

Hong Kong Corporate and Regulatory Insights

February 2022



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Equity Capital Markets

The Stock Exchange of Hong Kong (SEHK) takes disciplinary action against Fantasia Holdings Group Co., Limited (Stock Code: 1777) (Fantasia), Colour Life Services Group Co., Limited (Stock Code 1778) (Colour Life) and four directors

Key messages:

- Issuers contemplating a spin-off should bear in mind the requirement that there should be a clear delineation between the business retained by the parent and the business of the company to be spun off.
- To ensure compliance with such arrangement, issuers should ensure that adequate and effective internal controls are in place.

SEHK criticizes:

- Fantasia.
- Colour Life.
- Mr. Pan Jun, Executive Director (ED) of Fantasia; ED and former Non-Executive Director (NED) of Colour Life.
- Mr. Tang Xue Bin, former ED and former NED of Colour Life.
- Mr. Lam Kam Tong, former ED and former NED of Fantasia, and former NED of Colour Life.
- Mr. Zhou Qin Wei, former ED of Colour Life.

Fantasia was listed on 25 November 2009. Subsequently on 30 June 2014, Fantasia spun off Colour Life and remains the controlling shareholder of Colour Life. Fantasia and Colour Life entered into a deed of non-competition (the Deed), and a business delineation scheme (the Scheme) to eliminate

potential competition and provide a clear business delineation.

SEHK found that both Fantasia and Colour Life failed to maintain effective and adequate internal controls, as required under the Corporate Governance Code, for procuring their compliance with the Deed and Scheme. Such failure had led to Colour Life failing to provide in its annual reports dated from 2015 to 2018 accurate disclosures, as required under Rule 2.13(2) of the Listing Rules. SEHK also found that Mr. Pan, Mr. Tang, Mr. Lam and Mr. Zhou breached Rule 3.08(f), and their directors' undertakings by failing to use their best endeavors to procure the companies' compliance with the Deed, the Scheme, the Corporate Governance Code and Listing Rules.

SEHK directs Mr. Pan to attend 17 hours of training on regulatory and legal topics including Listing Rule compliance within 90 days. SEHK also directs Mr. Tang, Mr. Lam and Mr. Zhou 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 against Fantasia, Colour Life, Mr. Pan and Mr. Tang, and [here](#) to view the statement of disciplinary action against Mr. Lam and Mr. Zhou.

HKEx, 28 February 2022

SEHK updates Frequently Asked 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 Securities and Futures Commission in relation to results announcements and general meetings in light of travel restrictions related

to the COVID-19 pandemic (the 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 requirements imposed on issuers in relation to publishing result announcements and holding general meetings.

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

HKEx, 21 February 2022

SEHK takes disciplinary action against Beijing Media Corporation Limited (Stock Code 1000) (the Company) and its directors and supervisors

Key messages:

- Issuers must comply with the disclosure and shareholder approval requirements of the Listing Rules.
- Issuers must ensure that adequate and effective internal controls are in place at their subsidiary level.
- Issuers must cooperate with SEHK's investigations without delay.

SEHK censures:

- The Issuer.
- Mr. Ji Chuan Pai, former ED and chairman of the Company.
- Ms. Li Xin, former ED of the Company.
- Mr. Peng Liang, former ED of the Company.
- Mr. Zhuang Yan Ping, former ED of the Company.

Between 23 January 2018 and 29 March 2019, the Company through its subsidiaries (a) provided 13 loans totaling RMB333.2 million

to its controlling shareholder, which constituted advances to an entity under Chapter 13 of the Listing Rules; and (b) seven loans to totaling RMB 220 million to its associate, which constituted major and connected transactions under Chapters 14 and 14A of the Listing Rules (the Loans). Some of these loans did not have written agreements.

SEHK found that the Company failed to comply with the announcement, circular, shareholders' approval, written agreement and reporting requirements under Chapters 13, 14 and 14A of the Listing Rules. SEHK also found that the relevant directors breached Rule 3.08(f) of the Listing Rules and their directors' undertakings by failing to ensure the Company maintained adequate and effective internal controls. Furthermore, Mr. Li Xiao Bing, Mr. Chow Bing Chuen and Mr. Liu Hong, whom are former NEDs of the Company, failed to cooperate with the investigation of SEHK.

SEHK states that had Mr. Li, Mr. Liu or Mr. Chow remained on the board of directors of the Company, their retention of office would have been prejudicial to the interests of investors. SEHK directs the relevant directors to attend 24 hours of training on regulatory and legal topics, including Listing Rules compliance.

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

HKEx, 10 February 2022

HKEx publishes the SEHK's Enforcement Bulletin

The Hong Kong Exchanges and Clearing Limited (HKEx) published the SEHK's Enforcement Bulletin on internal controls. The Enforcement Bulletin provides guidance on what constitutes adequate and effective internal control as required in the Corporate Governance Code, and the approach of SEHK

HKEx, 4 February 2022

in investigating the internal controls of issuers. We highlight some of the key messages from the SEHK in the Enforcement Bulletin:

- It's important for each issuer to have an adequate and effective internal control framework in order to mitigate risks of non-compliance and negative impact on its business.
- In an enforcement action against an issuer, the SEHK will investigate into not only the matter that gives rise to the enforcement action, but also whether the issuer has adequate and effective internal controls in place to mitigate the risk of problematic events. Disciplinary action will follow for the failure of internal controls even if the matter that causes SEHK to begin its investigation involves no breach or misconduct.
- In such investigations, SEHK will typically ask for evidence of internal controls in place, and the steps taken by the issuer to review them. SEHK will consider an issuer's culture towards internal controls and compliance with the Listing Rules. SEHK expects all issuers to review their internal controls at least annually.
- Issuers are required to cooperate with SEHK's investigations. A failure to cooperate will be viewed as serious misconduct.

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

Financial Services Regulation

Supplemental circular on streamlined requirements for eligible exchange traded funds adopting a master-feeder structure

The Securities and Futures Commission (SFC) published a supplemental circular to the circular on streamlined requirements for eligible Exchange Traded Funds (ETFs) adopting a master-feeder structure issued on 16 December 2019, which sets out the requirements under which the SFC would consider authorizing an index tracking feeder ETF investing in an overseas-listed master ETF without SFC authorization.

Requirements have now been revised to relax the fund size and track record requirements for overseas-listed master ETFs. Going forward, an eligible master ETF must have a fund size of not less than USD 400 million and a track record of more than 1 year at the time of the feeder ETF's listing on the Stock Exchange of Hong Kong.

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

SFC, 25 February 2022

SFC consults on implementation details of proposal to regulate trustees and custodians of public funds

The SFC concludes consultations and initiates a further consultation on the proposal to regulate trustees and custodians of SFC-authorized collective investment schemes (Depositaries) on 22 February 2022.

The consultations concluded were on the proposal to introduce a new regulated activity under the Securities and Futures Ordinance. Under the proposal, a Type 13 regulated activity will be introduced as to put Depositaries under the SFC's direct and

on-going supervision (i.e. Type 13 regulated activity – acting as a depositary (trustee/custodian) of an SFC-authorized collective investment scheme). Similar to other types of regulated activities, licensing requirements will apply. The SFC will be empowered under the proposed regulatory regime to take enforcement and disciplinary actions against the Depositaries.

Response has been generally positive and supportive, with a few seeking clarifications on implementation details. Now, the SFC is open to accepting comments from the public, on or before 30 April 2022, on the proposed amendments to the subsidiary legislation, as well as the implementing codes and guidelines.

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

SFC, 22 February 2022

Circular on the launch of Greater Bay Area fintech pilot trial facility

Starting from 18 February 2022, the Hong Kong Monetary Authority (HKMA) and the People's Bank of China (PBoC) began accepting applications from financial institutions and technology firms to conduct pilot trials of cross-boundary fintech initiatives in the Greater Bay Area (GBA).

Institutions and firms that wish to participate in the pilot scheme can contact the HKMA. After submitting all requisite information to the HKMA, which will then be shared with the PBoC and the relevant Mainland authorities, the applicant will be notified once a decision is made.

The above initiative builds on the basis of the Memorandum of Understanding signed between the HKMA and the PBoC in October 2021, which aims to provide a "one-stop platform" for financial institutions and technology firms to pilot test their cross-boundary financial technology (fintech)

initiative, simultaneously in Hong Kong and cities in the GBA.

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

HKMA, 18 February 2022

Insurance Authority welcomes the China Banking and Insurance Regulatory Commission to regularize preferential treatment for the Hong Kong insurance industry

The Insurance Authority (IA) has issued a press release, expressing its approval for the decision made by the China Banking and Insurance Regulatory Commission (CBIRC) to include the preferential treatment for the Hong Kong insurance industry as part of the Solvency Regulatory Rules II for Insurance Companies (Rules).

The preferential treatment has been in operation since 2018, and has since allowed the capital requirement of Mainland insurers ceding businesses to qualified Hong Kong professional reinsurers to be lowered. The treatment has been extended on an annual basis.

Moreover, the Rules set out the capital requirement for Mainland insurance instructions that issue catastrophe bonds in Hong Kong.

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

IA, 17 February 2022

Hong Kong Mortgage Corporation Limited signs Memorandum of Understanding with 14 partner banks on infrastructure loans framework

On 11 February 2022, the Hong Kong Mortgage Corporation Limited (HKMC) announced the signing of a Memorandum of Understanding (MoU) on infrastructure

loans framework with 14 partner banks. This is conducive to filling the infrastructure financing market gaps and to further Hong Kong's position as an infrastructure financing hub.

The MoUs set out the major terms for potential infrastructure loan cooperation between the HKMC and the partner banks on primary participation and secondary sale bases.

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

HKMA, 11 February 2022

Data Protection

The Privacy Commissioner investigates a data breach incident involving Harbour Plaza hotel group

The Office of the Privacy Commissioner (PCPD) was notified by Harbour Plaza Hotel Management Limited (Harbour Plaza) of a data breach incident, in which some of its accommodation reservation databases suffered from a cybersecurity attack. On 9 February 2022, the PCPD was informed that personal data of approximately 1.2 million customers were affected.

Given the nature of the incident and the significant number of data subjects involved, the PCPD commenced an investigation into the incident and requested Harbour Plaza to provide more information of the incident, including the details of the incident and the types of personal data involved.

The Privacy Commissioner appeals to citizens who have previously stayed in and provided personal data to Harbour Plaza to be vigilant about potential theft of their personal data.

Those who are in doubt about whether their personal data have been leaked may make enquiries with Harbour Plaza and/or the PCPD.

To protect personal data privacy, affected citizens are advised to:

- Change the passwords of relevant accounts and enable two-factor authentication function (if any).
- Stay vigilant when they receive any suspicious calls, text messages or emails from unknown sources.
- Stay vigilant against phishing or other possible scams.
- Review their payment card statements to spot any unauthorized transactions.
- Beware of any unusual logins or any registered accounts and personal emails.

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

PCPD, 11 February 2022

Special Work Arrangements implemented by PCPD in light of COVID-19; hotline and online services still available

In light of COVID-19 and government announcements, the PCPD has implemented special work arrangements, and appeals to members of the public to make enquiries or complaints by telephone or online channels:

- Media enquiries (90997517; media@pcpd.org.hk).
- General enquiries, matters relating to data breach notifications and complaints: hotline (28272827).
- Enquiry/complaint about doxxing: hotline (34236666), fax (28777026) or email (communications@pcpd.org.hk, dbn@pcpd.org.hk, complaints@pcpd.org.hk).
- Online services: www.pcpd.org.hk.

The PCPD warns that it will take longer time than usual to process complaints and enquiries during the period of special work arrangements.

Given that no new statements have been released by the PCPD in relation to the special work arrangements, it is assumed that this arrangement is extended until further notice.

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

PCPD, 3 February 2022

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