

Hong Kong Corporate and Regulatory Insights

October 2022



Hogan
Lovells

Contents

Equity Capital Markets	4
<ul style="list-style-type: none">• The Stock Exchange of Hong Kong (SEHK) takes disciplinary action against Good Resources Holdings Limited (delisted) (previous stock code: 109) and its former director• SEHK publishes revised e-forms• SEHK publishes consultation paper on a listing regime for Specialist Technology Companies• SEHK takes disciplinary action against two former directors of Biosino Bio-Technology and Science Incorporation (stock code: 8247)• Guidance note on cooperation and statement on settlement of disciplinary matters Involving listing rule breaches	
Financial Services Regulation	8
<ul style="list-style-type: none">• Hong Kong Mortgage Corporate Limited (HKMC) publishes social, green and sustainability financing framework• Updated guidance and frequently asked questions on sale and distribution of loss-absorption products• Hong Kong to strengthen tax regime against cross-border tax avoidance• Streamlined arrangement for launching products under the new personal-lending portfolio framework• Implementation arrangements in connection with the lowering of statutory limits of effective rates of interests in the Money Lenders Ordinance (Cap. 163)• Hong Kong Exchanges and Clearing Limited (HKEx) launched Core Climate• Circular on virtual asset futures exchange traded funds• Policy statement on development of virtual assets in Hong Kong	
Data Protection	11
<ul style="list-style-type: none">• Privacy Commissioner's Office commences compliance check into a data breach incident of Shangri-La Group• First conviction secured for doxxing case• PCPD made two arrests for suspected doxxing offence	

Contacts

13

Equity Capital Markets

The Stock Exchange of Hong Kong (SEHK) takes disciplinary action against Good Resources Holdings Limited (delisted) (previous stock code: 109) and its former director

Key messages:

- Listed companies must not use their funds to provide financial assistance without complying with the Listing Rules.
- Issuers and their directors should carefully scrutinize any payments that straddle across the end of a financial reporting period.
- Directors must ensure that the board is provided with timely and appropriate information regarding transactions, and that the company complies with disclosure and other requirements of the Listing Rules.
- Directors must act honestly, in good faith and in the interests of the company, and must report the company's material transactions to the board in a timely manner.

The SEHK censures:

- Good Resources Holdings Limited (delisted) (previous stock code: 109) (the Company).
- Mr. Chen Chuanjin, former Executive Director (ED) and Chairman of the Company (Mr. Chen).

Across 2019 to 2020, a subsidiary of the Company engaged in several concerning practices and transactions, including:

- Entry into loan agreements with, and pledge contracts to secure the loan obligations of, companies connected with

the Company's controlling shareholder. Deposits of nearly RMB1 billion which were subject to the pledges were enforced and deducted by the beneficiary bank.

- Circular payments involving receipt of RMB378 million from one of the controlling shareholder companies on 30 June 2020, and the return of the same sum to the same company on 1 July 2020 – which straddled across the Company's end of year financial reporting point.
- Provision by the subsidiary to the Company of financial statements showing a subscription for certain wealth management products, with a value over RMB600 million as at 30 June 2020. An independent forensic review found that the subscription did not occur, and that the circular payments were likely intended to conceal the bank enforcement of the pledge contracts.

Mr. Chen was found to have had knowledge of the pledge contracts and loan agreements, but have failed to report them to the Company or take any steps to procure the Company's compliance with the Listing Rules. Mr. Chen hence committed serious breaches of his duties as a director, failed to protect the Company's assets and failed to cooperate with the investigations commenced by the SEHK.

The Company was found to have breached:

- Rule 14.34 by failing to publish an announcement as soon as possible after the terms of the loan agreements have been finalised.
- Rule 14.38A by failing to send a circular to its shareholders and the SEHK and arrange for its publication for entry into the loan agreements; and

- Rule 14.40 by failing to make the transactions conditional upon shareholders' approval.

In light of the breaches committed by the Company and Mr. Chen, the SEHK decided to impose the sanctions (including the imposing of a director unsuitability statement against Mr. Chen) set out in a statement of disciplinary action.

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

HKEx, 5 October 2022

SEHK publishes revised e-forms

On 8 October, the SEHK published the following revised e-forms:

- FFO04: Contact Details for Directors / Supervisors / Authorized Representatives / Company Secretary / Compliance Officers for Main Board and/or GEM Issuers (see [here](#)).
- DU003M: Declaration and Undertaking with regard to Directors for Main Board Issuers and/or Applicants (see [here](#)).
- DU004M: Declaration and Undertaking with regard to Directors of a Main Board Issuer and/or Applicant incorporated in the PRC (see [here](#)).
- DU005M: Declaration and Undertaking with regard to Supervisors of a Main Board Issuer and/or Applicant incorporated in the PRC (see [here](#)).
- DU003G: Declaration, Undertaking and Acknowledgement in respect of a GEM Issuer and/or Applicant (see [here](#)).
- DU004G: Director's Declaration, Undertaking and Acknowledgement in

respect of a GEM Issuer and/or Applicant incorporated in the PRC (see [here](#)).

- DU005G: Supervisor's Declaration, Undertaking and Acknowledgement in respect of a GEM Issuer and/or Applicant incorporated in the PRC (see [here](#)).
- CF093: Trading Arrangement Form for Main Board and/or GEM Issuers (see [here](#)).

Click [here](#) to access the relevant listing e-forms.

HKEx, 8 October 2022

SEHK publishes consultation paper on a listing regime for Specialist Technology Companies

The SEHK published a consultation paper seeking public feedback on its proposal to expand Hong Kong's listing regime to allow listings of Specialist Technology Companies in any of the five Specialist Technology Industries, including (a) next-generation information technology; (b) advanced hardware; (c) advanced materials; (d) new energy and environmental protection; and (e) new food and agriculture technologies.

Under this proposed regime, Specialist Technology Companies will be categorized into:

- Commercial Companies, with at least HK\$250 million revenue derived from their Specialist Technology business segment for its most recent audited financial year (Commercialization Revenue Threshold); and
- Pre-Commercial Companies which have yet met the Commercial Revenue Threshold at the time of listing.

The following are qualifications for listing:

- Commercialization Revenue Threshold (applicable only to Commercial Companies);
- Minimum expected market capitalization at listing, being HK\$8 billion for Commercial Companies and HK\$15 billion for Pre-Commercial Companies;
- Research and Development (R&D): all applicants must have been engaged in R&D for at least three financial years prior to the listing, with investment of at least 15 percent of total operating expenditure each year for Commercial Companies and 50 percent each year for Pre-Commercial Companies;
- Minimum third party investment: all applicants must have received meaningful investment from Sophisticated Independent Investors; and
- Path to commercialization (applicable only to Pre-Commercial Companies).

There are certain IPO requirements and post-IPO requirements under the regime. For example, an applicant must maintain a minimum free float of at least HK\$600 million upon listing. A Pre-Commercial Company applicant is also under additional continuing obligations, including additional disclosures in interim and annual reports on its progress towards reaching the Commercialization Revenue Threshold.

The public comment period ends on 18 December 2022.

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

HKEx, 19 October 2022

SEHK takes disciplinary action against two former directors of Biosino Bio-Technology and Science Incorporation (the Company) (stock code: 8247)

Key messages:

- Directors have an obligation to cooperate with the SEHK in its enquiries.
- This obligation continues to exist even if they cease to be directors of the company.

The SEHK imposes a director unsuitability statement against:

- Mr. Chen Jintian, former vice-chairman and executive director of the Company; and
- Mr. Chen Jianhua, former executive director of the Company (together, the Directors).

The Listing Division sought to conduct an investigation into whether the Directors had breached the GEM Listing Rules in December 2021. For the purpose of the investigation, the Listing Division sent investigation letters and reminder letters to the Directors' correspondence and email addresses but no response was received from either of them.

Furthermore, the Listing Division placed the Directors on the Request for Assistance List (RFA) on its website. The RFA requested the Directors, or persons having information on the Directors to contact the SEHK urgently. However, no response was received in relation to the RFA.

Therefore, the Directors breached their undertakings by failing to cooperate with the Listing Division in the investigation, which amounted to a breach of the GEM Listing Rules. The SEHK expressly noted that the directors' obligation to provide information

reasonably requested by the SEHK did not lapse after they ceased to be a director of the company.

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

HKEx, 24 October 2022

Guidance note on cooperation and statement on settlement of disciplinary matters Involving listing rule breaches

The SEHK published a new Guidance Note on Cooperation (Guidance Note), a revised Sanctions Statement, and an updated Enforcement Policy Statement, which aim to provide greater clarity and transparency for listed issuers.

The Guidance Note highlights the importance of timely engagement with the SEHK, and sets out non-exhaustive examples of good cooperation between the SEHK and the relevant stakeholders, including:

- Provision of true and complete information and documents regarding the suspected breach or misconduct;
- Demonstration of a willingness to prioritize and devote resources to investigate the matter and respond to the SEHK's inquiries;
- Early admission of breaches; and
- Acceptance of sanctions and initiation of settlement with the SEHK.

The Guidance Note further describes what may be construed as uncooperative conduct, such as late production of submissions or evidence and failure to respond to the SEHK.

The Sanctions Statement provides additional guidance on a listed issuer's internal controls. Specifically, the Sanctions Statement lists out

certain relevant factors in determining an appropriate sanction, such as the compliance history and disciplinary actions previously applied by the SEHK in relation to the same or similar breaches.

The Enforcement Policy Statement has also been updated to include links to these documents.

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

Click [here](#) to read the guidance note.

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

HKEx, 25 October 2022

Financial Services Regulation

Hong Kong Mortgage Corporate Limited (HKMC) publishes social, green and sustainability financing framework

The HKMC publishes its Social, Green and Sustainability Financing Framework (SGS Framework) to expand and implement its sustainability strategy.

The HKMC will use the SGS Framework as the basis to structure and issue social, green and/or sustainability bond(s) and asset-backed securities (collectively, Sustainable Financing Instruments). Net proceeds of the Sustainable Financing Instruments will be allocated to support projects falling under Eligible Social Asset Categories or Eligible Green Asset Categories as defined in the SGS Framework.

The SGS Framework also listed the updated ESG Guiding Principles in three major areas, namely (i) contributing to the society, (ii) upholding governance standards, operational resilience and workplace inclusion, and (iii) meeting environmental concerns.

Click [here](#) to read the Framework.

HKMC, 17 October 2022

Updated guidance and frequently asked questions on sale and distribution of loss-absorption products

The Hong Kong Monetary Authority (HKMA) updated the Guidance on Enhanced Investor Protection Measures on Sale and Distribution of Debt Instruments Loss-absorption Features and Related Products (Guidance) and published a new set of FAQs on the Guidance.

The Guidance has been refined for the sale and distribution of investment funds, which have a principal investment strategy and/or

objective to invest in debt instruments with loss-absorption features. It also streamlined the disclosure requirements on product information by registered institutions (RIs). In particular, RIs are subject to the following restrictions:

- Sell and distribute loss-absorption products only to professional investors in both primary and secondary markets;
- Take in account the contingent write-down or conversion to ordinary shares entailed in loss-absorption products, and assign product risk ratings when conducting product due diligence;
- Ensure that a transaction in loss-absorption products is suitable for customer in all circumstances; and
- Disclose and explain to the customer relevant product information and warnings, including key product nature, features and risks.

Click [here](#) to read the updated Guidance and [here](#) to read the FAQs.

HKMA, 21 October 2022

Hong Kong to strengthen tax regime against cross-border tax avoidance

The Hong Kong government introduced a new Inland Revenue (Amendment) (Taxation on Specified Foreign-sourced Income) Bill 2022 (the Bill).

The Bill creates a new Foreign-sourced Income Exemption (FSIE) regime that will allow tax exemptions for specified foreign-sourced passive income, including interests, dividends, disposal gains in relation to shares or equity interests and intellectual property income received in Hong Kong by relevant

multinational enterprises (MNEs), provided certain conditions are met. It imposes an economic substance requirement to safeguard against possible exploitation of Hong Kong's tax arrangement by shell companies to achieve double non-taxation. Only MNEs carrying on a trade, profession or business in Hong Kong will be subject to the new FSIE regime.

A range of enhancement and mitigation measures will be introduced to mitigate possible double taxation, and the government will also take a business-friendly approach in order to minimize compliance burden and enhance tax certainty.

Click [here](#) to read the press release.

FSTB, 26 October 2022

Streamlined arrangement for launching products under the new personal-lending portfolio framework

The HKMA has streamlined the arrangements for launching products under the "New Personal-Lending Portfolio" (NPP) framework.

The HKMA reviewed the performance of the NPP, and opined that authorized institutions (AIs) are generally prudent and adhere to the HKMA's guidelines when developing the NPP business. Therefore, the HKMA announced that from 27 October 2020, AIs are no longer required to discuss with the HKMA before a product under the NPP framework is launched.

This arrangement aims to facilitate AIs to accelerate the adoption of advanced data analytics in their credit underwriting and product design. AIs should however continue to follow the principles governing the NPP business and applicable HKMA guidelines.

Click [here](#) to access the circular.

HKMA, 27 October 2022

Implementation arrangements in connection with the lowering of statutory limits of effective rates of interests in the Money Lenders Ordinance (Cap. 163)

The Legislative Council recently lowered the statutory limits of the effective interest rates stipulated in the Money Lenders Ordinance (MLO) (Cap. 163). Although the MLO does not apply to AIs, certain provisions of the Code of Banking Practice (CoBP) make reference to the interest rate limits under sections 24 and 25 of the MLO in the charging of interest rates of credit products. The HKMA therefore announced its implementation arrangements in a recent circular.

The new interest rate cap and the new extortionate rate has been revised to 48 percent and 36 percent per annum respectively (collectively, the Revised Interest Rate Limits). AIs should adopt the Revised Interest Rate Limits when complying with s.12.3 of the CoBP starting on 30 December 2022. There will be no retrospective effect for credit products offered by AIs, AIs however should facilitate customers to migrate from an existing credit product charging beyond the Revised Interest Rate Limits to a product subject to the Revised Interest Rate Limits, or at least not to withhold customers from such migration unreasonably.

AIs are also expected to clearly explain to customers on the revision in good time, to facilitate customers' planning of borrowing decisions and to minimize any potential disputes. In this regard, AIs should ensure that sufficient resources for handling enquiries or requests for assistance from the customers are in place.

Click [here](#) to read the implementation arrangements.

HKMA, 27 October 2022

Hong Kong Exchanges and Clearing Limited (HKEx) launched Core Climate

The HKEx launched Core Climate, a new international carbon marketplace that seeks to connect capital with climate-related products in domestic market and beyond.

Core Climate will facilitate effective and transparent trading of carbon credits and instruments in support of the global transition to Net Zero. Its participants can source, hold, trade, settle and retire voluntary carbon credits through the Core Climate platform. Carbon credits will come from internationally-certified carbon projects from around the world, which include carbon avoidance, reduction and removal projects. These projects listed on Core Climate are verified in accordance with international standards.

Click [here](#) to access the press release.

HKEx, 28 October 2022

Circular on virtual asset futures exchange traded funds

The Securities and Futures Commission (SFC) published a Circular on Virtual Asset Futures Exchange Traded Funds (ETFs), which set out the requirements for ETFs that obtain exposure to virtual assets (VAs) primarily through futures contracts (VA Futures ETFs) for public offering in Hong Kong.

VA Futures ETFs that seek SFC authorization for public offering in Hong Kong should meet the following requirements:

- **Management companies:** the management company of a VA Futures ETF is required to have a good track record of regulatory compliance and demonstrate at least three years' proven track record in managing ETFs.

- **Eligible futures:** VA futures traded on conventional regulated futures exchange are allowed, subject to the management company demonstrating (i) the relevant VA futures have adequate liquidity for the operation of the VA Futures ETF and (ii) the roll costs of the relevant VA futures contracts are manageable and how such roll costs will be managed. At this initial stage, only Bitcoin futures and Ether futures traded on Chicago Mercantile Exchange are allowed.
- **Investment strategy:** The management company should adopt an active investment strategy to allow flexibility in portfolio composition, rolling strategy and handling of any market disruption events. The net derivative exposure of a VA Futures ETF shall not exceed 100 percent of its total net asset value.
- **Disclosure:** The product key facts statement shall contain disclosure of the investment objective and key risks with investment in VA futures, including: (i) potential large roll costs of VA futures and (ii) operational risks related to VA futures.
- **Distribution:** Intermediaries should comply with the existing conduct requirements for derivative products and must also comply with the VA-knowledge test requirement.
- **Investor education:** The management company is expected to carry out extensive investor education before launching its VA Futures ETF in Hong Kong.

Click [here](#) to read the circular.

SFC, 31 October 2022

Policy statement on development of virtual assets in Hong Kong

The Hong Kong government issued a policy statement on the development of VAs in Hong Kong, which set out its policy stance and approach towards developing a vibrant ecosystem for VAs.

In the policy statement, the government firstly reclarifies its approach and vision to provide a facilitating environment for promoting sustainable and responsible development of the sector in Hong Kong. It further mentions that Hong Kong is ready to engage with global VA Exchanges as it steps up preparatory work for a new licensing regime for VA service providers. In addition, the SFC is said to be conducting a public consultation on how retail investors may be given a suitable degree of access to VAs, and Hong Kong will be open to the possibility of having ETFs on VA in our market.

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

FSTB, 31 October 2022

Data Protection

Privacy Commissioner's Office commences compliance check into a data breach incident of Shangri-La Group

On 29 September 2022, Shangri-La Asia Limited (Shangri-La) reported a data breach incident to the Office of the Privacy Commissioner for Personal Data (PCPD). Shangri-La notified PCPD that eight of its hotels were subject to cyber-attacks, including three Hong Kong hotels – Island Shangri-La, Kerry Hotel and Kowloon Shangri-La. The incident might have affected the personal data of over 290,000 Hong Kong customers of Shangri-La. In light of the nature of the incident and the vast amount of personal data affected, the PCPD commenced a compliance check into the data breach incident.

The PCPD noted it was not ideal that Shangri-La only notified the PCPD and informed its customers of the incident more than two months after it had become aware of the incident. The PCPD urges organizations to notify the PCPD of any data breach incident and affected persons as soon as possible. Notifying data breach incidents without delay can allow the PCPD to advise appropriate mitigation measures and minimize the damage caused by the incident.

The PCPD reminds persons who are potentially affected by the data breach incident, including those who have previously provided their personal data to Shangri-La hotels, to be vigilant about potential theft of their personal data. The PCPD suggests affected persons to take the following measures:

- Beware of unusual logins of personal accounts such as email accounts;
- Change the login passwords of personal accounts and enable the two-factor authentication function (if available);

- Beware of any unauthorized credit card transactions;
- Stay vigilant against suspicious calls, text messages or emails from unknown persons; and
- Stay vigilant against phishing and possible scams.

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

PCPD, 1 October 2022

First conviction secured for doxxing case

On 6 November 2022, the Shatin Magistrates' Court convicted a 27-year old male, Mr. Ho Muk-wah, of seven charges of disclosing personal data without consent, in contravention of section 64(3A) of the Personal Data (Privacy) Ordinance (Cap. 486) (PDPO). The defendant pleaded guilty to the said charges.

Between 19 and 26 October 2021, the defendant disclosed the personal data of his ex-girlfriend on four social media platforms after their relationship ended. The personal data disclosed including the victim's name, photos, residential address, private and office telephone numbers, name of her employer and position. The defendant also impersonated the victim on three social media platforms and posted messages saying that the victim welcomed others to visit her at her address. This resulted in many strangers contacting the victim trying to get acquainted with her. The defendant made the abovementioned disclosures without the victim's consent, with an intent to cause specified harm to her or her family members, or being reckless as to whether specified harm would be, or would likely be, caused to her or her family members.

This is the first conviction after the new anti-doxxing law came into effect on 8 October 2021. The case has been adjourned to 15 December for sentencing.

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

PCPD, 6 October 2022

PCPD made two arrests for suspected doxxing offence

The PCPD arrested two individuals in respect of two doxxing cases on 13 October 2022 and 27 October 2022 respectively. Both individuals were suspected to have disclosed the personal data of data subjects without their consent, in contravention of section 64(3A) of the PDPO.

The arrested person in the earlier case was a 37-year-old Chinese male. In 2021, the arrested person signed a contract with an intermediary agency for the employment of a foreign domestic helper. Subsequently, there was a monetary dispute between the parties as the foreign domestic helper did not report duty. In April 2022, the arrested person disclosed the personal data of the agent, including her Chinese name, English name, the name of her school, photos, name of her business and business address on a social media platform, together with negative comments and allegations against the victim.

In the latter case, the arrested person was a 36-year-old Chinese male. The victim lived in an apartment with her parents rented from the arrested person as the landlord. After some rental disputes arose between the arrested person and the victim's parents, the arrested person posted two messages in a chat group on a social media platform in February 2022. The messages contained negative comments and allegations against the victim's parents as well as personal data of the victim,

including her English name, photo, university courses and year of enrollment.

Pursuant to section 64(3A) of the PDPO, a person commits an offence if the person discloses any personal data of a data subject without the relevant consent of the data subject with an intent to cause any specified harm or being reckless as to whether any specified harm would be caused to the data subject or any family member of the data subject. Upon conviction, the person would be liable to a fine of HK\$100,000 and imprisonment for two years.

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

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

PCPD, 13 October 2022 & 27 October 2022

Contacts



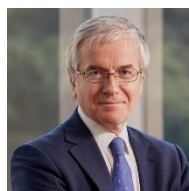
Mark Parsons
Partner, Hong Kong
T +852 2840 5033
mark.parsons@hoganlovells.com



Laurence Davidson
Partner, Hong Kong
T +852 2840 5034
laurence.davidson@hoganlovells.com



Sammy Li
Partner, Hong Kong
T +852 2840 5656
sammy.li@hoganlovells.com



Andrew McGinty
Partner, Hong Kong
T +852 2840 5004
andrew.mcginity@hoganlovells.com



Nelson Tang
Partner, Hong Kong
T +852 2840 5621
nelson.tang@hoganlovells.com



Stephanie Tang
Head of Private Equity – Greater China, Hong Kong
T +852 2840 5026
stephanie.tang@hoganlovells.com

www.hoganlovells.com

“Hogan Lovells” or the “firm” is an international legal practice that includes Hogan Lovells International LLP, Hogan Lovells US LLP and their affiliated businesses. The word “partner” is used to describe a partner or member of Hogan Lovells International LLP, Hogan Lovells US LLP or any of their affiliated entities or any employee or consultant with equivalent standing. Certain individuals, who are designated as partners, but who are not members of Hogan Lovells International LLP, do not hold qualifications equivalent to members. For more information about Hogan Lovells, the partners and their qualifications, see www.hoganlovells.com.

Where case studies are included, results achieved do not guarantee similar outcomes for other clients. Attorney advertising. Images of people may feature current or former lawyers and employees at Hogan Lovells or models not connected with the firm.

© Hogan Lovells 2022. All rights reserved.