应,常问问题解答就单边报价、报价最短持有时间及提供主动报价的要求等方面提供了指引。它还强调了发行人监控其流通量提供表现的最佳做法,包括内部系统、记录保存及向联交所汇报的重要性。在交易安排方面,常问问题解答阐述了可能暂停交易结构性产品的情况,以及第 628 章《金融机构(处置机制)条例》项下的延迟披露责任的影响。

港交所更新的常问问题解答为市场参与者提供了一份综合资源,对结构性产品的各个方面提供了宝贵的见解和指引。对于发行人及其他相关各方而言,熟悉这些监管要求并将其纳入业务实践对于确保合规以及促进有序、良好运作的结构性产品生态系统至关重要。

Source 来源:

https://www.hkex.com.hk/-/media/HKEX-Market/Listing/Rules-and-Guidance/Other-Resources/Structured-Products/SP_FAQ_consolidated.pdf

Hong Kong Exchanges and Clearing Limited Publishes April 2024 Edition of Enforcement Bulletin

In April 2024, the Hong Kong Exchanges and Clearing Limited (HKEX) published its Enforcement Bulletin, addressing the rising trend of improper lending practices by listed companies. The bulletin covers the increasing number of cases involving ill-considered loans, advances, and similar arrangements granted by listed issuers, which resulted in significant financial losses and regulatory enforcement actions.

The Enforcement Bulletin outlines the risks posed by such lending activities to investor interests and market integrity. It examines key takeaways from HKEX's guidance and enforcement cases, providing insights for listed companies and their directors to navigate lending activities while upholding fiduciary duties and regulatory obligations.

- **Scrutinizing Commercial Rationale and Due Diligence:** HKEX emphasizes the need for directors to critically evaluate the commercial justification and terms of any lending arrangements. Comprehensive due diligence, including borrower assessments and collateral verification, is required before granting loans or advances. The case of Arta TechFin

Corporation Limited illustrates the consequences of inadequate scrutiny, where the company incurred over HK\$1.9 billion in impairment losses on unsecured loans to individual borrowers.

- **Ongoing Monitoring and Risk Management:** Effective ongoing monitoring and proactive risk mitigation measures are essential after loan disbursement. HKEX expects listed companies to have robust procedures for reviewing loan portfolio status, escalating issues, and taking appropriate recovery actions. The case of Hong Kong Resources Holdings Company Limited demonstrates the repercussions of lax monitoring, where all borrowers defaulted, and the company faced disciplinary action.
- **Internal Controls and Record-Keeping:** Robust internal control systems, with segregated duties and approval processes, are crucial for managing credit risk and ensuring accurate reporting. HKEX underscores the importance of maintaining comprehensive documentation of the lending decision-making and approval process, as the absence of records can lead to adverse inferences during investigations.
- **Compliance with Disclosure Obligations:** The Enforcement Bulletin reminds listed companies of their obligations under Chapters 13, 14, and 14A of the Listing Rules to make timely disclosures, obtain shareholders' approval when necessary, and comply with requirements related to connected party transactions and financial assistance. The case of China Saite Group Company Limited exemplifies the consequences of non-compliance, where the company faced disciplinary action for failing to adhere to notifiable and connected transaction rules.
- **Director Responsibilities and Regulatory Cooperation:** The Enforcement Bulletin highlights the pivotal role of directors in fulfilling their fiduciary duties, safeguarding company assets, and ensuring regulatory compliance. Failure to do so, as seen in the case of Hope Life International Holdings Limited, can result in director unsuitability and prejudice to investor interests findings. HKEX also emphasizes the importance of cooperation during investigations, with additional sanctions imposed on non-cooperative directors.
- **Collaboration with Other Regulators:** In cases involving potential corporate misconduct or financial impropriety, HKEX may collaborate

with other regulatory bodies, such as the Securities and Futures Commission and the Accounting and Financial Reporting Council, to maintain market integrity and investor confidence.

The Enforcement Bulletin underscores the pivotal importance of fostering a robust culture of compliance and risk management for listed companies. Adhering to regulatory requirements and best practices in lending activities enables directors and listed companies to mitigate risks, safeguard assets, and bolster investor confidence in Hong Kong's markets. Directors must carefully evaluate the rationale and terms of any lending activities, ensuring alignment with the company's best interests. Effective internal controls, meticulous record-keeping, and strict regulatory compliance are essential for managing risks and preserving market integrity. By heeding this guidance, listed companies can navigate the evolving landscape, protect shareholder value, uphold trustworthiness, and fulfil their responsibility of maintaining long-term organizational success.

香港交易及结算有限公司发布 2024 年 4 月的上市规则执行简报

2024 年 4 月, 香港交易及结算有限公司(港交所)发布了执行简报, 针对上市公司不当放贷行为日益严重的趋势进行讨论。通讯涉及越来越多的上市发行人在未经充分考虑的情况下授出贷款、垫款及类似安排, 导致重大财务损失和监管执法行动。

执行简报概述了此类放贷活动对投资者利益和市场诚信造成的风险。它检视了港交所的指引和执法案例的关键要点, 为上市公司及其董事提供在履行诚信责任和监管义务的同时开展贷款活动的见解。

- **审视商业理由和尽职调查:** 港交所强调董事必须审慎评估任何贷款安排的商业正当性和条款。在授出贷款或垫款之前, 需要进行全面的尽职调查, 包括对借款人进行评估和抵押品核实。裕承科金有限公司的案例说明了缺乏审慎评估的后果, 该公司对向个人借款人提供的无担保贷款录得超过 19 亿港元的减值损失。
- **持续监控和风险管理:** 在贷款发放后, 有效的持续监控和主动的风险缓解措施至关重要。港交所希望上市公司制定严格的程序, 以审查贷款组合状况、升级问题, 并采取适当的追偿行动。香港资源控股有限公司的案例展示了监控不力的后果, 该公司所有借款人均违约, 最终受到纪律处分。
- **内部控制和纪录备存:** 健全的内部控制系统, 包括职责分工和审批流程, 对管理信用风险和确保准

确报告至关重要。由于缺乏记录可能导致在调查中得出不利结果,港交所强调保持贷款决策和审批过程的全面记录的重要性。

- 遵守披露责任：执行简报提醒上市公司遵守《上市规则》第十三章、第十四章和第十四A章项下的披露义务,在必要时取得股东批准,并遵守关连交易和财务资助的相关规定。中国赛特集团有限公司的案例说明了不遵守规定的后果,该公司因未能遵守须予公布及关连交易的规定而受到纪律处分。
- 董事责任和监管合作：通讯强调董事在履行诚信责任、保护公司资产和确保监管合规方面的关键作用。以希望生命国际控股有限公司为例,未能履行此责任可能导致董事不适任和损害投资者利益的后果。港交所还强调在调查过程中的合作重要性,并对不合作的董事施加额外制裁。
- 与其他监管机构的合作：在涉及潜在公司不当行为或财务不当的案件中,港交所可能会与证券期货事务监察委员会和会计及金融汇报局等其他监管机构合作,以维护市场诚信和投资者信心。

港交所执法通讯强调了为上市公司培养坚实的合规文化和风险管理的关键重要性。遵守监管要求和最佳放贷实践,使董事和上市公司能够减轻风险,保护资产,并增强投资者对香港市场的信心。董事必须仔细评估任何贷款的理由和条款,确保符合公司的最佳利益。有效的内部控制、谨慎的记录保存和严格的监管合规是管理风险和维护市场诚信的关键所在。通过重视这些指引,上市公司可以在不断变化的环境中导航,保护股东价值,维护可信度,并履行维护长期组织成功的责任。

Source 来源:

<https://www.hkex.com.hk/-/media/HKEX-Market/Listing/Rules-and-Guidance/Disciplinary-and-Enforcement/Enforcement-Newsletter/newsletter202404.pdf>

Hong Kong Monetary Authority Extends Green and Sustainable Finance Grant Scheme, Expands Scope to Cover Transition Finance

On May 3, 2024, the Hong Kong Monetary Authority (HKMA) announced details on the extension and expansion of the Green and Sustainable Finance Grant Scheme (GSF Grant Scheme) as announced in the 2024-25 Budget. The scheme, launched in May 2021, provides subsidies for the costs of eligible green and sustainable bond and loan issuances in Hong Kong.

The key updates include the extension of the scheme by three years, from its original expiry date of May 2024 to 2027, aligning with the government's commitment to

supporting the region's transition towards decarbonization. Additionally, the scope of subsidies has been expanded to cover transition bonds and loans, in addition to the existing green, social, sustainability, and sustainability-linked instruments. This change aims to encourage relevant industries in the region to leverage Hong Kong's financing platform as they undertake their climate transition activities.

The updated Guideline on the GSF Grant Scheme took effect from 10 May 2024. It outlines the eligibility criteria for the two tracks under the GSF Grant Scheme. Track I covers general bond issuance costs for eligible green, social, sustainability, sustainability-linked, and transition bonds, with a focus on first-time issuers. To qualify under this track, the bond issuance must be at least HK\$1.5 billion (or the equivalent in foreign currency) and issued in Hong Kong, either lodged with and cleared by the Central Money markets Unit (CMU) operated by the HKMA or listed on The Stock Exchange of Hong Kong Limited (SEHK). The scheme provides subsidies of up to HK\$2.5 million (or HK\$1.25 million if the issuer/guarantor does not have a credit rating) for eligible bond issuance expenses under this track.

Track II covers external review costs for eligible green, social, sustainability, sustainability-linked, and transition bonds and loans, for both first-time and repeated issuers and borrowers. The minimum issuance size for this track is HK\$100 million (or the equivalent in foreign currency). The scheme provides full coverage of eligible external review costs, up to HK\$800,000 per issuance, under this track.

For transition bonds and loans, the eligibility criteria include the requirement of a developed and appropriately disclosed transition plan (or equivalent disclosures on climate transition strategy) at the entity level, as well as pre-issuance external review demonstrating the adoption of internationally-recognized transition standards or guidance and, for use-of-proceeds instruments, alignment with an applicable internationally-recognized taxonomy.

The HKMA will continue to administer the GSF Grant Scheme and may adjust its design based on market developments and industry feedback. This initiative underscores Hong Kong's role as a leading green finance center in Asia and its commitment to fostering a robust green and sustainable finance ecosystem.

The extension and expansion of the GSF Grant Scheme align with the global trend of transitioning towards a low-carbon economy, where financial institutions and businesses play a crucial role in mobilizing capital to fund sustainable and climate-aligned projects. By incorporating transition finance instruments, the scheme aims to support the region's efforts to address climate change through various financing activities.

This move demonstrates Hong Kong's adaptability in responding to market needs and maintaining its competitiveness as an international financial center. The HKMA's initiative is expected to benefit both issuers and investors in the long run, as it promotes the adoption of sustainable finance, enriches the local ecosystem, and encourages good market practice. The extension of the GSF Grant Scheme to 2027 and the expansion of its scope to cover transition finance instruments reaffirm Hong Kong's commitment to supporting the region's increasing efforts to tackle the climate challenge. This development reinforces the city's position as a premier platform for green and sustainable finance in the region, further solidifying its role as a leading international financial center.

香港金融管理局延长绿色和可持续金融资助计划并扩大范围至涵盖转型融资

于 2024 年 5 月 3 日,香港金融管理局(金管局)就《2024-25 年度财政预算案》宣布了有关延长和扩大「绿色和可持续金融资助计划」(资助计划)的详情。该计划于 2021 年 5 月推出,为在香港发行的合资格绿色和可持续债券以及贷款提供资助。

主要更新包括将计划延长三年,由原定于 2024 年 5 月到期延长至 2027 年,以配合政府支持该地区向低碳转型的承诺。此外,资助范围已扩大至涵盖转型债券和贷款,除了现有的绿色、社会、可持续发展和可持续发展挂钩工具外。这一变化旨在鼓励该地区的相关行业利用香港的融资平台,在进行气候转型活动时获得支持。

资助计划的更新指引于 2024 年 5 月 10 日生效。它概述了资助计划下的两个申请途径的资格标准。第一途径涵盖合资格绿色、社会、可持续发展、可持续发展挂钩和转型债券发行的一般债券发行成本,重点是首次发行人。要符合此途径的资格,债券发行规模必须至少为 15 亿港元(或等值外币),并须在香港发行,且须为香港金融管理局营运的中央债务工具结算系统(中央结算系统)存放及结算,或在香港联合交易所有限公司上市。该计划为此途径下的合资格债券发行开支提供最高 250 万港元的资助(如发行人/担保人没有信贷评级,则最高 125 万港元)。

第二途径涵盖合资格绿色、社会、可持续发展、可持续发展挂钩和转型债券及贷款的外部审查费用,适用于首次及重复发行人和借款人。此途径的最低发行规模为 1 亿港元(或等值外币)。该计划将全额资助此途径下的合资格外部审查费用,上限为每宗发行 80 万港元。

对于转型债券和贷款,资格标准包括要求在实体层面上制定和适当披露转型计划(或等同的气候转型策略披露),以及发行前外部审查证明采用了国际公认的转型标准或指

引,并且对于指定用途工具,须与适用的国际公认分类法保持一致。

金管局将继续管理资助计划,并可能根据市场发展和业界反馈调整计划设计。这一举措突显了香港作为亚洲领先绿色金融中心的角色,以及其致力于培育强大的绿色和可持续金融生态系统的决心。

延长和扩大资助计划的范围符合向低碳经济过渡的全球趋势,金融机构和企业调动资本投入可持续和气候相关项目中发挥关键作用。通过纳入转型融资工具,该计划旨在支持该地区通过各种融资活动应对气候变化的努力。

这一举措体现了香港在回应市场需求和维持其作为国际金融中心竞争力方面的适应性。金管局的举措预计将长期造福发行人和投资者,因为它促进了可持续金融的采用,充实了香港生态系统,并鼓励良好的市场实践。将资助计划延长至 2027 年并扩大其范围至涵盖转型融资工具,再次确认了香港支持应对气候挑战的不懈努力。这一发展加强了香港作为该地区顶尖绿色和可持续金融平台的地位,进一步巩固了其作为全球领先国际金融中心的地位。

Source 来源:

<https://www.hkma.gov.hk/eng/news-and-media/press-releases/2024/05/20240503-9/>
<https://www.hkma.gov.hk/media/eng/doc/key-information/press-release/2024/20240503e7a1.pdf>
https://www.fstb.gov.hk/fsb/en/business/policy_highlights/green-and-sustainable-finance.html

Hong Kong Government and Hong Kong Securities and Futures Commission Extend Grant Scheme for Open-ended Fund Companies and Real Estate Investment Trusts

On April 26, 2024, Hong Kong Government and the Hong Kong Securities and Futures Commission (SFC) announced the extension of the grant scheme for Open-ended Fund Companies (OFCs) and Real Estate Investment Trusts (REITs) for three years, demonstrating its commitment to enhancing the city's competitiveness as a preferred domicile for OFCs and a listing venue for REITs. The "Extended Scheme" will open for applications starting from 10 May 2024 to 9 May 2027 on a first-come-first-served basis.

The primary objective of the grant scheme is to enhance Hong Kong's competitiveness as a preferred domicile for OFCs and a premier capital-raising center for REITs. By offering financial incentives, the scheme supports the development of Hong Kong as a full-service asset management hub and reinforces its position as a leading international financial center.

The grant scheme, originally launched on May 10, 2021, aims to provide subsidies for qualified OFCs and REITs

to establish themselves in Hong Kong. Funded by the government, the scheme covers eligible expenses incurred during the incorporation or re-domiciliation of an OFC or the listing of a REIT in Hong Kong, including fees paid to Hong Kong-based service providers for related services.

To be eligible for the grant, OFCs must have been either incorporated or re-domiciled in Hong Kong on or after May 10, 2021. For REITs, they must have been listed on the Stock Exchange of Hong Kong (SEHK) on or after May 10, 2021 and have a minimum market capitalization of HK\$1.5 billion (or equivalent) at the time of listing.

Under the grant scheme, eligible OFCs can receive funding support covering 70% of the expenses paid to Hong Kong-based service providers related to their incorporation or re-domiciliation. This funding is subject to a cap of HK\$1 million per publicly offered OFC and HK\$500,000 per privately offered OFC. Investment managers are permitted to apply for grants for up to three OFCs under their management.

For eligible REITs, the grant will cover 70% of the expenses paid to Hong Kong-based service providers related to their listing on the SEHK, subject to a cap of HK\$8 million per REIT. Interested parties are advised to refer to the SFC's website for detailed eligibility criteria and application procedures.

The extension of the grant scheme is a significant development for the asset management industry and the financial services sector in Hong Kong. It demonstrates the government's commitment to fostering a vibrant and diverse financial ecosystem, attracting fund managers and REIT sponsors to establish their operations in the city.

Market players should take note of the Extended Scheme and its benefits for setting up OFCs or listing REITs in Hong Kong. By leveraging the financial support and incentives offered, companies and fund managers can capitalize on Hong Kong's strengths as an international financial center and tap into its well-established regulatory framework and robust capital markets. It is essential for companies and market participants to stay informed about the latest developments and initiatives implemented by the Hong Kong Government and regulatory bodies. Staying abreast of such programs and schemes can provide valuable opportunities for growth and expansion, contributing to the overall success and competitiveness of the financial services industry in Hong Kong.

香港政府与香港证券及期货事务监察委员会延长开放式基金型公司及房地产投资信托基金资助计划

于 2024 年 4 月 26 日，香港政府与香港证券及期货事务监察委员会（证监会）宣布将开放式基金型公司（OFC）及房地产投资信托基金（房地产基金）的资助计划延长三年，以展现其致力加强香港作为首选 OFC 注册地及房地产基金上市场所的竞争力。这个「延长计划」将由 2024 年 5 月 10 日至 2027 年 5 月 9 日以先到先得的方式接受申请。

资助计划的主要目的是提升香港作为首选 OFC 注册地及领先集资中心的竞争力。通过提供财务激励措施，该计划支持香港发展为全方位资产管理中心，并巩固其作为国际金融中心的地位。

该资助计划原于 2021 年 5 月 10 日推出，旨在为符合资格的 OFC 及房地产基金提供资助，以协助它们在香港落户。该计划由政府拨款，涵盖 OFC 注册成立或迁册来港，以及房地产基金在香港上市期间所产生的合资格费用，包括向香港服务提供者支付的相关费用。

要符合资格获得资助，OFC 必须在 2021 年 5 月 10 日或之后在香港注册成立或迁册来港。对于房地产基金而言，它们必须在 2021 年 5 月 10 日或之后于香港联合交易所（联交所）上市，且上市时的市值不得低于 15 亿港元（或等值）。

根据资助计划，合资格的 OFC 可获拨款支付 70% 向香港服务提供者就其注册成立或迁册来港所支付的费用。每间向公众发售的 OFC 最多可获 100 万港元资助，每间以私人形式发售的 OFC 最多则为 50 万港元。投资经理最多可就旗下三间 OFC 申请资助。

而合资格的房地产基金，则可获拨款支付 70% 向香港服务提供者就其在联交所上市所支付的费用，上限为每只房地产基金 800 万港元。有兴趣人士请浏览证监会网站以了解详细的资格准则和申请程序。

延长资助计划是资产管理业和香港金融服务业的重大发展。这展现政府致力培育富活力和多元化的金融生态系统，吸引基金经理和房地产基金发起人在港设立业务。

市场参与者应关注这延长计划及其对在港成立 OFC 或上市房地产基金的利益。通过利用所提供的财务支持和激励措施，各公司和基金经理可善用香港作为国际金融中心的优势，并利用其完善的监管框架和蓬勃的资本市场。了解香港政府和监管机构实施的最新发展和计划至关重要。紧贴这些计划的动向，可为增长和扩张提供宝贵机遇，从而促进香港金融服务业的整体成功和竞争力。

Source 来源:

<https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=24PR78>

https://www.sfc.hk/-/media/EN/files/COM/PDF/20240426_Extended-OFC-and-REIT-Grant-Scheme_Eng.pdf
<https://www.sfc.hk/en/Regulatory-functions/Products/Grant-Scheme-for-Open-ended-Fund-Companies-and-Real-Estate-Investment-Trusts>
<https://www.info.gov.hk/gia/general/202404/26/P2024042600533.htm?fontSize=1>

Hong Kong Securities and Futures Commission and Hong Kong Monetary Authority Hong Kong Monetary Authority Publish Joint Circular on Thematic Review of Non-Exchange Traded Investment Product Distribution

On April 18, 2024, the Hong Kong Securities and Futures Commission (SFC) and the Hong Kong Monetary Authority (HKMA) published a joint circular on the thematic review on the distribution of non-exchange traded investment products by licensed corporations (LCs) and registered institutions (RIs). This publication serves as a timely reminder to market participants, listed companies, and company directors of the importance of robust product due diligence, suitability assessment, and execution practices to protect the interests of investors.

Product Due Diligence

The SFC's review revealed significant gaps in the product due diligence (PDD) practices of some LCs. It observed instances where senior management approved standard PDD documentation, failed to identify key product features and risks, and overlooked qualitative factors such as market, industry, and economic risks. This led to an inconsistent assessment of product risks, potentially hindering LCs' ability to help clients make informed investment decisions.

The HKMA's review echoed similar concerns, noting that some RIs' risk assessment models did not adequately consider key features and risk factors when assigning product risk ratings. This resulted in corporate bonds and structured products being assigned lower risk ratings than warranted, potentially exposing customers with conservative risk appetites to higher-than-expected risks.

The regulatory bodies emphasize that intermediaries must develop a thorough understanding of investment products through comprehensive PDD, considering all relevant information and factors that may impact the risk-return profiles and growth prospects of the products. Ongoing PDD is also crucial to ensure the continued suitability of products, particularly in the face of changing market conditions or credit events affecting issuers.

Suitability Assessment

The SFC observed instances where the design of risk profiling questionnaires (RPQs) could potentially produce skewed results by assigning disproportionate weight to certain factors, such as investment experience, leading to an inaccurate representation of clients' risk tolerance as higher than appropriate. There was also a lack of clear guidance on assessing clients' concentration risk.

The HKMA noted that some RIs did not have adequate mechanisms to ensure the final risk profile truly reflected the client's risk appetite, despite using RPQs. In some cases, the risk tolerance level assigned to clients was not consistent with their responses to individual questions.

Intermediaries are reminded that suitability assessment is a risk-based process that should consider all relevant client circumstances, including financial situation, investment experience, objectives, and concentration risk, not just the matching of product risk rating to client risk profile. Clear guidance and robust controls are essential to ensure consistent and appropriate suitability assessments.

Delivering Best Execution

The HKMA's review also highlighted deficiencies in some RIs' best execution practices. It observed that some RIs did not have proper policies and procedures in place to ensure that customer orders were executed on the best available terms, and lacked adequate controls, monitoring, and management supervision to deliver best execution consistently.

Best execution is a fundamental requirement to protect investors and maintain market integrity. Intermediaries must establish and regularly review their best execution arrangements, covering different types of investment products, to consistently deliver the best outcome for their clients.

Information for Clients

The SFC review also uncovered instances where intermediaries failed to provide clients with accurate and comprehensive information about the products they were selling. This included a lack of disclosure on trailer fees received from fund managers, inaccurate representations of independence, and inconsistent application of the Professional Investor regime.

Transparent and accurate disclosure of all relevant information is crucial for clients to make informed investment decisions. Intermediaries must act with due skill, care, and diligence to ensure that any representations made and information provided to clients are accurate and not misleading.

The regulators also wish to remind all intermediaries of their obligations to, among other things: give due consideration to all the relevant circumstances specific to a client when assessing the suitability of a product to the client; and disclose all relevant transaction related information, and ensure that information provided and any representations made are accurate and not misleading.

The key observations from the SFC and HKMA thematic reviews underscore the importance of upholding the highest standards of investor protection in the distribution of non-exchange traded investment products. Intermediaries must strengthen their product due diligence, suitability assessment, best execution practices, and disclosure standards to fulfil their regulatory obligations and build trust with investors. By addressing the identified deficiencies and implementing robust systems and controls, the industry can enhance the overall quality of investment product distribution and better serve the evolving needs of Hong Kong's investors. Regulatory bodies will continue to monitor and enforce these standards to maintain the integrity and stability of the financial markets.

香港证券及期货事务监察委员会及香港金融管理局就非交易所买卖投资产品分销的主题审查发表联合通函

于2024年4月18日,香港证券及期货事务监察委员会(证监会)及香港金融管理局(金管局)就注册机构和注册机构分销非交易所买卖投资产品的主题审查发布联合通函。这份通函适时提醒市场参与者、上市公司及公司董事,进行全面尽职审查、适当的合适性评估及执行良好实务,以保障投资者利益的重要性。

产品尽职审查

证监会审查发现,部分持牌法团在产品尽职审查实务方面存有严重缺失。有个案中核准了未达标准且有明显遗漏或载有不准确分析的产品尽职审查文件、未有识别关键产品特点及风险,亦忽视了市场、行业及经济等定性风险因素。这导致对产品风险的评估出现不一致情况,可能削弱持牌法团协助客户作出有根据的投资决定的能力。

金管局的审查结果亦反映类似关注。部分注册机构在评级产品风险时,其风险评估模型未有充分考虑关键产品特点及风险因素。因此,某些公司债券及结构性产品的风险评级被低估,可能令风险取向较保守的客户承受高于预期的风险。

监管机构着重中介机构必须通过全面尽职审查,对投资产品有透彻了解,并考虑所有可能影响产品风险回报及增长前景的相关资料及因素。当市况变化或发行人信贷事件

出现时,持续进行尽职审查至为重要,以确保产品持续适合投资。

合适性评估

证监会发现,部分风险评估问卷的设计可能产生偏差结果,如过于着重投资经验等某些因素,最终导致客户风险承受能力被高估。此外亦缺乏清晰指引评估客户的集中风险。

金管局注意到,部分注册机构虽然采用风险评估问卷,但缺乏足够机制确保最终的风险评级真实反映客户的风险承受能力。在某些个案中,给予客户的风险承受水平与他们对个别问题的回答并不一致。

中介机构须谨记合适性评估是一个风险为本的过程,除了对比产品风险评级和客户风险取向外,亦须考虑所有相关客户状况,包括财务状况、投资经验、目标和集中风险。清晰的指引和严谨的管控措施对确保持续做出一致和恰当的合适性评估至为重要。

以最佳条件执行交易指示

金管局的审查亦揭示部分注册机构在执行最佳条件方面存在缺失。它发现有部分注册机构并无制订有关以最佳条件执行交易指示的适当政策及程序,亦缺乏足够的监控措施和管理层监督,以确保持续做到执行最佳条件。

执行最佳条件是保障投资者利益和维持市场廉洁稳健的基本要求。中介机构须针对不同类型的投资产品制定并定期检讨相关安排,持续为客户带来最佳执行结果。

为客户提供资料

证监会的审查亦发现中介机构在向客户披露有关分销产品的全面及准确资料方面存在缺失,包括未有披露从基金经理获取的分销费、对独立性的不准确陈述,以及在专业投资者制度的应用上欠缺一致。

中介机构必须以适当技能、谨慎态度及勤勉尽责行事,确保向客户所作的任何陈述和提供的资料准确无误,不含任何不实失实成分。这对投资者作出明智投资决策至为重要。

两家监管机构亦希望提醒所有中介人履行它们的责任,其中包括在评估产品对客户合适程度时,仔细考虑所有切合该客户本身的相关情况;及披露所有与交易相关的资料,并确保所提供的资料及作出的任何陈述都是准确及没有误导成分的。

证监会和金管局是次主题审查的重点事项,凸显了在分销非交易所买卖投资产品时维持最高投资者保障标准的重

要性。中介机构必须加强产品尽职审查、合适性评估、以最佳条件执行交易指示和披露标准,以履行监管责任及建立投资者信任。业界须通过解决所发现的缺失并实施严谨的制度和监控措施,提升投资产品分销素质,更有效地满足香港投资者不断演变的需求。监管机构将继续监察和执行相关标准,以维护金融市场的廉洁稳健。

Source 来源:

<https://apps.sfc.hk/edistributionWeb/gateway/EN/circular/suitability/doc?refNo=24EC21>

<https://apps.sfc.hk/edistributionWeb/api/circular/openFile?lang=EN&refNo=24EC21>

<https://apps.sfc.hk/edistributionWeb/api/circular/openAppendix?lang=EN&refNo=24EC21&appendix=0>

<https://apps.sfc.hk/edistributionWeb/api/circular/openAppendix?lang=EN&refNo=24EC21&appendix=1>

Cayman Islands Government Publishes the Anti-Money Laundering (Amendment) Regulations, 2024

On April 19, 2024, the Cayman Islands government published the Anti-Money Laundering (Amendment) Regulations, 2024 (AMLR), which came into force on the same day. These amendments significantly strengthen the jurisdiction's framework for combating money laundering, terrorist financing, and proliferation financing, and hold profound implications for Hong Kong companies and directors with business ties to the Cayman Islands.

One of the key aspects of the amended regulations is the expansion of definitions to encompass proliferation financing, ensuring a comprehensive approach to addressing financial crimes. Furthermore, the responsibilities of competent authorities have been clarified, promoting effective oversight and enforcement. Notably, the regulations now provide detailed guidance on identifying, assessing, and understanding risks related to money laundering, terrorist financing, and proliferation financing. This includes the requirement to document risk assessments, consider relevant risk factors, and implement appropriate policies and controls to mitigate identified risks.

In addition, the amendments have strengthened customer due diligence measures, introducing specific requirements for managing and mitigating higher risks associated with proliferation financing. Financial institutions and designated non-financial businesses and professions (DNFBPs) will be required to implement enhanced due diligence procedures, including sanctions screening, to effectively address these risks.

The updated regulations also emphasize the importance of record-keeping and reporting obligations. Financial institutions and DNFBPs must maintain comprehensive records and report suspicious activities to competent authorities, with specific provisions related to

proliferation financing. Furthermore, the regulations mandate the sharing of information with relevant authorities, fostering collaboration and information exchange in the fight against financial crimes.

To ensure effective implementation and compliance, the amendments have clarified the designation and duties of Supervisory Authorities for DNFBPs, enhancing oversight and promoting a culture of compliance. Furthermore, the enforcement mechanisms have been bolstered, with revised and expanded penalties, including administrative fines, applicable to individuals and entities involved in contraventions.

The Cayman Islands has long been a preferred jurisdiction for establishing investment vehicles and holding companies, particularly for those seeking to list on the Hong Kong Stock Exchange. For Hong Kong companies and directors with operations or investments in Cayman Islands entities, these regulatory updates hold significant relevance. As such, Hong Kong companies and directors with Cayman Islands subsidiaries or investment vehicles must take note of these regulatory changes and ensure compliance with the updated requirements.

Failure to adhere to the new AML regulations in the Cayman Islands can expose Hong Kong companies and directors to potential legal and financial risks, including increased scrutiny from supervisory authorities, enhanced reporting obligations, and the risk of penalties for non-compliance. It is imperative that Hong Kong companies and directors with ties to the Cayman Islands review and update their internal policies, risk assessments, and due diligence procedures to align with the new regulations.

In conclusion, by publishing the new AML regulations in the Cayman Islands, the Cayman Islands has demonstrated its dedication to uphold international standards and promote a transparent and compliant financial sector. Hong Kong companies and directors with operations or investments in the Cayman Islands must demonstrate their understanding and adhering to these updated regulations to ensure compliance. Seeking guidance from legal and compliance professionals can further assist in navigating these regulatory updates and ensuring a seamless transition to the new AML requirements.

开曼群岛政府公布《2024 年反洗钱(修订)规例》

于 2024 年 4 月 19 日,开曼群岛政府公布《2024 年反洗钱(修订)规例》,该规例已于同日生效。这些修订大幅加强该司法管辖区打击洗钱、恐怖主义融资及大杀伤力武器扩散融资的框架,对于与开曼群岛有业务往来的香港公司和董事具有深远影响。

修订规例的一项关键方面是扩大定义范围,纳入大杀伤力武器扩散融资,确保采取全面方式应对金融犯罪。此外,主管当局的职责已获明确,促进有效的监管和执法。值得注意的是,该规例现已就识别、评估和理解与洗钱、恐怖主义融资及大杀伤力武器扩散融资相关的风险提供详细指引。这包括规定须记录风险评估、考虑相关风险因素,并实施适当的政策及控制措施以减轻已识别的风险。

另外,修订案加强了客户尽职审查措施,引入了管理及缓解与大杀伤力武器扩散融资相关的较高风险的具体规定。金融机构及指定的非金融企业和行业将须实施加强的尽职审查程序,包括制裁筛查,以有效应对这些风险。

经修订的规例亦强调记录保存及报告责任的重要性。金融机构及非金融企业和行业必须保存全面记录,并向主管当局报告可疑活动,并订有关于大杀伤力武器扩散融资的具体条文。此外,该规例规定与相关当局分享资讯,促进打击金融犯罪方面的合作与资讯交流。

为确保有效执行及合规,修订案阐明了非金融企业和行业的监管机构的指定及职责,加强监管并促进合规文化。再者,执法机制得到加强,处罚措施经过修订及扩大,包括向牵涉违规行为的个人及实体征收行政罚款。

开曼群岛长期以来一直是设立投资工具及控股公司的热门司法管辖区,尤其是为在香港联交所上市而设立。对于在开曼群岛实体拥有业务或投资的香港公司及董事而言,这些监管更新意义重大。因此,拥有开曼群岛子公司或投资工具的香港公司及董事务必留意这些监管变化,并确保遵守经更新的规定。

若未能遵从开曼群岛的新反洗钱规例,香港公司及董事可能面临潜在的法律及财务风险,包括受到监管机构加强的审查、加强的报告责任,以及违规受罚的风险。与开曼群岛有业务往来的香港公司及董事,必须检视并更新内部政策、风险评估及尽职审查程序,以符合新规例。

总而言之,开曼群岛透过发布新的反洗钱规例,开曼群岛体现了其维护国际标准及促进透明合规金融环境的决心。拥有开曼群岛业务或投资的香港公司及董事,必须了解并遵守这些经更新的规例,以确保持续合规。寻求法律及合规专业人士的指导,可进一步协助应对这些监管更新,确保顺利过渡至新的反洗钱规定。

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