

New ASIFMA template agreement to aid corporate governance and transparency

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A newly-released template agreement produced by the regional advocacy body for capital markets will aid corporate governance, transparency and investor protection, industry officials in Hong Kong said.

The Asia Securities Industry & Financial Markets Association (ASIFMA) recently published its Cornerstone Investment Agreement, which includes guidelines for use in Hong Kong initial public offerings (IPOs) involving so-called cornerstone investors.

"The document is a welcome addition to the library of corporate governance documents for the compliance professional. The contents, while expected, [are] comprehensive," said Mohan Datwani, senior director and head of technical and research at the Hong Kong Institute of Chartered Securities (HKICS).

"The form, therefore, has international perspectives as well. There are also notes from ASIFMA on some high-level concerns," he said.

The notes included a reminder that sponsors and other professional parties must conduct the necessary due diligence and make appropriate disclosures, he said.

"The form is therefore good food for thought on the topic and tailored for Hong Kong. While it is expected that each transaction is deal-specific, this resource would come in handy for the compliance professional, including for some standard boilerplate clauses," Datwani, formerly a lawyer, said.

Improved consumer protection and transparency

Beyond that, harmonised terms tend to lead to improvements in consumer protection and transparency.

"Standardisation of terms ... can offer more protection to investors for negotiation and liaison. More transparency and standardisation of market practice ... avoids unfair terms for investors," said Josephine Chung, director of CompliancePlus Consulting in Hong Kong.

Standardisation might also help to reduce legal fees and the amount of time needed for negotiation, she said.

The template agreement has added to the growing body of documentation ASIFMA has drafted for Asian capital markets, such as the guidelines and template for powers of attorney for Hong Kong IPOs, which were published last year, and the standardised secondary block trade agreements for Hong Kong, Singapore, Taiwan, India, Indonesia and the Philippines.

Reducing cost and complexity

The new template should also help to bring some consistency to cornerstones' participation in IPOs and make the process more efficient, said Wayne Arnold, executive director at ASIFMA, and its head of policy and regulatory affairs in Hong Kong.

"Historically, the process and means by which cornerstones participate in an offering has been left up to banks and syndicates to devise on a deal-by-deal basis. The guidelines and standard form allow banks and syndicates to sing from the same hymn sheet," he said.

By creating standard agreements for common types of capital-raising, such documents can help reduce the costs and complexities facing issuers, underwriters and investors and thus improve efficiency in the allocation of capital to Asia's stock exchanges, while also managing risks.

"ASIFMA's members recognise the significance of cornerstone placement to Hong Kong IPOs and believe it would therefore be useful to standardise the process and documentation involved once cornerstone investors have been identified," ASIFMA said in a statement.

The agreement has been annotated for flexibility, depending on the nature and circumstances of various cornerstone investors. The agreement and guidelines may also help issuers and potential cornerstone investors to educate themselves about typical terms and processes associated with a cornerstone investment for a Hong Kong IPO.

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