

# Hong Kong Corporate and Regulatory Insights

June 2022



Hogan  
Lovells

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## Equity Capital Markets

### The Stock Exchange of Hong Kong (SEHK) takes disciplinary action against Mingfa Group (International) Company Limited (stock code: 846) (the Company) and four former directors

#### Key messages:

- Directors must act honestly, for proper purpose and in good faith in the issuer's interests and must disclose and avoid conflicts of interest.
- Directors must inform the board of important matters relevant to the affairs of the issuer.

#### SEHK censures:

- The Company.
- Mr. Wong Wun Ming, former non-executive director (NED) and chairman of the Company (Mr. Wong).
- Mr. Huang Qingzhu, former executive director (ED) and chief executive officer of the Company (Mr QZ Huang).
- Mr. Huang Lianchun, former ED and chief operating officer of the Company (Mr LC Huang).
- Mr. Huang Li Shui, former ED of the Company (Mr. LS Huang).

Between 2013 and 2015, Mr Wong caused the Company and its subsidiaries to enter into several agreements, involving loans and disposals of assets that included properties and equity interests in several companies. These agreements resulted in numerous fund transfers over five years, some of which were disclosable and connected transactions.

SEHK found that the Company had breached (i) Rule 14.34 for failing to comply with the disclosure requirements of disclosable

transactions, (ii) Rules 14A.35 and 14A.36 for failing to comply with the announcement and independent shareholder approval requirements for connected transactions, and (iii) Rules 13.46(2)(a), 13.48(1), 13.49(1) and 13.49(6) for failing to publish the interim and annual results and reports within the deadlines required.

SEHK found that Mr. Wong had breached Rule 3.08 and his director's undertakings for, among other things, (i) failing to inform the board of the mentioned transactions and declaring and/or avoiding any conflicts of interest, (ii) failing to ensure the mentioned transactions were made at a fair and reasonable value, and (iii) failing to ensure the Company group's interests were adequately protected with respect to the mentioned transactions.

SEHK found that Mr. QZ Huang, Mr. LC Huang and Mr. LS Huang were in breach of Rule 3.08 and their director's undertakings, for, among other things, (i) failing to take steps to procure the Company's compliance with the Listing Rules despite their knowledge of certain connected transactions, (ii) failing to declare and/or avoid conflicts of interest with respect to certain sales, and (iii) failing to act honestly and in good faith in the Company's interest.

The Company and the relevant directors have agreed to settle this disciplinary action. They admitted their respective breaches and accepted the sanctions and directions imposed on them by SEHK. SEHK directs Mr. LC Huang and Mr. LS Huang to attend 24 hours of training on regulatory and legal topics including Listing Rule compliance. SEHK further states that the retention of office of Mr. Wong and Mr. QZ Huang on the board of the Company would have been prejudicial to the interests of investors.

Please click [here](#) to view the statement of disciplinary action.

*HKEx, 27 June 2022*

## SEHK publishes listing decisions and revised guidance letter

SEHK published the following new listing decision:

- LD136-2022 on whether a Main Board issuer's proposed acquisition which constituted a disclosable transaction was a reverse takeover. See [here](#).
- LD137-2022 on whether a Main Board issuer could proceed with its proposed issuance of shares that was highly dilutive. See [here](#).

SEHK also revised GL95-18 on the guidance on long suspension and delisting, by:

- Clarifying in paragraph 16 that the issuer is not entitled to an extension of the remedial period where SEHK modifies or adds resumption conditions or guidance.
- Supplementing in paragraphs 18 to 21 the review process of the Listing Committee on whether to delist an issuer.
- Adding in paragraphs 23-25 the guidance to issuers in making time extension requests for the resumption of trade due to Covid-19.
- Adding in paragraph 35 that where an issuer's corporate actions include equity fundraisings, the SEHK will not grant listing approval to such suspended issuer which has not demonstrated that it would have sufficient operations and assets to warrant its continued listing taking into account its equity fundraisings.
- Adding in paragraph 36 that where an issuer fails to publish periodic financial results, SEHK would require the issuer to demonstrate that it has sufficient

operations and assets under Rule 13.24 to warrant its continued listing.

Click [here](#) to view the revised GL95-18.

*HKEx, 24 June 2022*

## SEHK publishes the private reprimands

To educate the market and enhance corporate governance, SEHK published the following private reprimands without disclosing the identities of the parties involved:

- PR-2022/001 on a private reprimand against one former executive director for breaching Rule 3.08(f) and director's undertaking in view of the failure of the company in reporting accurate and complete information in its financial results and report.
- PR-2022/02 on a private reprimand against one former non-executive director for breaching Rule 3.08(f) and director's undertaking in view of the company's failure to comply with requirements under Ch. 13, 14 and 14A of the Listing Rules relating to notifiable and connected transactions.
- PR-2022/03 on a private reprimand against three independent non-executive directors for breaching director's undertaking in view of the company's breach of disclosure obligations under Ch. 13 and 14 of the Listing Rules relating to notifiable and connected transactions.
- PR-2022/004 on a private reprimand against one former non-executive director for breaching Rule 3.08(f) and director's undertaking in view of the company's breach of the disclosure and shareholders' approval requirements under Ch. 13, 14 and 14A of the Listing Rules relating to notifiable and connected transactions.

- PR-2022/005 on a private reprimand against one former executive director and two former independent non-executive directors for breaching Rule 3.08(f) and director's undertaking in view of the company's breach of the procedural requirements under Ch. 14 and 14A of the Listing Rules relating to disclosable and connected transactions.
- PR-2022/006 on a private reprimand against five non-executive and independent non-executive directors for breaching Rule 3.08(f) and director's undertaking in view of the company's breach of obligations under Ch. 13, 14 and 14A of the Listing Rules.
- PR-2022/007 on a private reprimand against one current and two former independent non-executive directors for breaching Rule 3.08(f) and director's undertaking in view of the company's failure to maintain effective internal controls.

Please click [here](#) to view the private reprimands published.

*HKEx, 22 June 2022*

### **SEHK publishes new frequently asked questions (FAQs)**

SEHK published the following new frequently asked questions:

- FAQ no. 078-2022 to FAQ no. 082-2022 on frequently asked questions about core shareholder protection standards.

Please click [here](#) to view the FAQs.

*HKEx, 17 June 2022*

### **SEHK takes disciplinary action against five former directors of Amber Hill Financial**

### **Holdings Limited (stock code: 33) (the Company)**

Key messages:

- Failure to comply with the obligation to cooperate with SEHK is a serious breach of the Listing Rules and may result in the imposition of severe sanctions.
- A director's obligation to cooperate with SEHK does not lapse after he/she ceases to be a director of an issuer.

SEHK censures:

- Ms. Cheung Kwan, former executive director and chairman of the Company.
- Mr. Liu Hu, former ED of the Company.
- Ms. Zhao Hong Mei, former ED of the Company.
- Mr. Li Xin, former NED of the Company.
- Ms. Jin Xin, former independent NED of the Company.

The relevant directors had provided to SEHK a director's declaration and undertaking (Undertaking) as set out in Appendix B to the Listing Rules, which provided that they shall, among other things: (i) cooperate in any investigation conducted by Listing Division and/or the Listing Committee; (ii) promptly and openly answer any questions; and (iii) provide their up-to-date contact details to SEHK for a period of three years from the date on which they cease to be a director of the Company.

After they had left their position, the relevant directors were under investigation by the Listing Division for potential breaches of the Listing Rules. Investigation letters and reminder letters were sent to them at their respective correspondence and/or email

addresses last known to SEHK but they failed to respond to the enquiries.

SEHK found that the relevant directors had breached their undertaking by failing to cooperate with SEHK, which constituted a breach of the Listing Rules. Their obligation to provide information reasonably requested by SEHK did not lapse after they ceased to be a director. SEHK also found that their conduct demonstrated their wilful and/or persistent failure to discharge their responsibilities under the Listing Rules.

SEHK states that the retention of office by the relevant directors on the board of the Company would have been prejudicial to the interests of investors.

Please click [here](#) to view the statement of disciplinary action.

*HKEx, 16 June 2022*

### **SEHK takes disciplinary action against Great Wall Terroir Holdings Limited (formerly known as Great Wall Belt & Road Holdings Limited) (stock code: 524) and its 11 directors**

Key messages:

- Directors must ensure that a proper internal control and risk management framework extends to and encompasses the issuer's subsidiaries.
- The board must also adequately supervise the activities and financial affairs of subsidiaries. A proper mechanism of checks and balances is an essential component of an effective internal control system.

The Listing Committee censures:

- Great Wall Terroir Holdings Limited (the Company, together with its subsidiaries, Group).
- Mr. Yeung Chun Wai Anthony, former ED, chairman and chief executive officer (CEO) of the Company.
- Mr. Yeung Chun Sing Standly, former ED (Mr S Yeung).
- Ms. Li Bing, former ED and CEO (Ms Li).
- Mr. Cheung Ka Heng Frankie, former ED and NED of the Company (Mr. Cheung).
- Mr. Zhao Rui Yong, former ED, NED and chairman (Mr. Zhao RY);
- Mr. Zhao Guang Ming, former independent non-executive director (INED) of the Company (Mr. Zhao GM).
- Mr. Fung Wai Shing, former independent NED (Mr. Fung).
- Mr. Huang Tao, former independent NED (Mr. Huang).

The Listing Committee criticizes:

- Mr. Chan Chi Yuen, former ED (Mr. Chan).
- Mr. Wong Xiang Hong, former ED (Mr. Wong).
- Mr. Fung Chan Man Alex, former INED (Mr A Fung).
- Mr. Liu Hu, former executive director of the Company.

In 2016, the Company acquired a company established in the People's Republic of China (the Subsidiary). Between 2016 and 2019, the Subsidiary entered into a number of notifiable and connected transactions. The transactions included the provision of financial assistance

in the form of loans and advances to the Subsidiary's own directors, which were carried out without the board of directors of the Company being explicitly informed.

SEHK found that the Company had breached Rules 13.13, 14.34, 14A.34, 14A.35, 14A.36, 14A.46 and 14A.49 for failing to comply with the disclosure and shareholders' approval requirements in relation to notifiable and connected transactions.

SEHK further found that the relevant directors had breached Rule 3.08(c), Rule 3.08(f) and their director's undertakings for their failure to comply with the Listing Rules to the best of their abilities, and use their best endeavours to procure the Company to comply with Rules 14.34, 14A.34, 14A.35, 14A.36, 14A.46 and 14A.49.

SEHK directs Mr. A Fung and Mr. Chan to attend 21 hours of training on regulatory and legal topics and Listing Rule compliance, which should serve as a pre-requisite of their future appointment as a director of any company listed or to be listed on the Exchange. SEHK also directs Ms. Li, Mr Zhao RY, Mr. Cheung, Mr. Zhao GM, Mr Huang, Mr Fung (each 24 hours), Mr. S Yeung and Mr Wong (21 hours) to attend the same training.

Please click [here](#) to view the statement of disciplinary action.

*HKEx, 15 June 2022*

### **HKEx publishes Issue 4 of the HKEx Listing Newsletter**

HKEx published Issue 4 of the HKEx Listing Newsletter. It explores (i) the forthcoming global sustainability reporting standards on climate disclosures that will form part of HKEx's review of its ESG reporting framework later this year, (ii) low-carbon transition of

special purpose acquisition companies (SPACs), and (iii) recent listing developments.

Please click [here](#) to view the HKEx's Listing Newsletter.

*HKEx, 10 June 2022*



## Financial Services Regulation

### Circular on over-the-counter (OTC) derivatives trade reporting

The Securities and Futures Commission (SFC) published a circular to licensed corporations regarding a notice issued by the Hong Kong Monetary Authority (HKMA) on the publication of updated Supplementary Reporting Instructions and the gazettal notice for OTC derivatives trade reporting to the Hong Kong Trade Repository.

The SFC highlighted the fact that licensed corporations may be subject to mandatory reporting obligations as detailed in the notice published by the HKMA.

Please click [here](#) to view the circular.

*SFC, 30 June 2022*

### Circular on clearing amendment rules and the addition of eight new calculation periods

The Securities and Futures (OTC Derivative Transactions – Clearing and Record Keeping Obligations and Designation of Central Counterparties) (Amendment) Rules 2022 (Clearing Rules) was gazetted on 30 June 2022. It provides for eight new Calculation Periods and the first Calculation Period is to run from 1 March 2023 to 31 May 2023. The SFC reminded licensed persons to ensure their compliance with the Clearing Rules.

A Calculation Period is a specified period of time for calculating a person's average total position in OTC derivatives. Each Calculation Period is three months, and there are two Calculation Periods in each calendar year.

Please click [here](#) to view the circular.

*SFC, 30 June 2022*

### Circular on statements issued by the Financial Action Task Force (FATF)

The HKMA published circulars to all authorized institutions and stored value facility licensees to update them on the statements published by the FATF, which identified jurisdictions that have strategic deficiencies in their anti-money laundering and counter-financing of terrorism regimes. The HKMA also emphasized a number of outcomes from the latest FATF plenary meeting, including the emphasis placed on virtual assets and digital transformation.

Please click [here](#) and [here](#) to view the circulars.

*HKMA, 30 June 2022*

### Revised guideline on application for authorization to carry on insurance business in or from Hong Kong

The Insurance Authority (IA) published a revised GL5 - Guideline on Application for Authorization to Carry on Insurance Business in or from Hong Kong, which incorporated relevant provisions in the GL1 - Authorization Guideline. The revised GL5 has provided more guidance to prospective applicants as to how the IA assesses an authorization application and captured modified requirements enshrined in other related guidelines.

The revised GL5 took effect from 30 June 2022 and the GL1 have been repealed accordingly.

Please click [here](#) to view the revised GL5.

*IA, 30 June 2022*

### Circular on embedding climate risk in banking supervision

The HKMA published a circular to all authorized institutions setting out its two-year plan to integrate climate risk into its banking supervisory processes.

Key initiatives include the following:

- Including climate risk management as a standing item of prudential meetings.
- Updating the CAMEL rating framework (i.e. an internationally recognized framework for assessing the capital adequacy, asset quality, management, earnings and liquidity of banks) and the Supervisory Policy Manual module SA-1 on "Risk-based Supervisory Approach".
- Conducting thematic examinations on selected areas of climate risk management.
- Integrating climate risk stress test into the supervisor-driven stress-testing framework.
- Enhancing the "greenness" assessment framework.
- Keeping the regulatory framework under review.
- Exploring measures to improve the availability and usability of data and possible tools, and to strengthen the green ecosystem.

Please click [here](#) to view the circular.

*HKMA, 30 June 2022*

### **Circular on the launch of green information and data repositories**

The Green and Sustainable Finance Cross-Agency Steering Group, which comprises of the HKMA, the SFC, the IA, the Mandatory Provident Fund Schemes Authority, the

Environment Bureau and the Financial Services and the Treasury Bureau, announced on 21 June 2022 the roadmap to advancing Hong Kong's position in green and sustainable finance.

Information and data repositories under the Centre for Green and Sustainable Finance were launched and they include various Government data resources that are relevant to the assessment of physical risks in Hong Kong. The IA also encouraged the insurance industry to make good use of the said resources for risk management, product development and other related analysis and research.

Please click [here](#) to view the circular.

*IA, 27 June 2022*

### **Gazettal of the Anti-Money Laundering and Counter-Terrorist Financing (Amendment) Bill 2022 (AML Amendment Bill)**

The Hong Kong Government published the AML Amendment Bill in the gazette on 24 June 2022 in an effort to enhance Hong Kong's regulatory regime for combating money laundering and terrorist financing.

The AML Amendment Bill aims to implement a licensing regime for virtual asset service providers and a registration regime for dealers in precious metals and stones for the purpose of imposing AML obligations on these two sectors.

With regard to the virtual asset sector:

- Any person who seeks to carry on a business of operating a virtual asset exchange is required to apply for a licence from the SFC.

- The relevant person is subject to the meeting of a fit and proper test as well as the AML, counter-terrorist financing and other regulatory requirements.

With regard to the precious metals and stones sector:

- Any person who seeks to carry on a business of dealing in precious metals and precious stones in Hong Kong will be required to register with the Commissioner of Customs and Excise.
- There will be two categories of registration on the basis of whether the applicant is seeking to engage in cash transactions at or above HK\$120,000 in the course of their business. Dealers who engage in such cash transactions will be subject to AML and counter-terrorist financing supervision under the regime.

Please click [here](#) to view the AML Amendment Bill.

*Hong Kong Government, 24 June 2022*

### **Circular on climate-related financial risks**

The HKMA issued a circular to all authorized institutions to remind them to take into account the guidance contained in the Principles for the Effective Management and Supervision of Climate-related Financial Risks issued by the Basel Committee on Banking Supervision when considering their own management of climate-related financial risks and when implementing the Supervisory Policy Manual module GS-one on climate risk management.

Please click [here](#) to view the circular.

*HKMA, 22 June 2022*

### **Circular on End-To-End (E2E) test for the Hong Kong Investor Identification Regime (HKIDR)**

The SFC had proposed to implement an investor identification regime at trading level for the securities market in Hong Kong (HKIDR). Relevant licensed corporations and registered institutions (Relevant Regulated Intermediaries) will be subject to the HKIDR upon its implementation, which is tentatively set to commence during the second half of 2022 at the earliest.

Relevant Regulated Intermediaries were reminded to complete a mandatory E2E test for the HKIDR by 15 July 2022. Further, Relevant Regulated Intermediaries who are non-exchange participants and have not applied for an E2E test account should perform the E2E test during the period from 27 June 2022 to 15 July 2022.

After the completion of the E2E test, the Relevant Regulated Intermediaries should submit the requisite confirmation reply forms by 15 July 2022.

Please click [here](#) to view the circular.

*SFC, 17 June 2022*

# Data Protection

## PCPD publishes two investigation reports and a new edition of guidance note for the property management sector

On 13 June 2022, the Office of the Privacy Commissioner (PCPD) published (1) the "Investigation Report on the Accidental Disposal of Medical Records of Patients by Town Health Medical & Dental Services Limited (Town Health)" (Town Health Investigation Report), (2) the "Investigation Report on the Improper Collection, Retention and Use of Personal Data of Residents and Visitors by Property Management Companies" (Property Management Companies Investigation Report) and (3) a new edition of "Protection of Personal Data Privacy – Guidance for Property Management Sector" (Guidance).

### Town Health Investigation Report

The investigation arose from a data breach notification lodged by Town Health with the PCPD, which reported that one of its medical centres located in Fortress Hill area had accidentally disposed a carton box which contained patients' medical records in mid-March 2021. The incident affected 294 patients of the Medical Centre.

Town Health was found to be lacking in staff awareness and training on personal data protection as well as effective data protection policies and procedures. Town Health had not taken all practicable steps to ensure protection of medical records from unauthorized or accidental access, processing, erasure, loss or use, thereby contravening Data Protection Principle 4(1) which concerns the security of personal data under the Personal Data (Privacy) Ordinance (PDPO) (Cap. 486). An enforcement notice was issued to Town Health directing remedy and prevention of recurrence of the contravention.

Although there is no statutory requirement under the PDPO for a data user to notify the PCPD of data breach incidents, given the sensitive nature of the personal data involved in the incident, the PCPD considered that Town Health should have lodged the notification earlier, instead of waiting for nearly three months after the incident took place.

Through the report, the PCPD recommends that organizations should:

- Establish a personal data privacy management program for the responsible use and retention of personal data.
- Appoint data protection officer(s) to monitor compliance with the PDPO and report any issues to the senior management.
- Enhance employees' awareness of personal data protection and cultivate a personal data protection culture across the board.
- Provide employees with comprehensive trainings to incorporate personal data protection into their daily duties, with a view to reducing human error caused by a lack of awareness.
- Adopt the same level of security measures for the relevant systems in processing personal data, whether they are computerised or in physical form, and put in adequate resources to enhance the security measures.

Click [here](#) to read the Town Health Investigation Report.

### Property Management Companies Investigation Report

In the past five years, the PCPD has received many complaints against property management companies. Recently, the PCPD

investigated and published a report in respect of four property management companies:

- Cheong Sun Property Agent and Management Company – The company displayed the full names and addresses of property owners in an overdue notice which was posted on a public notice board.
- Creative Property Services Consultants Limited – In a face mask distribution activity, the company did not cover a common form containing the names and addresses of residents who had collected the masks, so that passers-by could clearly see their personal data; nor did the company specify any retention period for the personal data.
- H-Privilege Limited – The relevant security guard did not abide by the company's established policy and revealed the phone number of a resident to another resident without authorisation.
- Wilson Property Management Limited – The company imposed a mandatory requirement for delivery workers to show their Hong Kong Identity Cards for the purpose of registration as visitors before they were allowed entry to the relevant building.

Details of the complaints can be found in the Annex to the Property Management Companies Investigation Report.

These four companies were found to have contravened the relevant requirements of Data Protection Principles of the PDPO as regards the collection, retention period, use and security of personal data, respectively. Enforcement notices were issued to them directing remedy and prevention of recurrence of the contraventions.

Through the report, the PCPD recommends property management companies to:

- Introduce a Personal Data Privacy Management Programme to include the protection of personal data privacy as part of their governance responsibilities.
- Carry out a Privacy Impact Assessment before implementing new policies or measures which may involve the collection of personal data, and consider whether there are any less privacy-intrusive alternatives.
- Appoint Data Protection Officer(s) to ensure the organisation's compliance with the requirements under the PDPO and implementation of a Privacy Management Programme; the bodies should also establish a culture of respecting personal data privacy.
- Treat residents' personal data as important assets of property management bodies and provide training according to the needs of staff members.
- Regularly review and update policies and guidelines on the processing of personal data. Property management bodies should also monitor the daily routines of staff effectively to ensure that they understand the requirements of the PDPO.

The PCPD also reminds organizations to report suspected data breach incidents as soon as possible to minimize damage caused by the data breach incidents and improve the personal data system.

Click [here](#) to read the Property Management Companies Investigation Report.

[Guidance](#)

PCPD has updated and released a new edition of the Guidance on the same day the Property Management Companies Investigation Report was published.

The Guidance covers the most common issues relating to handling of personal data in the property management industry, such as collecting personal data of residents or visitors, display of notices containing personal data, and CCTV located at common areas of buildings.

The PCPD encourages property management bodies to integrate the ideas of data privacy protection into their corporate governance, to designate a data protection officer from top management to develop and monitor personal data privacy management programs, and to cultivate the culture of respecting privacy through training. Handling personal data in line with the principles of respect, reciprocity and fairness would also demonstrate that an organization handles personal data responsibly and complies with the PDPO.

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

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

*PCPD, 13 June 2022*

### **PCPD made an arrest case for a suspected doxxing offence**

On 22 June 2022, the PCPD arrested a Chinese male for disclosing personal data of a data subject without her consent, in contravention of section 64(3A) of the PDPO.

The arrested person and the data subject had a short relationship before breaking up. Someone impersonated the data subject to open accounts in four different social media platforms between late-October and mid-November 2021, and disclosed her name, photos, residential address, private and office

telephone numbers, name of her employer and position, etc. It was also stated in relevant messages that the data subject welcomed others to visit her at her address, resulting in many strangers contacting her and trying to get acquainted with her.

This is the fourth arrest made by the PCPD in relation to doxxing offences.

Pursuant to sections 64(3A) and 64(3C) 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, or being reckless as to whether it would cause, or the disclosure caused, any specified harm to the data subject or any family member of the data subject.

Specified harm means (a) harassment, molestation, pestering, threat or intimidation to the person; (b) bodily harm or psychological harm to the person; (c) harm causing the person reasonably to be concerned for the person's safety or well-being; or (d) damage to the property of the person.

An offender who commits an offence under sections 64(3A) and 64(3C) is liable on conviction to a fine up to US\$100,000 and US\$1,000,000 respectively as well as imprisonment for 2 years and 5 years respectively.

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

*PCPD, 22 June 2022*

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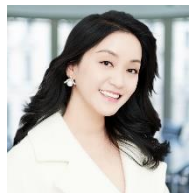
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