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Newsletter

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Legal Updates

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Legal Updates

1. New Cash Loan Rules Issued, a Deathblow to the Industry? (Author: Financial Asset Management Department)

Rumors have circulated for some time of tightening regulations in the cash loan industry in China, and some large platforms have already embraced regulation by lowering interest rates. However, few expected the regulator, the Leading Group Office for Thematic Regulation of Internet Finance Risk Work and the Leading Group Office for Thematic Regulation of P2P Lending Risk Work ("**P2P Leading Group**"), to formally promulgate on December 1, 2017 the *Circular on Regulating and Rectifying Cash Loan Services* ("**Circular**"). The Circular strikes a heavy blow against predatory practices and has caused a relative chill in the cash loan industry.

What are cash loans?

Although the concept of cash loans has appeared in Internet finance regulatory documents several times, no government document or legislation has provided an official definition or classification standard (implied and by extension). The P2P Leading Group on April 18, 2017 issued *Supplementary Notes Concerning Carrying Out the Cash Loan Business Clean-up and Rectification Work*, which does not precisely define the concept, but summarizes four main characteristics of the cash loan industry:

a. Excessively high interest rates;

b. Loan amounts actually extended are inconsistent with those stipulated in the loan contracts;

c. No collateral, short terms;

d. Relying on exorbitant interest rates to cover risks, debt collections by force.

While the Circular also fails to clearly define cash loans, it describes four major characteristics of cash loans, which are "no use scenario," "no specified purpose," "no defined customer limitations," and "no collateral." Based upon this, we can assume that most of the products currently in the market that feature small sums or no usage scenarios that allow borrowers to instantly withdraw credit to their bank accounts would be classified as cash loans.

Based upon the descriptions above, among the products currently provided by the loan facilitation platforms, those that have the following features may be exempted from being categorized as cash loans:

a. "Consumer installment loans" that have a definite use scenario and which adopt entrusted payments as the payment method, including purchase loans, education loans, cosmetic loans, car purchase loans; and business operating loans for enterprises or merchants;

b. Mortgage or pledge loans, such as loans secured with real estate or vehicles.

However, there still exists uncertainty as to whether "credit card repayment loans" are classified as cash loans in accordance with the Circular. Although credit card repayment loans have a specified purpose (i.e., to repay credit card bills), the loan funds will be paid to the borrower's personal bank account, rather than to the credit card bank (i.e., not an entrusted payment). Thus, the loan funds can be used freely by the borrower, causing the regulator to potentially classify these credit card repayment loans as cash loans on the grounds that they have no definite use scenario and no specified purpose.

Core principles for the cash loan industry clean-up

The following are the core principles emphasized to clean up the cash loan industry:

a. **Mandatory licensing**: Platforms must be licensed in order to engage in the cash loans business, and no organization or individual may operate to extend loans without a license. This directly renders the "super individual lender" and "advance payment" methods illegal.

b. **Financing costs calculated by integrating interest and expenses**: The overall financing costs are to be calculated within the interest limitation set out by the Supreme People's Court with respect to extension of private loans. In addition, the Circular requires an integrated calculation of loan interest and expenses and the result of this calculation is to be annualized. This directly challenges the profit-making logic of most cash loan platforms by covering high risks with high profits. In practice, loan cost annualization should help borrowers to clearly see the total cost of financing. As the Circular stipulates that the scope of expenses subject to the integrated interest-expense calculation is now expanded to "all kinds of expenses," this will prevent loan platforms from charging additional expenses in disguised form when extending loans, such as tie-in sales of insurance.

c. **KYC**: Loan platforms may not induce borrowers to excessively borrow loans and may not extend loans to borrowers without sources of income. The maximum principal and interest for a single loan payable by the borrower must be clearly prescribed, and loans generally may not be extended for more than twice. These provisions are intended to restrain the circumstances by which some cash loan platforms induce borrowers to repay loans by borrowing additional funds or by borrowing funds from multiple platforms which cause borrowers to become heavily indebted.

d. **Operating in a prudent manner**: Loan platforms are to strengthen internal risk control and carefully use "data-driven" risk control models. Platforms may not conceal non-performing assets in any manner. Clearly, the regulator has proposed these requirements because it is aware of problems associated with so-called "big data" risk control methods that are employed by many cash loan platforms and of the actual circumstances in which many cash loan platforms use their extremely low non-performing asset ratios as promotion highlights.

e. **Prohibiting debt collection by force**. This is a principle that is consistently upheld by regulators.

f. **Information protection**: Cash loan platforms must strengthen the protection of customer information, shall not abuse customers' information privacy, and shall not illegally sell or disclose customers' information. Strengthening information protection is a requirement that is constantly emphasized by the regulators, and aims to suppress the acts of many cash loan platforms to illegally sell customers' information to other platforms for profit. The Circular will further regulate the conduct of cash loan platforms with respect to the obtaining, sharing and use of customer-authorized personal credit ratings data.

Four major weapons to clean up the cash loan industry

In our opinion, in addition to the core integrated loan interest and expense calculation requirement, which is tantamount to the "nuclear weapon" for many cash loan platforms, the Circular also reveals the following four major weapons in order to bring order to the cash loan industry:

a. Prohibit micro-lending

i. Control licenses

- License application examinations have been suspended for establishing new online (Internet) micro-loan companies, and also applications for conducting micro-lending across provinces (regions, municipalities). Those online (Internet) micro-loan companies that have already been approved for establishment are also subject to a suspension on approvals to operate.
- Where the application for establishment is granted by an authority that is inconsistent with the requirements stipulated by State Council documents, the company's qualifications for conducting the relevant business will be re-examined. This means that the approval for establishment of an online (Internet) micro-loan company may become invalid if the approval is granted by a department which is not competent to render such an approval. However, it is still unclear which State Council documents should be referenced when determining whether an approval department is competent to grant an approval. It is very likely that relevant regulatory departments may introduce unified and high-threshold standards for examining micro-loan company establishment applications.

ii. Control assets

- Online (Internet) micro-loan companies will be required to suspend the issuance of "cash loans" and expressly forbidden to engage in activities such as "repaying loans with borrowings" and "loans from multiple platforms." Micro-lenders are also prohibited from issuing "campus loans" and "down-payment loans," and from issuing loans for making speculative investments, such as the purchase of stocks and futures.

iii. Control funds

- Online (Internet) micro-loan companies are prohibited from selling, transferring or transferring in disguised form a company's credit assets through Internet platforms or local exchanges. This will put an end to the practice of many online (Internet) micro-loan companies transferring their assets for the purposes of raising capital, and will also help to eliminate the practice of transferring the right to benefit from debt claims. Moreover, as interpreted literally, these provisions target acts of micro-loan companies themselves, rather than the "cash loan" assets.

- Fundraising is prohibited through online peer-to-peer lending information intermediaries ("**P2P Platforms**"). This provision is expected to have limited effect, especially in the case that P2P Platforms that are currently subject to maximum financing limits, which will make it difficult for micro-loan companies to raise funds through P2P Platforms.

- Capital raised by credit asset transfers and asset securitization, etc. are to be combined with on-balance sheet financings, and the ratio of this combined amount to net capital will temporarily be the ratio currently implemented by local authorities. This leverage constraint will effectively put an end to the business method of having many online (Internet) micro-loan companies freeing up capital through asset securitization on exchanges.

The central financial regulatory departments are expected to formulate and issue an "Implementation Plan on Thematic Regulation of Micro-Lending," and will further refine the relevant regulatory requirements.

b. Regulate banks

i. Financial institutions subject to relevant prohibitions include most financial institutions transacting with cash loan platforms, including banks, trust companies and consumer finance companies.

ii. It is reiterated that banking financial institutions are required to comply with the *Interim Measures for the Management of Personal Loans*.

iii. Banking financial institutions may not provide funds in any form to institutions to extend loans that are not qualified to do so, and may not extend loans jointly with institutions that are not qualified to do so.

iv. Banking financial institutions may not outsource their core businesses such as credit examination and risk control services when cooperating with third-party institutions to engage in lending. This means that even if the cash loan platforms provide credit examination and risk control services, the banking financial institutions must still independently fulfill their credit examination and risk control obligations. In practice, most banking financial institutions will conduct a second credit review, but there are also some banking financial institutions that essentially rely on cash loan platforms to conduct credit reviews. Under the Circular, those banking financial institutions must adjust their business models.

v. Loan facilitation services are to be simplified and return to their origins, and banking financial institutions may not accept credit enhancement services or credit enhancement services in disguised form provided by unlicensed entities. Under the loan facilitation business model, it is quite usual that the platforms are required to provide lenders with security, guarantees or credit enhancements. Since the Circular expressly prohibits banking financial institutions from accepting any guarantees or credit enhancements provided by unqualified agencies, there is a great possibility that banking financial institutions will be discouraged from continuing to carry out the relevant business or they will try to seek other means of achieving risk-sharing. However, there are no existing laws or regulations that clearly prohibit cash loan platforms from indirectly providing credit enhancement or joint and several liability guarantees. In the future, it may be an option that financing guarantee companies and insurance companies provide credit enhancement to banking financial institutions and then to have cash loan platforms provide counter-guarantees.

vi. Banking financial institutions will require and assure that cooperating third-party institutions not charge borrowers any fees or interest. This provision has a game-changing effect which puts an end to the industry practice of cash loan platforms directly charging borrowers service fees, and of banking financial institutions charging interest. If cash loan platforms stop charging fees on borrowers but make settlements with the banking financial institutions, the current business model of banking financial institutions will be challenged at an unprecedented level. While there is uncertainty as to whether banking financial institutions are willing to charge borrowers the maximum financing costs as permitted under the laws and regulations, banking financial institutions may also have to make significant adjustments to cash loan-related business management and risk control systems.

vii. Banking financial institutions and asset management products issued and managed by banking financial institutions may not subscribe directly or subscribe in disguised form to any (quasi) ABS products, the underlying assets of which are cash loans, campus loans, or down-payment loans for the purchase of real estate.

viii. In addition, although the Circular targets the regulation of cash loans in general, several provisions under this chapter set forth requirements by expressly referring to the loan facilitation business as a subject of regulation (instead of to the cash loan business only). Therefore, we are uncertain whether this document will also be applicable to banking financial institutions that engage in loan facilitation services in the future. From the legislative intent, we tend to believe that the same standards will apply to loan facilitation services equally.

c. Controlling P2P

i. Taken literally, cash loan businesses are not the only target of regulation in connection with P2P Platforms.

ii. The Circular provides several prohibitions for P2P Platforms, especially in the following aspects:

- P2P Platforms may not facilitate or facilitate in disguised form the loans that violate interest rate requirements provided for by law.
- P2P Platforms may not withhold interest, procedural fees, management fees or deposits from the principal and may not set excessively high overdue interest, late fees and penalties, which means P2P Platforms must abandon the common practice of withholding relevant fees.
- P2P Platforms may not outsource core services such as customer information collection and screening, credit evaluation and account opening. This renders impossible the service outsourcing model adopted by some P2P Platforms. P2P Platforms still have to fulfill the relevant responsibilities on their own even when they cooperate with some third-party customer acquisition platforms.
- P2P Platforms may not provide loan facilitation services to students, individuals with no sources of repayment or individuals with no repayment capacity.
- P2P Platforms may not provide loan facilitation services for real estate purchase loans, such as “down-payment loans” or “real estate-related financing” and may not provide loan facilitation services for loans without designated uses.

d. Severe punishment

i. Punishments include suspension of business, rectification orders, circulating notices of criticism, refusal of filings and cancellation of business qualifications. Serious violations may result in industry bans, or even administrative penalties.

ii. Regulatory departments will suspend the business of websites and platforms that assist various agencies in conducting business in violation of laws and regulations and pursue liability against those websites and platforms in accordance with the law.

iii. For organizations or individuals that engage in extending loans without licenses:

- Those who are suspected of engaging in illegal business will be reported to relevant departments for investigation;
- Financial institutions and non-bank payment agencies must cease to provide financial services. The communication administrations will punish Internet finance websites and mobile applications in accordance with law.
- Those that engage in illegal activities such as illegal fund-raising and illegal securities activities will be investigated and punished in accordance with the corresponding rules, such as illegal fund-raising rules, rules related to cracking down on illegal securities activities and rules related to cleaning up and rectifying various exchanges.

iv. In case of institutions that are in serious violation of the laws and regulations such as being suspected of committing illegal fraud and collecting debts through force, relevant evidence should be timely reported to the public security organs.

Prospects for the cash loan industry

Although the Circular provides a series of stringent requirements, it also leaves some room for interpretation in terms of the implementation of certain provisions. Thus, there remains uncertainty as to what extent certain provisions be implemented in practice. In particular, P2P reform has not yet been completed and remains a daunting task. With respect to the management of cash loans, participating institutions referenced in the Circular are subject to supervision by the local financial supervisory departments, although we are not certain as to what kind of supervision strategies will be adopted by the local departments and to what extent they will implement the Circular. One certainty, however, is that this is a bad time for new cash loan platforms to enter the capital markets, because the Circular clarifies some ambiguities under the previous cash loan regulatory policies, and investors will tend to adopt a cautious attitude when assessing the future profitability and development of cash loan platforms, and valuation models will also need to be adjusted accordingly. However, every coin has two sides. After the inadequate cash loan platforms are removed, those that survive will be those platforms that have substantial risk control ability and sound profitability. In this respect, the promulgation of the Circular presents an opportunity for "good money to drive out bad money" and bring the industry to an era of winner takes all.

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2. Promoting New Economy - the HKEx took a leap (Authors: Felix MIAO, Yurong YE, Fredric HUANG)

On 15 December 2017, the Stock Exchange of Hong Kong Limited (the "**SEHK**") published its consultation conclusions on two consultations regarding the New Board and the Amendments to the Hong Kong Listing Rules (the "**GEM**") (collectively, the "**Consultation Conclusions**"). In brief, rather than establish a New Board, the SEHK proposes to expand Hong Kong's listing regime to allow "new economy" issuers with weighted voting right ('**WVR**') structures and pre-profit or pre-revenue biotech issuers, as well as create a new secondary listing route for overseas issuers. The SEHK further proposes to raise the minimum market capitalisation requirements for Main Board and GEM applicants, and cancel the GEM streamlined process. In avoidance of doubt, terms defined in the Consultation Conclusions shall have the same meaning when used in this newsletter unless otherwise defined.

A. “New Economy” Companies

The primary purpose of the proposed reform is to attract high-growth companies from innovative sectors (the “**New Economy Companies**”).

New Economy Companies are expected to possess more than one of the following characteristics:

- its success is demonstrated to be attributable to the application of new technologies, innovations, and/or business model to the company’s core business, which also serves to differentiate the company from existing players;
- research and development is significant contributor of expected value and constitutes a major activity and expense;
- its success is demonstrated to be attributable to unique features or intellectual property; andits market capitalisation or intangible asset value outsizes its tangible asset value.

The SEHK also proposes to publish guidance letters to provide the market with further guidance on the characteristics of New Economy Companies.

Hence, companies that fall short of certain characteristics above are unlikely be listed with a WVR structure or through the proposed secondary listing route.

B. WVR Structures

Applicants will be required to have an established business and establish that they are both eligible and suitable for listing with a WVR structure. After listing, they are also required to comply with the special requirements of the SEHK specifically for the WVR structure to protect investors’ interests. Features of a company to be allowed to adopt a WVR structure are listed below:

Characteristics of a company suitable for listing with a WVR structure	*Business nature*	The applicant must be a New Economy Company as defined by the SEHK.
	Track record	The applicant demonstrates a track record of high business growth, which can be objectively measured by operational metrics such as business operations, users, customers, unit sales, revenue, profits and/or market value (as appropriate), and its high growth trajectory is expected to continue.
	Contribution of each WVR holder	Each WVR holder has been materially responsible for the business growth, by way of their skills, knowledge and/or strategic directions, where the company's value is largely attributable or attached to intangible human capital.
	Responsibility of each WVR holder	Each WVR holder has an active executive role within the business and contributes to a material extent to the ongoing business growth, and is or would assume the role of director of the issuer at the time of listing.
	External validation	The applicant has received meaningful (being more than just a token investment) third party funding from sophisticated investors (including financial institutions). Such investors will be required to retain an aggregate 50 percent of their investment at the time of listing for a period of at least six months post-IPO (subject to exceptions for de minimis investments by specific investors).
	Spin-off IPO	In the event that the applicant is a spin-off from a parent company, in order to assess the eligibility and suitability of a spin-off applicant to list with a WVR structure, the SEHK will assess such applicant on a stand-alone basis which is separate from the characteristics and track record of the parent (irrespective of whether the parent is listed on the Exchange or overseas).
Financial requirement	Expected market capitalisation is not less than HK$10 billion at the time of listing; and in the event that the expected market capitalisation of an applicant as described above is less than HK$40 billion, the SEHK will require such applicant to have at least HK$1 billion of revenue in its most recent audited financial year.	
Ring-fencing	Only new applicants will be able to list with a WVR structure. After listing, issuers with WVR structures will be prohibited from increasing the proportion of weighted voting rights in issue or issue any further WVR share. It is subject to a limited right of pre-emption in the case of a pro rata offering to all shareholders (that is, a rights issue or open offer).	
Limits on beneficiaries of	Beneficiaries of WVR will be restricted to those who are (and remain as) directors of the issuer. The WVR attached to a beneficiary's shares will lapse permanently:	

WVR	➢ if the beneficiary ceases to be a director; ➢ if the beneficiary dies or is incapacitated; or ➢ if the shares are transferred to another person.
Limits on WVR powers	➢ the WVR structure must be attached to a specific class (or classes) of shares, and the rights attached to WVR shares and ordinary shares must be the same in all respects other than voting rights; ➢ the voting power attached to WVT cannot be more than ten times of that of ordinary shares, and non-WVR shareholders must hold at least 10% of the votes eligible to be cast at general meeting; moreover, non-WVR shareholders holding at least 10% of the voting rights on a one-share one vote basis must be able to convene a general meeting; and ➢ material changes to the issuer's constitutional documents, variation of rights attached to any class of shares, the appointment and removal of independent non-executive directors and auditors, and the winding-up of the issuers must be decided on a one-share one-vote basis.
Requirements regarding disclosure and corporate governance	➢ issuers with WVR structures must be prominently identified through a unique stock code/ market and appropriate warning in its ongoing corporate communications; ➢ the issuer must disclose in its listing documents appropriate warning language and a full description of its WVR structure, rationale and associated risks; ➢ the prescribed safeguards must be incorporated in the issuer's constitutional documents; ➢ a mandatory corporate governance committee comprised of independent non-executive directors is required to ensure that the issuer is operated and managed for the benefit of all shareholders, as well as the issuer's compliance with Hong Kong rules; and ➢ the issuer must engage a compliance adviser on a permanent basis; directors and senior management must undergo appropriate training on WVR and its associated risks.

C. Pre-Revenue Biotech Companies

In respect of pre-revenue New Economy Companies, the SEHK proposes to only allow biotech companies, which engaged in research and development, application and commercialisation of products, processes or technologies in the biotech sphere, to list through the new chapter in the Main Board Listing Rules. It is because biotech companies tend to be strictly regulated (such as by the Food and Drug Administration in the United States) as to the activities they undertake and are often required to meet the relevant regime's milestones on development progress. Therefore, even without traditional indicators of performance such as revenue and profit, investors are still provided with a frame of reference to assess the value of these companies.

In order to be listed on a pre-revenue basis, the SEHK required an applicant to demonstrate that it is a biotech company, which is normally expected to possess the following features:

- has been primarily engaged in research and development for the purposes of developing new or innovative products/processes/technologies;
- has unique features of innovation or intellectual property that could be reasonably expected to give rise to commercialisable patents, copyrights and/or trade secrets;
- has as its primary reason for listing the raising of finance for research and development to bring identified products/ processes/ technologies to commercialisation;
- has at least one product/ process/ technology which has proceeded beyond the concept stage (for example, having passed Phase I stage in relation to the clinical trial of a drug regulated by relevant drug and safety authorities such as the Food and Drug Administration in the United State, China Food and Drug Administration or European Medicines Agency and received all the necessary regulatory approvals to proceed to Phase II);
- has a portfolio of durable patents, registered patents and/or patent applications that demonstrates its rights to the new technologies or innovations that form the basis of its listing application; and
- has previously received investment from at least one sophisticated investor (including financial institutions).

Furthermore, the SEHK requires such biotech companies to have a minimum expected market capitalisation at the time of listing of not less than HK$1.5 billion, to maintain 125% of the current issuer's working capital requirement over the next 12 months, and have remained in operation in its current line of business (such as biotech research and development) for at least 2 years.

D. Secondary listings

a. Pursuant to the Joint Policy Statement Regarding the Listing of Overseas Companies jointly published by the Securities and Futures Commission and the SEHK 2013, a company seeking a secondary listing must:

i. be a large company, normally with a long track record of clean regulatory compliance on its primary market;

- have been listed in its primary market for at least 5 years;
- if the applicant seeking a secondary listing is well-established and has a market capitalisation that is significantly larger than USD 400 million, this track record criterion does not apply; and
- demonstrate a good compliance record with the rules and regulations of its home jurisdiction and primary market;

ii. have a primary listing on one of the recognised exchanges; and

iii. have a centre of gravity outside Greater China.

(collectively hereinafter referred to as the "**JPS Requirements**")

Companies that fulfil the JPS Requirements will receive automatical waiver from certain provisions in the Main Board Listing Rules from shareholder protection standards, and accounting and auditing related and other disclosure requirements.

b. A company that intends to list through the new secondary listing route can be exempted from the "centre of gravity outside Greater China" requirement above if it possesses the following characteristics:

i. it is a New Economy Company as defined by the SEHK；

ii. it is primary listed on a Qualifying Exchange；

iii. it has a good record of compliance for at least two years on a Qualifying Exchange; and

iv. for a company with an expected market capitalisation at the time of secondary listing in Hong Kong of at least HK$10 billion, it will be required to have at least HK$1 billion of revenue in its most recent audited financial year if it:

- has adopted a WVR structure; and/or
- has a 'centre of gravity' in the Greater China region with an expected market capitalisation at the time of secondary listing in Hong Kong of less than HK$40 billion.

(collectively hereinafter referred to as the "**New Economy Companies Requirements**")

c. For the companies that have fulfilled the aforementioned JPS Requirements or New Economy Companies Requirements and other relevant exemptions, and are seeking secondary listing, the SEHK has proposed waivers specifically for different circumstances, as demonstrated below:

Is the centre of gravity of the company in Greater China?

Yes

No

Does the company meets the New Economy

Does the company meets the JPS

Yes

Is the date of primary listing after 15 December 2017

Yes

Yes

No

Shareholder Protection Standard

- Where necessary, required to change its constitutional documents to meet equivalent shareholder protection standards to those of Hong Kong.

Exemptions to various WVR structures

- Must meet WVR safeguards and WVR structure must conform with primary listing requirements.

Shareholder Protection Standard

a. Required to comply with the Key Shareholder Protection Standards set out in the Main Board Listing Rules.

b. Not required to comply with the following shareholder protection standards:

- certain matters (material changes to the issuer's constitutional documents, a variation of class rights and winding-up) are subject to a 'super-majority' vote of shareholders;
- no alteration is made to the constitutional documents to increase an existing member's liability unless approved by such member;
- the appointment, removal and the remuneration of auditors requires the approval of a majority of shareholders or other body independent of the board
- issuer must hold an AGM at least every 15 months, give reasonable notice of meetings and members to have the right to speak and vote at the shareholders' meeting;
- minority shareholders must be allowed to convene an extraordinary general meeting (and minimum level of members' support required to convene a meeting must not be higher than 10%); and
- The Hong Kong Securities Clearing Company Limited must be entitled to appoint proxies to attend meetings of directors.

Exemptions to various WVR structures

- Can secondary list with their existing WVR structures and will not have to comply with the proposed ongoing WVR safeguards except for disclosure requirements regarding listing documents, stock code/ marker and corporate communications.

E. Raising the admission requirement of the Main Board and the GEM

a. for GEM applicants, the minimum market capitalisation requirement is proposed to increase from HK$100 million to HK$150 million, while the minimum public float value of securities is proposed to increase from HK$30 million to HK$45 million;

b. for Main Board applicants, the minimum market capitalisation and public float value of securities requirements are increased from HK$200 million to HK$500 million and from HK$50 million to HK$125 million respectively;

c. the cashflow requirement for GEM applicants is also increased from at least HK$20 million to at least HK$30 million;

d. a mandatory public offering mechanism of at least 10% of the total offer size will be introduced for all GEM IPOs; and

e. the post-IPO lock-up requirement on controlling shareholders for GEM issuers will be extended from one year to two years, while that for Main Board issuers will remain unchanged.

F. Cancellation of the GEM Streamlined Process

a. Background

The GEM was repositioned as a "stepping stone" to the Main Board in 2008 to provide a channel for smaller companies that had grown and developed in size and maturity while on GEM to list more easily on the Main Board. However, such arrangement had achieved limited success. Further, an issuer can list on the Main Board without having gone through the due diligence process through GEM Streamlined Process. Due to the different eligibility criteria between the two boards, there is a risk of regulatory arbitrage. Hence, the SEHK will reposition the GEM as a stand-alone board and requires applicants applying for transfer that do not fall under the transitional arrangements to appoint a sponsor to conduct due diligence and publish a listing document to list on the Main Board.

b. Comparison between the original and new arrangements:

	Prior to 15 February 2018	**15 February 2018 and after**
GEM listing applicants	GEM listing or transfer applications submitted before and have not lapsed, been rejected or returned as at 15 February 2018 (any such application can only be renewed once after 15 February 2017) will be processed under the GEM Listing Rules in force as at 15 February 2018.	Applications will be processed under the amended GEM Listing Rules and any subsequent GEM transfer applications will be processed under the amended Main Board Listing Rules.
Main	GEM listing or transfer applications submitted	Applications will be processed

Board listing applicants	before and have not lapsed, been rejected or returned as at 15 February 2018 (any such application can only be renewed once after 15 February 2017) will be processed under the Main Board Listing Rules in force as at 15 February 2018.	under the amended Main Board Listing Rules.

G. Other matters

a. Name change

To reflect the new role of GEM as a market for small and mid-sized enterprises, the names "Growth Enterprise Market" and "創業板" will be changed to "GEM".

b. Unwinding the delegated authority

The authority to approve GEM listing applications will be transfer from the Listing Division to the Listing Committee.

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Important Announcement

This Newsletter has been prepared for clients and professional associates of Han Kun Law Offices. Whilst every effort has been made to ensure accuracy, no responsibility can be accepted for errors

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