



Novel Coronavirus  
Under the **Listing Rules**

根據《上市規則》  
應對**新型冠狀病毒疫情**

In early January 2020, an outbreak of novel coronavirus — subsequently named by the World Health Organization (“WHO”) as SARS-CoV-2 and its related disease Covid-19 — occurred in Wuhan city, Mainland China, which at the time of writing, quickly spread to all parts of China and to other parts of the world, leading to more than 720,000 infections and more than 34,000 deaths.

The Covid-19 outbreak also led to travel restrictions being imposed and the lockdown of many Mainland China cities. At the same time, factories have been closed resulting in serious disruption to global supply chains. The situation has had a significant impact on companies doing business and operating in Mainland China and countries affected by the Covid-19 outbreak. This article provides a review on the regulatory implications for those companies affected by the Covid-19 outbreak under the Listing Rules of the Hong Kong Stock Exchange (“HKEX”).

### Disclosure of Financial Information

Under MBLR 13.49 (6) and (1), a Main Board listed company is required to announce its preliminary results for the half year within two months, and for full year within three months, after the end of the relevant financial period. Under MBLR 13.48 and 13.46, a listed company is required to distribute to its shareholders the interim report within three months and its annual report within four months. If a listed company fails to publish its financial information in accordance with the Main Board Listing Rules, the HKEX will normally require suspension of trading of the listed securities under MBLR 13.50 leading to a possible delisting if the suspension is more than 18 months under MBLR 6.01A(1). Companies listed on GEM are subject to similar financial reporting suspension and delisting requirements under the GEM Listing Rules.

Due to the outbreak of Covid-19 in China, particularly in Hubei province where many cities are locked-down to prevent the spread of the virus, many roads are closed and travel is restricted. The situation may lead to serious disruption on the reporting process on the part of listed companies, and auditing process on the part of the auditors, that collectively may delay the disclosure of financial information under the Listing Rules.

On 4 February 2020, the Securities and Futures Commission (“SFC”) and HKEX issued a joint statement (“Joint Statement”) to give guidance to listed companies and their auditors in relation to the possible delay in the publication of financial information due to the Covid-19 outbreak. In the Joint Statement, it is noted that the impact of the outbreak on a listed company and its auditors’ work will vary according to their individual circumstances. If a listed company is not able to comply with its disclosure requirement, it should consult the HKEX as early as possible and should provide the HKEX with, to the extent possible, the following:

- (a) a description of the travel and other restrictions which have affected its auditing or reporting process;
- (b) where available, an account of why these restrictions have meant that it is unable to comply with the relevant reporting requirements under the Listing Rules;

2020年1月初，在中國內地武漢市爆發新型冠狀病毒疫情，其後世界衛生組織（「世衛」）將該病毒命名為沙土冠狀病毒2型，其相關疾病名稱為2019冠狀病毒。疫情迅速蔓延至中國各地及全球其他地區，截稿時，已造成超過720,000宗感染個案及逾34,000人死亡。

新型冠狀病毒疫情亦導致旅遊限制及中國內地多個城市封城。同時，工廠關閉令全球供應鏈受到嚴重影響。上述情況對在中國內地營商及經營業務的公司以及受新型冠狀病毒疫情影響的國家構成嚴重影響。本文探討香港聯合交易所（「聯交所」）《上市規則》對受新型冠狀病毒疫情影響的公司的監管影響。

### 財務資料披露

根據《主板上市規則》第13.49(6)和(1)條，主板上市公司必須在相關財務期結束後的2個月內公布半年度初步業績，並在3個月內公布全年初步業績。根據《主板上市規則》第13.48條及第13.46條，上市公司必須在3個及4個月內向其股東發送中期報告及年報。若上市公司未能按照《主板上市規則》發表財務資料，則聯交所一般會根據《主板上市規則》第13.50條要求該上市證券停牌，若停牌超過18個月，則可根據《主板上市規則》第6.01A(1)條將證券除牌。根據《創業板上市規則》，在創業板上市的公司須遵守類似的財務報告停牌及除牌要求。

由於中國爆發新型冠狀病毒疫情，尤其是在湖北省，多個城市透過封城防止病毒傳播，多條道路被封鎖，外遊受到限制。上述情況可能會嚴重影響上市公司的匯報程序及核數師的審計程序，並可能延遲《上市規則》規定的財務資料披露。

2020年2月4日，證券及期貨事務監察委員會（「證監會」）與聯交所發表聯合聲明（「聯合聲明」），就上市公司及其核數師因新型冠狀病毒疫情而可能延遲發表財務資料提供指引。聯合聲明指出，疫情對上市公司及其核數師的工作造成的影響，會因應它們的個別情況而有所不同。若上市公司無法遵從披露要求，則應盡早諮詢聯交所，並在可行的情況下向聯交所提供以下資料：

- (a) 有關旅遊及其他限制對其審核或匯報程序造成的影響；
- (b) 該等限制如何使其無法遵從《上市規則》所載的相關匯報規定（如有）；
- (c) 上市公司仍然能夠匯報的財務資料；及
- (d) 解釋仍可提供的財務資料的準確性、完整性及表達性有否因此而受到不利影響及（如有）相關受影響的程度。

- (c) the financial information that it is nevertheless still able to report on; and
- (d) an explanation whether the accuracy, completeness and presentation of the financial information available is believed to have been adversely affected and if so, to what extent.

Where a listed company is unable to obtain an agreement from its auditors but is otherwise in all respects able to publish its preliminary results in full compliance with the Listing Rules, it should publish such preliminary results (without the agreement with the auditors) on or before the deadline, in which event, the HKEX will normally allow trading of its securities to continue. For example, in the preliminary annual results announcement dated 19 February 2020 for the year ended 31 December 2019, issued by Chia Tai Enterprises International Limited (Stock Code:3839), the unaudited consolidated annual results were announced to the fullest extent permitted with a disclosure and explanation (a) that “the auditing process for the annual results...has not been completed due to restrictions in force in parts of China to combat the Covid-19 coronavirus outbreak. The unaudited results ... have not been agreed by the Company’s auditors” (b) that a further announcement will be made when the auditing process has been completed and (c) that the unaudited annual results have been reviewed by the audit committee.

In other cases, a listed company should consult with the HKEX as soon as possible on the financial information that it is able to report on. The HKEX will consult with the SFC to assess whether publication of this information will be sufficient to maintain an orderly informed and fair market so that trading in the securities will continue.

如上市公司無法與其核數師取得同意，但卻在其他各方面能夠完全遵從《上市規則》發布初步業績，便應在限期屆滿當日或之前刊發該份尚未與其核數師議定的初步業績。在這些情況下，聯交所一般會容許該上市公司的證券繼續買賣。例如，在正大企業國際有限公司（股份代號：3839）於2020年2月19日發布截至2019年12月31日止年度之初步全年業績公告中，未經審核綜合全年業績在允許的最大範圍內予以公告，同時披露及說明：(a) 「…全年業績的審核程序尚未完成，由於中國部分地區因對抗新型冠狀病毒（COVID-2019）而實施限制。…未經審核業績尚未取得本公司核數師同意」；(b) 在完成審核程序後，將會刊發進一步公告；及 (c) 未經審核全年業績已由審核委員會審閱。

在其他情況下，上市公司應及早可以匯報的財務資料諮詢聯交所。聯交所經諮詢證監會後，將評估刊發這些資料是否足以維持一個有秩序、信息靈通和公平的市場，從而使該等證券可以繼續買賣。

鑑於上述問題對香港上市公司商會的成員構成重大影響，商會近期對新型冠狀病毒疫情可能導致的核數延誤進行調查。有兩個值得關注的重要發現：

- (a) 以12月為年結而核數工作主要在內地進行的回應公司當中，有65%表示今年核數工作有延誤。其中兩個主要原因是內地員工延遲復工及本港核數人員未能前往內地核數；及
- (b) 當中47%預期仍能按時在2020年3月期限前發布業績，約53%則預期不能如期發布。



Given that this issue affects its members significantly, The Chamber of Hong Kong Listed Companies has recently conducted a survey on possible audit delay due to the Covid-19 outbreak. Two key findings are worth highlighting:

- (a) 65% of the respondents with December financial year end and whose audit works are mostly conducted in the mainland believe that there would be a delay in their audit this year. The two most attributable factors are delay in mainland staff getting back to work and difficulty of Hong Kong audit personnel in travelling to the mainland; and
- (b) 47% of these respondents expect that they will still be able to announce their results by March 2020 deadline but some 53% of them expect that they cannot comply.

On 28 February 2020, the HKEX issued Frequently Asked Questions ("FAQs") to provide further guidance on the application of the Joint Statement. Under the FAQs, if the listed company is able to publish the preliminary announcement without agreement with auditors, the listed company may include (a) a statement that the results have not been agreed with the auditors; (b) an explanation for the lack of agreement with the auditors and the expected date that the results may be agreed with the auditors; and (c) whether the results have been agreed with the audit committee and if there is any disagreement, details of such disagreement. Once the results have been agreed with the auditors, HKEX expects the listed company to issue a simple announcement to confirm this and where appropriate to publish the revised results with the adjustments that have been agreed with the auditors. As regards annual general meetings ("AGM"), HKEX may on a case by case basis waive the requirements under the Listing Rules but the boards are reminded to consider the statutory requirements for AGM to be held under the company law under which the listed company is incorporated, otherwise HKEX will not grant any waiver that would result in contravention with the company law. As regards AGM using webcast or video conferencing in lieu of a physical meeting, the Listing Rules do not impose requirement on the format for AGM which is subject to the company law and the articles of association of the listed company concerned.

On 16 March 2020, the SFC and the HKEX issued a further guidance on the Joint Statement. As regards preliminary results announcement, if a listed company is unable to issue its preliminary results announcement, trading will not be suspended if such listed company publishes material financial information to include (a) key financial figures such as assets, liabilities, income and expenses and changes in shareholders' equity; and (b) narrative discussion of its financial position and performance during the year to supplement the financial figures provided including the impact of any material events and any material transactions that have taken place. As regards annual report, a listed company may defer the publication of its annual report for 60 days on application provided that (a) it announces an estimation



2020年2月28日，聯交所發布常問問題(FAQ)，為聯合聲明的應用提供進一步指引。根據常問問題，若上市公司能夠刊發未與其核數師議定的初步公告，則該上市公司可包含(a)表示有關業績並未與核數師議定的聲明；(b)解釋為何未有取得核數師的同意，以及預期將會與核數師議定業績的日期；及(c)業績是否經與審核委員會議定，以及如果存在分歧，提供有關分歧的詳情。經核數師議定業績後，聯交所期望上市公司發布簡單公告確認這一點，並在適當情況下刊發經與核數師議定的調整後經修訂業績。關於股東周年大會，聯交所可能會根據個別情況豁免《上市規則》的要求，但提醒董事會應考慮上市公司註冊成立地點之公司法有否法定要求舉行股東周年大會，否則聯交所將不會授予任何將會違反該公司法的豁免。至於以網絡直播或視像會議來代替現場股東周年大會，《上市規則》並未對股東周年大會的形式施加任何要求，惟須符合有關上市公司適用的公司法及其公司章程的規定。

2020年3月16日，證監會與聯交所發表聯合聲明的進一步指引。就初步業績公告而言，如上市公司未能刊發其初步業績公告，只要該上市公司刊發以下重要財務資料便不會遭到停牌，其中包括(a)關鍵財務數據，例如資產、負債、收入和支出以及股東權益變動；及(b)對年度財務狀況和表現進行敘述性討論，包括已發生的任何重大事項和重大交易的影響，以補充其提供的財務數據。年報方面，上市公司可申請延遲60天刊發年報，惟條件是：(a)公布其預計可刊發年報的估計日期，並解釋得出該估計時所考慮的因素；以及(b)致力使市場知悉其年報的預計刊發日期以及其他適當的更新。上市公司可向聯交所提供以下資料以申請進一步延期，(a)其為何需要延期的解釋；(b)其編制及刊發年報的計劃詳情；以及(c)其有關進一步延期擬刊發的公告。

of when it expects to publish its annual report with an explanation of the factors that it has considered in arriving at such estimation; and (b) it keeps the market informed of the expected publication date of its annual report along with other updates as appropriate. Further extension may be applied by providing HKEX with (a) an explanation of why such extension is necessary; (b) details of its plans to prepare and publish its annual report; and (c) its proposed announcement in relation to such further extension.

In view of the Joint Statement (and its further guidance), the FAQs and the Chamber's survey, listed companies are advised to review their reporting and/or auditing works and to discuss with the HKEX as soon as possible if they are not able to comply with the financial reporting requirements under the Listing Rules.

### Disclosure of Inside Information

Under section 307B(1) of the Securities and Futures Ordinance ("SFO"), a listed company is required to disclose to the public as soon as reasonably practicable after any inside information has come to its knowledge. Under section 307G(1) of the SFO, every officer of the listed company must take all reasonable measures from time-to-time to ensure that proper safeguards exist to prevent a breach of the disclosure requirement by the listed company.

Inside information is defined in section 307A of the SFO as any specific information about a listed company that is unpublished and price sensitive. In the Joint Statement and the FAQs, SFC and HKEX have reminded all listed companies that if their businesses, operations, reporting controls, systems, processes or procedures are materially disrupted or affected by the Covid-19 outbreak and/or related travel restrictions, such listed companies should assess whether any inside information has arisen and if so, make a separate announcement as soon as reasonably practicable. For example, in the announcement dated 31 January 2020 issued by Southern Energy Holdings Group Limited (Stock Code: 1573), it was announced that "following the recent outbreak of Wuhan coronavirus and the current situation in the PRC, Guizhou local government issued a notice on 30 January 2020, which prohibits all corporations in Guizhou Province from resuming work before 9 February 2020 to prevent further outbreak of Covid-19 coronavirus. The Company strictly complies...and will closely monitor the development of the situation."

Listed companies are advised to review their businesses and operations and to consider whether any disclosure of inside information is required under the SFO as a result of Covid-19 outbreak and the impact that it may bring.

### Risk Management and Internal Control

Under the Corporate Governance Code and in relation to risk management and internal control, the board is in principle responsible for evaluating

鑑於聯合聲明（及其進一步指引）、常問問題及本商會的調查，建議上市公司審視其匯報及/或核數工作，若無法遵從《上市規則》下的財務報告要求，應盡快與聯交所商討。

### 披露内幕消息

根據《證券及期貨條例》第307B(1)條，上市公司必須在知悉任何内幕消息後，在合理地切實可行的範圍內，盡快向公眾披露有關消息。根據《證券及期貨條例》第307G(1)條，上市公司的每一名高級人員，均須不時採取一切合理措施，以確保有妥善的預防措施，防止該上市公司違反披露規定。

内幕消息在《證券及期貨條例》第307A條中定義為上市公司未發布且對價格敏感的任何特定消息。證監會及聯交所於聯合聲明及常問問題中提醒所有上市公司，若新型冠狀病毒疫情及/或相關的旅遊限制對上市公司的業務運作、匯報監控措施、系統、流程或程序造成重大干擾或影響，有關上市公司應評估是否已出現任何内幕消息；如是的話，應在合理地切實可行的範圍內，盡快另行發出公告。例如，南方能源控股集團有限公司（股份代號：1573）於2020年1月31日發布的公告中表示：「隨著近期爆發武漢冠狀病毒及中國目前的形勢，貴州地方政府已於2020年1月30日頒布通知，禁止貴州省所有企業於2020年2月9日前復工，以避免新型冠狀病毒進一步爆發。本公司將嚴格遵守...，並將密切監視其形勢發展。」

建議上市公司審視其業務和營運，考慮是否因新型冠狀病毒疫情而須根據《證券及期貨條例》披露任何内幕消息及其可能帶來的影響。



and determining the nature and extent of the risks it is willing to take in achieving the strategic objectives of the listed company. Under Code Provision C.2.1, the board should oversee the listed company's risk management and internal control system on an on-going basis. Before the Covid-19 outbreak, the coronavirus was an unknown risk that may be regarded as black swan event. After the outbreak and its impact on the businesses and operations of listed companies, it is a gray rhino event that all are aware of, and all must react to. Black swan and gray rhino events are risks that all listed companies must assess, address and take measures to eliminate or mitigate the risks and their impact on their businesses and operations. Listed companies are advised to review and re-assess their risk management and internal control systems to see if additional measures and safeguards are required to be implemented to deal with these risks.

### Post Balance Sheet Events

As the Covid-19 outbreak and its impact may affect listed companies after the year end date, such listed companies are advised to review and consider whether additional disclosure is required by way of post-balance events. For example, in the interim results announcement dated 24 February 2020 for the six months ended 31 December 2019 issued by Sitoy Group Holdings Limited (Stock Code: 1023), the following post-balance sheet event is disclosed and reported, "Since the outbreak of the Novel Coronavirus (COVID-19) disease in China, ongoing prevention and control measures have been carried out throughout the whole country. The epidemic will impact [on] business operations of certain industries ...the Company's operations and revenue may be affected to a certain extent depending on the effects of the prevention and control measures during the outbreak and implementation of various policies. The Company will closely monitor the situation, and assess its impacts on our financial position and operating results. As of the date of this report, such assessment is still ongoing."

In response to the Covid-19 outbreak, the Hong Kong Institute of Certified Public Accountants also issued an alert in February 2020 to its members to provide an alert and guidance to auditors on risk assessment, obtaining audit evidence, ongoing concerns, subsequent events and implications for auditor's report.

In conclusion, listed companies are advised to work closely with their auditors, financial advisers and legal advisers to ensure that despite the Covid-19 outbreak, the Listing Rules and SFO are complied with as regards disclosure of financial information, risk management and internal control and disclosure of inside information. Listed companies are advised to consult HKEX (as regards disclosure of financial information and risk management) and SFC (as regards disclosure of inside information) as early as possible once they are affected by the Covid-19 outbreak and are not able to comply with the Listing Rules and/or the SFO failing which trading of their shares may be suspended. **M**

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### 風險管理及內部監控

根據《企業管治守則》以及有關風險管理和內部監控的規定，董事會原則上負責評估及釐定上市公司為實現策略目標而願意承擔風險的性質和程度。根據守則第C.2.1條，董事會應持續監察上市公司的風險管理及內部監控系統。在疫情爆發之前，新型冠狀病毒是一種未知的風險，可被視為黑天鵝事件。在疫情爆發並對上市公司的業務和營運構成影響後，便成為一次灰犀牛事件，所有人都知道了，並且所有人都必須對此作出反應。黑天鵝及灰犀牛事件是所有上市公司均須評估、應對和採取措施的風險，以消除或紓緩風險及其對業務和營運的影響。建議上市公司審視並重新評估其風險管理及內部監控系統，確定是否需要採取額外措施和保護來應對這些風險。

### 資產負債表日後事件

由於新型冠狀病毒疫情及其影響可能對上市公司年結日期後造成影響，因此建議有關上市公司檢討並考慮是否需要透過資產負債表日後事件的方式作出更多披露。例如，時代集團控股有限公司（股份代號：1023）於2020年2月24日發布的截至2019年12月31日止六個月中期業績公告中披露並報告以下資產負債表日後事件：「新型冠狀病毒疾病在中國爆發以來，防控工作已持續在全國範圍內進行。疫情將對部分行業的業務營運造成影響…從而可能在一定程度上影響本公司的經營和收益水平，影響程度取決於疫情持續期間防控措施的效果以及各項調控政策的實施。本公司將繼續密切關注有關情況，並評估其對本公司財務狀況及經營業績的影響。截至本報告日期，該評估工作尚在進行當中。」

為應對新型冠狀病毒疫情，香港會計師公會也在2020年2月向成員發出一項警報，就風險評估、獲取審計證據、持續關注、後續事件及對審計報告的影響向核數師提供警示與指引。

總的而言，建議上市公司與核數師、財務顧問和法律顧問緊密合作，確保在新型冠狀病毒疫情下仍遵從《上市規則》及《證券及期貨條例》在財務資料披露、風險管理及內部監控、以及內幕消息披露方面的規定。上市公司如受新型冠狀病毒疫情的影響而無法遵從《上市規則》及/或《證券及期貨條例》，建議盡早諮詢聯交所（在財務資料披露及風險管理方面）及證監會（在內幕消息披露方面），否則可能會遭到停牌。**M**

#### — 關保銓

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