Skadden

Hong Kong Regulatory Update

Contacts

Paloma Wang
Partner / Hong Kong
852.3740.6888
paloma.wang@skadden.com

Kai Sun
Partner / Hong Kong
86.10.6535.5533
kai.sun@skadden.com

Anthony Pang
Counsel / Hong Kong
852.3740.4831
anthony.pang@skadden.com

Lillian Lian
Counsel / Hong Kong
852.3740.4750
lillian.lian@skadden.com

Martina To
Asia Pacific Counsel / Hong Kong
852.3740.4776
martina.to@skadden.com

One Manhattan West
New York, NY 10001
212.735.3000

42/F, Edinburgh Tower, The Landmark
15 Queen's Road Central
Hong Kong
852.3740.4700

This January 2023 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 advisors. 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 may also be included. We do not intend to cover all updates that may be relevant, but we welcome feedback, so please contact us if you would like to see analysis of other topics in the future.

HKEx Consults on Listing of Specialist Technology Companies

In October 2022, the HKEx released the "Listing Regime for Specialist Technology Companies" to consult the market on proposals to permit the listing of "Specialist Technology Companies" in Hong Kong. These are companies engaged in the research, development and commercialization of products and services that apply science and technology within the following specified industry sectors: next-generation information technology; advanced hardware; advanced materials; new energy and environmental protection; and new food and agriculture technologies.

HKEx proposes allowing two categories of Specialist Technology Companies to list:

- companies with at least HK$250 million in revenue arising from their specialist technology business for the most recent audited fiscal year, referred to as "Commercial Companies"; and
- companies that have not yet brought their products to commercialization and/or do not meet the minimum revenue requirement, referred to as "Pre-Commercial Companies".

A summary of the key requirements is set out below:

Qualifications for Listing	
Revenue for the most recent audited fiscal year	Commercial Companies: HK$250 million Pre-Commercial Companies: $0
Minimum expected market capitalization at listing	Commercial Companies: HK$8 billion Pre-Commercial Companies: HK$15 billion

Continued on page 2

Qualifications for Listing (continued)	
Research and development	The applicant must be engaged in research and development (R&D) for at least three fiscal years prior to listing. R&D expenditure as a percentage of total operating expenditure for each of three years prior to listing: Commercial Companies: 15% Pre-Commercial Companies: 50%
Third-party investment	(i) At least two "pathfinder" sophisticated independent investors must each hold 5% interest or more in the applicant at least 12 months prior to an A1 filing; and (ii) Aggregate investment from all sophisticated independent investors must total between 10%-20% (for a Commercial Company) or 15%-25% (for a Pre-Commercial Company) of issued share capital at the time of listing, on a sliding scale based on the applicant's market capitalization.
Path to commercialization	A Pre-Commercial Company must demonstrate a credible path to commercialization and achieving the HK$250 million in revenue and disclose key stages and milestones.

Research and development	
Allocation	At least 50% of the total number of shares must be allocated to Independent Institutional Investors.
Clawback	The traditional initial allocation of 10% of the offering to Hong Kong retail investors with potential clawback in the event of oversubscription of up to 50% is revised to a minimum allocation of 5% and maximum clawback of 20%.
Public float	Minimum free float needs to be at least HK$600 million upon listing.
Lock-ups	Post-IPO lock-up applies to all controlling shareholders, founders, executive directors, senior management and key personnel responsible for the technical operations and/or R&D of the Specialist Technology Company and to pre-IPO "pathfinder" investors: Commercial Companies: 12 months Pre-Commercial Companies: 24 months

The period for public comment ended on 18 December 2022, and the regime is expected to be added as a new Chapter 18C under the Listing Rules early in 2023.

HKEx Publishes New Guidance Note on Cooperation and Updated Sanctions Statement

HKEx has published a new Guidance Note on Cooperation explaining what constitutes good cooperation with the exchange in the context of investigations of potential Listing Rules breaches, the possible benefits of cooperation and what may be construed as uncooperative conduct and the possible consequences.

Examples of good cooperation cited by HKEx include:

- providing true and complete information and documents regarding the suspected breach or misconduct;
- proactively approaching the situation as a priority, devoting resources to investigating it and responding to HKEx's enquiries;
- showing willingness to take responsibility for the breaches or misconduct and admitting any breaches at an early stage; and
- seeking early resolution of enforcement action by initiating settlement negotiations with HKEx and accepting proposed sanctions prior to the commencement of disciplinary action.

HKEx will consider a company's degree of cooperation in formulating its regulatory response. The exchange may recognize cooperation by reducing the imposed sanction and/or acknowledging the cooperation in public statements.

Examples of what HKEx would consider uncooperative conduct include:

- failing to respond to HKEx, including a failure to provide substantive responses to enquiries;
- providing inaccurate, incomplete or misleading information;
- unnecessarily prolonging the investigation;
- failing to attend an interview or disciplinary hearing at which a party has been requested to appear; and
- providing late submissions, evidence or documents.

HKEx may consider uncooperative conduct to be an aggravating factor to be taken into account when determining the appropriate sanction, and the uncooperative conduct itself may be subject to sanction.

HKEx has also revised its Enforcement Sanctions Statement to clarify expectations in respect of a listed issuer's internal controls and the extent to which an individual may rely on others in the discharge of duties. The sanctions statement sets out principles and factors considered by HKEx in determining sanctions and was covered in our October 2021 regulatory update.

AFRC Publishes Annual Investigation and Compliance Report

The Accounting and Financial Reporting Council (**AFRC**) — the independent regulator of the accounting profession in Hong Kong — has published its 2022 Annual Investigation and Compliance Report for the 12-month reporting period ending 31 March 2022. The report highlights incidents of noncompliance in the financial reports of listed companies and the associated misconduct of their auditors.

An increase in complaints that AFRC received for the reporting period led to an increased number of investigations. In particular, AFRC continued to benefit from its strategic cooperation with mainland Chinese authorities including the Supervision and Evaluation Bureau of the Ministry of Finance. AFRC encourages referrals from other regulatory bodies, whistleblowers and public complaints in providing information for its investigations.

Key noncompliance incidents identified included the following:

- A company improperly assessed impairment loss of financial assets in some incidents, mainly arising from a failure to recognize credit risks and possible default of the debtors.
- A listed entity improperly recognized consideration for an asset acquisition, failing to calculate the consideration payable on a discounted basis to account for the time value of money.
- A listed entity incorrectly measured its standing timber at fair value less cost to sell. The entity failed to properly account for the impairment loss of operating rights, year-end measurement of the asset and the cost of disposal.
- Some listed entities disclosed action plans for mitigating liquidity issues without properly disclosing the judgement by the management that the company remains a going concern and the issue of going concern material uncertainty.
- Many incidents of noncompliance with disclosure requirements occurred, where a company provided less than sufficient information for readers to assess the risk of the reporting entity and make informed investment decisions.

HKEx's Reviews ESG Disclosures

In November 2022, HKEx published its "2022 Analysis of ESG Practice Disclosure" to share the findings of its latest review of listed companies' environmental, social and governance (**ESG**) disclosures. The review assessed listed companies' compliance with the new ESG reporting requirements that came into effect in July 2020 and were covered in our January 2020 regulatory update.

The requirements focus on the ESG governance responsibility of the board and on climate-related social responsibilities. HKEx's analysis noted that companies had made satisfactory progress in their disclosures in both areas. The exchange also made recommendations to enhance ESG reporting practices. Key recommendations include:

- **Board governance of ESG issues:** The board should monitor the issuer's progress in attaining ESG targets to evaluate the effectiveness of the ESG measures. Disclosure of the board's progress review and the results of the review is mandatory under the ESG Rules.
- **Climate change:** Issuers should become familiar with the International Sustainability Standards Board climate standards to prepare for enhanced climate reporting requirements in the future. HKEx recognizes the challenges in data collection and the availability of technical knowledge or expertise for such reporting obligation and will take into account these factors when formulating climate disclosure enhancement proposals.
- **Social issues:** Issuers should include in their ESG reports information on supply chain risk management and green procurement practices, which are considered essential aspects of operating a sustainable business and ensuring a smooth transition to a low-carbon economy.
- **Reporting practices:** If issuers make quantitative disclosures in ESG reports, the reporting companies should also disclose information on the methodologies, standards and assumptions adopted in arriving at the figures. Companies should publish ESG reports covering fiscal years commencing on or after 1 January 2022 at the same time they publish annual reports. HKEx cautioned issuers who have not yet aligned the publication of their ESG reports with annual reports to pay attention to the new deadlines.

Hong Kong Regulatory Update

HKEx Issues Listed Issuer Regulation Newsletter

In December 2022, HKEx issued its latest semiannual Listed Issuer Regulation Newsletter. Highlights of the newsletter include the following:

- **New Listing Rules on share schemes in effect:** HKEx reminded issuers that the amended Chapter 17 of the Listing Rules governing share option and share award schemes came into effect on 1 January 2023. These new rules were covered in our October 2022 regulatory update.
- **Preparations for upcoming financial year-end reporting and annual general meetings:**
  - **Change of auditors:** HKEx noted an increase in the number of issuers announcing a change of auditors causing delays in audits and trading suspensions. HKEx expects the audit committee to, among other things, (i) understand the underlying reasons for the resignation, hold a private meeting with the outgoing auditors and discuss any contentious audit issues; (ii) critically review the capabilities and resources of the incoming auditors and ensure the audit fees are commensurate with the extent of audit work required; and (iii) discuss with the incoming auditors and assess whether they clearly understand the reasons leading to the outgoing auditors' resignation and how their proposed audit procedures can address those issues.
  - **Compliance with the Core Standards for issuers incorporated in Bermuda and Cayman Islands:** Following the introduction of new common core standards requiring issuers' constitutional documents to reflect shareholder protections, HKEx noted that some issuers incorporated in the Cayman Islands and Bermuda considered expressly providing for shareholders to speak in meetings to be unnecessary, as the relevant local laws do not impose any restriction on such rights. HKEx nevertheless advises issuers to incorporate shareholders' positive right to speak in their constitutional documents. In addition, HKEx opined that retaining a higher threshold for removing auditors (*e.g.*, by way of specific resolution) in the constitutional documents of Cayman Islands issuers does not comply with the Core Standards.
- **New corporate governance and ESG requirements:** HKEx reminded issuers to adhere to the recently amended Corporate Governance Code, which will apply to many issuers for the first time as they report on the fiscal year ended 31 December 2022. Among other obligations, (i) the new mandatory disclosure on diversity (including targets and timelines for board gender diversity and gender ratio for workforce) and shareholder communication policies (including two-way communication channels and review of their effectiveness) will apply to corporate governance reports for the fiscal years commencing on or after 1 January 2022; (ii) ESG reports for the fiscal years commencing on or after 1 January 2022 must now be published at the same time as the annual reports for those years; and (iii) issuers with a single-gender board must appoint a director of a different gender by 31 December 2024. The revised Corporate Governance Code was covered in our February 2022 regulatory update.
- **Guidance for secondary-listed issuers preparing for primary conversion:** HKEx made the following recommendations to issuers with a secondary listing that are planning to convert their listing to a primary listing:
  - **Identify Listing Rules that will become applicable after conversion and establish proper internal controls:** For example, the HKEx adopts different requirements than the U.S. does regarding mergers and acquisitions, related party transactions, equity fundraisings and employee incentive programs. Among other approvals, shareholders' approvals may be required for material corporate actions. Necessary governance structures (such as establishing board committees with appropriate composition and terms of reference) should be in place.
  - **Identify areas where dispensation of Listing Rules requirements are warranted:** For example, a company can (i) continue to prepare financial statements in accordance with U.S. generally accepted accounting principles (GAAP) provided that the company discloses a description of the relevant key differences between U.S. GAAP and International Financial Reporting Standards and a reconciliation statement; (ii) continue to operate nondiscretionary share repurchase plans and directors' trading plans in the U.S. for securities dealings during the blackout periods after the primary conversion; and (iii) maintain variable interest entity structures.
  - **Seek shareholders' mandate for certain corporate actions, where appropriate:** Issuers should obtain advance mandates from shareholders where required, for example, general mandates for share issuance and share repurchase, grants of shares or options under share schemes and continuing connected transactions.

HKEx To Introduce HKD-RMB Dual Counter Model and Dual Counter Market Making Programme in Hong Kong Securities Market

In December 2022, HKEx published an "Introduction of the Dual Counter Model Eligible for Market Making in Hong Kong Securities Market" memo to announce the introduction of a new Hong Kong Dollar (HKD)-Renminbi (RMB) Dual Counter Model and an inaugural Dual Counter Market Making Programme. The initiative further supports the listing, trading and settlement of RMB counters in Hong Kong.

HKEx currently supports the listing, trading and settlement of securities in multiple counters with different currencies (HKD, RMB, and USD). Under the proposed dual counter model, investors will be able to interchange securities listed in both HKD and RMB counters. HKEx expects to implement the model in the first half of 2023, subject to regulatory approval and market readiness. To support the liquidity of RMB counters and address price discrepancies between the two counters, HKEx plans to introduce a new Dual Counter Market Making Programme. HKEx's central clearing and settlement system will also introduce a new optional function to facilitate intraday interchange for holdings between HKD and RMB counters for settlement.

HKEx Consults on Expanding Paperless Listing Regime

In December 2022, HKEx published a consultation paper, "Proposals To Expand the Paperless Listing Regime and Other Rule Amendments," that proposes to streamline documentary requirements and expand the electronic submission of documents to HKEx for listing purposes and to make other housekeeping rule amendments. Key proposals include:

- **Reducing submission documents and mandating electronic submission:** HKEx proposes to:
  - remove the requirements to submit certain documents that are considered unnecessary to achieve HKEx's regulatory objectives;
  - codify various obligations under the Listing Rules to replace existing stand-alone undertakings and confirmations;
  - remove unnecessary and burdensome signature and certification requirements; and
  - mandate electronic submission for a majority of documents to be submitted to HKEx.
- **Requiring electronic dissemination of corporate communications:** Listed issuers are currently required to distribute corporate communications in paper form unless shareholders have given express or deemed consent to receive electronic communications. HKEx proposes (i) to require that issuers distribute corporate communications electronically to the extent permitted by applicable laws and the companies' constitutional documents and (ii) to permit issuers to design their own consent mechanisms for electronic dissemination.
- **Simplifying appendices to the Listing Rules:** HKEx proposes to simplify the appendices to the Listing Rules to retain only significant provisions and mandatory requirements, remove redundant sections and shift certain material from the Listing Rules to the HKEx website.

The public comment period ends on 28 February 2023.

Enforcement Matters

HKEx Takes Disciplinary Action Against Good Resources for Concerning Transactions

HKEx's recent action against Good Resources highlights directors' duties to procure a listed company's compliance with the Listing Rules.

During 2019-2020, a subsidiary of Good Resources Holdings Limited engaged in a series of concerning transactions, including (i) providing financial assistance by entering into both loan agreements with and pledge contracts to secure the loan obligations of companies connected with the Good Resources' controlling shareholder; (ii) window dressing its financial statements by way of circular payments (involving the receipt of RMB378 million from one of the controlling shareholder companies on 30 June 2020 and return of the same amount on 1 July 2020, the day following Good Resources' year-end reporting); and (iii) providing Good Resources with financial statements showing a subscription for certain wealth management products worth over RMB600 million at 30 June 2020, which in fact never took place.

Mr. Chuanjin Chen, the former executive director and chairman of Good Resources, was aware of at least the loan agreements and pledges but did not report them to the board or take steps to procure Good Resources' compliance with the Listing Rules. This later led to a delay in the company publishing its annual report, a trading suspension and the cancellation of the listing.

HKEx found that Good Resources breached the relevant Listing Rules on notifiable and major transactions, that Mr. Chen breached his directors' duties and that he failed to protect Good Resources' assets and cooperate with HKEx's investigation. In October 2022, HKEx censured Good Resources and Mr. Chen and imposed a statement of director unsuitability against him.

HKEx Takes Disciplinary Action Against Xinyuan Property for Failure To Comply With Notifiable and Connected Transactions Requirements

HKEx's recent action against Xinyuan Property highlights directors' duties to act honestly and in good faith in the interests of the company and to procure the listed company's compliance with the Listing Rules.

Xinyuan Property Management Service (Cayman) Ltd conducted a number of notifiable and connected transactions shortly after its listing, the majority of which concerned significant outflows of its financial resources in the forms of loans, prepayments and deposits. The transactions in issue were subject to disclosure and shareholders' approval requirements under the relevant Listing Rules, with which Xinyuan Property failed to comply. Four directors either knew (or reasonably should have known) about the transactions at the time.

HKEx found that these directors not only failed to procure Xinyuan Property's compliance with the relevant Listing Rules, but also breached their duties because the transactions were not in the best interests of Xinyuan Property on the grounds that: (i) Xinyuan Property was left unprotected without written agreements for the transactions, which purely favored its controlling shareholder; and (ii) the transactions lacked commercial rationale. In November 2022, HKEx censured Xinyuan Property and all four directors and imposed a statement against some of the directors that retention of them as directors would be prejudicial to the interests of investors.

HKEx Takes Disciplinary Action Against Directors of Christine International for Breach of Director Duties

HKEx's recent action against Christine International emphasizes that directors must exercise great care in relation to actual or potential conflicts of interest: They must not allow the company's interest to be subordinated to that of an outside party; must exercise independent judgement when reviewing or approving a transaction; must ensure appropriate monitoring of transactions is in place; and must take action to follow up on risks and issues that arise.

In 2012, Christine International Holdings Limited purchased food production equipment from Shanghai Yi Pin Xuan Foodstuff Co., Ltd. (**YPX**), a company wholly owned by the sister of the then-executive director of the company. Christine International paid the full purchase price of RMB18.15 million but did not take delivery of the equipment or complete the formalities to obtain legal title in the equipment. This position persisted for several years, with the purchase payment treated as prepayment in the financial statements of Christine International from 2012 to 2018. Christine International did not take any action against YPX, which was in financial difficulty.

Despite YPX's known financial difficulty and the outstanding sum due to the company, Christine International made a series of further prepayments of around RMB22 million to YPX from 2017 to 2019 in connection with contracts for food processing services. YPX did not recover from its financial difficulties and was deregistered in 2020. Christine International wrote off RMB35 million of payments owed by YPX.

The director in question initiated and was primarily responsible for the transactions with YPX. Despite the conflict of interest, he allowed YPX to take advantage of Christine International and failed to safeguard Christine International's interests and assets, as a result of which HKEx imposed a Prejudice to Investors' Interests statement against him. In December 2022, HKEx censured and criticized the other directors of Christine International for failing to monitor and follow up with the management regarding the transactions.

HKEx Takes Disciplinary Action Against China Bright Culture and Directors Relating to Investments Made Shortly After Listing

HKEx's recent action against China Bright Culture reinforces that listed issuers must properly disclose use of proceeds in the listing documents for any substantial investments and/or payment made around or shortly after an issuer's listing.

On the first day of listing on 13 March 2020, China Bright Culture Group (**China Bright Culture**) entered into an asset management agreement with AMTD Global Markets Limited (**AMTD**), which acted as joint global coordinator, joint bookrunner and joint lead manager of China Bright Culture's IPO, pursuant to which China Bright Culture deposited US$70.8 million (the proceeds from placees arranged by AMTD) into an investment portfolio account. China Bright Culture Group also paid AMTD an upfront fee of 5% of the investment amount. AMTD subscribed for a promissory note issued by its affiliated party for the full investment amount. China Bright Culture later redeemed the investment amount following the termination of the asset management agreement in 2021. China Bright Culture did not receive any interest or return and did not receive any refund of fee paid to AMTD. The arrangement constituted a major transaction that was subject to the Listing Rules requirements.

HKEx found that China Bright Culture failed to disclose the above in the Use of Proceeds section in its prospectus and failed to comply with the major transactions rules. The two executive directors involved could not provide a satisfactory explanation or commercial rationale for the arrangement. In November 2022, HKEx censured China Bright Culture and the directors for these breaches.

HKEx Takes Disciplinary Action Against Raffles Interior and Directors Relating to Investments Made Shortly After Listing

HKEx's recent action against Raffles Interior serves as a reminder that the exchange will closely scrutinize service agreements or investments made prior to or shortly after listing, particularly where parties related to the listing are involved as counterparties or intermediaries. Potential issuers and directors must ensure that a company's prospectus contains accurate and complete disclosure of any intended development or expansion plans after listing. This includes the use of the issuer's funds to enter into agreements with service providers or the making of investments.

Raffles Interior Limited entered into a number of agreements for professional and consultancy services around the time of its listing, together with a discretionary investment management agreement. The service fees paid to the service providers amounted to roughly 40% of its net IPO proceeds. There was no disclosure of the company's intention to enter into such agreements in its prospectus.

The commercial rationale of the service agreements and the investment management agreement was doubtful, particularly as the fees charged by the service providers were excessive, the services provided under the agreements were limited and/or dubious and the entire sum under the investment management agreement was used to invest in the shares of a private company trading in antique jewelry.

Mr. Boon Par Chua, the company's executive director at the time, took a lead role in the decision to engage the relevant service providers, which were all referred to him by his friends or parties connected with Raffles Interior's listing. Mr. Chua did not perform any due diligence on the service providers other than a company search and obtained no comparable quotations from other service providers. In addition, Mr. Chua failed to ensure that the Raffles Interior board properly considered the fees paid to the service providers. The other directors also failed to exercise independent judgment in respect of the engagement of service providers and the fees paid to them, and maintained no or insufficient supervision of the investments made by the service providers, which were given unreasonably broad discretionary power.

HKEx found that Raffles Interior failed to properly disclose the above plans in its prospectus and the relevant directors breached their directors' undertakings by failing to exercise due skill, care and diligence regarding the transactions. In December 2022, HKEx imposed a Prejudice to Investors' Interests statement against Mr. Chua. The exchange also censured two other directors involved in the matter.

HKEx Takes Disciplinary Action Against REXLot and Directors for Various Listing Rules Breaches

HKEx's recent action against REXLot spotlights how all directors have a responsibility to oversee an issuer's business and operations and to properly safeguard the company's interests. Issuers must employ particular caution and system of checks and balances when individual directors are given wide authority to commit the company's assets.

In December 2022, upon finding that REXLot and its relevant directors committed several breaches of the Listing Rules in connection with the company's online lottery business between 2013 and 2019, HKEx censured REXLot Holdings Limited, imposed a Prejudice to Investors' Interests statement against Mr. Victor How Chung Chan, the then-executive director of the company, and criticized four other directors. The breaches included:

- inaccurate disclosure in the financial statements for failing to comply with applicable accounting standards in respect of non-wholly-owned subsidiaries in the company's group, including a joint venture over which the company lost control;
- failure to comply with the relevant Listing Rules and disclosure requirements for financial assistance and a major transaction, resulting in the earnest money payment of RMB210 million on behalf of a business partner as a proposed joint investment, which the business partner was eventually unable to repay;
- failure to collect, and failure to provide sufficient safeguards to ensure the ability to collect, the refund of the deposits of about HK$1.7 billion for potential acquisitions and joint venture projects that the group later decided not to execute due to changes in the PRC regulatory environment; and
- failure to timely publish several sets of results and reports.

Mr. Chan was primarily responsible for the online lottery business, and in particular the payments of the earnest money and deposits. The other directors ratified and approved the deposits without requesting information about the due diligence conducted or questioning whether any safeguards had been established.

HKEx Takes Disciplinary Action Against China New City and Directors for Noncompliance With Notifiable and Connected Transactions Rules

HKEx's recent action against China New City focused on directors' duties to ensure that a company's funds are not used as if they were the funds of controlling shareholders. A company may not make advances to its parent company or controlling shareholder without fully complying with the applicable Listing Rules.

China New City Commercial Development Limited provided recurring advances to its controlling shareholder's group between 2014 to 2022 — which constituted notifiable and/or connected transactions, but failed to comply with the relevant Listing Rules requirements. The advances were made on an unsecured and interest-free basis, ranging from RMB39 million to RMB2,224 million per year based on the highest daily balance. During this period, the controlling shareholder's group also made recurring advances to China New City. However, the amounts due from the controlling shareholder's group were more than the amounts due to China New City for the fiscal years ended 31 December 2015, 2019 and 2020.

The China New City chairman was also the chairman of the controlling shareholder group at the time of the advances. The other three China New City directors approved some or all of the advances.

HKEx found each of the four directors either approved or had knowledge of the advances and did not use their best efforts to make sure that China New City complied with the Listing Rules. In December 2022, HKEx ordered a review of China New City's internal controls and ordered the directors to receive compliance training.

Court Orders Sound Global To Purchase Shares From Investors

In October 2022, the SFC has obtained an order in the Court of First Instance requiring the chairman and executive director of Sound Global Ltd., a company formerly listed on HKEx, to purchase shares held by the other shareholders of the company at a price to be determined by the court. The court determined the chairman of Sound Global Ltd. orchestrated a scheme to falsify bank balances and fabricated relevant bank statements and balance confirmations.

The court agreed that as a result of his scheme, which involved five bank accounts maintained by Sound Global's subsidiaries at two mainland banks for the fiscal years of 2011, 2012 and 2013, the bank balances of the company's subsidiaries were inflated by RMB 2.18 billion and RMB 2.72 billion on 31 December 2012 and 2013 respectively, representing 82% and 89% of the net assets of Sound Global as reported in its 2012 and 2013 annual reports.

The order was the first of its kind made under section 214 of the Securities and Futures Ordinance, which provides that the court may "make any other order it considers appropriate, whether for regulating the conduct of the business or affairs of the corporation in future, or for the purchase of the shares of any members of the corporation by other members of the corporation … ."

The court also issued a disqualification order for 12 years against the relevant director, who was ordered to pay the SFC's costs on an indemnity basis. Trading in Sound Global's shares on HKEx had been suspended at the request of the SFC in 2016, and the exchange ultimately cancelled the company's listing in August 2022.

Two-Week Jail Time for Obstruction of SFC's Search Operation

In November 2022, the Eastern Magistrates' Court sentenced an individual to two weeks of imprisonment after convicting him of obstructing SFC employees in their execution of a search warrant.

The SFC reported during trial that, in October 2021, the SFC obtained a search warrant to search for, seize and remove from the individual's residence records and documents relating to the SFC's investigation into suspected market manipulation of the shares of a Hong Kong-listed company. When the SFC executed the search warrant at his residence, the individual allegedly delayed giving the SFC search team access to his residence and attempted to dispose of four objects, including two mobile phones and two notebooks.

This is the first conviction of a person for obstructing SFC employees in performing their functions empowered by the SFO.