Hong Kong Corporate and Regulatory Insights

August 2021

Hogan Lovells

Contents

Equity Capital Markets

The Stock Exchange of Hong Kong Limited (SEHK) takes disciplinary action against a former director of Winto Group (Holdings) Limited (the Company) (Stock Code: 8238)

The GEM Listing Committee of SEHK (the GEM Listing Committee) censures:

- Mr. Wen Kai, former independent non-executive director.

SEHK found that Mr. Wen breached his undertaking to cooperate in an investigation conducted by the Listing Division and to promptly respond to queries addressed to him. SEHK further found that such breach was serious and his conduct demonstrated his failure to discharge his responsibilities under the rules governing the listing of securities on GEM (GEM Listing Rules).

The GEM Listing Committee further states that in SEHK's opinion, by reason of his failure to discharge his responsibilities under the GEM Listing Rules, had Mr. Wen remained on the board of directors of the Company, his retention of office would have been prejudicial to the interests of investors.

Click here to view the statement of disciplinary action.

HKEx, 17 August 2021

SEHK takes disciplinary action against Coolpad Group Limited (Stock Code: 2369) and six former directors

SEHK censures:

- Coolpad Group Limited (Stock Code: 2369) (the Company) together with its subsidiaries.
- Mr. Jia Yue Ting, former executive director and Chairman; Mr. Jiang Chao, former executive director and Chief Financial Officer; Mr. Li Bin, former executive director; Mr. Zhang Wei, former executive director; Mr. Liu Hong, former executive director; and Mr. Liu Jiang Feng, former executive director and Chief Executive Officer;

and further directs:

- Mr. Li, Mr Zhang, Mr. H Liu and Mr. JF Liu, former directors, to attend 24 hours of training on the rules governing the listing of securities on the main board (Listing Rules) compliance and director's duties as a prerequisite of any further appointment as director of any company listed on SEHK.

During the period from 2016 to 2017, the Company entered into three groups of transactions totalling over RMB3.1 billion (the Transactions), involving a series of loan agreement, investment agreements, repayment agreement, and sale purchase agreement.

SEHK concluded (i) the relevant directors, who procured and approved the Transactions, failed to report them to the board for consideration and discussion, and to take steps to procure the Company to comply with the Listing Rules; and (ii) the Transactions amounted to financial assistance and advance to an entity which were required to be disclosed by the Company as soon as reasonably practicable.

SEHK found that there were delays in announcing the Transactions and publishing financial results and reports, where the length of delay ranged from over five months to over one year.

There were clear deficiencies in the Company's internal controls in respect of the disclosure requirements set out in the Listing Rules.

The Listing Committee further states that in SEHK's opinion, by reason of their failure to exercise independent judgement as executive director and take steps to comply with the Company's disclosure manual, had

Mr. Jia and Mr. Jiang remained on the board of directors of the Company, their retention of office would have been prejudicial to the interests of investors.

Click here to view the statement of disciplinary action.

HKEx, 24 August 2021

Financial Services Regulation

Interpretation notes relating to the Guideline on Sale of Investment-Linked Assurance Scheme Products (GL26)

The Insurance Authority (IA) issued a new set of Q&As to the interpretation notes relating to GL26 in response to the recent incident involving the default of an investment fund which was unauthorized in Hong Kong, being an investment to which a Class C (linked long term) Product with open architecture (OA ILAS products) was linked. The new Q&As aim to:

- Ensure that the licensed insurance intermediaries selling OA ILAS products possess the necessary knowledge and expertise to assess whether a potential customer is a professional investor.
- Provide guidance on the analysis and due diligence which should be performed to establish the objectives of the customer in seeking to procure an OA ILAS product and that the proposed product meets those objectives.
- Avoid OA ILAS products from being used as a vehicle for investments with less governance or regulation to be marketed in Hong Kong.
- Ensure customers' awareness of risks associated with investments made under such OA ILAS products.
- Provide guidance in complying with the relevant requirements.
- Provide a transitional period till 30 June 2022 for necessary operational and system changes to be completed to comply with the new relevant requirements.

Please click here to view the circular.

IA, 31 August 2021

Increasing the issuance of Exchange Fund Bills

The Hong Kong Monetary Authority (HKMA) announced a plan to suitably increase the issuance size of Exchange Fund Bills to meet the ongoing demand for Exchange Fund paper by banks amidst the abundance of liquidity in the banking system.

The HKMA plans to increase the issuance size of 91-day Exchange Fund Bills by HK$5,000 million in each of the eight regular tenders, and if all eight planned increases are executed, the issuance size of the Bills will be increased by HK$40,000 million in total.

The increase in the supply of Exchange Fund Bills is consistent with Currency Board principles, since the additional issuance simply represents a change in the composition of the Monetary Base, with a shift from the Aggregate Balance to Exchange Fund paper. The Aggregate Balance will decrease by the same amount as the increase in Exchange Fund Bills. The Monetary Base remains fully backed by foreign exchange reserves.

Please click here to view the press release.

HKMA, 25 August 2021

Management and disclosure of climate-related risks by fund managers

The Securities and Futures Commission (SFC) issued Consultation Conclusions on the Management and Disclosure of Climate-related Risks by Fund Managers and will amend the Fund Manager Code of Conduct to require Fund Managers managing collective investment schemes to take climate-related risks into consideration in their investment and risk management processes and make appropriate disclosures.

The requirements cover four key elements, namely governance, investment management, risk management, and disclosure.

The SFC's requirements are applicable based on the relevance and materiality of climate-related risks to the investment strategies and funds managed by the Fund Managers as well as their roles. Fund Managers should apply the principle of proportionality in determining how to comply with the requirements.

The new requirements will be implemented in phases after the following transition periods:

- A 12-month transition period for Large Fund Managers to comply with the baseline requirements (i.e. until 20 August 2022) and a 15-month transition period for them to comply with the enhanced standards (i.e. until 20 November 2022).
- A 15-month transition period for other Fund Managers to comply with baseline requirements (i.e. until 20 November 2022).

Please click here to view the circular.

SFC, 20 August 2021

Approval of the launch of an A shares index futures contract by the Hong Kong Exchanges and Clearing Limited (HKEx)

The SFC has approved the launch of an A shares index futures contract by the HKEx.

Since the launch of the Mainland and Hong Kong Stock Connect (Stock Connect) in 2014, international investors have increasingly participated in the A shares market via the northbound trading link.

The SFC is of the view that the ability to trade A shares futures in Hong Kong, and to hedge pricing risks effectively, is expected to facilitate the further growth of long term capital flows into the Mainland financial markets.

Contract details and launch date will be announced by the SFC shortly.

Please click here to view the news.

SFC, 20 August 2021

Commencement of new inspection regime – phase 1

Currently, the Company Register (Register) maintained by the Companies Registry (Registry) contains personal information available for public inspection. This includes, among others, usual residential address (URAs) of directors and full identification numbers (IDNs) of directors, company secretaries and some other individuals (such as liquidators and provisional liquidators) (together, Protected Information). Some personal information is also contained in the registers kept by companies which are open for public inspection.

The new inspection regime of the Register under the Companies Ordinance will allow companies to withhold from public inspection certain Protected Information. It will be implemented in three phases.

Phase 1 will commence on 23 August 2021, to which companies may replace URAs of directors with their correspondence addresses, and replace full IDNs of directors and company secretaries with their partial IDNs on their own registers for public inspection.

Phase 2 will commence on 24 October 2022, to which Protected Information on the Index of Directors on the Register will be replaced with correspondence addresses and partial IDNs for public inspection. Protected Information contained in documents filed for registration after commencement of

Phase 2 will not be provided for public inspection. The Protected Information could only be accessible by "specified persons" upon application.

Phase 3 will commence on 27 December 2023, to which data subjects could apply to the Registry for protecting from public inspection their Protected Information contained in documents registered with the Registry (Withheld Information), and replace such information with their correspondence addresses and partial IDNs. The Withheld Information could only be accessible by "specified persons" upon application.

Please click here to view the circular.

HKCR, 16 August 2021

Use of new technologies for Anti-Money Laundering and Counter-Financing of Terrorism (AML/CFT): suggested actions for the Hong Kong banking sector and Stored Value Facility (SVF) sector

The HKMA referred Authorized Institutions (AIs) and SVF licensees to a recent report by the Financial Action Task Force: "Opportunities and Challenges of New Technologies for AML/CFT", which identifies how new technologies such as machine learning and natural language processing can help improve the speed, quality and efficiency of AML/CFT measures.

The HKMA will be taking a number of initiatives in the coming months as part of the broader "Fintech 2025" strategy to advance AIs' and SVF licensees' positive and responsible use of new technologies for AML/CFT, including:

- Host an AML webinar in September to share experience of success stories of AIs and SVF licensees, and focus on how the industry is combatting online fraud and money laundering networks using technology and data, underpinned by increasing public private collaboration.
- Launch the AML and Financial Crime Regtech Labs in November for experimenting and engaging with new technologies and emerging data analytics techniques.
- Commence a thematic review of progress over the past year by The Fraud and Money Laundering Intelligence Task Force, to promote network analytics capability for tackling online fraud and associated mule account networks.
- To gather suggestions and gauging interest of stakeholders to promote innovative uses of emerging technologies to tackle AML/CFT challenges as the first initiative in HKMA Fintech Supervisory Sandbox 3.0 or through other innovative events.

Senior management of AIs and SVF licensees should ensure that the mandate for innovation in AML/CFT is supported with sufficient resources and relevant subject matter expertise.

Please click here and here to view the circulars.

HKMA, 11 August 2021

SFC to introduce investor identification and over-the-counter (OTC) securities transaction reporting

The SFC issued Consultation Conclusions on proposals to (1) implement an investor identification regime at trading level for the securities market in Hong Kong and (2) introduce an OTC securities transactions reporting regime for shares listed on SEHK.

Under the investor identification regime, licensed corporations and registered institutions will submit to SEHK the names and identity document information of clients placing securities orders on SEHK.

Meanwhile, information on OTC securities transactions in ordinary shares and real estate investment trusts listed on SEHK will be reported to the SFC under a separate regime.

To implement the regimes, and revisions will be made to the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission. The revisions will be gazetted and become effective on a date to be determined by the implementation timelines. The SFC will further conduct briefing sessions for the industry and work with the Investor and Financial Education Council to inform investors.

The investor identification regime is expected to be launched in the second half of 2022, and the OTC securities transactions reporting regime in the first half of 2023.

Please click here to view the news.

SFC, 10 August 2021

Applicable Jurisdictional Countercyclical Capital Buffer (CCyB) Ratio for Hong Kong

The HKMA announced that the CCyB ratio for Hong Kong remains unchanged at 1.0 percent.

In reaching this decision, the HKMA reviewed a range of quantitative indicators and qualitative information. This included the "indicative buffer guide" produced by the Monetary Authority's Initial Reference Calculator that takes into account conditions in local credit and property markets, and a series of "Comprehensive Reference Indicators".

The information drawn from these sources suggested some signs of economic recovery in Hong Kong, but uncertainties about the global pandemic situation have remained. Therefore, the HKMA decided it be appropriate to keep the CCyB ratio at 1.0 percent. The CCyB ratio will be further reviewed on a quarterly basis or more frequently.

Please click here to view the circular.

HKMA, 5 August 2021

China Banking and Insurance Regulatory Commission further extends preferential treatment for the Hong Kong insurance industry

The China Banking and Insurance Regulatory Commission announced an extension of the preferential treatment accorded to Hong Kong under the "China Risk Oriented Solvency System" for another year to 30 June 2022, thus allowing the capital requirement of Mainland insurers ceding businesses to qualified Hong Kong professional reinsurers will continue to enjoy lower capital requirements.

The IA pointed out that the preferential treatment is conducive to enhancing cross-border financial connectivity, injecting impetus into the active participation and support of Hong Kong in both the Belt and Road Initiative and the Guangdong-Hong Kong-Macao Greater Bay Area development, strengthening its advantages as a regional insurance hub and promoting diversified socio-economic development.

Please click here to view the press release.

IA, 5 August 2021

Interpretation Notes relating to the Guideline on Continuing Professional Development for Licensed Insurance Intermediaries (GL24)

The IA issued the Interpretation Notes relating to GL24 with aim of providing further guidance to individual licensees, authorized issuers, licensed insurance agencies and licensed insurance broker companies on the CPD requirements under the new regulatory regime.

The Interpretation Notes cover the following matters and apply to CPD Assessment Periods commencing on or after 1 August 2021:

- Responsibilities of principals and individual licensees.
- The cap on CPD hours completed by E-learning Activities for each CPD Assessment Period.
- CPD activities delivered via virtual classroom platforms.
- CPD hour requirements for a person whose licence is suspended or revoked for less than 180 consecutive days.
- CPD hour requirements for a person whose licence is suspended or revoked for 180 consecutive days or more.
- Repeated attendance of the same CPD activity in the same Assessment Period or in different Assessment Periods.

Please click here to view the circular.

IA, 2 August 2021

Data Protection

Office of the Privacy Commissioner for Personal Data launches a series of publications and activities to promote children privacy

The Office of the Privacy Commissioner for Personal Data (PCPD) has recently launched a series of educational resources and a brand-new "Children Privacy" thematic website to provide a one-stop online resource centre for children, parents and teachers alike.

The Privacy Commissioner for Personal Data (Privacy Commissioner) emphasised the importance of protecting the personal data privacy of children, especially in relation to online activities. The enhanced publicity efforts in this regard are done to educate children and to provide teachers and parents with the necessary resources to assist the children's learning.

Resources published by the PCPD include educational leaflets, videos, animations, the "Children Privacy" thematic website and webinars that provide practical guidance.

Click here to read the media statement.

PCPD, 2 August 2021

PCPD publishes "Guidance on Ethical Development and Use of AI"

With the increasing popularity and applicability of artificial intelligence (AI) in Hong Kong, the PCPD has issued the "Guidance on the Ethical Development and Use of Artificial Intelligence" (Guidance) to help organisations understand and comply with the relevant requirements of the Personal Data (Privacy) Ordinance (PDPO) when they develop or use AI.

The Privacy Commissioner envisions Hong Kong becoming a regional data hub in innovation and technology and nods to the Outline Development Plan for the Guangdong-Hong Kong-Macao Greater Bay Area as a foundation for the upcoming developments.

The Guidance sets out the three fundamental Data Stewardship Values and seven ethical principles that should be observed when businesses develop and / or use AI. The Guidance also provides a set of practice guide to assist organizations in managing their AI systems.

Click here to read the media statement.

PCPD, 18 August 2021

PCPD releases an inspection report on customers' personal data systems of two public utility companies

The PCPD has released an inspection report on the customers' personal data systems of CLP Power Hong Kong Limited (CLP) and The Hongkong Electric Company, Limited (HKE). The findings of the report revealed that both CLP and HKE had implemented a Personal Data Privacy Management Programme and they had adopted good practices that comply with the requirements of Data Protection Principle 4 of the PDPO with regards to the security of personal data.

The Privacy Commissioner reiterated the PCPD's power under the PDPO to carry out site inspections and give advice to organisations that handle vast amounts of personal data. Through the findings of the inspection, the Privacy Commissioner had made nine recommendations to public utility companies and organizations which handle large amounts of customers' personal data, including, but not limited to, appointing data protection officers, implementing monitoring and protecting electronic, and paper records.

Click here to read the media statement.

PCPD, 18 August 2021

Contacts

Mark Parsons
Partner, Hong Kong
T +852 2840 5033
mark.parsons@hoganlovells.com

Laurence Davidson
Partner, Hong Kong
T +852 2840 5034
laurence.davidson@hoganlovells.com

Sammy Li
Partner, Hong Kong
T +852 2840 5656
sammy.li@hoganlovells.com

Andrew McGinty
Partner, Hong Kong
T +852 2840 5004
andrew.mcginty@hoganlovells.com

Nelson Tang
Partner, Hong Kong
T +852 2840 5621
nelson.tang@hoganlovells.com

Stephanie Tang
Head of Private Equity – Greater China, Hong Kong
T +852 2840 5026
stephanie.tang@hoganlovells.com