

HONG KONG

CAPITAL MARKETS

香港资本市场业务季刊 **QUARTERLY NEWS**

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IN THIS ISSUE

New Sponsor Regime – Guidance Letters
(Page 2)

Policy on Listing Overseas Companies
(Page 10)

New Listing Decisions (Page 14)

New Guidance Letters (Page 16)

Enforcement News (Page 20)

目录

刊发内容和决策 (Page 3)

有关海外公司上市的政策 (Page 11)

新刊发的上市决策 (Page 15)

新刊发的指引信 (Page 17)

执法新闻 (Page 21)

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EDITOR'S NOTE

The major development in the Hong Kong capital markets since our last issue was undoubtedly the coming into effect on October 1, 2013 of the SFC's revisions to the sponsor regime, and the related Listing Rule changes published by the Exchange in July. We examined these in a previous issue and client alert, but in this issue we review the numerous new and updated guidance letters issued by the Exchange in relation to the Listing Rule changes.

Other key developments highlighted in this issue include:

- the joint policy statement of the SFC and the Exchange regarding the listing of overseas companies;
- new and updated guidance letters on pre-IPO investments, long suspended companies, property valuation reports and more; and
- the SFC's enforcement action against China Metal Recycling, in the first exercise of the SFC's winding-up power under Section 212 of the SFO.

We hope you find the articles interesting and helpful.

编者按

自我们上一期季刊完成以来，香港资本市场的重大进展毫无悬念地当属2013年10月1日起生效的证监会关于保荐人监管的新制度，以及联交所为配合新制度的实施于7月刊发的对《上市规则》的一系列修订。在上一期刊物和给本所客户的最新通报中我们已经考察了相关方面的变化，本期季刊我们将为您总结和点评联交所就《上市规则》的变化而刊发的新的指引信以及对相关指引信的最新修订。

本期中为您总结的其他方面的重要进展还有：

- 证监会与联交所有关海外公司上市的全新修订的联合政策声明；
- 一些新刊发的和更新的指引信，内容涉及首次公开招股前投资，长时间停牌的公司的复牌，物业估值报告等；及
- 证监会首次行使《证券及期货条例》第212条授予的执法权对中国金属再生资源（控股）有限公司申请清盘。

希望以上这些内容使您感兴趣，并对您有所裨益。

NEW SPONSOR REGIME – GUIDANCE LETTERS

Amendments to the Listing Rules, which complement the Securities and Futures Commission's ("SFC") new regime regarding sponsors, came into effect on October 1, 2013 (for more details please see our client alert at this link: <http://www.mofo.com/files/Uploads/Images/130731-Hong-Kong-Stock-Exchange.pdf>). To complement those Listing Rule changes, the Stock Exchange of Hong Kong Limited ("Exchange") published a series of new Guidance Letters in July, and key points from these are set out below (as updated in September 2013, where applicable), with the reference numbers in italics where the subject matter concerns administrative rather than disclosure issues:

GL63-13: Material non-compliance incidents: disclosure in listing documents. The listing document should disclose:

- Reasons for the incidents of non-compliance, the nature and extent of the breaches, corresponding risk factors, and the identity and position of the directors/senior management involved;
- Whether the applicant has been or will be charged or penalized for the non-compliance incidents during the track record period and up to the latest practicable date (with confirmation from the competent authorities, and a legal opinion on their competence) and, if so, the actual or maximum penalty, whether the applicant has made any provision, and the potential operational and financial impact on the applicant;
- How and when rectification action was or will be taken, enhanced internal controls, any independent internal control expert engaged to review the internal controls, its terms of engagement, findings and recommendations, and the timing of the applicant's implementation of the recommendations; and
- If the Exchange accepts that the non-compliance can only be rectified after listing, the legal adviser's view on whether there is any impediment to rectifying it, and an undertaking by the applicant to update investors on progress.

For a copy of Guidance Letter GL63-13, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl63-13.pdf>

GL62-13: Directors, supervisors and senior management: disclosure in listing documents.

The Exchange provided guidance on the information to be included in the summary (in tabular format) at the front of the relevant section, information to be included in biographies, verification of universities' accreditation, and other disclosures such as remuneration and incentive plans

for senior management and key employees. For a copy of Guidance Letter GL62-13, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl62-13.pdf>

GL61-13: Review of the Exchange's decisions to return listing applications: accelerated procedures. The Guidance Letter sets out:

- A sample timetable for accelerated review of a Listing Division decision to return a listing application during or following the three-day check period, or a Listing Committee endorsement of such a decision, including required actions by applicants or sponsors at each stage;
- A flowchart on the IPO vetting procedures and the publication of a proof prospectus which is substantially complete and submitted together with a listing application ("**Application Proof**") and a Post Hearing Information Pack ("**PHIP**").

For a copy of Guidance Letter GL61-13, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl61-13.pdf>

GL60-13: Expert opinions in Application Proofs: confirmations required.

- For an expert report (such as a property valuation report, Competent Person's Report or valuation report, but not a statement or opinion), no signed copy is required when the Application Proof is submitted.
- However, the expert must confirm to the applicant (with a copy to the sponsor, the Exchange and the SFC) when the Application Proof is submitted that no material change is expected to the expert opinion in the Application Proof, based on work done as of the date of confirmation. The expert's confirmation can be made subject to unforeseen events occurring after submission of the Application Proof which are outside the control of the expert, and the Guidance Letter sets out a sample form of confirmation.

For a copy of Guidance Letter GL60-13, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl60-13.pdf>

GL59-13: Management discussion and analysis ("MD&A") on historical financial information in listing documents. The Guidance Letter sets out principles for MD&A preparation generally, and also guidance on the following parts of the MD&A section: key factors affecting the results of operations, critical accounting policies and estimates, review of historical results, financial position and cash flows, and liquidity and capital resources. For a copy of Guidance Letter GL59-13, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl59-13.pdf>

保荐人监管的新制度 - 新指引信

联交所为配合证监会关于保荐人监管的新制度而对《上市规则》的最新修订于2013年10月1日起生效（详情请参阅我们对本所客户的资讯通报：<http://www.mofo.com/files/Uploads/Images/130731-Hong-Kong-Stock-Exchange.pdf>）。为进一步阐述对《上市规则》的这些修订，7月份，联交所刊发了一系列新的指引信，以下我们为您解读其中的要点（以及9月份的更新），指引信编号如为斜体表明该指引信的内容事关行政程序而不是披露事宜：

GL63-13：上市文件关于重大不合规事件的披露。 上市文件应披露以下事项：

- 不合规事件的原因、违规性质及范围、相应风险因素及涉及不合规事件的董事/高级管理人员及其职位；
- 于往绩纪录期内直至最近实际可行日期，申请人是否已经或将会因不合规事件而被起诉或惩罚（同时提交主管机关对此的确认，以及对其胜任能力的法律意见书），并且，如果是，实际的或最高的处罚（包括罚金），申请人是否已就此作出任何拨备，以及有关处罚对申请人的营运及财务的潜在影响；
- 如何及何时已经/准备采取修正行动及提升内部监控以防再度违规，如果申请人另行委聘内部监控专家检查其内部监控，该内部监控专家的身份及委聘条款的相关详情，其调查结果和建议，以及申请人执行内部监控专家所提出任何建议的时间；及
- 如果联交所接受若干不合规事件只能于上市后短时间内修正，须出具法律顾问就修正不合规事件是否存有任何障碍的意见及理由，以及申请人就修正情况及时通报投资者的承诺。

请参阅指引信GL63-13的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/iporq/Documents/gl63-13.pdf>

GL62-13：董事、监事及高层管理人员：上市文件中的披露。

联交所要求上市文件“摘要”一节首页须以列表方式显示每名董事、监事、高层管理人员及主要雇员的简历、学历认证、薪酬、奖励计划等信息。

请参阅指引信GL62-13的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/iporq/Documents/gl62-13.pdf>

GL61-13：复核被联交所退回的上市申请：程序加快

指引信规定了：

- 如在三天初检期或其后上市科决定退回上市申请，或上市委员会赞同该退回决定，加快复核程序的时间表，包括申请人或保荐人就应予改正的情况需要采取的任何行动；
- 首次公开招股审批程序及刊发随同上市申请书一同提交的大致完备的招股章程草拟版（“申请版本”）和聆讯后资料集的流程圖。

请参阅指引信 GL61-13的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/iporq/Documents/gl61-13.pdf>

GL60-13：申请版本及内的专家意见：所需的确认。

- 对于专家报告（如物业估值报告、合资格人士报告或估值报告），申请人提交申请版本时无须提供该等报告的签署本。
- 然而，有关专家须在申请版本呈交时同时向申请人作出确认，以及向保荐人、联交所及证券及期货事务监察委员会提供确认副本，表明基于确认当天已完成的工作，预期申请版本内有关的专家意见将不会有重大变动。但是，专家可以表明其确认以申请版本呈交后仍有可能发生其控制范围外的不可预见事件为前提。指引信并包括了确认信的样本。

请参阅指引信GL60-13的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/iporq/Documents/gl60-13.pdf>

GL59-13：在上市文件中关于过往财务资料的管理层讨论及分析。

指引信列出了起草管理层讨论及分析时的基本准则，以及管理层讨论及分析中关于以下部分的指导意见：影响营运业绩的主要因素，重要会计政策及预测，过去业绩、财政状况及现金流审阅，流动资金及资本来源。

请参阅指引信GL59-13的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/iporq/Documents/gl59-13.pdf>

GL58-13: Confirmations required on the accountants' report, pro forma financial information and profit forecast in Application Proofs and subsequent draft listing documents.

When the Application Proof is submitted, either (a) it must be accompanied by signed copies of the accountants' reports on (i) historical financial information, (ii) the pro forma financial information, and (iii) any profit forecast (the "Reports"), or (b) where the financial information is not in final form, it must be in an advanced form, and the reporting accountants must confirm to the applicant (with a copy to the sponsor, the Exchange and the SFC) that no significant adjustment is expected to be made to the draft Reports based on the work done as of the date of the confirmation. (Such a confirmation must also be provided if the financial information is updated because of a delay in the Listing timetable). For a copy of Guidance Letter GL58-13, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/iporq/Documents/gl58-13.pdf>

GL57-13: Logistics for publishing Application Proofs, PHIPs and related materials on the Exchange's website.

The Guidance Letter sets out:

- The minimum warning and disclaimer statements for publication of Application Proofs and PHIPs, and the recommended redactions in an Application Proof for publication on the Exchange's website ("AP-Publication") and also in a PHIP for such publication.
- File specifications and submission procedures for submission through the e-Submission System, including recommended templates for submissions by sponsors.

For a copy of Guidance Letter GL57-13, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/iporq/Documents/gl57-13.pdf>

GL56-13: Guidance on (i) disclosure requirements for substantially complete Application Proofs, (ii) the Exchange's three-day checklist for pre-vetting of Application Proofs prior to acceptance, and (iii) publication of Application Proofs and PHIPs on the Exchange's website.

Disclosure requirements for substantially complete Application Proofs

The Guidance Letter sets out the disclosure required for a substantially complete Application Proof for vetting by the Exchange ("AP-Vetting"). Specified items of information that will be updated later are allowed to appear in square brackets, but the other required information must be included in the document without square brackets. The guidance also specifies certain information that can be omitted if unavailable, and the sponsor should inform the Exchange in the application submissions, with detailed reasons, if any part

of the Guidance Letter cannot or does not need to be followed.

Three-day checklist

The Guidance Letter also sets out the disclosure matters that the Exchange will check in reviewing an AP-Vetting during the three-day period after submission of the listing application. Failure to include the matters included in this three-day checklist may lead to the application being returned (though in theory the AP-Vetting may be returned during the three-day period for not being substantially complete even if it meets the disclosure and checklist requirements under the Listing Rules and the three-day checklist). Until March 31, 2014, the Exchange and the SFC will review the effectiveness and continuation of the three-day check procedure.

Disclosure in an AP-Publication or PHIP

In preparing an AP-Publication from an AP-Vetting (once the publication requirements are activated on April 1, 2014), information should be redacted where necessary to ensure that the AP-Publication will not constitute a prospectus or advertisement under the Companies Ordinance or an invitation to the public under the Securities and Futures Ordinance ("SFO"). The Guidance Letter sets out information which should be redacted. Additional redactions may be allowed upon prior application.

For a copy of Guidance Letter GL56-13, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/iporq/Documents/gl56-13.pdf>

GL55-13: Documentary requirements and administrative matters for listing applications. The Guidance Letter sets out the documents to be submitted to the Exchange and the administrative matters to be followed at different stages of the application process. Under the streamlined application process, most documents previously required to be submitted in stages must now be submitted with the listing application. For a copy of Guidance Letter GL55-13, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/iporq/Documents/gl55-13.pdf>

GL6-09A: Financial information required in first draft listing documents. The Guidance Letter supersedes Guidance Letter GL6-09, and stipulates revised administrative practices as follows:

- For applicants filing within two calendar months after the end of their three-year trading record period (or two years for GEM applicants and certain discretionary Main Board cases) and who cannot include the financial information for the most recent financial year, the listing application must include: (i) a sponsor's confirmation that it is beyond reasonable doubt that the applicant will satisfy Listing Rule 8.05 or other financial standard requirements following its due diligence review, and (ii)

GL58-13: 申请版本或其后的上市文件拟稿中的会计师报告、备考财务资料及盈利预测所需确认。

提交申请版本时，需一并提交(a) 经签署的有关 (1) 过往财务资料、(2) 备考财务资料及 (3) 盈利预测的会计师报告 (“报告”)，或者(b)最终或较完备版本的财务资料，申报会计师必须向申请人提供确认 (并向保荐人、联交所及证券及期货事务监察委员会提供副本)，表示按照截至有关确认日期已完成的工作，预期该等报告拟稿不会有重大变动。(如上市时间表有所延误，需要更新会计师报告中的资料，此时也必须提供该等确认。)

请参阅指引信GL58-13的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoqrq/Documents/gl58-13.pdf>

GL57-13: 在联交所网站登载申请版本、聆讯后资料集及相关材料的流程安排。

指引信规定了：

- 申请登载版本、聆讯后资料集内的最低限度警告及免责声明，以及在联交所网站登载申请登载版本、聆讯后资料集建议可遮盖的资料。
- 透过电子系统递交时适用的文档规格及递交程序，包括保荐人递交时建议使用的模板。

请参阅指引信 GL57-13的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoqrq/Documents/gl57-13.pdf>

GL56-13: 有关下述事项的指引：(i) 提交的大致完备申请版本的披露要求；(ii) 联交所受理上市申请前用以检查申请版本披露项目的三日核对表；及 (iii) 在联交所网站登载申请版本及聆讯后资料集。

大致完备申请版本的披露要求

指引信规定了联交所对大致完备的申请版本审批版 (“审批版”) 的披露要求。容许申请版本审批版内以括号标示准备稍后更新的资料，但其他必须的资料仍需提交，且不能有括号。指引信还容许省略若干无法获得的资料。保荐人如未能或不需要遵守指引的任何部分，须在申请中通知联交所，并陈述详细原因。

三日核对表

指引信规定了上市申请提交后联交所在三日初检期审

核审批版时将要检查的披露事项。若审批版没有包括三日核对表所述事宜，上市申请将会被发还 (但是理论上，即使审批版符合上市规则要求的披露事项以及三日核对表的核对事项，如果审批版不满足大致完备的要求，仍有可能在三日初检时被退回)。在2014年3月31日之前，联交所和证监会将检查三日核对安排的成效及持续时间。

登载版本及聆讯后资料集登载版的披露

在基于审批版而准备登载版时 (一旦2014年4月1日起登载要求开始实施)，必要时需要遮盖某些信息，以便确保登载版不会构成《公司条例》项下的招股章程或售股广告，或属于《证券及期货条例》所述对公众的邀请。指引信规定了应予遮盖的信息。提前申请时还允许有其他的信息遮盖。

请参阅指引信GL56-13的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoqrq/Documents/gl56-13.pdf>

GL55-13: 有关新上市申请提交文件的规定及行政事宜。

指引信规定了申请人在不同阶段须提交联交所的文件以及须遵循的行政事宜。根据简化的申请程序，之前规定在各阶段提交的大部分文件现将于A1表格提交之日呈交。

请参阅指引信GL55-13的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoqrq/Documents/gl55-13.pdf>

GL6-09A: 在上市文件第一稿中应载列的财务资料。 指引信GL6-09A取代指引信GL6-09，并就行政程序的修改作如下说明：

- 申请人在三年 (创业板申请人及某些主板申请人为两年) 营业纪录期结束后两个公历月内递交申请，但又无法提供最近一个财政年度的财务资料时，上市申请人必须与上市申请一并提交：(i) 保荐人的确认，其在履行尽职审查后相当肯定申请人能够符合《主板规则》第8.05条或其他财务准则的规定；及(ii) 在申请版本内须载列营业纪录期首两个财政年度的经审核财务资料，及至少九个月的非完整期间经适当审阅和呈交的财务的和可比较的数据，该等财务资料和数据均需要有管理层讨论及分析；

in the Application Proof, audited financial information for the first two financial years of the trading record period, and duly reviewed and presented financial and comparative information for a stub period of at least nine months, both with the related management discussion and analysis (“MD&A”);

- For other applicants, the Application Proof must contain three years’ audited financial information (two years for GEM and certain discretionary Main Board cases). The application must be filed within six months from the end of the trading record period, except that the period can be lengthened to eight or 12 months if it also includes: (i) a sponsor’s confirmation as mentioned above, and (ii) duly reviewed and presented financial and comparative information, and MD&A, for a stub period of at least three months (if filing within eight months from the end date of the trading record period) or six months (if filing within 12 months from that date);
- Applicants filing financial information for stub periods under these arrangements must file, with the application, a copy of a confirmation from the reporting accountants that no significant adjustment is expected to be made in respect of the financial years which must be audited and, where applicable, that they have substantially completed a review of the stub period financial information according to the Hong Kong Standards on Review Engagements 2410; and
- Where an applicant has acquired or intends to acquire a company or business after the date to which the last audited accounts have been made up, and Listing Rule 4.28 requires the listing document to include pro forma information of the enlarged group, that information must be provided in the Application Proof. However, the information can be omitted if the financial information will be updated in a later proof to cover a later period which includes the acquisition.

Applicants do not need to apply to the Exchange for an early filing of their listing if the Guidance Letter is followed. For a copy of Guidance Letter GL6-09A, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl6-09a.pdf>

Amended Guidance Letters

The Exchange also updated a number of its Guidance Letters to complement the amendments made to the Listing Rules to reflect the SFC’s new regime regarding sponsors. In addition, it emphasized that listing applications are expected to follow the Guidance Letters, and a non-compliant listing document may be considered not to be substantially complete as required under the Listing Rules. The amendments made to the Guidance Letters may be summarized as follows (those with reference numbers in italics relate to administrative

rather than disclosure matters):

GL53-13: Liquidity arrangements for listings by introduction where the securities are already listed on another stock exchange. The amendments provide guidance on required disclosure in Application Proofs and PHIPs. For a copy of Guidance Letter GL53-13, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl53-13.pdf>

GL52-13: Mineral Companies: disclosure in listing documents. The amendments require additional disclosure regarding the time when a project under development is expected to become self-sufficient in working capital and funding, and the amount of additional funding required to reach that point. For a copy of Guidance Letter GL52-13, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl52-13.pdf>

GL50-13: Simplification series – disclosure in IPO listing documents – “Business” section. The amendments added examples of recommended disclosure regarding expansion plans, claims or litigation, and bankruptcy or receivership, and aligned the examples of recommended disclosure regarding properties and compliance matters with the updated Guidance Letters GL19-10 and GL63-13, respectively. For a copy of Guidance Letter GL50-13, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl50-13.pdf>

GL49-13: Simplification series – disclosure in listing IPO documents – “History and Development” section. The amendments added the following additional specific disclosure requirements:

- The dates of incorporation and commencement of business of each member of the listing group that made a material contribution to the group’s track record results;
- The date of completion of registration under Circular No. 75 of the PRC State Administration of Foreign Exchange (if applicable);
- Whether each acquisition, disposal and merger has been properly and legally completed and settled, and a statement of the transferor/transferee’s relationship with the applicant, its shareholders or connected persons, or that they are independent third parties;
- Pre-IPO investments as set out in Guidance Letters GL43-12 and GL44-12; and
- Details of outstanding options, warrants and convertibles.

For a copy of Guidance Letter GL49-13, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl49-13.pdf>

- 对于其他申请人，申请版本必须包含三年（创业板申请人及某些主板申请人为两年）经审核财务资料。申请人必须在营业纪录期结束后六个公历月内递交上市申请，如符合下列情况，也可以延长八个月或十二个月：(i) 如上所述保荐人的确认，(ii) 至少三个月（如果于营业纪录期结束日起八个月内提交上市申请）或至少六个月（如果于营业纪录期结束日起十二个月内提交上市申请）的非完整期间经适当审阅和呈交的财务的和可比较的数据和管理层讨论及分析；
- 就非完整期提交财务资料的申请人需要与上市申请同时提交申报会计师的确认书，证明按照截至申报会计师确认书日止已完成的工作，预期按本指引信必须审核的财政年度资料将不会有重大的调整，且申报会计师已根据《香港审阅应聘服务准则》第2410号大致上完成审阅非完整期间的财务数字；及
- 如果申请人于编制最近期经审核账目后曾收购或拟收购公司或业务，上市规则第4.28条规定申请版本必须收载经扩大的集团的备考资料。但是，若申请人的财务资料会于期后上市文件拟稿中更新至涵盖较后期间，并包括有关收购的资料在内，则无须在申请版本内提供有关收购的备考资料。

若符合这项指引，则申请人无须向联交所申请提前递交上市申请。

请参阅指引信GL6-09A的链接：<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoqrq/Documents/gl6-09a.pdf>

最新修订的指引信

联交所还更新了若干指引信，以进一步说明为配合保荐人新监管机制而对《上市规则》的修订。此外，联交所强调上市申请人应遵循指引信的要求，而不符合要求的申请文件将不会被视为是《上市规则》规定的大致完备版本。联交所对过往指引信的若干修订简介如下（指引信编号如为斜体表明该指引信的内容事关行政程序而不是披露事宜）：

GL53-13：有关证券流通量的安排 — 适用于已于另一证券交易所上市的发行人拟通过介绍形式上市。 最新修订要求上市申请人须在其申请版本、聆讯后资料集中设置特定章节载列规定的披露内容。

请参阅指引信 GL53-13的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoqrq/Documents/gl53-13.pdf>

GL52-13：矿业公司申请人上市文件披露。

最新修订要求披露发展中的项目预计何时可以在营运资金及经费上自给自足，以及达到该自给自足水平所需的额外资金。

请参阅指引信 GL52-13的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoqrq/Documents/gl52-13.pdf>

GL50-13：简化系列—首次公开招股上市文件中的披露—“业务”一节。

最新修订增加了关于扩张计划、索偿或诉讼、破产或接管，以及关于物业、合规事宜等方面建议披露事项，与指引信GL19-10 和GL63-13的更新的要求相吻合。

请参阅指引信 GL50-13的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoqrq/Documents/gl50-13.pdf>

GL49-13：简化系列 — 首次公开招股上市文件中的披露—“历史及发展”一节。

最新修订增加了下列具体的披露要求：

- 对上市集团业务纪录期业绩有重大贡献的每个成员的注册成立及开业日期；
- 根据中国国家外汇管理局第75号文完成登记日期（如适用）；
- 每项收购、出售及合并是否已妥善及合法地完成及交收，以及关于转让人/受让人与上市申请人、其股东或关连人士的关系，或他们其实是独立第三者的声明；
- 指引信GL43-12及GL44-12所述的首次公开招股前投资；及
- 未行使购股权、权证及可换股工具的详情。

请参阅指引信 GL49-13的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoqrq/Documents/gl49-13.pdf>

GL48-13: Simplification series – disclosure in listing IPO documents – “Industry Overview” section. The updated guidance states that listing applicants may include Industry Overview information elsewhere in the listing document, instead of a standalone section or only within the Business section. For a copy of Guidance Letter GL48-13, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl48-13.pdf>

GL27-12: Simplification series – disclosure in IPO listing documents – “Summary and Highlights” section. The amendments added “recent developments” and “listing expenses” to the list of key areas to be considered for inclusion in the “Summary and Highlights” section. For a copy of Guidance Letter GL27-12, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl27-12.pdf>

GL38-12: Guidance on latest practicable date and latest date for liquidity disclosure in listing documents. The updated Guidance Letter stipulates that:

- In Application Proofs, (i) the latest practicable date should be not more than 10 days before the date of the Application Proof, and (ii) the latest date for disclosure of the applicant’s indebtedness, liquidity, financial resources and capital structure should be not more than two calendar months before the date of the Application Proof. In both cases, financial information disclosed can be in brackets to indicate that they will be updated in the PHIP and the final listing document; and
- The directors’ statement on material adverse changes in the financial or trading position of the group since the end of the period reported on in the accountants’ report should cover the period up to the date of the listing document.

For a copy of Guidance Letter GL38-12, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl38-12.pdf>

GL37-12: Disclosure on indebtedness, liquidity, financial resources and capital structure in listing documents, and sponsor’s confirmation on working capital sufficiency statement.

- The amendments provide guidance on liquidity disclosure for applicants with net current liabilities, negative operating cash flows for most of the track record period, significant capital commitments, high gearing ratios, and/or significant reclassification of long-term debt to short-term debt.
- In addition, at the time of submitting a listing application, a sponsor is (a) required to provide a final or an advanced draft confirmation that the working capital sufficiency statement in the Application Proof has been made by

the directors after due and careful enquiry; and (b) expected to have reviewed the working capital forecast memorandum, and to be satisfied with the forecast’s bases and assumptions.

- Before the listing document is bulk-printed, the sponsor is required to provide a final letter (based on its own due diligence work, the applicant’s confirmation and the reporting accountants’ confirmation to the applicant) confirming that (a) it is satisfied that the directors’ statement on working capital sufficiency has been made by the directors after due and careful enquiry, and (b) the persons or institutions providing finance have stated in writing that such facilities exist.

For a copy of Guidance Letter GL37-12, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl37-12.pdf>

GL35-12: Profit forecast. The Guidance Letter has been updated to reflect the amended Listing Rule which requires that where the Application Proof does not contain a profit forecast, a final or an advanced draft of the board’s profit forecast memorandum and cash flow forecast memorandum should now be submitted to the Exchange with the listing application. For a copy of Guidance Letter GL35-12, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl35-12.pdf>

GL33-12: Guidance on disclosure in IPO listing documents – “Use of Proceeds”. The updated guidance requires a detailed breakdown of the use of proceeds, for example, how the net proceeds will be allocated among an applicant’s proposed expansion plans, and a detailed breakdown of the use of proceeds for the different aspects of each expansion plan. It also requires the “Use of Proceeds” section to discuss the amount of net proceeds to be received by an applicant if the offer price is fixed at low-end, mid-point and high-end of the offer price range with and without exercising the over-allotment option, and the breakdown of the use of proceeds under different circumstances where the amount to be raised is variable. In addition, the listing document should disclose the number of sale shares in the offer (if any), the amount of net proceeds received by selling shareholders from sale shares, and that the sale proceeds do not belong to the applicant. Specific areas for disclosure by GEM applicants are also set out in the updated Guidance Letter. For a copy of Guidance Letter GL33-12, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl33-12.pdf>

GL18-10: Publicity materials and e-IPO advertisements. The amendments stipulate that:

- Publicity material must comply with all statutory requirements, and if the Exchange believes that a new applicant or its advisers have permitted information on

GL48-13: 简化系列 — 首次公开招股上市文件中的披露—“行业概览”一节

最新修订表示上市申请人可以考虑将行业概览相关信息收录于上市文件的其他部分，而非按现行做法另设独立章节，或仅包括在“业务”章节内。

请参阅指引信 GL48-13的连接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl48-13.pdf>

GL27-12: 简化系列 — 首次公开招股上市文件中的披露—“概要及摘要”一节。

最新修订建议在“概要及摘要”一节的主要范畴清单中考虑增加“近期发展”和“上市支出”两项内容。

请参阅指引信 GL27-13的连接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl27-12.pdf>

GL38-12: 上市文件中资料披露的实际可行最近日期及资金流动性披露的最近日期。

最新修订规定：

- 在申请版本中，(i)资料披露的实际可行最近日期是申请版本日期之前10个日历天之内的，且(ii)申请版本关于申请人的负债、资金流动性、财务资源、资本结构情况等资金流动性披露的最近日期是申请版本日期之前两个日历月之内的。披露的有关数字可载于括号内，以显示该数字日后会在聆讯后资料集及最终上市文件中作出更新；及
- 董事就会计师报告所申报期间结束以后集团的财政或经营状况的任何重大不利转变发出声明，声明涵盖的期间须由会计师报告汇报期完结后开始，至文件发出日期止。

请参阅指引信 GL38-13的连接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl38-12.pdf>

GL37-12: 在上市文件中披露负债、资金流动性、财政资源及资本结构及保荐人对充足营运资金声明的确认。最新修订就流动性披露提供了指引：

- 适用于在营业纪录期内大部分时间有流动负债净额、负营运现金流，重大资本承担，高资本负债比率及/或大量长期负债重新分类为流动负债的申请人；

- 此外，呈交上市申请时，保荐人(a)必须提供定稿或接近定稿的确认书，确认董事是经过适当及仔细查询后才在申请版本中作出充足营运资金声明；及(b)对编制营运资金预测所用的依据及假设感到满意；及
- 上市文件付印前，保荐人需要就营运资金是否足够作出最后定稿（该确认书的最后定稿须基于保荐人本身的尽职审查工作、申请人的确认及申报会计师向申请人作出的确认），(a)确认董事是经过适当及仔细查询后始作出充足营运资金声明，以及(b)确认提供融资的人士或机构已书面声明该备用信贷存在。

请参阅指引信 GL37-13的连接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl37-12.pdf>

GL35-12: 盈利预测。

指引信进行了更新，以反映对《上市规则》的修订，要求申请版本如果没有刊载盈利预测，上市申请人须在递交上市申请时一并向联交所提交由董事会所编制的最终的或较完备盈利预测的备忘录及现金流量预测的备忘录。

请参阅指引信 GL35-13的连接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl35-12.pdf>

GL33-12: 首次公开招股上市文件的披露——“所得款项用途”。

最新修订要求上市文件应载有所得款项用途的分析细目，例如：所得款项净额如何分配予各项申请人建议的扩展计划，以及所得款项用途用于每项扩展计划的详细资料。最新修订还要求在上市文件“所得款项用途”一节中分别载述发售价设定于发售价范围的下限、中间价及上限、行使及未行使超额配股权时申请人所得款项的净额，以及在集资额可能有变的情况下所得款项用途的分析细目。此外，上市文件应披露股份发售中的待售股份数目、售股股东从待售股份所得款项净额，并说明该笔出售所得款项不属于申请人。最新更新的指引信还就创业板申请人的披露范围作出了具体规定。

请参阅指引信 GL33-13的连接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/Documents/gl33-12.pdf>

the proposed listing to leak, the Exchange will normally delay the listing application;

- The following documents need not be submitted for prior review before release: (i) Application Proofs, (ii) PHIPs, (iii) any statement by a new applicant published on the Exchange's website stating that no reliance should be placed on any media reports about the new applicant subsequent to the publication of the Application Proof or the PHIP, and (iv) the invitation or offering document and documents that consist of (or are drafts of, or relate to) agreements to be entered into in connection with the issue of the securities, provided that any obligations under these agreements to issue, subscribe, purchase or underwrite the securities are conditional on listing being granted; and
- No publicity material on the issue of securities by a new applicant can be released in Hong Kong by a new applicant or its agents until the Exchange has cleared it.

For a copy of Guidance Letter GL18-10, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/ Documents/gl18-10.pdf>

GL13-09: Listing documents' covers. The updated Guidance Letter sets out additional factors that the Exchange will consider when assessing whether a listing document cover is acceptable, including whether any properties/ employees depicted are those of the applicant, and whether the applicant's logo (if any) shown on the listing document cover has been registered (and if not, the legal advisers' view, with basis, on the likelihood that the logo may infringe other parties' intellectual property rights). Before noon on the day when the sponsor wishes to obtain the Exchange's clearance for bulk-printing the listing document, the applicant or the sponsor should confirm that the document's covers meet the principles set out in the Guidance Letter, and the Exchange will then issue a "no comment" letter to authorize the bulk-printing of the listing document covers. For a copy of Guidance Letter GL13-09, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/ Documents/gl13-09.pdf>

GL8-09: Statistics and data quoted in prospectuses.

The Guidance Letter now reflects the requirement in the amended Listing Rules that the sponsor's declaration must refer to all the information in the listing document, including the expert sections. For a copy of Guidance Letter GL8-09, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/ Documents/gl8-09.pdf>

GL7-09: Documents required for re-filing of a listing application where a sponsor has changed. The Guidance Letter now reflects the requirement in the amended Listing Rules that if a sponsor resigns or is terminated during the processing of the initial listing application, any

replacement sponsor must re-submit a listing application at least two months after the date of its formal appointment, and that a replacement sponsor is not regarded as having satisfied any of the obligations of a sponsor by virtue of work performed by a predecessor sponsor. References to "change in sponsor" have also been updated to include removal of a sponsor, rather than only an addition of a sponsor. For a copy of Guidance Letter GL7-09, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/ Documents/gl7-09.pdf>

SFC's Updated Frequently Asked Questions on the Revised Sponsor Guidelines

The SFC has also published an updated set of Frequently Asked Questions in relation to the revised Additional Fit and Proper Guidelines for Corporations and Authorized Financial Institutions applying or continuing to act as Sponsors and Compliance Advisers. For a copy of the FAQs, please follow this link: <http://www.sfc.hk/web/EN/faqs/intermediaries/licensing/other-topical-issues/sponsor-regime.html>

SFC's and Exchange's Revised Joint Policy Statement Regarding Listing of Overseas Companies

In September, the SFC and the Exchange jointly published a revised Joint Policy Statement Regarding the Listing of Overseas Companies (the "revised JPS") to replace the joint policy statement issued in March 2007 and Guidance Letter GL12-09.

The objective of the revised JPS is to provide greater transparency and certainty in the listing process; it is an incremental step rather than a change of direction, and includes some useful additional detail based on the Exchange's experience in recent years.

The Exchange has also published a new Frequently Asked Questions series 25 on the revised JPS (a web link is provided below).

Overview of changes

We set out here highlights of the revisions made:

- Shareholder protection standards – standards that appear in the Listing Rules are not restated in the revised JPS. Some of those stated in the revised JPS have been broadened to accommodate practices in other jurisdictions. Country Guides are to be published for specific jurisdictions;
- Regulatory co-operation arrangements – additional arrangements are expected to be in place with relevant overseas jurisdictions;
- Accounting and auditing related and other disclosure requirements – guidance is provided on acceptable

GL18-10: 有关宣传资料及电子首次公开招股广告的指引。

最新修订规定:

- 宣传资料必须符合一切法定规定，若联交所相信新申请人或其顾问允许对外泄露证券上市有关资料，联交所一般会押后该等证券的上市申请；
- 以下文件无须事先提交审核：(i)上市申请版本，(ii)聆讯后资料集，(iii)新申请人登载了申请版本或聆讯后资料集后，新申请人登载于联交所网站、表示不应再依赖传媒关于新申请人的任何报道之声明，和(iv)发售邀请函或发售建议文件，以及就证券发行而订立的协议，或该等协议的初稿或与该等协议有关的文件，条件是这些协议而产生的有关发行、认购、购买或包销证券的责任须在证券获准上市后才须履行；及
- 新申请人或其代理就发行证券的宣传资料，凡未经联交所审阅的不得在香港刊发。

请参阅指引信 GL18-10 的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/iporq/Documents/g18-10.pdf>

GL13-09: 上市文件的封面。

最新修订列出了联交所在评估申请人的上市文件封面时会考虑的一些其他因素，包括封面上描述的任何物业/雇员是否属于申请人，申请人上市文件封面所示标志（如有）是否已经注册，如否，须加入法律顾问对于该标志会否侵犯他人知识产权的可能性的意见及理据。在保荐人拟取得联交所批准上市文件付印当日中午前，申请人或保荐人应确认上市文件封面符合本指引信所载原则，联交所然后发出“无异议”函件批准申请人印制上市文件封面。

请参阅指引信 GL13-09 的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/iporq/Documents/g13-09.pdf>

GL8-09: 招股章程中引述的统计数字及数据。

指引信反映了经修订的上市规则的要求，即保荐人的申明必须指明包括专家报告在内的上市文件中的数据。

请参阅指引信 GL8-09 的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/iporq/Documents/g8-09.pdf>

GL7-09: 在保荐人有变的情况下重新递交上市申请所需的文件。

指引信反映了经修订的上市规则的要求，如首次上市申请处理过程中保荐人辞任或被辞退，替任保荐人须在获正式委任日期起至少计满两个月后方可提交该项上市申请，而且替任保荐人不会因前任保荐人已履行的工作而被视为已履行了保荐人的任何责任。有关“更换保荐人”的部分也进行了更新，包括辞退保荐人，而不仅仅是增加新的保荐人。

请参阅指引信 GL7-09 的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/iporq/Documents/g7-09.pdf>

关于修订的保荐人监管规定的常问问题更新

证监会同时更新了《适用于申请或继续以保荐人和合规顾问身分行事的法团及认可财务机构的额外适当人选指引》的常问问题。

请参阅常问问题的链接：

<http://www.sfc.hk/web/EN/faqs/intermediaries/licensing/other-topical-issues/sponsor-regime.html>

证监会与联交所有关海外公司上市的全新修订联合政策声明

9月，证券及期货事务委员会（“证监会”）与联交所共同发布了修订的有关海外公司上市的联合政策声明（“修订联合政策声明”），用以取代2007年3月的联合政策声明及指引信GL12-09。

修订联合政策声明的宗旨是提升上市程序的透明度和确定性；这是另行增加的一个步骤，而不是改变原有的方向，并包含了联交所基于其以往的经验而提出的一些有用的细节。

联交所还就修订联合政策声明刊发了新的常问问题系列25（请参考下面链接）。

修订概述

我们为您总结了修订的重要方面：

- 股东保障标准 – 修订联合政策声明并没有修改《上市规则》的标准。某些最新修订拓宽了范围，以包括其他管辖区的要求。针对具体管辖区的国别指

overseas accounting and auditing standards;

- Practical and operational matters – the revised JPS draws attention to various matters that overseas companies contemplating a listing in Hong Kong may encounter, such as cross-border clearing and settlement;
- Suitability for secondary listing – the revised JPS clarifies the Exchange’s approach to vetting the suitability of companies applying for secondary listings; and
- Waivers – guidance is provided on the common waivers that the Exchange may grant on application by an overseas company that has or seeks a secondary listing, and on waivers that it grants automatically (without application) if certain criteria are met. Details are also provided of Listing Rules that are modified to accommodate overseas practices, or disapplied to reflect the relevant listing’s primary, dual primary or secondary nature. In each case, relevant conditions or other limitations are also set out where applicable.

We set out below further details of the revised regime’s key elements:

Country Guides

- The Exchange aims to publish a Country Guide for each acceptable jurisdiction by the end of 2013, setting out guidance on how companies incorporated there can meet the shareholder protection standards in the Listing Rules.

Shareholder protection standards

- Overseas applicants must demonstrate that their shareholder protection standards are at least equivalent to those of Hong Kong.
- Some key shareholder protection standards include the following:
 - Certain matters require “super-majority” shareholders’ approval, including changes to the rights attached to any class of shares, material change to constitutive documents, and voluntary winding up. “Super-majority” means at least a two-thirds majority if the quorum requirement is “low” (e.g., two members), but may mean just a simple majority approval if the quorum requirement is “significantly higher”.
 - The constitution cannot be altered to increase an existing member’s liability without his written approval.
 - Auditors’ appointment, removal and remuneration require approval by a majority of the members, or another body independent of the board of directors (such as a supervisory board).
 - Protection of shareholder rights regarding general meetings, including frequency, notice, and the

right to speak and vote (including through clearing house nominees), and to convene meetings and add resolutions.

Regulatory cooperation arrangements

- Regulatory cooperation arrangements must now be in place with the statutory securities regulator in both the jurisdiction of incorporation and the place of central management and control (if different) for regulatory assistance purposes (any waivers of this requirement need SFC approval).
- In determining the place of central management and control, the Exchange will consider the following well-established factors:
 - Location from where the company’s senior management direct, control and coordinate the company’s activities;
 - Location of the company’s principal books and records; and
 - Location of the company’s business operations or assets.

Accounting and auditing related and other disclosure requirements

- *Auditing standards:* The revised JPS lists auditing standards from several places which the Exchange has allowed to be used, as being of a standard comparable to that required in Hong Kong: Australia, Canada, France, Italy, Singapore, UK, USA.
- *Professional qualifications:* The Exchange generally allows accountants’ reports to be prepared by non-Hong Kong qualified accountants and auditors if the firm meets the usual independence requirement and:
 - Has an international name and reputation;
 - Is a member of a recognized body of accountants; and
 - Is subject to independent oversight by a regulatory body of a jurisdiction that is a signatory to the IOSCO MMOU.
- *Financial reporting standards:* The Exchange has in appropriate cases allowed the adoption of financial reporting standards of the following places otherwise than in line with the Listing Rules: Australia, Canada, EU, Japan, Singapore, UK, USA.
- *Other disclosure requirements:* An overseas company must clearly disclose, among other things, in its listing document and a Company Information Sheet (which it must keep current):
 - A summary of waivers and exemptions it has been granted; and

南尚待出版；

- 监管合作安排 – 与相关海外管辖区之间的其他安排即将推出；
- 会计/审计及其他方面的披露要求 – 规定了可接受的海外会计与审计标准；
- 实践和运营方面的事项 – 修订联合政策声明提醒准备在香港上市的海外公司可能会遭遇的各个事项，例如跨境结算及交收；

二次上市的适宜性 – 修订联合政策声明澄清了联交所审核是否适合二次上市时的考察方面；及

- 豁免 – 修订联合政策声明给出了联交所对寻求二次上市的海外公司通常会授予的豁免，以及满足某些情况时的自动豁免（无需申请）。修订或不予适用某些《上市规则》以吻合海外实践，或反映相关上市的性质：主要或双重主要或二次上市，并列出了每种情况所适用的条件或限制。

下面我们还为您总结了修订联合政策声明的一些要点：

国别指南

- 联交所预期在2013年年底为每一个可接受的司法辖区刊发国别指南，说明在不同辖区设立的公司如何满足《上市规则》的股东保障标准。

股东保障标准

- 海外申请人必须证明其股东保障标准至少与香港的标准相当。
- 一些主要的股东保障标准包括：
 - 某些事项需要股东以“超级多数票”批准，变动任何类别股份所附带权利，公司组织章程文件的重大变动，以及自动清盘。对于较“低”的法定人数（例如，两名股东）“超级多数票”指至少三分二的多数票，对于法定人数必须“多许多”的事项，也可能只须取得简单多数票。
 - 海外公司不得修订其组织章程文件增加个别现有股东对公司的法律责任，除非该股东书面同意。
 - 审计师的委聘、辞退及薪酬须由海外公司多数股东或独立于董事会以外的其他组织（例如监事会）批准。

- 保护股东关于股东大会的权利，包括召开的频率、会议通知、发言权及表决权（包括通过结算所代理人），以及召集会议和增加决议。

监管合作安排

- 海外公司注册成立的司法权区及其中央管理及管控的所在地（如不相同）的法定证券监管机关必须有监管合作安排（任何此方面的豁免需要证监会的批准）。
- 联交所确定海外公司的中央管理及管控所在地时会考虑以下因素
 - 公司高层管理人员指导、监控及统筹公司业务的所在地；
 - 公司主要账目及纪录的所在地；及
 - 公司业务或资产的所在地。

会计/审计及其他方面的披露要求

- **审计标准：**修订联合政策声明接受下列国家和地区的审计标准为与香港相当的标准：澳大利亚，加拿大，法国，意大利，新加坡，英国，美国。
- **专业资质：**如果会计师事务所满足下列独立性方面的要求，联交所通常接受非香港注册的会计师和审计师的报告：
 - 有国际知名度和美誉度；
 - 是某认可的会计师组织的成员；及
 - 受《国际证监会组织关于咨询及合作以及分享信息的多边谅解备忘录》的正式签署方的监管机构独立监管。
- **财务报告准则：**除符合《上市规则》的除外，联交所还接受下列国家和地区的财务报告准则：澳大利亚，加拿大，欧盟，日本，新加坡，英国，美国。
- **其他披露要求：**海外公司必须在其上市文件及公司资料报表（必须保持为最新状态）中明确披露：
 - 已获得豁免的概述；及
 - 其所在管辖地与香港在股东保护各方面的法律和规定上的差异的概述。

- A summary of the differences between its home jurisdiction and Hong Kong as regards laws and regulations on various aspects of shareholder protection.

Practical and operational matters

- Overseas companies are allowed a variety of methods to comply with the Listing Rules and the Code on Takeovers, including the provision of undertakings to the Exchange to put shareholder protection measures in place and the demonstration of internal compliance measures that achieve equivalent shareholder protection.
- Applicants must ensure their securities are eligible for deposit, clearance and settlement in CCASS.
- Dual-primary or secondary listed companies must ensure a sufficient number of registered shares on their Hong Kong share registers to ensure liquidity and mitigate initial price volatility and later imbalances between markets.
- Applicants must disclose any tax reporting obligations Hong Kong investors may have in their prospectuses.
- Listed overseas stock must carry a suffix for identification purposes.

Suitability for secondary listing; Waivers

- *Shareholder protection:* A company seeking a secondary listing must satisfy the Exchange that its primary listing is or will be on an exchange where standards of shareholder protection are at least equivalent to those provided in Hong Kong.
- *Waiver, Modification, Disapplication:* The revised JPS attaches a table identifying Listing Rules that are:
 - commonly waived for overseas applicants on application (subject to a case by case review, and certain criteria set out below);
 - waived automatically where specified criteria are met;
 - modified to accommodate overseas practices; or
 - disapplied to reflect the listing's primary, dual primary or secondary nature,
 in each case with applicable conditions or other limitations.
- *Common Waivers:* To apply for waivers of Main Board Listing Rules, a company seeking a secondary listing on the Exchange must have:
 - a market capitalization over USD400 million;
 - been listed on its primary market normally for five years (shorter periods may be allowed for well-established applicants with a market capitalization

much larger than USD400 million); and

- a track record of clean regulatory compliance on its primary market.
- *Automatic Waivers:* The Exchange also grants certain waivers automatically (without application) to an applicant that has or seeks a secondary listing if it not only meets the three requirements listed above but also:
 - has a primary listing (in the most rigorous category) on the main market of one of 15 recognized exchanges, without the benefit of any waivers or exemptions; and
 - has a “center of gravity” outside Greater China (in fact the JPS makes clear elsewhere that this is a precondition for obtaining a secondary listing at all).

For a copy of the revised JPS, please follow this link: http://www.sfc.hk/web/files/ER/PDF/13PR98_statement.pdf

For a copy of the Exchange's new Frequently Asked Questions series 25 on the revised JPS, please follow this link: [http://www.hkex.com.hk/eng/rulesreg/listrules/listrulesfaq/](http://www.hkex.com.hk/eng/rulesreg/listrules/listrulesfaq/Document/FAQ_25.pdf)

[Documents/FAQ_25.pdf](http://www.hkex.com.hk/eng/rulesreg/listrules/listrulesfaq/Document/FAQ_25.pdf)

NEW LISTING DECISIONS

IPO applicants engaged in the pawn loan business in the PRC: Disclosure Requirements

In September, the Exchange updated its listing decision LD33-2012 (originally published in July 2012), which required applicants to make disclosures specific to pawn loan business in their listing documents. The amendments require that, in relation to risk management and internal controls, the relevant experience of responsible management and working teams should be disclosed, and regular training should be provided to keep management and employees abreast of the latest market and regulatory developments. Where risk management and internal control measures rely on external professionals, the listing document should also disclose the relevant experience of the experts and the specific work performed by them. If the internal control consultant is an accounting firm, professional practices may prevent an internal control review from being mentioned in the listing document, but this may be avoided if the applicant and the sponsor separately engage the reporting accountants or other accounting firm to perform an assurance engagement in relation to internal controls.

For a copy of the updated Listing Decision LD33-2012, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listdec/Documents/ld33-2012.pdf>

Effect of Non-compliant Financing

In September, the Exchange updated its listing decision LD19-2011 (originally published in September 2011)

实践和运营方面的事项

- 海外公司允许通过多种途径遵守《上市规则》和《收购守则》，包括向联交所承诺实施股东保护措施，以及能取得同样的股东保护效果的内部合规措施。
- 申请人必须确保他们的证券有资格在中央结算系统寄存、结算及交收。
- 双重主要或二次上市的公司必须保证其香港股份登记册上有足够数量的登记股份，以确保流动性，减轻初始价格的波动和今后市场之间的不平衡。
- 申请人必须在招股书中披露香港投资者的税务申报义务。
- 海外上市的股票必须有进行识别的标记。

二次上市的适宜性；豁免

- **股东保护：**寻求二次上市的公司必须令联交所确信其主要上市是或将在一个对股东保护方面与香港提供的保护至少相当的交易所。
- **豁免，修订，不适用：**修订联合政策声明在附表下列出了对上市规则进行：

- 对海外申请人通常豁免（依个案而定，某些条件见下文）；
- 符合特定情况时自动豁免；
- 予以修改以适应海外做法；或
- 不予适用以反映相关上市的性质：主要或双重主要或二次上市

并列明每种情况所适用的条件或限制。

- **常见豁免：**在联交所作二次上市而拟获豁免遵守《主板上市规则》规定的海外公司须：
 - 市值超过4亿美元；
 - 在其主要市场上市至少5年（申请人为信誉良好历史悠久的公司，且市值远远超过4亿美元，则此上市纪录条件可不适用）；及
 - 于主要上市市场有良好的合规纪录。
- **自动豁免：**如果除了上述三个条件外还满足下面的条件，联交所对已经或寻求二次上市的申请授予自动豁免（无需申请）：
 - 在15个获得认可的交易所之一的主板主要上市

（在最严格的类别），无需享有任何豁免；及

- 业务重心在大中华区以外（事实上修订联合政策声明在其他地方将此确立为二次上市的先决条件）。

请参阅修订联合政策声明的链接：

http://www.sfc.hk/web/files/ER/PDF/13PR98_statement.pdf

联交所还就修订联合政策声明刊发了新的常问问题系列25，请参考下面链接：

http://www.hkex.com.hk/eng/rulesreg/listrules/listrulesfaq/Documents/FAQ_25.pdf

新刊发的上市决策

在中国从事典当贷款业务的上市申请人：披露要求

9月，联交所就要求申请人在其申请文件中对其典当贷款业务作特定披露的上市决策LD33-2012（最初刊发于2012年7月）进行了更新。根据最新的修订，对于风险管理及内部控制，需要披露管理层及工作人员的相关经验，并提供定期培训让管理层及员工掌握最新市场资讯及监管发展。如需要依赖外部专业人士提供风险管理及内部控制，上市文件亦应披露有关专业人士的相关经验及其履行的具体工作。如果内部控制顾问为一家会计师事务所，职业要求可能不允许在上市文件中提及内部控制顾问的意见，此时申请人及保荐人可以特别聘请申报会计师或其他会计师事务所额外履行有关内部监控的保证工作。

请参阅上市决策LD33-2012的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listdec/Documents/ld33-2012.pdf>

违规融资的影响

9月，联交所就甲公司的违规融资如何影响其上市的上市决策LD19-2011（最初刊发于2011年9月）进行了更新。联交所将甲公司的申请延至其终止违规活动之日起十二个月后处理，招股章程必须载列该十二个月期间的经审计的财务报表，使投资者可全面评估甲公司在不依赖违规活动的情况下的业绩。最新修订要求在招股书中披露独立顾问对于申请人内部控制措施的意见和结论。

regarding how Company A's non-compliant financing would affect its listing. The Exchange had delayed Company A's application for 12 months from the date when it ceased the non-compliant activities, and required the prospectus to include the audited financial statements for that 12-month period to enable investors to appraise fully its performance without reliance on the non-compliant activities. The amendments require the prospectus also to disclose the independent consultant's reviews and conclusions on the applicant's internal control measures. The final point in the article immediately above, regarding publication of internal control reviews, also applies here.

For a copy of the updated Listing Decision LD19-2011, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listdec/Documents/ld19-2011.pdf>

NEW GUIDANCE LETTERS

Pre-IPO Investments

In July, the Exchange updated its guidance letter GL43-12 (originally published in October 2012) on pre-IPO investments. The updated guidance:

- Clarifies the rationale for disallowing put or exit options granted to pre-IPO investors to put back the investments to the applicant or its controlling shareholder, namely that they are contrary to the Exchange's Interim Guidance (in its Guidance Letter 29-12) which requires pre-IPO investments to be irrevocably settled. Thus such an option is allowed (only) when the terms of the pre-IPO investment clearly state that the option is only exercisable when listing does not take place;
- Sets out the prospectus disclosure requirements regarding pre-IPO investments (these were previously set out in a checklist);
- Clarifies that if a pre-IPO investment is not in accordance with the Interim Guidance (i.e., completed at least 28 clear days before the date of first submission of the first listing application form, or 180 days before the first day of trading of the applicant's securities) after submission of an applicant's listing application, the applicant is expected to defer the listing date or unwind the pre-IPO investment. If a pre-IPO investment does not follow the updated guidance letter (and if applicable the guidance on convertible instruments, in GL44-12), the applicant has to unwind it, or amend its terms (and comply with the 180-day requirement, unless a legal opinion confirms that the amendment will not constitute a new agreement).

For a copy of the updated Guidance Letter GL43-12, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/igorq/Documents/gl43-12.pdf>

Disclosure Requirements for PRC Properties

In July, the Exchange published an update of its guidance letter GL19-10 (originally issued in July 2010) regarding the disclosure requirements for properties in Mainland China. Under the amendments, the Exchange will continue to require issuers that are infrastructure project companies and property companies to obtain relevant land use right certificates and/or building ownership certificates (“**Title Certificates**”) as a pre-requisite for listing approval. However, for other issuers, the Exchange no longer requires Title Certificates for PRC properties, wherever the issuer is incorporated. Instead, the Exchange expects the applicant to disclose in the listing document the risks to its operations of not having Title Certificates for such properties.

The updated guidance letter also sets out specific disclosure requirements in respect of the following areas:

- Properties with defective titles in the PRC and Hong Kong;
- Idle land in the PRC (if an applicant's business involves property investment and development in the PRC);
- Civil defense projects in the PRC; and
- Land resettlement operations in the PRC.

For a copy of Guidance Letter GL19-10, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/igorq/Documents/gl19-10.pdf>

Simplification of White and Yellow Application Forms and the “How to Apply for Hong Kong Offer Shares” Section

In July, the Exchange published guidance on disclosures in white and yellow application forms (“**AFs**”) and the “How to Apply for Hong Kong Offer Shares” section of prospectuses (“**HTA**”), to ensure that the information in the AFs and HTA is relevant, concise and in plain language. Detailed guidance on disclosure in the AFs and HTA, in the form of a sample AF and HTA, is set out in the appendices to the guidance letter.

For a copy of Guidance Letter GL64-13, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/igorq/Documents/gl64-13.pdf>

New Applicant Mineral Companies: Pre-conditions for Waivers of the Financial Standards Requirements

In August, the Exchange published an update of its guidance letter GL22-10 (originally issued in October 2010) regarding pre-conditions for waivers under Listing Rule 18.04. To obtain such a waiver, a new applicant mineral company must demonstrate to the Exchange's satisfaction that its inability to comply with the profit, revenue or cash flow tests of Listing Rule 8.05 is due to the fact that it has been in a pre-production, exploration and/or development phase

上文最后一段关于登载内部控制审查意见的规定同样适用。

请参阅上市决策LD19-2011的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listdec/Documents/ld19-2011.pdf>

新刊发的指引信

首次公开招股前投资

7月，联交所更新了其关于首次公开招股前投资的指引信GL43-12（最初刊发于2012年10月）。最新指引：

- 明确了不得实施沽售或退出选择权的原则，首次公开招股前投资者不得向申请人或其控股股东售回投资，因为这有悖于联交所临时指引信GL 29-12中关于首次公开招股前投资涉及的资金必须是不可撤销地交付的规定。因此，唯一可以允许沽售或退出选择权的情况是，首次公开招股前投资的条款明确规定，沽售或退出选择权只可在上市申请人未能上市时行使；
- 规定了招股书关于招股前投资的披露要求（见核对清单）；
- 如果首次公开招股前投资不符合临时指引规定的时间（即在首次呈交上市申请表格日期前至少足28天，或申请人证券交易首日前足180天完成），在呈交首次上市申请表格以后，申请人需推迟上市日期或解除该首次公开招股前投资。如果首次公开招股前投资未能遵守更新的指引信的要求（如果适用，并遵守关于可转换工具的指引信GL44-12），申请人必须解除首次公开招股前投资，或修改投资的条款（及遵从临时指引中 180 日规定，除非该申请人能提供有关法律意见申明该首次公开招股前投资条款的修订将不会构成一份新合约）。

请参阅指引信 GL43-12的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/ Documents/g143-12.pdf>

中国内地物业的披露要求

联交所于7月对披露中国内地物业的指引信GL19-10（最初刊发于2010年7月）进行了更新。根据最新的修订，联交所继续要求物业公司及基建工程公司发行人取得相关土地使用权证书及/或房屋所有权证书（“业权

证书”），并以此为批准上市的先决条件。但是，对于其他发行人，无论其在哪里注册，联交所不再要求其对于内地物业取得业权证书。相反，联交所希望申请人在上市文件中就运营该等无业权证书的物业的相关风险进行披露。

最新修订还就以下方面提出了具体的披露要求：

- 业权存在瑕疵的中国内地及香港的物业；
- 中国内地的闲置土地（如果申请人的业务涉及中国物业投资和开发）；
- 中国内地的民防物业项目；及
- 中国内地土地安置活动。

请参阅指引信GL19-10的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/ Documents/g19-10.pdf>

简化系列：白色及黄色申请表格及“如何申请香港发售股份”一节

联交所于7月就白色及黄色申请表格及招股章程中“如何申请香港发售股份”一节的披露要求刊发了指引信，为的是确保白色及黄色申请表和“如何申请香港发售股份”中的信息彼此关联、准确且使用平易的语言。指引信在附件中举例说明了披露的详细信息。

请参阅指引信GL64-13的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/ipoq/ Documents/g164-13.pdf>

矿业公司新申请人：豁免遵守财务准则规定的先决条件

联交所于8月对豁免遵守上市规则第 18.04 条的先决条件的指引信GL22-10（最初刊发于2010年10月）进行了更新。为了取得豁免，矿业公司新申请人须向联交所证明，并令联交所确信之所以无法符合上市规则第 8.05 条有关盈利、收益或现金流量的测试是因为在营业纪录期间该公司正处于生产前期、勘探及/或发展阶段。此外，若矿业公司仍未开始商业生产，亦应清楚证明有路径达至商业生产，豁免申请才会很有机会获批。

throughout the track record period, and a waiver is only likely to be considered favorably if the applicant also demonstrates a clear path to commercial production where that has not been started. The updated guidance gives example of cases where no clear path to commercial production is demonstrated, as follows:

- The project payback period is subject to high risk in the opinion of the competent person;
- Funding to be raised by the proposed listing is insufficient to bring the project to the stage of commercial production, and considerable further fund raising exercises will be required; or
- It is highly uncertain whether the mineral company is able to obtain the necessary mining permits and licenses.

For a copy of the updated Guidance Letter GL22-10, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/iporq/Documents/gl22-10.pdf>

Communication with Compliance Advisers

In September, the Exchange provided guidance to issuers on communication with their compliance advisers, in response to cases where issuers breached the Listing Rules because their directors or responsible officers did not fully understand the Listing Rules and failed to consult their compliance advisers. The Exchange's guidance letter encouraged issuers to:

- Proactively discuss matters with their compliance advisers and seek their advice;
- Maintain regular contact with compliance advisers and keep them informed on developments and proposed corporate actions; and
- Allow adequate time for compliance advisers to review and advise on matters; for example, provide them with draft announcements well in advance of the proposed publication date, and inform them when a transaction is contemplated, rather than after the relevant agreement has been signed.

For a copy of Guidance Letter GL67-13, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/Documents/gl67-13.pdf>

Disclosure Requirements Regarding Property Valuation Reports and Market Reports

In September, the Exchange published a guidance letter on disclosure in listing documents regarding the bases and assumptions adopted by property valuers and independent market consultants in preparing property valuation reports and market reports.

The Exchange expects, at a minimum, disclosure of the following information in the listing document:

SUMMARY SECTION	<ul style="list-style-type: none"> • Valuation of the properties; • Justifications of the assumptions adopted in the property valuation report and market report which are material for investors to make an informed assessment; and • Relevant material risks (e.g., assumptions adopted may not be realised)
RISK FACTORS SECTION	<ul style="list-style-type: none"> • Relevant material risks (e.g., assumptions adopted may not be realised)
PROPERTY VALUATION REPORT	<ul style="list-style-type: none"> • For valuation of property interests using the discounted cash flow method: the bases and justifications of the key assumptions (e.g., discount rate, terminal capitalization rate); • For valuation of property interests using the comparison method: details of comparable properties and the basis for selecting them, how the valuations of an applicant's properties differ from those of comparable properties (e.g., premium or discount) and reasons for material differences;
MARKET REPORT	<ul style="list-style-type: none"> • The bases and justifications of key assumptions specific to an applicant's business.

In addition, the listing applicant should (1) include sensitivity analysis on the valuation of the properties, where possible, and (2) benchmark the assumptions adopted with historical data for a prolonged period of time to enable investors to assess the reasonableness of the assumptions and explain their material fluctuations.

For a copy of Guidance Letter GL65-13, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/iporq/Documents/gl65-13.pdf>

Resumption of Trading for Long Suspended Companies

In September, the Exchange issued a new guidance letter (HKEx-GL66-13) on the criteria for resumption of long suspended companies, i.e., those whose shares have been suspended from trading for over three months. These include companies which are in severe financial difficulties and/or have ceased to maintain sufficient or any operations and are in the delisting stages (commonly known as PN 17 companies) and companies which are suspended due to other material issues, including identified irregularities, regulatory investigations, failure to publish financial results in a timely manner, significant internal control weakness or failure to announce inside information or other material developments.

最新修订的指引列举了不能证明达至商业生产的清晰路径的一些例子：

- 合格人士认为项目回报期涉及较高风险；
- 拟进行的首次公开招股筹集的资金不足以令项目达至商业生产，须再进行其他大型集资活动；或
- 矿业公司能否取得所需的采矿许可证及牌照存在极大变数。

请参阅指引信GL22-10的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/iporq/Documents/gl22-10.pdf>

咨询合规顾问

9月，联交所就新上市发行人与其合规顾问保持沟通刊发了指引信，以期避免因发行人董事或负责管理人员未能完全理解上市规则、也未咨询合规顾问而造成的违反上市规则的情况。联交所的指引信鼓励发行人：

- 主动与合规顾问讨论并寻求其意见；
- 与合规顾问保持定期接触，让其了解公司各项发展及拟进行的公司行动；及
- 预留充足时间让合规顾问审视有关事宜及提供意见；例如，发行人应确保合规顾问在建议刊发公告日期前能及早知悉并得到有关公告的拟稿，在拟进行交易时即通知合规顾问，而不是在协议签署后才通知。

请参阅指引信GL67-13的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/Documents/gl67-13.pdf>

物业估值报告及市场报告的披露要求

9月，联交所就上市文件中有关物业估值师及独立市场顾问编制物业估值报告及市场报告时采用的各项基准及假设提供披露指引。

联交所希望上市文件至少披露以下方面的信息：

摘要部分	<ul style="list-style-type: none">• 物业估值；• 物业估值报告及市场报告所用假设的依据，他们是投资者对物业作出有根据评估所需的重大资料；及• 相关重大风险（例如假设条件未必会实现）。
风险因素部分	<ul style="list-style-type: none">• 相关重大风险（例如假设条件未必会实现）。
物业估值报告	<ul style="list-style-type: none">• 采用现金流折现法评估物业权益：主要假设的基准及依据（例如折现率及最终资本化比率）；• 采用物业比较法评估物业权益：类似物业的详情及为何挑选这些物业的基准，申请人物业与类似物业的估值差异（比如溢价或折让）以及重大差异的原因。
市场报告	<ul style="list-style-type: none">• 申请人业务主要假设的基准及依据。

此外，申请人应(1) 包括物业估值的敏感性分析（如可能），及(2) 将所使用假设与长期历史数据对照，以协助投资者评估假设的合理性，及解释他们的重大波动。

请参阅指引信GL65-13的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/iporq/Documents/gl65-13.pdf>

长时间停牌公司的复牌

9月，联交所刊发了新的指引信GL66-13，就超过三个月长时间停牌公司恢复股份交易的条件作出了规定。这些公司包括出现严重财政困难及/或未能维持足够业务运作及处于除牌阶段的公司（通常所谓的PN 17公司）；以及由于其他严重问题而被停牌的公司，包括被发现涉及违规行为、正被监管机构调查、未能按时刊发财务业绩、内部监控严重不足、未能披露内幕消息或其他重大情况。

The guidance covers the following:

- Disclosure and timing requirements for resumption proposals submitted by PN 17 companies:
 - The company's business model and sufficient details to support its business viability and achievability of its profit forecasts;
 - The company's concrete plan for the use of proceeds from the fund-raising exercise;
 - Disclosures according to the reverse takeover rules, if applicable;
 - Benefit of the proposal to the company's minority shareholders, e.g., via opportunity to subscribe for securities pre-emptively to mitigate dilution;
 - Compliance with financial reporting requirements under the Listing Rules.
- Steps to be taken by directors of companies suspended due to other material issues:
 - Review the matter as soon as practicable (including INEDs) and determine any actions that the company should take, including disclosure and a trading halt/suspension;
 - Consider setting up a special committee to review the matter to avoid any conflict of interests which may arise during the review process;
 - Consider the board (or special committee) engaging independent experts to assist them in reviewing the matter;
 - Ensure the company takes appropriate remedial actions in light of the findings or investigations; and
 - Submit to the Exchange concrete proposals to resolve the issues (including a timetable), continue taking adequate action to resume trading, and ultimately demonstrate that the remedial actions taken have adequately addressed all material issues (examples of measures to address particular situations are set out in the guidance).

For a copy of Guidance Letter GL66-13, please follow this link: <http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/Documents/gl66-13.pdf>

ENFORCEMENT NEWS

SFC in first exercise of winding-up power under Section 212 of SFO

In July, the SFC filed a petition at the Court of First Instance to wind up China Metal Recycling (Holdings) Limited ("China Metal Recycling"). This is the first time the SFC has invoked its power under Section 212 of the SFO to wind up a listed

company to protect the interests of the shareholders, creditors and the general investing public. An ex parte order to appoint provisional liquidators was granted by the court.

The SFC alleged that China Metal Recycling overstated its financial position in its 2009 listing prospectus and its annual report for 2009, by inflating its business and revenue based on fictitious purchases from suppliers, and that the suspected exaggeration has continued since.

A U.S.-based securities research company, Glaucus Research Group, had previously issued a research report accusing China Metal Recycling of falsifying financial information. Trading in China Metal Recycling's shares was voluntarily suspended on January 28, 2013, and on March 28, 2013, it announced that the Exchange had imposed conditions for the resumption of trading in the shares; trading remains suspended.

Following the first hearing for the winding-up petition on October 16, 2013, leave was granted to the chairman of China Metal Recycling, as well as a substantial shareholder controlled by the chairman, to be joined as additional respondents to oppose the SFC's application.

SFC Seeks Disqualification Orders Against Former Senior Executives of China Best Group Holding Limited

In July 2013, the SFC commenced legal proceedings in the Court of First Instance to disqualify Mr. Wang Jian Hua ("Wang"), former advisor to the board of China Best Group Holding Limited ("China Best"), Ms. Ma Jun Li ("Ma"), former chairman and executive director of China Best and Mr. Zhang Da Qing ("Zhang"), former chief executive officer and executive director of China Best, under to Section 214 of the SFO.

The SFC alleged that Wang, Ma and Zhang had breached their directors' duties to China Best in handling a proposed acquisition of 60% of the equity interest in a company by China Best's subsidiary, resulting in a loss to China Best and/or its subsidiary.

Specifically, the SFC alleged that:

- The seller and its ultimate beneficial shareholder were nominees of Wang and therefore not independent third parties of China Best. The total consideration paid by China Best and its subsidiaries to the seller for the purpose of the proposed acquisition was used to discharge Wang's personal loans or paid to Wang's personal company. Despite the profits made by Wang and his material interest in the acquisition, Wang failed to disclose any of these to China Best's board of directors.
- Ma and Zhang had failed to inform China Best's board of directors that the ultimate beneficial shareholder of the seller was not an independent third party, and had wrongfully authorized the issue of two announcements by

指引信涵盖了下列内容：

- PN17公司提交复牌建议时的披露和时间要求：
 - 业务模式及足够详细的资料以支持其业务可行性及所作的盈利预测；
 - 集资活动所得款项用途的具体计划；
 - 在适用的情况下根据反收购规则进行披露；
 - 复牌建议对小股东带来的利益，例如让小股东享有优先认购证券的机会以使权益不被大幅摊薄；
 - 按《上市规则》的要求遵守财务汇报规定。
- 因其他严重问题而被停牌的公司的董事应采取的步骤：
 - 尽快审查所有事项（包括独立非执行董事），并决定公司应采取的进一步的措施，包括披露以及短暂停牌或停牌；
 - 考虑成立特别委员会进行审查，以避免审查过程中可能引起的利益冲突；
 - 董事会或特别委员会应考虑委聘独立专家协助审查相关事宜；
 - 确保公司已采取适当的救济行为处理了所发现的不足之处或被调查情况；及
 - 向联交所提交解决问题的可行的建议（包括时间表），继续采取充分的复牌行动，并最终证明所采取的救济行为已充分解决了所有重大问题（指引信同时列举了解决不同问题的具体方式）。

请参阅指引信 GL66-13的链接：

<http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/Documents/gl66-13.pdf>

执法新闻

证监会首次根据《证券及期货条例》第212条对上市公司实施清盘

7月，证券及期货事务监察委员会（“证监会”）向原讼法庭提出呈请，将中国金属再生资源（控股）有限公司（“中国金属”）清盘。这是证监会首次根据《证券及期货条例》第212条向法院申请将一间香港上市公司

清盘，以保障该公司股东、债权人及投资大众的权益。法庭还下达了指定临时清盘人的单方面命令。

证监会指控中国金属通过虚构对供应商的采购夸大公司业务规模及收益，从而夸大2009年首次公开招股的招股章程及2009年年报中公司的财政状况，而且此后一直持续夸大有大金额。

一家美国证券调查公司Glaucus研究小组此前曾经发布过研究报告，称中国金属伪造财务信息。中国金属于2013年1月28日自愿暂停其股份买卖。2013年3月28日，中国金属公布了联交所提出的股份复牌须符合的条件；该公司股份买卖一直暂停至今。

在2013年10月16日的最后听证以后，中国金属的董事长以及该董事长控股的某大股东被追加为应诉方。

证监会申请对国华集团控股有限公司前高层人员发出取消资格令

2013年7月，证监会在原讼法庭展开法律程序，寻求根据《证券及期货条例》（“条例”）第214条取消国华集团控股有限公司（“国华集团”）董事会前顾问王建华、国华集团前主席兼执行董事马俊莉及国华集团前行政总裁兼执行董事张大庆出任董事的资格。

证监会指控王建华、马俊莉及张大庆在处理子公司收购某公司60%股权时违反了对国华集团负有的董事责任，令国华集团及/或其子公司蒙受损失。

证监会的具体指控如下：

- 卖方及其最终实益股东均是王建华的提名人，并非独立于国华集团的第三方。国华集团及其子公司就建议收购项目向卖方支付的款项最终被用作偿还王建华的私人贷款。王建华从建议收购项目中获益，并在该项目中持有重大权益，但他完全没有向国华集团董事会披露此事。
- 马俊莉及张大庆没有将卖方的最终实益股东并非独立第三方一事告知国华集团董事会，并且不当地授权刊发国华集团两份公告，虚假陈述卖方为独立第三方。
- 联交所作出查询后，国华集团终止了建议收购项目，但卖方并未及时退还3.05亿港元现金按金。根据相关协议规定，卖方须就该笔现金按金向国华集团子公司支付累计利息。但王建华却不当地同意免除累计利息，令国华集团及/或其子公司蒙受损失。

China Best which falsely represented that the seller was an independent third party.

- When the proposed acquisition was terminated following an enquiry by the Exchange, the seller failed to refund the cash deposit of HK\$305 million to China Best's subsidiary on time. Under the relevant agreement, the seller was obliged to pay interest accrued on the cash deposit to China Best's subsidiary. However, Wang wrongfully agreed to waive the accrued interest, resulting in loss to China Best and/or its subsidiary.

This action serves as a reminder that directors of listed companies who fail to perform their duties may be disqualified under section 214 of the SFO from being a director, or otherwise involved in the management, of any corporation for up to 15 years.

Exchange's Enforcement Statement and New Disciplinary Procedures

In September, the Exchange published an enforcement statement (the "**Enforcement Statement**") highlighting relevant principles and factors for enforcement of the Listing Rules, and adopted new procedures (the "**New Procedures**") for disciplinary matters involving breaches of the Listing Rules.

The Enforcement Statement set out a non-exhaustive list of factors that a Disciplinary Committee or Review Committee of the Exchange will take into account when determining the appropriate level of enforcement action and sanctions for breaches of the Listing Rules:

- The nature and seriousness of the breach;
- The circumstances and manner in which the conduct giving rise to the breach was committed;
- The conduct of the directors and senior management;
- The market impact and prejudice (or risk of prejudice) to investors as a result of the breach;
- Any personal benefit accruing to the parties responsible for the breach and its magnitude;
- The conduct of the relevant parties subsequent to the breach;
- Whether the directors and senior management implemented and maintained adequate and effective internal controls;
- Whether the breach reveals serious or systemic weaknesses or failings in the issuer's procedures;
- The level of cooperation received from the issuer and its directors during the investigation of the conduct;

- The compliance history of the issuer and its directors; and
- Other mitigating or aggravating factors, such as the actual or potential damage to the reputation of the Exchange and integrity of the market, as set out in a "Statement on principles and factors in determining sanctions and directions imposed by the Disciplinary Committee and the Review Committee" which is attached to the New Procedures.

The Enforcement Statement closes by reminding directors and senior management of their duty to take steps to ensure that issuers have and maintain effective systems in place to achieve Listing Rule compliance; stressing the collective and individual responsibility of directors for compliance, including independent and other non-executive directors; and emphasizing the need for continuing, regular training.

The New Procedures enhance the case management powers of the chairman of an Exchange disciplinary committee to expedite disciplinary proceedings. The chairman can make any directions concerning the conduct of the proceedings for the just and expeditious disposal of the matter. The Exchange noted that delay in filing submissions and unjustified postponement of hearing dates will not be tolerated: the granting of time extensions will not be the norm, but only in exceptional circumstances and in the interests of fairness. There are also changes aimed at reducing the number of written submissions filed as a matter of course during the disciplinary process, and encouraging earlier hearing dates.

For a copy of the Enforcement Statement and the New Procedures (including the "Statement on principles and factors in determining sanctions and directions imposed by the Disciplinary Committee and the Review Committee"), please follow the links: http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/Documents/enfs_0913.pdf and http://www.hkex.com.hk/eng/rulesreg/listrules/listdisciplinarypro/documents/dis_0913.pdf

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本案再次提醒上市公司董事，如违反了董事应尽的职责，将会根据《证券及期货条例》第214条被取消出任任何公司董事或参与公司管理的资格，最高为期15年。

联交所的执行声明及新程序

9月，联交所刊发了有关执行《上市规则》的新声明（“执行声明”），阐释了推行《上市规则》时联交所将考虑的原则和因素，并为此刊发了就违反《上市规则》的行为采取纪律行动时的新程序（“新程序”）。

执行声明列出了纪律委员会及复核委员会在决定监管措施的程度及是否应该启动纪律行动时予以考虑的因素（但并非涵盖所有情况）：

- 违规事宜的性质及严重程度；
- 导致违规事宜行为的情况及方式；
- 董事及高级管理人员的行为；
- 违规事宜对市场的影响及对投资者的损害（或可能造成的损害）；
- 违规事宜的负责人士从中获得的任何个人利益及利益的多寡；
- 有关人士违规后的行为；
- 董事及高级管理人员有否实施及维持足够及有效的内部监控；
- 违规事宜是否表明发行人程序中存在严重的或系统性的弱点或缺陷；
- 调查期间发行人及其董事的合作情况；
- 发行人及其董事过往的违规纪录；及
- 其他减轻或恶化事件的因素，例如对联交所的信誉以及市场公正造成的实际的或潜在的损害，详见新程序所附载的《关于纪律委员会及复核委员会厘定所施加的制裁及指令的原则及因素的声明》。

在执行声明的最后，联交所提醒上市公司的董事及高级管理人员负有责任采取措施确保发行人已经制定且维持有效的制度来履行《上市规则》；强调董事，包括独立

及其他非执行董事对于合规的共同及个别的责任；并强调了持续、定期培训的必要。

新程序赋予联交所纪律委员会主席更大的个案管理权力，使其能够快速推进纪律行动。为实现公正及迅速完成纪律程序的目的，主席可发出其认为适当的任何书面指令。联交所指出，延误提交陈词以及无正当理由地拖延聆讯日期都是不获容忍的：授予延期不会成为常态，只是在特定情况下并基于公平才被允许。此外，还有一些改变是为了减少纪律程序所需提交书面陈词的数量，并促进聆讯能早日进行。

请参阅执行声明及新程序（包括《关于纪律委员会及复核委员会厘定所施加的制裁及指令的原则及因素的声明》）的链接：

http://www.hkex.com.hk/eng/rulesreg/listrules/listguid/Documents/enfs_0913.pdf 及

http://www.hkex.com.hk/eng/rulesreg/listrules/listdisciplinarypro/documents/dis_0913.pdf

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