

# Hong Kong Capital Markets Update

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## HKEX consultation conclusions on Chinese Mainland regulation updates

On 21 July 2023, the Stock Exchange of Hong Kong Limited (the “Exchange”) published the [conclusions](#) of its consultation on the rule amendments following Chinese Mainland regulation updates and other proposed rule amendments relating to PRC issuers<sup>1</sup> (“Conclusions”). The key Listing Rules amendments are summarised below:

### Summary of Major Changes

#### Consequential Listing Rule amendments

- (1) Remove the rule requirements that reflect the requirements set out in the Mandatory Provisions<sup>2</sup>, including:
  - (i) the class meeting and related requirements for issuance and repurchase of shares by PRC issuers;
  - (ii) the requirements for disputes involving H shareholders to be resolved through arbitration; and
  - (iii) the requirements for PRC issuers’ articles of association to include the Mandatory Provisions and other ancillary provisions; and
- (2) Amend the documentary requirements for new listing applications to reflect the Chinese Mainland’s new filing requirements for overseas listings of Chinese Mainland-based companies.

#### Other Listing Rule amendments

- (1) Allow the limits on general mandate for new share issuance and scheme mandate for share schemes to be calculated with reference to a PRC issuer’s total issued shares (instead of referencing to each of domestic and H shares);
- (2) Remove the requirements for directors, officers and supervisors of PRC issuers to provide undertakings to the issuers and their shareholders to comply with the PRC Company Law and the articles of association;
- (3) Align minor requirements on compliance advisers for PRC issuers with those for all issuers; and
- (4) Remove certain requirements for PRC issuers relating to (i) online display or physical inspection of documents and (ii) disclosure in listing documents of new applicants.

#### Background

Following announcements by the State Council and China Securities Regulatory Commission (“CSRC”) on the implementation of the New Regulations<sup>3</sup> on overseas listing<sup>4</sup> and the repeal of the Special Regulations<sup>5</sup> and the Mandatory Provisions on 17 February 2023, the Exchange published a [consultation paper](#) (“Consultation Paper”) on 24 February 2023 which set out the proposed rule amendments in relation to the Chinese Mainland regulation updates and other proposed rule amendments relating to PRC issuers (for a summary, please refer to our [Capital Markets Update Issue 2023-02](#)). The consultation period ended on 24 March 2023.

<sup>1</sup> an issuer which is duly incorporated in the PRC as a joint stock limited company

<sup>2</sup> the Mandatory Provisions for Companies Listing Overseas set forth in Zheng Wei Fa (1994) No. 21 issued on 27 August 1994 by the State Council Securities Policy Committee and the State Commission for Restructuring the Economic System

<sup>3</sup> the “Decision of the State Council to Repeal Certain Administrative Regulations and Documents” issued by the State Council and the “Trial Administrative Measures of Overseas Securities Offering and Listing by Domestic Companies” and related guidelines issued by the CSRC on 17 February 2023

<sup>4</sup> including the new filing regime requiring Chinese Mainland companies to register with CSRC for their direct and indirect overseas listings and securities offerings

<sup>5</sup> the Special Regulations on the Overseas Offering and Listing of Shares by Joint Stock Limited Companies issued by the State Council on 4 August 1994, as amended, supplemented or otherwise modified from time to time

Having considered the market feedback, the Exchange will adopt all the proposals outlined in the Consultation Paper with minor modifications. The major amendments to the Listing Rules are set out in the summary above.

### Minor modifications

The key modifications to the original proposals in the Consultation Paper are summarised as follows:

- (i) amending the Listing Rule 19A.17 to clarify that the listing application requirement under Rule 8.19(2) only applies to H shares of a PRC issuer, and
- (ii) amending Note 1 to Listing Rule 14.33 to reflect the amendments to Rule 19A.38.

### Implementation

The Listing Rule amendments will come into effect on 1 August 2023.

PRC issuers must still adhere to their existing articles of association concerning class meetings and other provisions that were originally formulated based on the Mandatory Provisions until and unless they amend their articles of association to remove such provisions. In general, where PRC issuers propose to amend their articles of association to remove the class meeting requirements, they should obtain approvals of domestic shareholders and H shareholders at separate class meetings based on their existing articles of association.



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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