

Operational Challenges in the Hong Kong and Singapore Capital Markets due to a Lack of Adoption of Electronic Means

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This infographic summarizes the report on "Operational Challenges in the Hong Kong and Singapore Capital Markets due to a Lack of Adoption of Electronic Means" prepared by the Asia Securities Industry and Financial Markets Association ("ASIFMA") with the assistance of Latham & Watkins LLP and PwC Hong Kong to reflect the views of ASIFMA's members. Please also refer to the disclaimer in the report.

KEY THEMES	OPERATIONAL CHALLENGES
Requirements to physically deliver originals or certified true copies	<p>Examples:</p> <ul style="list-style-type: none"> Physical submission of originals of documents to the Hong Kong Securities and Futures Commission, Hong Kong Monetary Authority, Hong Kong Exchanges and Clearing Limited and the Singapore Exchange Limited Physical filing of profits tax return, Form SBUL1 for stock borrowing and lending transactions and the application for certificate of resident status to the Hong Kong Inland Revenue Department ("IRD") Physical submission of tax declaration form in relation to dividend reinvestment plans required by the Inland Revenue Authority of Singapore to be submitted to the share registrar
Requirements for physical meetings and presence	<p>Examples:</p> <ul style="list-style-type: none"> Physical due diligence requirement for initial public offering sponsors in Hong Kong To manage prospectus liability, physical site visits are often conducted by advisors in relation to the Singapore initial public offering due diligence process
Restrictiveness of rules and regulations on electronic signatures	<p>Examples:</p> <ul style="list-style-type: none"> Stock borrowing and lending agreement and Form SBUL1 for stock borrowing and lending transactions submitted to the IRD cannot be executed electronically Share transfer forms submitted to Hong Kong share registrars cannot be signed electronically
Restrictiveness on the means of payment	<p>Example:</p> <ul style="list-style-type: none"> Tax payment to the IRD is only allowed to be settled by cash, bank cheque, bank cashier order or limited online payment methods (i.e., PPS, VISA, MasterCard, JCB or UnionPay) which cannot be adopted by the industry in practice

TYPES OF SOLUTIONS	OPERATIONAL CHALLENGES	PROPOSED SOLUTIONS
Amendments to laws and regulations	<p>Examples:</p> <ul style="list-style-type: none"> Under the Hong Kong Electronic Transactions Ordinance ("ETO"), a contract is not to be denied validity or enforceability on the sole ground that an electronic record was used. However, there are certain exceptions as set out in Schedule 1 to the ETO The Collector of Stamp Revenue does not have the power under the Stamp Duty Ordinance ("SDO") to extend the stamping due date 	<p>Examples:</p> <ul style="list-style-type: none"> The Financial Services and the Treasury Bureau to review the ETO and remove the exceptions listed in Schedule 1, under which digital signatures are not recognized SDO to be updated to grant the Collector the power to extend the stamping due date
Issuance of regulatory guidance	<p>Example:</p> <ul style="list-style-type: none"> Certain due diligence requirements are difficult to fulfil in circumstances where social distancing measures are in place and there are difficulties in arranging site visits well as due diligence interviews with major customers/ suppliers in person 	<p>Example:</p> <ul style="list-style-type: none"> Regulatory authorities in Hong Kong and Singapore to provide guidance on virtual due diligence (e.g., the use of video conferences for virtual site visits and interviews)
Changes to existing practices of regulatory authorities	<p>Example:</p> <ul style="list-style-type: none"> Tax payment to the IRD is only allowed to be settled by cash, bank cheque, bank cashier order or limited online payment methods (i.e., PPS, VISA, MasterCard, JCB or UnionPay) which cannot be adopted by the industry in practice Physical filing of forms, returns and applications to the IRD 	<p>Examples:</p> <ul style="list-style-type: none"> IRD to allow tax payments by direct debit and/or bank remittance as additional payment methods IRD to accept electronic filing of forms, returns and applications
Support from industry bodies	<p>Example:</p> <ul style="list-style-type: none"> There are a number of practical challenges in relation to virtual meetings in Hong Kong and Singapore, and companies do not always adopt a corporate governance framework to enable virtual meetings to be convened 	<p>Example:</p> <ul style="list-style-type: none"> Share registrars and corporate secretarial bodies to work with regulators towards promoting virtual meetings