

# Hong Kong Corporate and Regulatory Insights

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# Equity Capital Markets

## The Stock Exchange of Hong Kong Limited (SEHK) publishes consultation paper on review of corporate governance code and related Listing Rules

SEHK published a consultation paper outlining proposed enhancements to the Corporate Governance Code and Corporate Governance Report (the Code), as well as related amendments to the Rules Governing the Listing of Securities on SEHK (Listing Rules). Key proposals include:

### (i) Corporate culture:

- align company's culture with its purpose, value, and strategy.
- require issuers to have anti-corruption and whistleblowing policies (New Code Provisions (CP), subject to a "comply or explain" basis).

### (ii) Board independence, refreshment, and succession planning:

- require issuers to have a policy to ensure independent views are available to the board, and annual review of its effectiveness (New CP).
- require independent shareholders' approval for re-election of an independent non-executive director (INED) serving more than nine years (Long Serving INED) and additional disclosure<sup>1</sup> (Revised CP).
- if all INEDs on the board are Long Serving INEDs, require appointment of a new INED at the forthcoming annual general meeting (AGM), and disclose the length of tenure of the Long Serving INEDs on a named basis (New CP).
- mandatory Nomination committee, chaired by an INED and comprising a

majority of INEDs (Upgraded to a Listing Rule).

### (iii) Diversity:

- single gender board is not considered to be a diverse board.
- mandatory numerical targets and timelines for achieving gender diversity at both board level and across the workforce (New Mandatory Disclosure Requirement (MDR) under the Code).
- requirements for boards to review progress of diversity policy annually (New CP). After the revised Listing Rules take effect, existing issuers with single gender boards will be allowed a three-year transition period to appoint at least one director of the absent gender on their boards. Initial Public Offering applicants are not expected to have single gender boards.

### (iv) Communication with shareholders:

- mandatory disclosure on shareholders communication policy, and annual review of its effectiveness (Upgraded to MDR).

### (v) Environmental, Social and Governance (ESG):

- align publication timeframe of ESG reports with annual reports (Revised Rule and ESG Guide).

SEHK also encourages issuers to adopt Recommendations of the Task Force on Climate-related Financial Disclosures when disclosing climate change-related information under the ESG Guide, and will provide further guidance in this regard.

The deadline for responding to the consultation paper is 18 June 2021.

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

*(HKEx, 16 April 2021)*

**The Listing Committee of SEHK takes disciplinary action against China Tangshang Holdings Limited (Stock Code: 674) and its executive directors**

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

- China Tangshang Holdings Limited (Stock Code: 674) (the Company),
- Mr. Zhou Hou Jie (Mr. Zhou), executive director of the Company,

criticizes:

- Mr. Chen Wei Wu (Mr. Chen), executive director and Chairman of the Company; and,

directs:

- the Company to conduct an internal control review; and
- Mr. Zhou and Mr. Chen to undergo training.

SEHK found that the Company failed to comply with the announcement and/or shareholders' approval requirements applicable to a major transaction and an advance to an entity, carried out by its subsidiary in September 2019, thereby breaching the Listing Rules. It also found that Mr. Chen and Mr. Zhou failed to discharge their duties as directors, including their failure to implement effective internal controls for ensuring the Company's compliance with the Listing Rules.

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

*(HKEx, 14 April 2021)*

**The Growth Enterprise Market (GEM) Listing Committee of SEHK (GEM Listing Committee) takes disciplinary**

**action against My Heart Bodibra Group Limited (Stock Code: 8297) and two directors**

The GEM Listing Committee censures:

- My Heart Bodibra Group Limited (Stock Code: 8297) (the Company);
- Mr. Chan Lin So Alan, former executive director and compliance officer; and
- Mr. Yiu Koon Pong, former executive director and chief executive officer of the Company.

Very shortly after the Company was listed in July 2017, Mr. Chan Lin So Alan and Mr. Yiu Koon Pong each took out from the Company six interest-free and unsecured loans, worth a total of around \$10 million, for their own use or as they directed. The loans were not for the proper purposes of the Company, and were not approved by either the board or shareholders.

Furthermore, in September 2017, Mr. Yiu Koon Pong bypassed internal recruitment procedures and procured a subsidiary of the Company to enter into a number of employment contracts with individuals including his wife and some relatives for no discernible legitimate purpose. The clear conflicts of interest were not addressed.

The GEM Listing Committee found that the Company and two directors breached several GEM Listing Rules. It also states that by reason of the two directors' persistent failure to discharge their responsibilities under the GEM Listing Rules, had they remained in office, their retention of office would have been prejudicial to the interests of investors.

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

*(HKEx, 7 April 2021)*

# Financial Services Regulation

## Hong Kong Monetary Authority (HKMA) Annual Report 2020

The HKMA published its annual report for 2020 on 28 April 2021 including the financial statements of the Exchange Fund. The report reviews trends and major events in monetary and banking affairs, and reports on the HKMA's work during 2020. It also sets out the HKMA's work plans for 2021.

The HKMA Annual Report 2020 can be viewed on and downloaded from the [HKMA website](#) free of charge.

*HKMA, 28 April 2021*

## The Alliance for Green Commercial Banks Organized the first roundtable in Green Finance

The Alliance for Green Commercial Banks (the Alliance), co-launched by the HKMA and International Finance Corporation (IFC), a member of the World Bank Group, hosted the first roundtable, "CEO Talk: Opportunities for Green Bank Transformation," virtually on 27 April 2021.

The Alliance was jointly launched by the HKMA and IFC in November 2020 to help banks develop the solutions needed to address climate change across emerging markets. As part of its knowledge sharing and capacity building efforts, the Alliance hosted a series of roundtable sessions on relevant topics, in April 2021.

During the roundtable session, speakers discussed the green strategies and the transformation roadmap of commercial banks, as well as opportunities in green investments and risk management in Hong Kong, China, and Asia.

Please click [here](#) to view the press release, which contains more information about the session and the topics discussed.

*HKMA, 27 April 2021*

## Use of external information and data in Anti-Money Laundering and Counter-Financing of Terrorism (AML/CFT) systems

The HKMA has conducted a thematic review of how Authorized Institutions (AIs) integrate various external source information and data into their AML/CFT control systems to enhance effectiveness.

The thematic review examined AIs' end-to-end processes in handling and using information and data from various sources, including intelligence received from the Fraud and Money Laundering Intelligence Taskforce (FMLIT), and how this contributed to their input into the wider AML/CFT ecosystem, such as suspicious transaction reports and interception of funds suspected to be related to fraud, as well as helping to mitigate risks both at the level of individual AIs, and the sector as a whole.

As a result of the review, the HKMA produced a good practice guideline (Good Practice) which includes how AML/CFT systems should support the integration of external information and data, the common characteristics of AIs which are successful in enhancing AML/CFT systems through the use of such information and data as well as the need to consider performance measurement.

The Good Practice is also shared with stored value facility (SVF) licensees, who also make use of information and data from various sources including typologies from FMLIT. SVF licensees are expected to adopt the most appropriate arrangements, commensurate with the size, business scope, and risks of individual SVF licensees, to optimize the performance of their AML/CFT systems by making reference to the key observations and good practices shared from the review.



Please click [here](#) to view the circular issued to AIs and [here](#) to view the circular issued to SVF licensees. You can also view the Good Practice [here](#).

*HKMA, 26 April 2021*

### **Principles for Operational Resilience and Revised Principles for Sound Management of Operational Risk**

On 31 March 2021 the Basel Committee on Banking Supervision (BCBS) issued two sets of principles, viz., the Principles for Operational Resilience (POR) and the Revised Principles for Sound Management of Operational Risk (Revised PSMOR).

The POR contains a new set of principles aimed at improving banks' operational resilience, meaning the ability of banks to deliver critical operations through disruptions, which requires banks to remain within their tolerance for disruption under a range of severe but plausible scenarios. The POR also provides guidance in the following areas, including: governance, business continuity planning and testing, mapping interconnections and interdependencies, third-party dependency management, incident management, and management of information, and communication technology (ICT)-related risks.

Separately, the Revised PSMOR provides (i) further guidance to improve the overall clarity of existing principles; (ii) updates where needed in the areas of change management and ICT management; and (iii) changes to ensure consistency with the new operational risk framework in the 2017 Basel III final package. To assist AIs in the implementation of the Revised PSMOR, the HKMA plans to provide relevant guidance through revising SPM module OR-1 on Operational Risk Management and will consult the industry about the proposed revisions in due course.

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

*HKMA, 21 April 2021*

### **100% Personal Loan Guarantee Scheme (PLGS)**

The Financial Secretary proposed in the 2021-22 Budget the introduction of the PLGS administered by the HKMC Insurance Limited (HKMCI) to provide a supplementary financing option for individuals suffering from cessation of main recurrent incomes from employment due to the Coronavirus Disease 2019 pandemic.

Under the scheme, the HKMCI will rely on the professional expertise, judgement, and care of participating lender institutions in conducting customer due diligence and verification of applicants' eligibility for concessionary low-interest loans. After drawdowns, the loans will be sold by the institutions to The Hong Kong Mortgage Corporation Limited (HKMC) without recourse. The Government will provide funding to the HKMC for the purchase of loans.

A participating authorized institution (AI) is expected to check the eligibility of an applicant against the criteria specified under the PLGS. As the loan will be transferred without recourse by the participating AI to the HKMC shortly after it is created, the HKMA considers that the credit risk exposure of the AI is minimal.

Considering the policy intent of the PLGS is to tide members of the public over the temporary financial hardship induced by the pandemic, AIs are expected not to take any credit actions which may result in a tightening of existing credit to the borrower, on knowledge of his or her application under the PLGS.

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

*HKMA, 20 April 2021*

## Consultation on annual update to the list of Financial Services Providers (FSP) under the over-the-counter (OTC) derivatives regulatory regime

The HKMA and the Securities and Futures Commission (SFC) today issued a joint consultation on the annual update to the list of Financial Services Providers (FSP) under the OTC derivatives clearing regime. An additional entity is proposed to be included on the list, and an entity to be removed.

- TD Global Finance Unlimited Company, which is a group member of a GSIB, has become a clearing member of an IRS CCP member. The HKMA and the SFC propose to include it in the revised FSP List.
- DB Privat- und Firmenkundenbank AG (DBPF), a current FSP, merged in May 2020 into another group entity, which is also a current FSP. The HKMA and the SFC propose to revoke the FSP designation of DBPF and remove it from the FSP List.

Please click [here](#) for the press release and [here](#) for the joint consultation document.

*SFC / HKMA, 15 April 2021*

## Continuing Professional Development (CPD) requirements – CPD Compliance Reporting Procedures for Assessment Periods 2019/20 and 2020/21

Each authorized insurer, licensed insurance agency, and licensed insurance broker company must report the CPD compliance of all their appointed individual licensees to the Insurance Authority (IA) by 31 October 2021 in the following manner:

- (a) download the CPD List available in Insurance Intermediaries Connect, the

IA's online portal (see also the next section of this circular);

- (b) collect the completed CPD Declaration Forms from all its appointed individual licensees;
- (c) complete the CPD List by providing the CPD compliance status for each individual licensee in the list; and
- (d) upload the completed CPD List to the online portal for submission to the IA (the upload function will be available after 6 August 2021).

Authorized insurers, licensed insurance agencies, and licensed insurance broker companies are encouraged to open a Supervisor Account in Insurance Intermediaries Connect, which is an online platform maintained by the IA allowing authorized insurers, licensed insurance agencies, and licensed insurance broker companies to access their CPD list and report CPD compliance of their appointed individual licensees to the IA.

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

*IA, 1 April 2021*

## HKMA and Bank of Japan launch a cross-border delivery-versus-payment link

The HKMA announced the launch today of the delivery-versus-payment (DvP) link for cross-currency securities transactions between the Hong Kong dollar (HKD) CHATS<sup>1</sup> and the Bank of Japan Financial Network System for Japanese Government Bond Services.

The link would support DvP settlement of the HKD sale and repurchase transactions using Japanese Government Bonds (JGB) as collateral. It helps eliminate settlement risk by ensuring simultaneous delivery of HK dollars in Hong Kong and JGBs in Japan.



The DvP link, by providing a settlement infrastructure, would facilitate banks in conducting cross-currency sale and repurchase transactions to obtain the HKD funds.

The link is operated by Bank of Japan in Japan and by Hong Kong Interbank Clearing Limited in Hong Kong.

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

*HKMA, 1 April 2021*

## Data Protection

### Facebook provides users with an online form for enquiry of the reports on suspected data breach

In response to the compliance check by the Office of the Privacy Commissioner for Personal Data, Hong Kong (PCPD) in relation to the reported data breach incident, Facebook has submitted initial response to the PCPD and published public statements on Facebook's platform.

Facebook has noted that its investigations are ongoing but its external security researchers believe that data of approximately 2,937,841 Hong Kong individuals may be included in the dataset. The data were obtained by malicious actors by scraping publicly accessible information from the Facebook platform prior to September 2019.

Facebook has provided an online contact form in its Help Centre for users to submit enquiries relating to the incident, including:

- Was my information scraped?
- How do I delete my phone number from my Facebook account?
- How do I contact Facebook with an enquiry [regarding the incident]?

Click [here](#) and [here](#) to read the media statements.

*PCPD, 13 April 2021*

### Privacy Commissioner follows up on the suspected data breach relating to Clubhouse users

In light of overseas media reports on the suspected data breach relating to the users of the audio-based social media platform Clubhouse, the PCPD has followed up with Clubhouse to ascertain whether the people affected in the incident include Hong Kong users and the personal data involved.

If it is found that Hong Kong users are affected, Clubhouse should notify the affected users as soon as possible to mitigate the risks arising from the incident.

To protect personal data privacy, users are advised to take the following measures:

- Change the passwords of the social media accounts concerned and other platforms as well if necessary;
- Enable the two-factor authentication feature;
- Beware of any unusual logins of social media accounts and personal emails; and
- Stay vigilant when they receive any suspicious calls, text messages, or emails or any calls, text messages, or emails from unknown sources.

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

*PCPD, 11 April 2021*

### Privacy Commissioner follows up on the alleged scraping and selling of data of LinkedIn users

Recent foreign media reported that the personal data of users of the employment-oriented social media platform LinkedIn were allegedly scraped and sold online. The PCPD has contacted LinkedIn to ascertain particulars of the incident.

LinkedIn indicated in its initial response that it was investigating the matter. Hong Kong users might be affected but the number was still under investigation. The disclosed data set appeared to include publicly viewable information that was scraped from LinkedIn, together with data aggregated from other websites or companies.

If LinkedIn was found that Hong Kong users were affected, it should notify the affected

users as soon as possible to mitigate the risks arising from the incident.

To protect personal data privacy, users are advised to take the following measures:

- Change the passwords of the social media accounts concerned and other platforms as well if necessary;
- Enable the two-factor authentication feature;
- Beware of any unusual logins of social media accounts and personal emails; and
- Stay vigilant when they receive any suspicious calls, text messages, or emails or any calls, text messages, or emails from unknown sources.

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

*PCPD, 9 April 2021*

### **PCPD issues Guidance on Protecting Personal Data Privacy in the Use of Social Media and Instant Messaging Apps**

The PCPD issued the "Guidance on Protecting Personal Data Privacy in the Use of Social Media and Instant Messaging Apps" (Guidance), which provides the public with some practical advice to mitigate the privacy risks involved in the use of social media.

The Guidance reminded the public that the use of social media and instant messaging apps is not "free" because users' personal data is usually monetized upon registration or in the course of user activities. Users of social media often unwittingly reveal more information than they anticipate, and most materials shared online can leave a perpetual digital footprint that is hard to remove. Information shared online may also be misused by third parties, and provides the materials for identity thefts, cyberbullying or doxxing.

Recommendations for users of social media include:

- review the privacy policies to understand how social media platforms handle their personal data. Whenever there are any changes in the privacy policies, the users should clearly understand the relevant changes before they accept the changes;
- regularly review their privacy settings to retain control over what information will be disclosed to other users and how widely the information is disclosed;
- limit the permissions granted to social media platforms on how their personal data, such as facial images and location data, can be used;
- respect other people's privacy and be cautious about tagging other people in photos or sharing information about other people; and
- be vigilant about online scams, such as malicious hyperlinks that request the users to "log-in" or provide personal data.

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

*PCPD, 5 April 2021*

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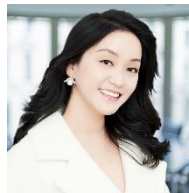
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