

Hong Kong Capital Markets Update

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HKEX's consultation conclusions on review of listing regime for Overseas Issuers

On 19 November 2021, the Stock Exchange of Hong Kong Limited (the "Exchange") published the [conclusions](#) of a consultation ("Conclusions") on its review of the listing regime for overseas issuers (including those with centre of gravity in Greater China, together "Overseas Issuers"). All consultation proposals will be adopted with minor modifications and the revised regime and the new guidance materials will become effective from 1 January 2022.

Key Changes

Streamlining core shareholder protection standards

- A single set of shareholder protection standards applicable to all issuers to ensure consistent protection is provided to all investors.

Expanding the secondary listing regime for non-WVR Greater China Issuers

- Non-WVR Greater China Issuers can secondary list (i) without demonstrating they are an "innovative company" and (ii) with a lower minimum market capitalisation (i.e. HK\$3B) at listing than currently required.

Allowing issuers eligible for secondary listing to opt for dual-primary listing

- Grandfathered Greater China issuers and Non-Greater China issuers eligible for secondary listings with their existing WVR and/or VIE may opt for a dual-primary listing.

Providing guidance materials for secondary listed issuers

- A new Guidance Letter will be published with regards to (i) migration of trading to Hong Kong; (ii) voluntary conversion to dual-primary listing and (iii) delisting from overseas exchanges of primary listing.

Background

To develop Hong Kong into a listing and capital raising hub for major global and regional companies, the Exchange published a [consultation paper](#) (the "Consultation Paper") on 31 March 2021 seeking market feedback on proposed amendments to the Listing Rules to streamline the listing regime for Overseas Issuers (for the summary, please refer to our [Capital Markets Update Issue 2021-02](#)). The consultation period ended on 31 May 2021.

The key objective of the proposals set out in the Consultation Paper is to enhance and streamline the listing regime, while maintaining the quality of the market and the high standards of shareholder protection that Hong Kong is known for. The Exchange concluded that all the proposals outlined in the Consultation Paper should be adopted with minor modifications in response to market comments.

Key Changes

The key changes to the listing regime for Overseas Issuers are summarised as follows:

- 1) One common set of core shareholder protection standards will apply to all issuers, providing the same level of protection to all investors;
- 2) Grandfathered Greater China Issuers and Non-Greater China Issuers currently eligible for a secondary listing with their existing weighted voting rights (“WVR”) and/or variable interest entity (“VIE”) structures can apply for a direct dual-primary listing;
- 3) Non-WVR structure issuers with their centre of gravity in Greater China can secondary list in Hong Kong by meeting either Criteria A or Criteria B below, while the “innovative company” requirement is removed;

	<i>Good regulatory compliance record</i>	<i>Minimum market capitalisation upon listing</i>
<i>Criteria A</i>	At least five full financial years	HK\$ 3 billion
<i>Criteria B</i>	At least two full financial years	HK\$ 10 billion

- 4) Guidance for secondary listed issuers on (i) migration of the majority of trading in an issuer’s securities from an overseas exchange to Hong Kong; (ii) voluntary conversion to a dual-primary listing and (iii) delisting from overseas exchanges of primary listing will be provided in the form of a guidance letter; and
- 5) All issuers/ listing applicants preparing US GAAP financial statements (including existing secondary listed issuers) are required to provide a line-by-line reconciliation showing any material differences between its accounting policies under US GAAP and HKFRS/ IFRS in their accountants’ report, annual, interim and quarterly financial statements.

A comparison between the existing regime and the regime to be adopted for Overseas Issuers is detailed in paragraph 8 of the Conclusions.

Implementation date and transitional arrangements

The revised Listing Rules and the new guidance materials will be effective on 1 January 2022.

Transitional arrangements are available in respect to disclosure of US GAAP reconciliation statements in which it is required to comply for the first time (i) for existing secondary listed issuers in their first full financial year commencing on or after 1 January 2022 (e.g. the annual financial statements for the year ending 31 December 2022 for December year-end issuers), and (ii) for new secondary listing applications submitted on or after 1 January 2023.

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If you have any questions about the matters discussed in this publication, please feel free to contact the following capital markets partners and directors.

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