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This update provides an overview of key regulatory developments in the past three months relevant to companies listed, or planning to list, on The Stock Exchange of Hong Kong Limited (**HKEx**), and their advisers. In particular, it covers amendments to the Rules Governing the Listing of Securities on HKEx (**Listing Rules**) as well as announcements, guidance and enforcement-related news from HKEx and the Securities and Futures Commission (**SFC**). Other recent market developments also may be included. We do not intend to cover all updates that may be relevant, but we welcome feedback, so please contact us if you'd like to see analysis of other topics in the future.

Takeovers Bulletin

In September 2020, SFC issued a bulletin regarding issues relating to the Codes on Takeovers, Mergers and Share Buybacks (the **Takeovers Code**), which includes the following highlights:

Exclusivity Agreements

In the context of a general offer (including take-private transactions), potential vendors or existing controlling shareholders of an offeree company may enter into an exclusivity agreement with the offerors for the purpose of restricting their abilities to communicate with other potential offerors for a stated period of time. Parties should be mindful of whether some of the terms of the offer constitute a special deal under Rule 25, which requires the offeror or parties acting in concert not to make any arrangements with shareholders or enter into arrangements to purchase or sell securities of the offeree company, as well as not to make any arrangements involving acceptance of an offer, either during an offer or when an offer is reasonably in contemplation, or for six months after the close of such offer, if such arrangements have conditions that are not extended to all shareholders. In addition, an offeree company itself should not enter into such an exclusivity agreement, as this would restrict its ability to discuss or negotiate with other potential offerors, therefore prohibiting its directors from carrying out their fiduciary duties and potentially resulting in a violation of General Principles 8 and 9 of the Takeovers Code.

Enforcement of Security

In cases involving creditors' enforcement actions, such as the appointment of a receiver or liquidator over a controlling block of shares, offer periods are triggered, although SFC may waive the general offer obligation of a bank or a lending institution resulting from enforcement of security, according to Note 2 of Rule 26. If a lender decides to take

Hong Kong Regulatory Update

action in addition to the appointment of a receiver or liquidator to enforce its security, there are Takeovers Code implications. For example, if a lender chooses to launch a voluntary general offer at the same time as it appoints a receiver or liquidator over a substantial stake in the same company, any proposed settlement arrangement or agreement between the lender (as the offeror) and the borrower (being a shareholder of that company) may constitute a special deal under Rule 25 of the Takeovers Code. The offer timetable under Rule 15 of the Takeovers Code will be strictly enforced with no allowance made for settlement talks.

New Platform for E-Submission of Documents on Display

To streamline the submission and publication processes for documents required to be displayed (**documents on display**, or **DoD**) under Note 1 of Rule 8 of the Takeovers Code, SFC has moved the process online to its web-based INteGrated Service (**WINGS**) portal since October 5, 2020. The procedure to prepare all documents in PDF format and the preparation of the DoD submission form remain largely the same, with the exception that CD or DVD submission is no longer required. Instead, applicants will submit documents online via WINGS.

Revisions to Practice Note 20

Attention should be given to Practice Note 20 from the beginning of a transaction to ensure confirmations and information required by SFC are submitted in a timely manner for vetting. A soft copy of the revised pages as part of the revised draft documents must be submitted under Paragraph 30 of Practice Note 20, showing all new insertions as mark-ups and all deletions in strikethroughs.

HKEx Publishes Consultation Conclusions on Corporate WVR

On October 30, 2020, HKEx published its conclusion to the consultation on the corporate weighted voting rights (**WVR**) beneficiaries. While a majority of respondents agreed, in principle, that corporate WVR beneficiaries should be permitted, there were very diverse views and expectations as to how the proposed regime would operate in practice and whether (and if so what) modifications were required for it to operate as intended. As such, HKEx decided to give more time for the market to develop a better understanding of Hong Kong's regulatory approach toward regulating listed companies with WVR structures and their controllers, and for regulators to monitor that the existing Chapter 8A regime operated as intended, which will help to inform any future amendments.

Grandfathered Greater China Issuers — namely, a Greater China Issuer that primary listed on the New York Stock Exchange, Nasdaq Stock Exchange or the Main Market of the London Stock Exchange (**Qualifying Exchange**) on or before December 15, 2017 — that meet the eligibility and suitability requirements under Chapter 19C of the Listing Rules are permitted to secondary list in Hong Kong without having to amend their existing WVR structures even if they have WVR structures that do not meet Hong Kong's requirements under Chapter 8A of the Listing Rules. Going forward, HKEx will treat Greater China Issuers that are (1) controlled by corporate WVR beneficiaries (as of October 30, 2020); and (2) primary listed on a Qualifying Exchange (on or before October 30, 2020) (**Qualifying Corporate WVR Issuers**) in the same manner as current Grandfathered Greater China Issuers for the purposes of Chapter 19C of the Listing Rules.

Qualifying Corporate WVR Issuers must (1) meet a very high minimum market capitalization threshold of at least HK\$40 billion, or at least HK\$10 billion with at least HK\$1 billion of revenue for its most recent audited financial year; (2) be an “innovative company” as part of the demonstration of their suitability for listing; and (3) demonstrate that the domestic laws, rules and regulations to which they are subject and their constitutional documents combine to provide certain shareholder protection standards (including that the issuer will hold an annual general meeting each year and provide members holding 10% of the voting rights or more, on a one vote per share basis, with the right to convene an extraordinary general meeting).

HKEx Consults on Main Board Profit Requirement

The market capitalization requirement was increased from HK\$200 million to HK\$500 million in 2018, but the profit requirement (*i.e.*, HK\$20 million in respect of the most recent financial years and HK\$30 million in aggregate in respect of the two preceding financial years) has remained unchanged despite two public consultation and reviews conducted between 2002 and 2017. The market has seen an increase in listing applications from typically small- or mid-sized companies in traditional industries that marginally met the profit requirement but had relatively high historical price-to-earning ratios as compared with those of their listed peers. While these issuers typically justified their higher valuations by referencing potential growth, a number of them failed, post-listing, to meet the profit forecasts they had filed with HKEx as part of their listing applications, which gave rise to concerns about the reasonableness of their valuations (*i.e.*, whether they were indeed supported by a genuine expectation of growth).

Hong Kong Regulatory Update

The regulatory-related concern is whether these issuers were genuinely listed with the intention to raise funds for the development of their underlying businesses as stated in the profit forecasts, or whether their valuations were simply reverse engineered to meet the market capitalization requirement in order to manufacture potential shell companies for sale after listing given the perceived premium attached to the listing status. If the valuation achieved by an issuer upon listing is not genuinely supported by the market, such issuer's share price may decrease significantly shortly after listing, which could result in losses to investors and hurt investors' confidence in the potential for price appreciation of the relevant shares. Inadequate market demand also may lead to thin trading and low liquidity of the shares, making the relevant shares more susceptible to speculative trading and excessive market volatility post-listing. As such, the listing of an issuer with a valuation that is not genuinely supported by the market is not in the interest of the investing public, and will affect the overall quality of the main board listings.

In response to such regulatory concern, HKEx proposed to increase the profit requirement either by 150%, such that the profit requirement will be HK\$50 million in the most recent financial year and HK\$75 million in aggregate in the two preceding financial years (based on the percentage increase in the market capitalization requirement from HK\$200 million to HK\$500 million in 2018) (**Option 1**) or by 200%, such that the profit requirement will be HK\$60 million in the most recent financial year and HK\$90 million in aggregate in the two preceding financial years (based on the approximate percentage increase in the average closing price of the Hang Seng Index from 1994 to 2019) (**Option 2**).

Acknowledging the potential impact of the proposal if adopted, HKEx will introduce the following transitional arrangements:

- the effective date of the rule amendment will not be earlier than July 1, 2021, so that sufficient time is given for potential applicants preparing or planning to apply for listing on the main board;
 - main board listing applications and GEM transfer applications will be assessed under the current profit requirement if they are submitted before the date when the proposal is effective (**Rule Amendment Effective Date**). Such applications will be allowed to be renewed once following the Rule Amendment Effective Date for continued assessment under the current profit requirement. For any subsequent renewals, the application will be assessed under the increased profit requirement;
 - a new applicant will not be permitted to withdraw its listing application before it lapses. If the applicant resubmits the application shortly thereafter before the Rule Amendment Effective Date, the application will be assessed in accordance with the existing profit requirement for a longer period; and
 - In the meantime, the eligibility of applications for listing on the main board will continue to be processed in accordance with the current profit requirement, among other tests. HKEx acknowledges that the time required to vet main board listing applications may be longer considering an influx of applications for listing on the main board ahead of the change in the profit requirement.
- In addition to the transitional arrangements, HKEx proposed temporary relief of the proposal if adopted to facilitate the listings of quality companies that are temporarily affected by the COVID-19 pandemic and the current economic downturn. In particular, certain temporary reliefs from the profit spread in the increased profit requirement could be granted if an applicant is able to meet the following conditions:
- its aggregate profit during the track record period meets the aggregate profit threshold (*i.e.*, HK\$125 million under Option 1 or HK\$150 million under Option 2);
 - it had a positive cash flow generated from operating activities in the ordinary and usual course of business before changes in working capital and taxes paid in the last financial year during the track record period;
 - it demonstrates that the conditions and circumstances leading to its inability to meet the profit spread in the profit requirement are temporary;
 - the track record period must have at least six consecutive months that fall within the 2020 calendar year; and
 - it shall make adequate disclosure in the listing document, including but not limited to:
 1. the likelihood of continuance or recurrence of the circumstances leading to the applicant's inability to meet the spread of the increased profit requirement;
 2. measures which were taken or will be taken by the applicant to mitigate the impact of those circumstances on future profitability; and
 3. a profit forecast covering the period up to the forthcoming financial year end date after the date of listing with detailed bases and key assumptions.

The deadline for submitting a response to the consultation paper is February 1, 2021.

Hong Kong Regulatory Update

HKEx Review of 2019 Corporate Governance Reports

HKEx recently published its 11th review of corporate governance reports, covering 400 corporate governance reports issued for financial year ended in 2019. HKEx reported the disclosure of the following key areas of mandatory disclosure requirements (MDRs) under the Corporative Governance Code (CG Code) can be further improved:

- **Board diversity policy:** HKEx recommended that issuers should consider how specific, measurable, attainable, relevant and time-bound they may be when setting up the measurable objectives of board diversity policy.
- **Nomination policy:** In order to demonstrate the issuer's commitment to the board's diversity and succession planning, as well as the company's long-term development, HKEx recommended that issuers consider disclosing information on (1) the development of a diverse pipeline for succession (*e.g.*, any programs implemented to prepare selected employees for senior management and board positions) and (2) the selection process within the pool of selected employees, such as how the selected candidates' experience and expertise align with the issuer's diversity needs.
- **Summary of work for board committees:** A summary of work performed during the year for the remuneration committee, the nomination committee and the audit committee should be included.
- **Summary of work for corporate governance and risk committee (if any):** While it is not mandatory to establish a corporate governance committee or a risk committee, HKEx reminded the issuers to ensure that the board (or a board committee) oversees these functions and includes relevant work summary in the corporate governance report.
- **Participation of the directors' trainings:** The training completed by each director should be disclosed by name.
- **Auditors' remunerations:** The nature of the underlying non-audit service assignments, as well as the monetary amount paid to auditors in respect of audit and non-audit services, should be disclosed.
- **Risk management review:** The frequency of the reviews (*e.g.*, quarterly, half-yearly or annually) and the confirmation of the review conducted for risk management and internal control systems should be disclosed.

Issuers are reminded to carefully review each paragraph and sub-paragraph of the MDRs of the CG Code to ensure that all required information is properly disclosed, or include a negative statement where appropriate.

HKSCC Launches New Service To Facilitate Lodging of Shareholders' Written Requisitions

On December 17, 2020, HKEx announced that its wholly owned subsidiary, Hong Kong Securities Clearing Company Limited (HKSCC), would launch a new service that simplifies the submission of requisitions to listed issuers, making it easier for investors to exercise their shareholder rights.

Currently, investors need to withdraw their eligible securities from the depository of the Central Clearing and Settlement System (CCASS) via CCASS participants and re-register the securities in their own names, so they can submit requisition to issuers.

The service started on December 21, 2020, and, accordingly, investors are now able to submit three types of requisitions to issuers, without the need to withdraw eligible securities from the depository of the CCASS. Participants in CCASS will, on behalf of the investors, then submit the requisition to issuers through HKSCC. The requisitions sent by HKSCC to issuers in the capacity as the nominee holder of the relevant securities on behalf of such investors are to request:

- the directors of an issuer to call a general meeting;
- an issuer to circulate to its members or securities holders a statement with respect to a matter mentioned in a proposed resolution, to be dealt with at a general meeting, or other business to be dealt with at that meeting; and/or
- an issuer to give notice of a resolution that may properly be voted upon and is intended to be voted upon at an annual general meeting.

HKEx Publishes Consultation Conclusions on Paperless Listing and Subscription Regime, Online Display of Documents and Reduction of the Types of Documents on Display

Following its consultation about the amendments to the Listing Rules relating to (1) the new headline categories for debt issuance programs, (2) the paperless listing and subscription regime, and (3) the online display of documents and the reduction of documents on display, HKEx issued its consultation conclusions on December 18, 2020, indicating that all of the proposals outlined in the consultation will be adopted, except for a number of minor modifications.

There will be new headline categories for debt issuance programs under Appendix 24 of the Listing Rules, which will take effect on March 1, 2021.

Hong Kong Regulatory Update

The following amendments relating to the paperless listing and subscription regime proposal will take effect on July 5, 2021:

- except where an issuer chose a mixed media offer, (1) all listing documents in a new listing must be published solely in an online electronic format with printed form listing documents discontinued; and (2) all new listing subscriptions, where applicable, be made through online electronic channels only; and
- the publication of listing documents in newspapers has been determined to be rare and the related requirements will be repealed on the effective date.

The following amendments relating to the documents on display proposal will take effect on October 4, 2021:

- issuers are required to post online display documents on both the websites of HKEx and the issuer, and the requirement for physical display will be removed. However, the register of members of PRC issuers will continue to be available for physical inspection. If issuers do not wish for certain information to be disclosed, they may apply to HKEx for specific disclosure relief, which will take a case-by-case approach to determining whether redaction should be permitted based on the merits of each individual case and any relevant waiver conditions. For example, issuers will need to demonstrate that disclosure of such information would breach the Personal Data (Privacy) Ordinance or cause competitive harm to the issuer (*e.g.*, the information is a trade secret).
- no restrictions will be imposed on printing and/or downloading of the online display documents. HKEx also clarifies that side letters, if they form part of the material contracts, are still required to be displayed.
- no system will be put in place to record and verify the identity of a person who accesses their documents.
- in respect of a major transaction/very substantial acquisition/very substantial disposal/connected transactions, which are subject to shareholders' approval, issuers (1) are required to display the contracts pertaining to the transaction only; (2) are no longer required to display all material contracts entered into within the last two years before the issue of the circular of a relevant notifiable transaction; and (3) are no longer required to display contracts referred to in a connected transaction circular and directors' service contracts.

HKEx Offers Proposals to Modernize the IPO Settlement Process

On November 16, 2020, HKEx launched its concept paper on Fast Interface for New Issuance (FINI), setting out proposals to shorten the time gap between IPO pricing and trading by 80%, from five business days to as little as one business day. The proposals offer plans to utilize intelligent technology to drive efficiency, alleviate funding lock-ups and digitize the IPO settlement cycle. Feedback on the concept paper is sought by January 15, 2021.

E-Forms

On October 30, 2020, HKEx published a [webpage](#) on Listing e-Forms for the submission of routine information to HKEx. The page provides templates of the e-Forms that should be used, with a Form Filing Guide for each, and sets out the timetable for their launch on January 1, 2021. Companies should ensure that they have a valid e-Submission System (**ESS**) account for listing related matters in order to submit the listing e-Forms (which include blackout period notifications, director/supervisor's undertakings and contact details, size tests for notifiable and connected transactions, trading arrangement forms and listing applications),

Enforcement Matters

SFAT's Affirmation of SFC Decision to Ban a Former RO for Five Years After IPO Sponsor Failures

The Securities and Futures Appeals Tribunal (**SFAT**) highlighted the importance of roles of sponsors as gatekeepers of the IPO process and market quality by affirming SFC's decision to ban a former responsible officer (**RO**) of CCB International Capital Limited (**CCBIC**) and BOCOM International (Asia) Limited (**BIAL**) from reentering the industry for five years for failing to discharge his supervisory duties as a sponsor principal in charge of supervising the execution of the listing applications. These duties included supervising the applications of Fujian Dongya Aquatic Products Co., Ltd. (**Fujian Dongya**) and China Huinong Capital Group Company Limited (**China Huinong**), respectively, with SFC finding that the failures committed by CCBIC and BIAL were attributable to the negligence of the RO.

Hong Kong Regulatory Update

In connection with Fujian Dongya's listing application, the former RO of CCBIC was sanctioned for his failures as the sponsor principal to:

- properly supervise the due diligence process of the third-party payment arrangement between Fujian Dongya, its overseas customers and their third-party payers;
- apply his opinions as to the reasonableness of explanations by Fujian Dongya on third-party payments, despite various red flags raised in the due diligence process; and
- supervise the due diligence interviews with Fujian Dongya's customers.

In connection with China Huinong's listing application, the former RO of BIAL was censured for his failures as the sponsor principal to:

- take proper steps to ensure that the due diligence work was compliant with the relevant regulatory requirements before signing and submitting the listing application; and
- give BIAL's transaction team adequate instructions and supervision to ensure the information provided to HKEx and SFC was properly verified.

SFC's Ban of a Former RO for 20 Months Over IPO Sponsor Failures

SFC prohibited a former RO and chief executive officer of Yi Shun Da Capital Limited (**YSD Capital**) from reentering the industry for 20 months for failing to discharge supervisory duties as a sponsor principal in relation to a listing application in 2017 for which YSD Capital was the sponsor. The failures committed by YSD Capital were attributable to its RO's breaches of the SFC's Code of Conduct and Sponsor Guidelines. He was sanctioned for the failures in his role as the sponsor principal to:

- exercise due skill, care and diligence in handling the listing application in question;
- diligently supervise his subordinates to carry out the sponsor work undertaken by YSD Capital; and
- ensure the maintenance of appropriate standards of conduct by YSD Capital.

SFC's Reprimand and Fine of an Investment Bank for Regulatory Failures Over Three Bond Offerings

SFC reprimanded and fined an investment bank US\$350 million, finding its management supervisory, risk, compliance and anti-money laundering control failures contributed to the misappropriation of US\$2.6 billion of the US\$6.5 billion that

1Malaysia Development Berhad (**1MDB**) raised in three bond offerings in 2012 and 2013. The Hong Kong-based compliance and control hub of the bank had significant involvement in the origination, approval, execution and sales process of the bond transactions and received 37% of the total revenue generated from the transactions, the largest share among the various entities of the different jurisdictions of the bank that were involved. SFC considered that the bank lacked adequate controls to monitor staff and detect misconduct in its day-to-day operations, which allowed the bond transactions to proceed after numerous red flags had not been properly scrutinized and satisfactorily resolved. The bond transactions were initiated by an RO and managing director of the bank who has pleaded guilty to criminal charges brought against him in the U.S. for conspiracy to commit money laundering and for violations of the Foreign Corrupt Practices Act. He also admitted that he conspired with a Malaysian financier and others to pay bribes and kickbacks to Malaysian and Abu Dhabi-based officials to obtain business from 1MDB, notwithstanding that there were numerous red flags which raised questions as to the commercial rationale of the bond transactions and serious found money laundering and/or bribery risks. The investment bank, as stated by SFC, fell far short of the standards expected of a licensed intermediary and suffered not only reputational damage from its own failures, but also brought the securities industry into disrepute.

In deciding the disciplinary sanctions, SFC took into account all relevant circumstances and considered that the investment bank failed to:

- diligently supervise its senior personnel involved in the execution of the bond transactions to ensure that they maintained appropriate standards of conduct, given that the RO's bribery of foreign government officials escaped scrutiny completely due to serious lapses and deficiencies in the investment bank's risk, compliance and anti-money laundering controls and management oversight;
- identify and adequately address the aforementioned money laundering and bribery concerns, incorrectly allowing the bond transactions to proceed despite numerous red flags that raised additional questions as to the commercial rationale of the transactions;
- exercise due skill, care and diligence, and act in the best interest of its clients and the integrity of the market when vetting and approving the transactions; and
- put in place adequate and effective internal control procedures to protect its clients from financial losses arising from fraud and other dishonest acts or professional misconduct.

Hong Kong Regulatory Update

The disciplinary sanctions in this matter serve as SFC's strong message to deter other market participants from allowing similar failures to occur. The decision also shows the importance of maintaining, among members of the investing public, a well-founded confidence in the securities industry as well as in the integrity and professional competence of those who are employed in the industry.

SFC's Censure of Ngai Lai Ha by Imposing a 'Cold-Shoulder' Order for Breach of Mandatory General Offer Obligations Under the Takeovers Code

SFC commenced disciplinary proceedings against Ngai Lai Ha (**Ngai**), the chairperson of International Housewares Retail Company Limited (**IHR**) for breaching Rule 26 of the Takeovers Code, which requires a mandatory offer be made if a person (together with persons acting in concert), holding an interest in a company between 30% and 50%, acquires more than 2% from the lowest percentage held in any 12-month period. Ms. Ngai and Lau Pak Fai Peter were found by SFC to be parties acting in concert in IHR (the **Concert Group**). In relation to Ms. Ngai's first acquisition, the Concert Group's shareholding increased from 48.48%, which was the Concert Group's lowest percentage interest in the IHR in the preceding 12 months, to 50.50%, exceeding the 2% threshold. Subsequently, Ms. Ngai made 12 additional dealings in IHR's shares, with each of those dealings increasing the collective percentage interest of the Concert Group in IHR by more than 2% from the lowest percentage interest in the respective preceding 12 months prior to the corresponding dealing. In breach of Rule 26, no mandatory general offer was made as a result of any of these dealings.

Ms. Ngai admitted that she misunderstood Rule 26.1 of the Takeovers Code and accepted SFC's censure and 18-month "cold-shoulder" order against her, which denies her direct or indirect access to the Hong Kong securities market for 18 months.

SFC's Censure of the Chairman of AV Concept for Breach of Mandatory General Offer Obligation

SFC censured the chairman of AV Concept Holdings Limited (**AV Concept**) for failing to conduct a mandatory general offer. The chairman, So Yuk Kwan, acquired further shareholding in AV Concept, resulting in his concert parties acquiring interest in the company in excess of the 2% threshold from the lowest collective percentage interest in the 12-month period. He continued to acquire shares in other occasions but failed to conduct any mandatory general offers. Mr. So claimed that the breach was unintentional and accepted the public censure and 24-month cold-shoulder order against him.

Retail Investor's Conviction Regarding False Trading

Ke Wen Hua was convicted of false trading in the shares of Carry Wealth Holdings Limited (**Carry Wealth**) under Section 295 of the Securities and Futures Ordinance (**SFO**). Mr. Ke began accumulating Carry Wealth shares in May 2011 and acquired most of his holdings in company shares at a price between HK\$0.48 and HK\$1.30 until September 2011. On September 4, 2012, Mr. Ke traded in Carry Wealth shares through six securities accounts under his control. The share price that day reached as high as HK\$0.60, which was 50% higher than the preceding day's closing price of HK\$0.40. The trading volume he generated in one day was 3,000 times the average daily trading volume of Carry Wealth shares during the previous 10 trading days. Consequently, Mr. Ke disposed his shares at artificially inflated prices through his false trading and reduced his trading losses by HK\$887,220. SFC fined Mr. Ke HK\$30,000 and ordered to pay SFC's investigation costs.

SFC's Criminal Prosecution Regarding Market Manipulation of Shares of Ching Lee

SFC has commenced criminal proceedings in the Court of First Instance against five individuals for conspiring to carry out false trading of shares of Ching Lee Holdings Limited (**Ching Lee**) under Sections 295 and 303 of the SFO and Section 159A of the Crimes Ordinance. SFC alleges that the individuals planned and commenced a manipulative scheme before Ching Lee's listing in 2016, resulting in the artificial inflation of share price, an increase in turnover of the company and the subsequent collapse of share price by 90%. Relatedly, SFC has formed a cross-divisional task force and will continue to use all available strategies to combat market misconduct and market manipulation in order to protect the investing public and Hong Kong's reputation as an international financial center.

MMT's Sanctions of CMBC Capital and its Former Directors for Late Disclosure of Inside Information

To maintain the orderly operation of a fair and informed market, this case highlights the obligations of listed companies and their directors to promptly disclose inside information and to establish proper safeguards to ensure compliance. On or around October 13, 2014, the former directors of CMBC Capital Holdings Limited (**CMBC Capital**) discussed information about the significant improvement of CMBC Capital's financial performance for the five months ending on August 31, 2014, which contained key financial information, including turnover and profits. However, such inside information was not made public until November 7, 2014, when a positive profit alert was published in relation to CMBC Capital's financial performance for the six months ending on September 30, 2014. For failing

Hong Kong Regulatory Update

to disclose inside information to the public as soon as reasonably practicable, the Market Misconduct Tribunal (**MMT**) (1) fined the former chief executive officer and company secretary HK\$1.2 million and imposed a 15-month disqualification order against him; (2) fined the former chairman HK\$900,000; (3) ordered CMBC Capital and the six former directors to pay SFC's investigation and legal costs and the costs of the MMT proceedings; and (4) ordered the six former directors to attend an SFC-approved training program on the corporate disclosure regime, directors' duties and corporate governance.

MMT's Ruling Finding Ms. Li Yik Shuen Culpable of Insider Trading in Meadville Shares

Following proceedings brought by SFC, Li Yik Shuen was found by the MMT to have engaged in insider trading regarding the shares of Meadville Holdings Limited (**Meadville**) in 2009. SFC alleged that the former chairman and an executive director of Meadville, who was in a long-standing intimate relationship with Ms. Li, tipped off Ms. Li about a proposed sale of Meadville's core printed circuit board and laminate businesses, as well as the distribution of a special dividend. Before the relevant announcement was published on November 16, 2009, Ms. Li went on to purchase Meadville shares, making a profit in a sum of HK\$546,817.43 following her disposal of the Meadville shares when trading of its shares resumed on November 17, 2009, and rose more than 40%.

In connection with Ms. Li's alleged insider trading, the MMT was not satisfied that the former chairman and an executive director of Meadville had engaged in market misconduct. Although the former chairman and an executive director of Meadville provided Ms. Li with a series of information in his conversations with her about his work, no evidence was shown regarding his efforts to counsel or procure Ms. Li to deal in Meadville shares, or that he knew or had reasonable grounds to believe that she would use the information to deal in Meadville shares.

The MMT, following the gathering of the evidence of her insider trading, will determine the sanctions to be made against Ms. Li, and subsequent orders, at a later date.

Company Secretary of China Automation Convicted of Insider Trading

Following a prosecution by SFC, Chow Chiu Chi, the company secretary of the former HKEx's listed issuer China Automation Group Limited (**China Automation**), pleaded guilty in the Eastern Magistrates' Court on December 17, 2020, to insider trading of the shares of China Automation.

SFC alleged that Mr. Chow possessed a piece of inside information on April 11, 2016, as a result of a letter given to him that day in relation to a possible general offer which would be issued to the directors of China Automation. He was instructed to liaise with the legal representatives of China Automation and HKEx to arrange for a suspension of trading. Before the trading suspension took place on the same day, Mr. Chow purchased a total of 534,000 China Automation shares, which were beneficially owned by him through his wife's securities account. After disposing of the shares between April 14 and April 21, 2016, following the published announcement in relation to the possible general offer, Mr. Chow made a profit of HK\$7,417. The notional profit of the remaining unsold shares was HK\$36,865.

Before delivering the sentence on January 11, 2021, the court has granted Mr. Chow cash bail of HK\$10,000, but he is not allowed to leave Hong Kong in the interim.

SFC Seeks Disqualification Orders Against Directors of New Ray

SFC has commenced legal proceedings under Section 214 of the SFO in the Court of First to seek court orders to disqualify Zhou Ling, the former chairman and executive director of New Ray Medicine International Holding Limited (**New Ray**) and Dai Haidong, New Ray's former chief executive officer and executive director, for allegedly committing corporate misconduct and breaching their duties in their roles at New Ray.

The allegation relates to suspicious payments and undisclosed arrangements among Mr. Zhou, Mr. Dai and the counterparties of transactions involving New Ray which took place in 2015 and 2017. SFC alleges that Mr. Zhou and Mr. Dai received significant amounts of payments from the counterparties involved with the transactions, in which they neither declared any of their personal interest at the board approval process nor disclosed to the board that these counterparties might not be independent third parties. Following its investigation, SFC found that Mr. Zhou obtained a secret profit of HK\$26 million from the aforementioned transactions which he caused New Ray to enter into, whereas Mr. Zhou caused New Ray's subsidiary to enter into a number of artificial transactions requiring New Ray to pay substantial upfront payments to one of the counterparties. These transactions thus were not conducted for the commercial benefit of New Way, resulting in substantial liquid capital being diverted to the counterparty.

In light of the alleged breach of fiduciary duty committed by Mr. Zhou, SFC is additionally seeking a court order in the same legal proceedings for Mr. Zhou to pay compensation to

Hong Kong Regulatory Update

New Ray. SFC issued restriction notices on August 14, 2010, to two brokerages of Mr. Zhou, prohibiting them from dealing with or processing certain assets held in his account so there will be funds available for Mr. Zhou to pay compensation to New Ray if so ordered by the court.

Listing Committee Critiques Wai Chi and Directs Its Executive Director to Attend Regulatory Training for Breach of the Listing Rules

The HKEx Listing Committee criticized Wai Chi Holdings Company Limited (**Wai Chi**) for failing to consult HKEx for aggregation of transactions, and for failing to comply with the announcement and/or circular and prior shareholders' approval requirements in relation to disclosable transactions and a major transaction. It also punished Chen Wei Wu, the executive director of Wai Chi, for breaching his director undertakings.

Wai Chi invested in wealth management products (namely, index or asset-linked deposits) between September and December 2018, amounting to approximately HK\$153 million.

Each of the investments constituted a "transaction" under Chapter 14 of the Listing Rules as they involved an acquisition of assets, rather than pure time deposits. This is consistent with

the classification of the investments as "financial assets at fair value through profit or loss," as opposed to "bank balances and cash" in its accounts. Based on the size tests, each of the investments constituted a disclosable transaction, while some of the investments could be aggregated as a major transaction as they were entered into with the same party within a 12-month period.

Mr. Chen was aware of and approved the investments, but failed to notify the board or seek professional advice when contemplating them, despite the significant amounts of money involved and the requirement of the board's approval under Wai Chi's regulations. In essence, Mr. Chen mistakenly considered the investments as time cash deposits that did not constitute "transactions" under Chapter 14 of the Listing Rules. His contention that the investments were made at the request of the relevant banks to facilitate the provision of loan facilities did not excuse Wai Chi from complying with the relevant Listing Rules.

In light of the breaches above, HKEx directed (1) Mr. Chen to attend 18 hours of training on regulatory and legal topics, including the Listing Rules, and (2) Wai Chi to publish an announcement to confirm the compliance of the above direction.