

Hong Kong Corporate and Regulatory Insights

April 2022



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Equity Capital Markets

The Stock Exchange of Hong Kong (SEHK) launches board diversity repository and enhances ESG academy

SEHK launched a board diversity repository to improve access to information on and transparency around board diversity, and enable investors and other stakeholders to stay informed of businesses' policy and approach to good governance and board diversity.

SEHK also enhanced its ESG Academy by introducing the "ESG in Practice". ESG Academy is a centralised online education platform on the HKEx's website to provide listed issuers and business community guidance on the ESG regulatory developments of the SEHK. SEHK introduced the "ESG in Practice", a guide on good ESG practices, to highlight good ESG practices adopted by some of the issuers in terms of board and governance, materiality assessment, climate change and task force on climate-related financial disclosures, stakeholder engagement and social issues.

Please click [here](#) to view the board diversity repository and [here](#) to view the "ESG in Practice".

HKEx, 29 April 2022

SEHK publishes information paper on consequential rule amendments to reflect new code of conduct provisions and housekeeping rule amendments

SEHK published an information paper on the consequential amendments to the Listing Rules which will complement the new requirements of the Securities and Futures Commission (SFC) code of conduct regarding the conduct of issuers and intermediaries involved in bookbuilding and placing activities (New Code Provisions).

The New Code Provisions will come into effect on 5 August 2022. The SFC and SEHK will

introduce appropriate consequential changes to the Listing Rules (Consequential Rule Amendments) to reflect the requirements on parties involved in bookbuilding, placing or other specified activities under the New Code Provisions and to set out the obligations of issuers with a view to facilitating intermediaries' discharge of their obligations under the New Code Provisions. The Consequential Rule Amendments will apply to listing applications submitted on or after 5 August 2022 for specified types of placings.

We highlight some of the Consequential Rule Amendments from the Information Paper:

- For a Main Board IPO only, a sponsor-overall coordinator must be engaged at least two months before the submission of its listing application.
- A new applicant must publish an announcement on SEHK's website setting out the name(s) of all overall coordinator(s) appointed on the same date as it files its listing application and publishes the application proof. Subsequent announcements must be published whenever there is an appointment of an additional overall coordinator or a termination of the engagement of an existing overall coordinator.
- IPO applicants to assist intermediaries in identifying persons to whom the allocation of equity interests will be subject to restrictions or require prior consent from SEHK under the Listing Rules.
- Disclosure and reporting requirements, including but not limited to, information on (i) the fixed fees payable to each overall coordinator; (ii) the total fees (as a percentage of the gross proceeds from the IPO) payable to all syndicate capital market intermediaries; and (iii) the ratio of fixed and discretionary fees payable to

all syndicate capital market intermediaries (in percentage terms), are amended.

The Information Paper also covers some housekeeping amendments to the Listing Rules (Housekeeping Rule Amendments) that SEHK will introduce to reflect the Main Board and GEM websites unification which will into effect in late May 2022.

In addition, SEHK had published FAQs relating to the Consequential Rule Amendments and Housekeeping Rule Amendments to assist market participants in understanding these amendments.

Please click [here](#) to view the Information Paper, [here](#) to view the FAQs on Consequential Rule Amendments, and [here](#) to view the FAQs on Housekeeping Rule Amendments.

HKEx, 22 April 2022

SEHK takes disciplinary action against Hsin Chong Group Holdings Limited (the Company) (delisted, previous Stock Code: 404) and its former Directors

Key messages:

- To ensure compliance with the Listing Rules, directors of an issuer is expected to safeguard the assets of the Company.
- Directors of an issuer are responsible to implement an appropriate control and risk management framework, and to take an active interest in the company's operations and use of its financial assets.

The Listing Committee of SEHK (Listing Committee) censures:

- The Company.
- Mr. Zhou Wei, former Executive Director (ED) of the Company.

The Listing Committee criticizes:

- Mr. Joseph Kin Hung Choi, former ED and Chief Executive Officer (CEO) of the Company.
- Mr. Wilfred Shek Chun Wu, former ED of the Company.
- Mr. Lin Zhuo Yan (Mr. ZY Lin), former Non-Executive Director (NED) and non-executive chairman of the Company.
- Mr. Chen Lei, former NED of the Company.
- Mr. Yan Jie, former NED of the Company.
- Mr. Chui Kwong Kau, former NED and member of the audit committee of the Company.

Between August and December 2016, the Company entered into a series of transactions in which the Company had entered into various agreements with related companies of Mr. Zhou. Such transactions constituted disclosable and connected transactions (the Transactions) under Ch. 14A of the Listing Rules.

SEHK found that the Company breached Rule 14A.34, 14A.35, 14A.36 and 14A.46 by failing to publish the announcement and circular to disclose the Transactions within the period required and comply with the shareholder's approval requirement. SEHK also found that the Company breached Rule 13.46(2) and 13.49(1) for its delays in publishing and dispatching the 2016 Annual Results and 2017 Annual Report.

In addition, SEHK found that Mr. Zhou breached Rules 3.08 and his directors' undertakings by failing to (i) avoid actual conflict of interest, (ii) disclose to the Company his personal interests in the Transactions; (iii) act honestly and in good faith in the interests of the Company and its

shareholders; (iv) conduct the business of the Company in compliance with the laws and Listing Rules; and (v) exercise due skill, care and diligence when discharging his director's duties.

SEHK also found that the other relevant directors breached Rule 3.08(f) and their directors' undertakings by failing to (i) take an active interest in the Company's operations and use of its financial assets; and (ii) ensure that the Company had in place adequate and effective internal controls to safeguard its assets and comply with the Listing Rules with respect to financial reporting or connected and notifiable transactions.

SEHK states that had Mr. Zhou remained on the board and the Company remained listed, his retention of office would have been prejudicial to the interests of the investors.

SEHK directs Mr. Chui to attend 20 hours of training on regulatory and legal topics. SEHK also directs each of the relevant directors to attend the same training, but also as a prerequisite of any future appointment as a director of any company listed or to be listed on SEHK.

Please click [here](#) to view the statement of disciplinary action.

HKEx, 11 April 2022

SEHK updates Frequently Added Questions (FAQs) on joint statement in relation to results announcement and general meetings

SEHK updated the FAQs to help issuers understand the application of the joint statement issued by the SEHK and the SFC in relation to results announcements and general meetings in light of travel restrictions related to the Covid-19 pandemic (Joint Statement). The updated FAQs confirm that the SEHK will continue to adopt a similar approach as

described in the Joint Statement in view of the recent Covid-19 situation.

The updated FAQs also clarify the requirement imposed on issuers in relation to the publication of annual report:

- SEHK allows an issuer to defer publication of its annual report up to 15 May 2022 if it has published financial information described in the Joint Statement on or before 31 March 2022. An issuer requiring an extension must (i) announce when it expects to publish its annual report with an explanation of the factors in arriving at such extension, and (ii) keep the market informed of the expected publication date of the annual report and other updates as appropriate.
- If an extension beyond 15 May 2022 is required, an issuer should apply to SEHK with a formal written waiver application, which SEHK will consider on a case-by-case basis.

Please click [here](#) to view the updated FAQs.

HKEx, 8 April 2022

Financial Services Regulation

Publication of the Regtech Adoption Practice Guide

The Hong Kong Monetary Authority (HKMA) had published the sixth issue of the Regtech Adoption Practice Guide (Regtech Guide) on 28 April 2022.

The issue focuses on artificial intelligence-based (AI-based) Regtech solutions. The Regtech Guide offers implementation guidance to help banks plan their adoption of AI-based Regtech solutions, including advice on how data and AI frameworks could be established to address hurdles associated with the usage of AI.

Use cases of AI-based Regtech are also included in the Regtech Guide and key challenges, solutions, takeaways and benefits are highlighted as to illustrate how different banks navigated the associated challenges and successfully adopted AI-based Regtech solutions in their organizations.

Please click [here](#) to view the Regtech Guide.

HKMA, 28 April 2022

Guidance on digital asset custody

The Alternative Investment Management Association (AIMA), together with leading digital asset custodians and industry experts, jointly published a new industry guide on digital asset custody for institutional investors (Guide).

The Guide was prepared for those who seek the services of a digital asset custodian or a custodian infrastructure provider (to the extent legally possible). Its contents include the following:

- Custody options and applicable technologies.
- Key generation and management.

- Sound practices and key considerations.
- Due diligence for institutional investors deciding how to custody their digital assets.
- Application of Service Organizations reports and International Organization for Standardization certifications.

Please click [here](#) to view the Guide.

AIMA, 27 April 2022

SFC proposed changes to the position limit regime for listed futures and options contracts

The SFC launched a consultation on proposed changes to the position limit regime for listed futures and options contracts.

The proposed changes under the consultation include the following:

- Setting out how the statutory prescribed limits and reporting requirements should be applied to unit trusts and sub-funds under an umbrella fund.
- Reportable positions in contracts traded on holiday trading days.
- Inclusion of a broader range of contracts that may be authorized by the SFC for excess positions.

The SFC invited the public to submit their comments and views by 27 June 2022.

Please click [here](#) to view the consultation paper.

SFC, 26 April 2022

Circular on amendments made to the Code on Real Estate Investment Trusts (REIT Code)

The SFC published a circular which sets out the upcoming amendments to be made to the REIT Code to correspond with the changes made to the Code of Conduct for Persons Licensed by or Registered with the SFC in relation to book-building, pricing, allocation, and placing activities. The amendments will be made to clarify the roles of intermediaries and the standards that are expected of them with regard to the abovementioned activities.

The amendments to the REIT Code will become effective on 5 August 2022. Subsequently, new and updated requirements will be applicable to authorization applications for REITs.

Please click [here](#) to view the circular.

SFC, 22 April 2022

The Mandatory Provident Fund Schemes Authority (MPFA), eMPF Platform Company and Mandatory Provident Fund (MPF) trustees exchanged views on the development of MPF

A meeting was held between the MPFA, the eMPF Platform Company and the senior management of all 13 MPF trustees to facilitate the discussion on the development of MPF.

At the meeting, the MPFA announced the arrangement to adopt the trustees' suggestion of allowing employers to continue to make MPF contributions and to enroll regular employees through the trustees' websites or mobile applications for a transitional period of three months after onboarding an MPF scheme to the eMPF platform.

Please click [here](#) to view the press release.

MPFA, 22 April 2022

Circular to intermediaries on the commencement of End-To-End (E2E)

test for the Hong Kong Investor Identification Regime

The SFC had proposed to implement an investor identification regime at trading level for the securities market in Hong Kong (HKIDR). Relevant licensed corporations and registered institutions (Relevant Regulated Intermediaries) will be subject to the HKIDR upon its implementation, which is tentatively set to commence during the second half of 2022 at the earliest.

An E2E test relating to the HKIDR will commence from 16 May 2022 until 15 July 2022. It is mandatory for all Relevant Regulated Intermediaries to participate in the E2E test.

Please click [here](#) to view the circular.

SFC, 21 April 2022

Circular on regulatory aspects of the facilitative measures for the reactivation of dormant or suspended Mainland bank accounts under the COVID-19 pandemic

The HKMA published a circular to provide clarifications for authorized institutions in the offering of assistance to customers whose bank accounts maintained in the Mainland have become dormant or have been suspended and who are facing difficulties in reactivating the accounts due to COVID-19 travelling restrictions.

The HKMA clarified that where the relevant Mainland bank is already an authorized institution, facilitative measures would not trigger bank licensing issues or concerns.

On the other hand, where the relevant Mainland bank is not an authorized institution, the offering of assistance to the affected customers would not render the Mainland bank to have established or maintained a local representative office in Hong Kong.

Please click [here](#) to view the circular.

HKMA, 14 April 2022

Insurance Authority (IA) issued interpretation notes for Module C of the Guideline on Group Supervision

The IA issued a set of Interpretation Notes for Module C of the Guideline on Group Supervision on the Insurance (Group Capital) Rules (Cap. 41O) (Group Capital Rules) as to supplement the guidance provided to designated insurance holding companies (Interpretation Notes).

The Interpretation Notes set out the IA's views with regard to how certain provisions of the Group Capital Rules apply for different group structures. There is a specific focus on the removal of double-counting by reference to illustrative examples.

Please click [here](#) to view the Interpretation Notes.

IA, 13 April 2022

Circular on the supervisory standards and key requirements on the use of premium financing to take out long term insurance policies

The IA and the HKMA each issued a circular clarifying the supervisory standards and requirements related to the use of premium financing in taking out life insurance policies. The circular published by the IA was addressed to all authorized life insurers and licensed insurance intermediaries whilst the one published by the HKMA was addressed to all authorized institutions.

Premium financing refers to insurance funding arrangements whereby the customer, borrows funds from the lender to pay for the premiums of the life insurance policy, and assigns all or part of his or her rights under the proposed policy to the lender.

Both circulars cover areas including affordability assessment, additional measures for customers with risk of over-leveraging, sales practice and training. All standards and requirements stipulated under the circulars will take effect on 1 January 2023.

Please click [here](#) and [here](#) to view the circulars.

IA/HKMA, 1 April 2022

Joint consultation conclusions issued by the SFC and the HKMA on the over-the-counter (OTC) derivatives regulatory regime

The HKMA and the SFC issued joint consultation conclusions on the addition of new calculation periods under the OTC derivatives regulatory regime.

The proposed legislative amendments to the Securities and Futures (OTC Derivative Transactions—Clearing and Record Keeping Obligations and Designation of Central Counterparties) Rules aim to add eight calculation periods. The amendments are expected to take effect on 1 March 2023, subject to the legislative process.

Please click [here](#) to view the joint consultation conclusions.

SFC/HKMA, 1 April 2022

Data Protection

PCPD made the second arrest for a suspected doxxing offence

The Office of the Privacy Commissioner (PCPD) arrested a male who is suspected to have disclosed personal data of three data subjects without their consents on different social media platforms in December 2021 in contravention of section 64(3A) of the Personal Data (Privacy) Ordinance (PDPO). The PCPD seized one smartphone and one computer during the operation.

This is the second arrest made by the PCPD since the latest amendments to the PDPO came into effect in October 2021. The Personal Data (Privacy) (Amendment) Ordinance 2021 was enacted last year to more effectively combat doxxing acts that are intrusive to personal data privacy. The PCPD is empowered under the amendments to carry out criminal investigations and institute prosecutions.

The first arrest was related to a doxxing offence in contravention of the same section of the PDPO last December.

Pursuant to section 64(3A) of the PDPO, a person commits an offence if the person discloses any personal data of a data subject without the relevant consent of the data subject:

- a) With an intent to cause any specified harm to the data subject or any family member of the data subject
- b) Being reckless as to whether any specified harm would be, or would likely be, caused to the data subject or any family member of the data subject.

An offender is liable on conviction to a fine up to US\$100,000 and imprisonment for two years.

The PDPO applies equally to online contents. Members of the public should think twice

before publishing or re-posting any message that appears to be a doxxing message on the internet or social media.

Please click [here](#) to read the media statement.

PCPD, 26 April 2022

PCPD releases report on "Comparison of Privacy Settings of Social Media"

The PCPD released a report on "Comparison of Privacy Settings of Social Media". The PCPD reviewed reviewing the privacy functions, privacy policies and the usability of privacy dashboards of the top 10 most commonly used social media platforms (SMP) in Hong Kong, namely Facebook, Facebook Messenger, Instagram, LINE, LinkedIn, Skype, Twitter, WeChat, WhatsApp and YouTube.

Some of the findings include:

- All SMPs have privacy policies in place, which would explicitly state that users' personal data would be transferred to their affiliated companies.
- The SMPs collect a wide variety of personal data, including users' location data (both precise and coarse locations). Most of them would retain users' credit card data.
- In terms of default privacy settings, Skype and YouTube do not disclose users' age and telephone number, while the rest disclose users' personal data such as age, location, email address or telephone number by default.
- Twitter, WeChat and YouTube receive the highest scores for readability of their privacy policies, while the others mainly lack infographics, tables or short videos to illustrate their privacy policies.
- Apart from WeChat, all of the other instant messaging applications deploy

end-to-end encryption in the transmission of messages between users.

- Except for LINE, the rest provide two-factor authentication.

Twitter does not provide its privacy policy in Chinese text. Non-English users would find it difficult to understand the policies relating to the handling of their personal data.

- Facebook, LINE, WeChat and YouTube allow users to disseminate posts to specific individuals or groups, and modify the privacy settings of the contents after posting.

The PCPD reminds the public to not neglect data privacy risks arising from social media use, including abuse of personal data, data scraping or data leakages. Publicly available personal data may also be used by others for the purposes of doxxing, cyberbullying, phishing, or other illegal activities, leading to property loss and even physical or psychological harm of the victims. The PCPD appeals to the public for greater vigilance and smart use of social media.

The PCPD provides the following advice to social media platforms:

- To continuously adopt "Privacy by Design" to enhance their services and provide more privacy-related functions to users.
 - Be cautious of the types of personal data collected and avoid collecting more data than is necessary for its services.
 - Privacy policies should be clear and easy to understand and should not be vague and general. The use of layered presentations, infographics, tables or short videos would help to improve the readability of privacy policies.
- Should not track users' locations by default and should provide choices to users according to their needs.
 - Should provide end-to-end encryptions and two-factor authentications to strengthen the protection of users' personal data.
 - Should proactively tackle doxxing, data scraping or other illegal acts and limit the ways for searching other users.

The PCPD provides the following advice to users of social media:

- Before registering an account, carefully read the privacy policy of the social media, open an email account dedicated for social media and only provide the required personal data.
- Check the default settings on security or privacy of the social media, as well as the ways through which individual users may be searched, with a view to minimise the disclosure of personal data and opt for the most privacy-protecting setting.
- Consider turning off the location tracking function if not needed to avoid the collection of location data by the social media.
- Pay attention to the privacy options of contents posted and select the appropriate settings before posting the content.
- Before choosing any instant messaging application, pay attention to whether it provides end-to-end encryption forms of transmission to strengthen the confidentiality of transmitted data.
- Use strong passwords and enable two-factor authentication for social media to strengthen account security.

- Minimise the risk of credit card data leakage by avoiding transactions on social media platforms over public Wi-Fi or unsecured Wi-Fi connections.
- Parents/guardians may consider enabling parental controls to monitor their children's use of social media and remind them of the consequences of excessive disclosure or sharing of personal data.

Please click [here](#) to read the report (Chinese version only with bilingual comparison table).

Please click [here](#) to read the media statement.

PCPD, 12 April 2022

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