

China Internet

Uncertainties still exist although the direction is towards co-operation

According to WSJ news ([link](#)) on 23 December (EST), Fiscal year 2023 omnibus spending legislation of US government has passed the House and is now pending for approval of the US president. The legislation regarding "Accelerating Holding Foreign Companies Accountable Act (HFCAA)" was listed as part of the spending bill. Currently the "Accelerating HFCAA" legislation still needs to pass the House and the Senate, and then needs to be signed by the US president to become an official law. However, if the legislation is approved, Chinese companies whose auditors cannot be inspected for two consecutive years (shortened from three) will be forced to delist from the US markets, indicating that uncertainties still exist until a memorandum of understanding (MOU) can be signed between China and the US, in our view.

- **Accelerating HFCAA legislation aims at shortening timeline for audit compliance.** Previously adhering to HFCAA, US-listed China ADR stocks were identified by the SEC as they retained a registered public accounting firm to issue audit report where the firm: (1) is located in China and Hong Kong, and (2) the PCAOB has determined on 16 December 2021 that it is unable to inspect or investigate completely because of a position taken by the PRC. Based on the HFCAA legislation, the US-listed China ADR stocks will be imposed a trading prohibition if they were identified by SEC for three consecutive years. Accelerating HFCAA aims at reducing the time to two consecutive years. The "Accelerating HFCAA" legislation was introduced in the House on 14 December 2021, and is now pending to pass the House and the Senate, and then to be signed by the US president to become an official law ([legislation progress](#)).
- **Uncertainties still exist although direction towards cooperation is positive.** Following PCAOB's announcement on 15 December 2022, in which PCAOB stated that it has secured complete access during their 2022 audit firms inspection in Hong Kong and China. In the same announcement PCAOB stated that they will carry out future inspections in early 2023 and beyond, and their decision of identifying China as a restricted region can be issued at any time if full access condition changes, uncertainties still exist until a MOU can be signed between China and US, in our view. We believe that this is for both markets best interests to remain collaborative, and there should be a two-year time window for a mutually agreeable MOU to be agreed on.

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1. [China Internet – The shoe has dropped: PCAOB announced unobstructed inspection access – 16 Dec](#)

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