

# COUNTRY GUIDE – France

(20 December 2013, last updated in ~~April 2014 and November 2018~~January 2022)

**Important notes:** *This guide does not override the Rules and is not a substitute for legal, regulatory, tax, financial or any other advice from qualified professional advisers. If there is any conflict or inconsistency between this guide and the Rules, the Rules prevail. You may consult the Listing ~~Department~~Division on a confidential basis for an interpretation of the Rules, or this guide.*

*The information contained in this guide on foreign laws, regulations and market practices is based on that provided to us by potential listing applicants, listing applicants, listed issuers, their respective advisers or officials from the relevant jurisdiction. We have not separately verified this information nor have we updated this information since its receipt. ~~We will revise this guide to reflect changes in this information only when notified of these changes.~~*

~~*A new applicant for listing that is incorporated in France must confirm to the Exchange, with its initial application for listing, that the French laws, regulations and market practices contained in this guide are still applicable, or provide us with details of any changes, and inform us of any other French laws, regulations and market practices that are relevant to its circumstances.*~~

## Subsequent Development (Updated in January 2022)

*In November 2021, the Exchange introduced a new listing regime for overseas issuers which covers, among other things, that all issuers are required to comply with the core shareholder protection standards under the revised Appendix 3 of the Main Board and GEM Listing Rules (where applicable) (the “Core Shareholder Protection Standards”). The amended Listing Rules are effective as from 1 January 2022. Information in this country guide may be outdated upon the introduction of such listing regime. Issuers and their advisers are advised to exercise caution when reading the guidance in this country guide.*

*A new applicant that is incorporated in the jurisdiction of this country guide should refer to the revised Appendix 3 of the Main Board and GEM Listing Rules (where applicable) for the expected Core Shareholder Protection Standards required by the Exchange.<sup>1</sup> Should there be any changes in the laws, regulations and market practices described in this country guide which might or would adversely affect a new applicant’s compliance with the expected Core Shareholder Protection Standards or any applicable Listing Rules, such new applicant should inform the Exchange of any such changes. A new applicant is also encouraged to consult the Exchange at the earliest opportunity if there is any enquiry on the guidance or requirements in this country guide.*

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<sup>1</sup> Including codification with modification of certain requirements under the Joint Policy Statement regarding the Listing of Overseas Companies, which was superseded and no longer effective as from 1 January 2022.

## Purpose of this Guide

This guide is one of a series that gives guidance on our treatment of listing applications from overseas issuers incorporated in a particular jurisdiction. The aim of this guide is to enhance applicants' understanding of our expectations, practices, procedures and the criteria we consider when applying the Rules for overseas issuers.

**This guide should be read in conjunction with the ~~Joint Policy Statement Regarding Listing of Overseas Companies (27 September 2013)~~<sup>2</sup>, Listing Rules, in particular, the Core Shareholder Protection Standards, Chapter 19 of the Main Board Rules (Chapter 24 of the GEM Rules) (for primary listing applicants) and Chapter 19C of the Main Board Rules (for secondary listing applicants). All issuers incorporated in France can apply for one or more “common waivers”<sup>3</sup> and those with, or seeking, a secondary listing<sup>4</sup> do not need to apply for waivers of certain Rules which are automatically waived for them<sup>5</sup> (Updated in January 2022).**

## Summary of our Approach

~~Subject to~~ France incorporated issuers ~~meeting the conditions set out in this guide, we do not consider French shareholder protection standards to be materially different to our own. must demonstrate how the French laws and regulations and their constitutional documents, in combination, provide the Core Shareholder Protection Standards.~~ (Updated in January 2022)

~~The statutory securities regulator in France namely French Financial market authority (Autorité des marchés financiers), is a full signatory to IOSCO MMOU<sup>6</sup> and France meets our international regulatory co-operation requirements because it already has adequate measures in place with Hong Kong's Securities and Futures Commission.~~ (Updated in January 2022)

~~We are prepared to accept financial statements that conform to International Financial Reporting Standards as endorsed by the European Union for use by European Union companies. This is on the condition that the issuer includes a reconciliation statement setting out the financial effect of the material differences (if any) from either Hong Kong Financial Reporting Standards or International Financial Reporting Standards in its accountants' reports and subsequent financial statements.~~ (Updated in January 2022)

We expect a France incorporated issuer to prominently and fully disclose in its listing document details of the French taxation regime and how it is applicable to Hong Kong shareholders, including withholding tax on dividends.

<sup>2</sup> Available on the HKEX website at:

[http://www.hkex.com.hk/eng/rulesreg/listrules/listsptop/listoc/Documents/new\\_jps\\_0927.pdf](http://www.hkex.com.hk/eng/rulesreg/listrules/listsptop/listoc/Documents/new_jps_0927.pdf)

<sup>3</sup> Primary Listing: Main Board Rule 19.58 (GEM Rule 24.25); Secondary Listing: Main Board Rule 19C.11B

<sup>4</sup> JPS, Section 5

<sup>5</sup> Main Board Rule 19C.11 JPS, paragraph 88

<sup>6</sup> [IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information](#)

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Appendix: Our Approach to Differences between Our Constitutional Document Requirements and French Laws, Rules and Practices

## 1. Background

- 1.1 The French company law equivalent to the Hong Kong Companies Ordinance (Cap. 622) and the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) consists of various legal texts including the Civil Code, the Commercial Code and the Monetary and Financial Code, which sets requirements, among other things, for France incorporated stock companies (i.e. organised as Sociétés Anonymes). In addition, companies that are listed in any of regulated markets under French law<sup>7</sup> (“France Listed Companies”) are subject to the general regulations of the French Financial market authority (Autorité des marchés financiers, the “AMF”) (*Updated in November 2018*).

## 2. Application of this Country Guide

- 2.1 This Country Guide applies to primary and secondary Main Board listing applicants and primary GEM listing applicants incorporated in France. We do not accept applications for secondary listing on GEM.

## 3. International Regulatory Co-operation Measures

- 3.1 ~~Our Joint Policy Statement Regarding the Listing of Overseas Companies (27 September 2013) (“JPS”) states that the statutory securities regulator of an overseas issuer’s jurisdiction of incorporation must have adequate arrangements with the Securities and Futures Commission (“SFC”) for regulatory co-operation<sup>8</sup>. Main Board Rule 8.02A states that each of the statutory securities regulator of an issuer’s jurisdiction of incorporation and the statutory securities regulator of the place of central management and control must be a full signatory to the IOSCO MMOU. This is to enable the Securities and Futures Commission (the “SFC”) to seek regulatory assistance and information from overseas statutory securities regulators to facilitate the SFC’s investigations and enforcement actions where an issuer has its records, business operations, assets and management outside Hong Kong. This requirement is met for issuers incorporated in France as the AMF, the statutory securities regulator in France, is a full signatory of to the IOSCO MMOU<sup>9</sup>. In addition, the AMF has an arrangement concerning investigatory assistance and exchange of information with the SFC<sup>10</sup> (*Updated in January 2022*).~~
- 3.2 If an issuer is incorporated in France but its place of central management and control<sup>11</sup> is elsewhere, ~~similar international co-operation arrangements must generally also be in place with that jurisdiction. the statutory securities regulator of that jurisdiction must also be a full signatory to the IOSCO MMOU (*Updated in January 2022*).~~

<sup>7</sup> Hong Kong is not one of the regulated markets under French law

<sup>8</sup> ~~JPS, paragraphs 42 to 44~~

<sup>9</sup> ~~International Organisation of Securities Commission’s Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information~~

<sup>10</sup> The arrangement is referred to as MRAA on the SFC’s website

<sup>11</sup> ~~Main Board Rule 8.02A, JPS, paragraph 45~~

## 4. JPS Core Shareholder Protection Standards

- 4.1 ~~Subject to France incorporated demonstrating<sup>12</sup> how their practices, as set out below, conform to the JPS requirements, we do not consider French shareholder protection standards to be materially different to our own<sup>13</sup>.~~ issuers France incorporated issuers must demonstrate how the domestic laws, rules and regulations to which they are subject and their constitutional documents, in combination, provide the Core Shareholder Protection Standards.

Based on submissions, we ~~We~~ have set out below details of the differences between these practices in France and the then JPS requirements in the Joint Policy Statement Regarding the Listing of Overseas Companies (“JPS”) (repealed as from 1 January 2022). Where we have in the past accepted a practice and it is still relevant for assessment under the new listing regime for overseas issuers, we have stated this below. France incorporated applicants should amend their constitutional documents to address the shortfall in compliance with the Core Shareholder Protection Standards. (Updated in January 2022)

The information contained in this guide on French laws, regulations and market practices is based on submissions by a potential applicant. We have neither separately verified this information nor have we updated this information since its receipt. Issuers and their advisers are advised to exercise caution when reading the guidance in this country guide. Should there be any changes in the laws, regulations and market practices described in this country guide which might or would adversely affect a new applicant’s compliance with the expected Core Shareholder Protection Standards or any applicable Listing Rules, such new applicant should inform the Exchange of any such changes. (Added in January 2022)

### *Appointment, removal and remuneration of auditors*

- 4.2 Under the then JPS, the appointment, removal and remuneration of auditors must be approved by a majority of an overseas company’s shareholders or other body that is independent of the board of directors<sup>14</sup>.
- 4.3 Under French law:
- (a) the appointment of auditors by France incorporated companies is vested in the shareholders in a general meeting by way of a resolution passed by a majority of shareholders. Auditors are appointed for a fixed six-year term;
  - (b) revocation of auditor’s appointment is generally not possible, except for due cause (i.e. gross negligence, wilful misconduct, lack of independence or duly motivated cause on the part of the auditors). Shareholders holding 5% or more of the issued share capital of the company can apply to a French court for an order to revoke the appointment of auditors;

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<sup>12</sup> ~~We list the key shareholder protection standards with which issuers must demonstrate equivalence in Section 4 of the JPS~~

<sup>13</sup> ~~Notes to Main Board Rules 19.05(1) and 19.30(1) and JPS, paragraphs 27 and 28~~

<sup>14</sup> ~~JPS, paragraph 35~~

- (c) the auditors' remuneration for a France incorporated company is to be agreed between the auditors and the company represented by its chief executive officer who has a duty to act in the company's best interests, and not subject to the approval of the shareholders; and
- (d) France Listed Companies are required to establish an independent audit committee. The audit committee must, as part of its responsibilities, ensure that the remuneration paid to the auditors does not affect the auditor's independence.

There are various mechanisms in France to ensure the full disclosure of the amounts and details of auditors' remuneration; for example, any information about the auditors' remuneration is available to shareholders at the company's registered office and must also be disclosed in the company's financial statements and its annual reports. *(Updated November 2018)*

#### Our Approach prior to 1 January 2022

- 4.4 With respect to one France Listed Company that was seeking a listing on the Exchange, we considered the differences in the Hong Kong and French requirements set out above regarding appointment, removal of auditors and determination of auditors' remuneration to be immaterial to shareholder protection.
- 4.5 An unlisted France incorporated issuer is not required by law to have an audit committee. Accordingly, we will require an unlisted France incorporated issuer (for example through provisions in its constitutional documents) to establish an independent audit committee or another independent body which is responsible for ensuring that the remuneration paid to the auditors does not affect the auditor's independence. *(Updated November 2018)*

#### Subsequent Development since 1 January 2022

- 4.6 The requirement comparable to the then JPS requirement was codified in paragraph 17 of the revised Appendix 3 of the Listing Rules as Core Shareholder Protection Standards on 1 January 2022. *(Updated in January 2022)*

#### *Proceedings at general meetings*

- 4.7 Timing of an annual general meeting: Under the then JPS, an overseas company is required to hold a general meeting each year as its annual general meeting, and generally no more than 15 months should elapse between one annual general meeting and the next<sup>+5</sup>. Under French law, a company must hold its general meeting at least once a year, within six months of the end of the financial year.

#### Our Approach prior to 1 January 2022

- 4.8 The Exchange considers that French law complies with the then JPS. *(Updated November 2018)*

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<sup>+5</sup> ~~JPS, paragraph 36.~~

#### Subsequent Development since 1 January 2022

- 4.9 The requirement comparable to the then JPS requirement was codified in paragraph 14(1) of the revised Appendix 3 of the Listing Rules as Core Shareholder Protection Standards on 1 January 2022. French law complies with this Core Shareholder Protection Standard. (Updated in January 2022)
- 4.10 Notice of general meetings: Under the then JPS, an overseas company must give its shareholders reasonable written notice of general meetings<sup>16</sup>. Under French law, general meetings of France Listed Companies are convened according to a double notice system: a notice of the meeting at least 35 days before the meeting and a convening notice at least 15 days prior to the meeting.

#### Our Approach prior to 1 January 2022

- 4.11 ~~In determining the “reasonableness” of the notice period for general meetings, the Exchange will take into consideration (i) the provisions under the Hong Kong Companies Ordinance (Cap. 622) and the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) as from time to time in force as applicable to Hong Kong incorporated companies, (ii) the shareholding structure of the company, and (iii) company and transaction specific facts and circumstances. (Updated in April 2014)(Deleted in January 2022)~~
- 4.12 The Exchange has accepted the notice requirement for convening general meetings under French law in the case of a France Listed Company applying for secondary listing subject to the double notice system mentioned above.
- 4.13 The Exchange has accepted a France incorporated issuer which is not a France Listed Company to provide for in its constitutional documents a notice period of 21 days for all general meetings. (Updated in November 2018)

#### Subsequent Development since 1 January 2022

- 4.14 The requirement comparable to the then JPS requirement was codified in paragraph 14(2) of the revised Appendix 3 of the Listing Rules as Core Shareholder Protection Standards on 1 January 2022. (Updated in January 2022)

#### *Shareholder’ right to attend, vote and speak at general meetings*

- 4.15 Right to speak and vote at general meetings: The then JPS requires that all shareholders must have the right to speak and vote at a general meeting, except in cases where shareholders having a material interest in a transaction or arrangement are required, by the Rules, to abstain from voting to approve the transaction or arrangement<sup>17</sup>.
- 4.16 Right of a recognised Hong Kong clearing house to appoint proxies or corporate representatives: Under the then JPS, a recognised Hong Kong clearing house (i.e. Hong Kong Securities Clearing Company Limited (“HKSCC”) or acting through its wholly owned subsidiary, HKSCC Nominees Limited (“HKSCC Nominees”)) must be entitled

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<sup>16</sup> JPS, paragraph 37

<sup>17</sup> JPS, paragraph 38

to appoint multiple proxies or corporate representatives to attend general meetings and creditors meetings. These proxies/ corporate representatives should enjoy statutory rights comparable to those of other shareholders, including the right to speak and vote<sup>18</sup>. *(Updated November 2018)*

4.17 Under French law:

- (a) for France Listed Companies, the right to attend and vote, either in person or by proxy, at general meetings belongs to the beneficial owners only, and HKSCC Nominees holding shares on behalf of its participants under the Central Clearing and Settlement System (“CCASS”) in a nominee capacity would not have such right;
- (b) for France incorporated companies which are not France Listed Companies, French law recognises HKSCC Nominees as the registered owner of the shares held under CCASS and the contractual arrangements between HKSCC Nominees and the CCASS participants and sub-participants for the purpose of compliance with Hong Kong trading regime and the CCASS Rules. HKSCC Nominees therefore can, in its capacity as the registered owner of the shares of such company, exercise the right to attend, speak and vote as a shareholder or appoint its proxies or corporate representatives to exercise such right.

The proxies appointed by HKSCC Nominees must be shareholders of the company, but there are no restrictions on the identities of corporate representatives appointed by HKSCC Nominees for attending the company’s general meetings. *(Updated November 2018)*

Our Approach prior to 1 January 2022

4.18 A France Listed Company seeking to list on the Exchange must cooperate with HKSCC Nominees and other parties to adopt logistical arrangements to enable its shareholders holding shares through HKSCC Nominees to enjoy all rights of a shareholder. These arrangements would include alternative ways to pass the voting instructions that HKSCC Nominees collected from its participants to the France Listed Company, and new forms of attendance permit to enable the rightful shareholders to identify themselves to the France incorporated issuer to attend general meetings. *(Updated November 2018)*

4.19 For a France incorporated issuer which is not a France Listed Company, given the French requirement that proxies must be shareholders, HKSCC Nominees are unable to appoint multiple proxies to attend, vote and speak at the issuer’s general meeting. To address this issue, we have accepted in one case France Listed Company:

- (a) arrangements made with HKSCC Nominees to enable HKSCC Nominees, at the same time, to (i) nominate any persons (including the beneficial owners of the shares) to attend, vote and speak the issuer’s general meeting as corporate representatives of HKSCC Nominees; and (ii) send a consolidated voting instruction to the issuer to set out the voting decisions of the beneficial owners who do not attend the general meeting, but have given instructions to HKSCC Nominees

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<sup>18</sup> ~~JPS, paragraph 40~~



through CCASS participants on how to vote on resolutions to be passed at the general meeting; and

- (b) constitutional documents provisions on (i) in relation to shares held under CCASS, HKSCC Nominees' right to appoint any persons to be multiple corporate representatives for the sole purpose of exercising the right to attend, speak and vote at the general meetings; and (ii) remote voting (e.g. by post, remote electronic means through e-mail or live electronic ballot on a specified website for general meetings etc.) and remote counting of votes and quorum. (*Updated November 2018*)

#### Subsequent Development since 1 January 2022

- 4.20 The requirement comparable to the then JPS requirement was codified in paragraphs 14(3), 14(4) and 19 of the revised Appendix 3 of the Listing Rules as Core Shareholder Protection Standards on 1 January 2022. (*Updated in January 2022*)

#### Other Core Shareholder Protection Standards

- 4.21 Compared to the then JPS and the previous Appendix 3<sup>19</sup> to the Listing Rules, two new shareholder protection standards, namely, members' right to appoint proxies and corporate representatives<sup>20</sup> and inspect Hong Kong Branch Register<sup>21</sup> are added to require applicants to demonstrate conformity. Applicants incorporated in France might not meet these two new Core Shareholder Protection Standards and may have to amend their constitutional documents accordingly. Issuers and their advisors should refer to the revised Appendix 3 of the Main Board and GEM Listing Rules for the complete set of Core Shareholder Protection Standards (*Added in January 2022*).

## **5. Practical and Operational Matters**

- 5.1 Reference is made to the Guidance for Overseas Issuers HKEX-GL111-22 Section 4 of the JPS which contains guidance on an overseas issuer's ability to comply with Hong Kong's rules and regulations; the eligibility of securities; cross-border clearing and settlement; Hong Kong depositary receipts; taxation; and stock name identifications. Applicants are encouraged to notify the Listing ~~Department~~ Division if they envisage difficulties in complying with such matters, where applicable (*Updated in January 2022*).

#### *Conflicts with Hong Kong's rules and regulations*

- 5.2 The Guidance for Overseas Issuers HKEX-GL111-22 JPS states that overseas companies are strongly encouraged to consult the Exchange where there is a potential conflict between the laws and regulations of its home jurisdiction and the Rules, for example, those that require a management or supervisory body of a company to approve matters that under the Rules require shareholders' approval<sup>22</sup>.

<sup>19</sup> The previous version of Appendix 3 of the Listing Rules that was in effective on or prior to 31 December 2021

<sup>20</sup> Appendix 3, paragraph 18

<sup>21</sup> Appendix 3, paragraph 20

<sup>22</sup> JPS, paragraph 67(b) Guidance for Overseas Issuers HKEX-GL111-22, paragraph 5(b)

5.3 Under the Rules, directors are required to accept full responsibility, collectively and individually, over the management and operation of the issuer and compliance with the Rules<sup>23</sup>. Under French law, the chief executive officer (“CEO”) and his deputy are responsible for the day-to-day general management of a company and have the broadest executive powers to act on behalf of the company in all circumstances, and therefore form the company’s governing body; whereas the board of directors exercises an oversight function, including limiting the powers of the CEO although the decisions of the board may not be relied on by third parties. *(Updated November 2018)*

#### Our Approach

5.4 We acknowledge that France is not a common law jurisdiction and that the legal duties and management responsibilities of a France incorporated issuer’s officers may differ from those found in a common law jurisdiction like Hong Kong.

5.5 In one case where the issuer was incorporated in France but was not a France Listed Company, the issuer confirmed that notwithstanding the broadest executive powers of the CEO and his deputy over the issuer’s daily affairs, the issuer’s board of directors could be held collectively responsible for the matters such as securities offerings, periodic financial reports and compliance with the Rules as it exercises an oversight function. As such, the Exchange believed that it was practicable for directors of such issuer to oversee certain operational matters. *(Updated November 2018)*

5.6 In a previous case where the issuer was a France Listed Company with sizeable global operations seeking a secondary listing on the Exchange, the Exchange granted a waiver to accommodate the difference between the directors’ responsibilities under the applicable French laws and regulations and the Rules based on (i) the issuer’s large size and scope of operations; and (ii) the fact that for companies listed on Euronext Paris, only the CEO and his deputy were required accept full responsibility for the issuer’s daily affairs, securities offerings, periodic financial reports and compliance with the Rules upon listing. To align with the requirements of Euronext Paris, the board of directors would not be required to bear collective responsibility of the acts of the issuer. The situation is distinguished from paragraph 5.5. *(Updated November 2018)*

#### *Eligibility of securities*

5.7 Under French law relating to dematerialisation of securities (i.e. scripless regime), shareholders’ ownership rights are represented by book entries in securities accounts and not by paper share certificates. The record in the books of the financial intermediary is the definitive legal representation of ownership. However, French law allows companies under certain circumstances (e.g. a France incorporated company that is not a France Listed Company) to issue physical share certificates based on the book entries on the register of shareholders as a valid proof of ownership at a given time. *(Updated November 2018)*

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<sup>23</sup> Rules 3.08 and 3.16

## Our Approach

- 5.8 France incorporated issuers who seek to hold their shares in the CCASS system with no physical share certificates should liaise with the Exchange and HKSCC on the applicable clearing and settlement arrangements for dealing with holding and transfer of scripless shares. The listing document should include (a) full details of the clearing and settlement arrangement of dealing including how Hong Kong investors (through HKSCC Nominees) will hold the shares, the right and obligations of Hong Kong shareholders, the roles and responsibilities of CCASS under French rules and regulations, and who will be recognised as the legal owners of the securities in France; and (b) the associated risks to the France incorporated issuer and its shareholders. (*Updated November 2018*)
- 5.9 For France incorporated issuers who seek to issue physical share certificates, we have accepted in one case where the France incorporated issuer was not a France Listed Company to issue physical share certificates based on a legal opinion that the issue of such share certificates in Hong Kong is compatible with the scripless regime under French law. (*Updated November 2018*)

## **6. Constitutional Documents**

- 6.1 French laws and regulations do not have equivalent provisions to comply with the Listing Rules relating to the relevant shareholder protection for all of our Rules on the contents of constitutional documents<sup>24</sup>. We set out in the Appendix our approach on each of the items required to be included in a France incorporated issuer's constitutional documents in order for it to meet the Listing Rule requirements (*Updated in January 2022*).

## **7. Accounting and Auditing Related Requirements**

- 7.1 We normally require the accountants' reports and financial statements of overseas issuers seeking a primary or secondary listing on the Exchange to conform to the Hong Kong Financial Reporting Standards ("**HKFRS**") or the International Financial Reporting Standards ("**IFRS**")<sup>25</sup> (*Updated in January 2022*).

### Our Approach

- 7.2 ~~As set out in the JPS, We are prepared to accept financial statements that conform to IFRS<sup>26</sup> as endorsed by the European Union ("**EU-IFRS**")<sup>27</sup> for use by European Union~~

<sup>24</sup> ~~Appendix 3 to the Rules~~

<sup>25</sup> ~~Main Board Rules 4.11 to 4.13, 19.13, 19.25A, 19C.10D, 19C.23 and Note 2.1 to paragraph 2 of Appendix 16 (GEM Rules 7.12, 18.04 and 24.18A), 19.39 and Notes 2.1 and 2.4 to paragraph 2 of Appendix 16. See also JPS, paragraphs 56 to 62~~

<sup>26</sup> ~~A list of alternative overseas financial reporting standards that are considered comparable to HKFRS and IFRS is published on the Exchange's website, as amended from time to time.~~

<sup>27</sup> ~~A list of alternative overseas financial reporting standards that are considered comparable to HKFRS and IFRS is published on the Exchange's website, as amended from time to time.~~

companies and professional auditing standards applicable in France<sup>28</sup>. We may allow a France incorporated issuer to use EU-IFRS for its accountants' reports and all subsequent financial statements, and for these to be audited to professional auditing standards applicable in France. However, this is on the condition that the issuer includes a reconciliation statement setting out the financial effect of the material differences (if any) from either HKFRS or IFRS, in its accountants' reports and subsequent financial statements<sup>29</sup> -are acceptable to the Exchange<sup>30</sup> (Updated in January 2022).

## 8. Taxation

8.1 A France incorporated issuer's shareholders are generally subject to withholding tax<sup>31</sup> on dividends paid by the issuer at a rate of 30%. Under the double taxation treaty entered into between France and Hong Kong on 21 October 2010, the rate of withholding tax would be reduced to 10% for eligible Hong Kong shareholders, provided they comply with the formalities for claiming treaty benefits. Hong Kong shareholders are generally not subject to any income or capital gain tax in France unless they hold directly or indirectly 25% of the issuer's dividend rights at any time during the five years preceding the sales of the shares. (Updated November 2018)

8.2 A 0.1 % French transfer tax is payable by either the transferor or the transferee for each transfer between registered shareholders. (Updated November 2018)

### Our Approach

8.3 We expect a France incorporated issuer to disclose the following prominently in its listing document:

- (a) the kinds of tax and their rates investors are subject to;
- (b) details of any treaty between France and Hong Kong that may affect the tax payable;
- (c) the effect of holding the issuer's shares through CCASS or outside CCASS on any tax payable (where applicable); and
- (d) the procedures for claiming any tax relief or exemptions.

8.4 For the French transfer tax (see paragraph 8.2), the France incorporated issuer must cooperate with HKSCC Nominees and other parties to adopt logistical arrangement for collecting the tax from Hong Kong shareholders. The listing document should disclose at least (a) details of the tax, including how it is calculated, the minimum amount

<sup>28</sup> A list of alternative overseas auditing standards that are considered comparable to the standards required by the Hong Kong Institute of Certified Public Accountants or by the International Auditing and Assurance Standards Board of the International Federation of Accountants is published on the Exchange's website, as amended from time to time.

<sup>29</sup> Primary Listing: Main Board Rule 19.14 and GEM Rule 7.14 (accountants' reports) and Main Board Rule 19.25A and GEM Rule 24.18A (annual/ interim/ quarterly financial statements). Secondary Listing: ~~note 4~~ Main Board Rules 19C.10D (accountants' reports) and 19C.23 (annual/ interim financial statements).

<sup>30</sup> JPS, paragraphs 50 and 59

<sup>31</sup> Guidance Letter HKEX-GL111-22 (Guidance for Overseas Issuers) ~~HKEX-GL111-22~~JPS, paragraph 7939-

involved and the setup of online information on the issuer's website (online calculator) to help investors calculate the tax amount; (b) the responsibility to pay the tax by the transferor who requests for a deposit of shares into CCASS, and the transferee who requests for a withdrawal of shares out of CCASS; (c) the procedures for tax collection. *(Updated November 2018)*

- 8.5 We expect appropriate disclosure of taxation in at least the "Summary" and "Risk Factors" sections of the issuer's listing document and any sections summarising French laws and regulations.

Please note the important notes on the front page of this country guide regarding French laws, regulations and practices.

### Our Approach to Differences between Our Constitutional Document Requirements <sup>(note)</sup> and French Laws, Rules and Practices

**Note:** Some of the Constitutional Document Requirements stated herein were either (i) repealed on 1 January 2022 because they were not considered to be fundamental to shareholder protection or they overlapped with the requirements in the Listing Rules; or (ii) codified with modification as Core Shareholder Protection Standards in the Listing Rules. For details, please see the column headed “Subsequent Development since 1 January 2022”. New applicants shall assess whether it can comply with the relevant Listing Rules or seek waiver from compliance. (Added in January 2022)

Rule Paragraph	Rule Requirement	French Laws, Regulations and Practice	Our Approach <u>Prior to 1 January 2022</u>	<u>Subsequent Development Since 1 January 2022</u>
<u>(not effective after 31 December 2021)</u>				
Appendix 3, 1(1)	Transfers and other documents relating to or affecting the title to any registered securities shall be registered and where any fee or fees is/ are charged, such fee or fees shall not exceed the maximum fees prescribed by the Exchange from time to time in the Exchange Listing Rules.	<p>Under French law, trading of shares is made by book-entry transfers from one securities account to another. The transfer of ownership is shown by the registration of the transferred shares in the securities account of the acquirer.</p> <p>Shares held in identified form may also be traded off the market through a share transfer form. The trade must then be recorded in the share register of the issuer and in the relevant shareholder account.</p>	<p>Where the issuer proposes the use of scripless shares, it should liaise with the Exchange and HKSCC on the applicable clearing and settlement arrangements for dealing with the holding and transfer of scripless shares (see paragraph 5.7). <i>(Updated November 2018)</i></p> <p>Under the JPS, an eligible secondary listing issuer is entitled to an “automatic waiver” for this item.</p>	<p><u>This articles provision was repealed on 1 January 2022. Rules 13.58 to 13.60 contain the comparable requirement.</u></p> <p><u>Secondary listing applicants shall apply to the Exchange for a waiver of compliance from the relevant Listing Rule if it considers necessary.</u></p>

Please note the important notes on the front page of this country guide regarding French laws, regulations and practices.

Rule Paragraph <i>(not effective after 31 December 2021)</i>	Rule Requirement	French Laws, Regulations and Practice	Our Approach <u>Prior to 1 January 2022</u>	<u>Subsequent Development Since 1 January 2022</u>
		<p>However, French law allows companies to issue share certificates based on the book entries on the register of shareholders as a valid proof of ownership at a given time. <i>(Updated November 2018)</i></p> <p>France incorporated issuers do not charge fees on the transfer of their registered securities.</p>		
Appendix 3, 2(1)	All certificates for capital shall be under seal, which shall only be affixed with the authority of the directors.	France has adopted a scripless regime, pursuant to which shareholders' ownership rights are represented by book entries in securities accounts and not share certificates.	We are prepared to accommodate the French dematerialised share regime. In a previous case, we granted a waiver from this articles provision subject to the issuer's agreement with the Exchange and HKSCC Nominees on the various adaptations to be made to the current system to accommodate the French "scripless" regime.	<p><u>These articles provisions were repealed on 1 January 2022.</u></p> <p><u>In relation to the previous Appendix 3, paragraph 2(1), paragraphs 4, 11 and 28 of Appendix 2B of the Listing Rules contain the comparable requirement.</u></p>
Appendix 3, 2(2)	Where power is taken to issue share warrants to bearer, that no new share warrant shall be issued to replace one that has been lost, unless the issuer is satisfied beyond	<p>However, French law allows companies to issue share certificates based on the book entries on the register of shareholders as a valid proof of ownership at a given time. <i>(Updated November 2018)</i></p>	Under the JPS, an eligible secondary listing issuer is	<p><u>Secondary listing applicants shall apply to the Exchange for a waiver of compliance</u></p>

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Rule Paragraph <u>(not effective after 31 December 2021)</u>	Rule Requirement	French Laws, Regulations and Practice	Our Approach <u>Prior to 1 January 2022</u>	<u>Subsequent Development Since 1 January 2022</u>
	reasonable doubt that the original has been destroyed.		entitled to an “automatic waiver” for this item.	<u>from the relevant Listing Rule if it considers necessary.</u>
Appendix 3, 3(1)	Any amount paid in advance on calls on any share may carry interest but must not entitle the holder to participate in a dividend subsequently declared.	This requirement is inconsistent with French law, under which companies organised as Sociétés Anonymes are allowed to issue shares which have not been paid in full at the time of their subscription, under certain conditions. The right to dividend may be suspended in such a context only if the shareholder fails to pay the amount due for the shares subscribed thereby at the times fixed by the competent corporate body of the company.	In a previous case, we considered that French law provided an acceptable level of shareholders’ protection. A waiver of this articles provision was granted.  Under the JPS, an eligible secondary listing issuer is entitled to an “automatic waiver” for this item.	<u>This articles provision was repealed on 1 January 2022.</u>
Appendix 3, 3(2)	Where power is taken to forfeit unclaimed dividends, that power shall not be exercised until six years or more after the date of	This requirement is inconsistent with French law, under which after a period of five years from the declaration of a dividend unclaimed dividends revert to the French State.	In a previous case, we considered that French law provided an acceptable level of shareholders’ protection. A waiver of this articles provision was granted.	<u>This articles provision was repealed on 1 January 2022.</u>



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	declaration of the dividend.		Under the JPS, an eligible secondary listing issuer is entitled to an “automatic waiver” for this item.	
Appendix 3, 4(1)	Subject to such exceptions specified in the articles of association as the Exchange may approve, a director shall not vote on any board resolution approving any contract or arrangement or any other proposal in which he or any of his associates has a material interest nor shall he be counted in the quorum present at the meeting.	<p>Under French law applicable to France Listed Companies, the right granted to directors to vote on any resolution discussed at meetings of the board of directors is an absolute right, except in the case of related party transactions which are not arms’ length transactions entered into in the ordinary course of business.</p> <p>Yet, pursuant to the AFEP-MEDEF Corporate Governance Code applicable to listed companies in France, each director must report to the board of directors any conflict of interest and abstain from voting on the related resolution. <i>(Updated November 2018)</i></p>	<p>In a previous case where the issuer was a France Listed Company implemented a policy to require conflicted directors to report to the board and abstain from voting on the related resolution, we considered that the combined effect of the French law and the issuer’s policy provided acceptable shareholders’ protection. A waiver of this articles provision was granted. <i>(Updated November 2018)</i></p> <p>Under the JPS, an eligible secondary listing issuer is entitled to an “automatic waiver” for this item.</p>	<p><u>This articles provision was repealed on 1 January 2022. Rule 13.44 contains the comparable requirement.</u></p> <p><u>Main Board Rule 19C.11 provides an automatic waiver for secondary listing applicants for compliance with the relevant Listing Rule.</u></p>

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<b>Rule Paragraph</b> (not effective after 31 December 2021)	<b>Rule Requirement</b>	<b>French Laws, Regulations and Practice</b>	<b>Our Approach <u>Prior to 1 January 2022</u></b>	<b><u>Subsequent Development Since 1 January 2022</u></b>
Appendix 3, 4(2)	Any person appointed by the directors to fill a casual vacancy on the board must hold office only until the following annual general meeting of the issuer, and will then be eligible for re-election.	Under French law, in the event of vacancy due to the death or resignation of one or more directors and in some other cases, the board of directors may make appointments on a temporary basis between general meetings. In such case, the appointments made by the board of directors are subject to confirmation by the next shareholders' general meeting.	In the previous cases, we considered that French law provided an acceptable level of shareholders' protection. A waiver of this articles provision was granted.  Under the JPS, an eligible secondary listing issuer is entitled to an "automatic waiver" for this item.	<p><u>This article provision was retained with modification. Please refer to Appendix 3 of the Listing Rules for the full text of the requirement.</u></p> <p><u>Secondary listing applicants shall apply to the Exchange for a waiver of compliance from the relevant Listing Rule if it considers necessary.</u></p>
Appendix 3, 4(4)	The minimum length of the period for notice to the issuer of an intention to propose a person for election as a director and that person to notify the issuer of his willingness to be elected, must be at least seven days.	This requirement is inconsistent with French law, which does not require any minimum length of notices to be given to the company regarding the nomination of directors and under which, although exceptionally rare in practice, any shareholder may apply for his/ her appointment as director during the course of a shareholders' general meeting.	Based on the submission regarding the French practice on nomination of candidates, and noting that it would be legally impossible to adopt an articles provision that contradicts French law, we granted a waiver from strict compliance with this requirement in a previous case.  Under the JPS, an eligible secondary listing issuer is	<p><u>These articles provisions were repealed on 1 January 2022.</u></p> <p><u>In relation to the previous Appendix 3, paragraph 4(5), note to Rule 13.70 contains the comparable requirement.</u></p> <p><u>Secondary listing applicants shall apply to the Exchange for a waiver of compliance from the relevant Listing Rule if it considers necessary.</u></p>

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<b>Rule Paragraph</b> (not effective after 31 December 2021)	<b>Rule Requirement</b>	<b>French Laws, Regulations and Practice</b>	<b>Our Approach <u>Prior to 1 January 2022</u></b>	<b><u>Subsequent Development Since 1 January 2022</u></b>
		In a previous case, it was submitted that as a general rule, information about candidates for appointment as directors are available at the French company’s registered office at least 15 days before the general meeting and on the company’s website at least 21 days prior to the meeting.	entitled to an “automatic waiver” for this item.	
Appendix 3, 4(5)	The period for lodgment of notices referred to in Appendix 3, paragraph 4(4) must start no earlier than the day after the dispatch of the notice of the meeting appointed for such election and end no later than seven days prior to the date of the meeting.	See discussion in Appendix 3, 4(4) above.		

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Appendix 3, 5	A copy of either (i) the directors' report, with the balance sheet and profit and loss account or income and expenditure account; or (ii) the summary financial report shall, at least 21 days before the date of the general meeting, be delivered or sent by post to the registered address of every shareholder.	Under French law applicable to France Listed Companies, an issuer must provide to its shareholders its registration document/ annual financial report and various other documents. Such documents must (i) be published on the issuer's website at least 21 days prior to the Shareholders' general meeting; (ii) be sent to any identified shareholders together with the final convening notice for the meeting; and/ or (iii) be sent to any shareholders upon request. <i>(Updated November 2018)</i>	In a previous case where the issuer was a France Listed Company, we considered that French law provided an acceptable level of shareholders' protection. A waiver of this articles provision was granted. <i>(Updated November 2018)</i>  Under the JPS, an eligible secondary listing issuer is entitled to an "automatic waiver" for this item.	<u>This articles provision was repealed on 1 January 2022. Rules 13.46(1) and 13.46(2) contain the comparable requirement.</u>  <u>Secondary listing applicants shall apply to the Exchange for a waiver of compliance from the relevant Listing Rule if it considers necessary.</u>
Appendix 3, 7(1)	Where power is taken to give notice by advertisement such advertisement may be published in the newspapers.	Under French law applicable to France Listed Companies, the issuer shall also make financial disclosure through the print media (newspapers), at a frequency and in a presentation format that it considers	In a previous case where the issuer was a France Listed Company, we considered that French law provided an acceptable level of shareholders' protection. A waiver of this articles provision	<u>This articles provision was repealed on 1 January 2022.</u>

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		appropriate. In certain other circumstances, especially to convene shareholders’ general meetings, French listed companies must communicate in newspapers. <i>(Updated November 2018)</i>	was granted. <i>(Updated November 2018)</i>  Under the JPS, an eligible secondary listing issuer is entitled to an “automatic waiver” for this item.	
Appendix 2, 7(2)	Overseas issuer whose primary listing is or is to be on the Exchange shall give notice sufficient to enable shareholders, whose registered addresses are in Hong Kong, to exercise their rights or comply with the terms of the notice. If the overseas issuer’s primary listing is on another stock exchange, the Exchange will normally be satisfied with an undertaking by the issuer to do so and	French law does not contain any equivalent provision.	In a previous case where the issuer was a France Listed Company, we granted a waiver from the strict compliance with this requirement, if the France incorporated issuer agreed to undertake to publish and release notices sufficient to enable Hong Kong shareholders to exercise their rights or comply with the terms of the notice. <i>(Updated November 2018)</i>  Under the JPS, no “automatic waiver” is available to a secondary listing issuer for this item.	<u>This articles provision was repealed on 1 January 2022. Rule 13.71 contains the comparable requirement.</u>

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	will not normally request the issuer to change its articles to comply with this paragraph where it would be unreasonable to do so.			
Appendix 3, 12	No powers shall be taken to freeze or otherwise impair any of the rights attaching to any share by reason only that the person or persons who are interested directly or indirectly therein have failed to disclose their interests to the issuer.	This requirement is inconsistent with French law applicable to France Listed Companies, under which when a shareholder fails to comply with applicable statutory shareholding notification requirements, the shares in excess of the relevant threshold are deprived of voting rights for all shareholders' general meetings until the end of a two-year period following the date on which the owner complies with the notification requirements. In addition, any shareholder who fails to comply with these requirements may have all or part of its voting rights suspended for up to five years by the French commercial	In a previous case, we acknowledged that it was not legally possible for a France incorporated issuer which was a France Listed Company to adopt this articles provision which would contradict the French law provisions. We granted a waiver from strict compliance with this requirement. <i>(Updated November 2018)</i>  Under the JPS, no “automatic waiver” is available to a secondary listing issuer for this item.	<u>This articles provision was repealed on 1 January 2022.</u>

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		courts at the request of the chairman of the board of directors, any shareholder or the AMF, and may be subject to criminal fines. An issuer's constitutional documents may impose additional reporting obligations. <i>(Updated November 2018)</i>		
Appendix 3, 13(1)	Where power is taken to cease sending dividend warrants by post, if such warrants have been left uncashed, it will not be exercised until such warrants have been so left uncashed on two consecutive occasions. However, such power may be exercised after the first occasion on which such a warrant is returned undelivered.	This requirement is inconsistent with French law. In practice, France incorporated issuers do not send any dividend warrants to its shareholders by post but payment of dividends is centralised through the entity handling the financial services of the issuer's shares (the Principal Share Registrar). Under French law, unclaimed dividends related to shares become the property of the French State after five years.	In a previous case, we considered that French law provided an acceptable level of shareholders' protection. A waiver of this articles provision was granted.  Under the JPS, an eligible secondary listing issuer is entitled to an "automatic waiver" for this item.	<u>This articles provision was repealed on 1 January 2022.</u>
Appendix 3, 13(2)	Where power is taken to sell the shares of a	This requirement is inconsistent with French law, under which a	In a previous case, we considered that French law	<u>This articles provision was repealed on 1 January 2022.</u>

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	<p>shareholder who is untraceable it will not be exercised unless:</p> <ul style="list-style-type: none"> <li>• during a period of 12 years at least three dividends in respect of the shares in question have become payable and no dividend during that period has been claimed; and</li> <li>• on expiry of the 12 years the issuer gives notice of its intention to sell the shares by way of an advertisement published in the newspapers and notifies the Exchange of such intention.</li> </ul>	<p>company may sell securities whose issue has not been requested by their legal successors, where the company has carried out exchanges of securities following a merger or spin-off, reduced the capital, consolidated or divided and compulsorily converted securities that are in non-identified form into securities in identified form, or carried out distributions of securities allocated to the reserves or linked to a capital reduction, or distributions or allotments of free shares. In addition, a company may sell securities whose holders are either unknown to the book-keeper or have not responded to notices to attend for over ten years. Such sales shall take place upon expiry of a one- or two-year period after publication of a notice in two newspapers in France.</p>	<p>provided an acceptable level of shareholders’ protection. A waiver of this articles provision was granted.</p> <p>Under the JPS, no “automatic waiver” is available to a secondary listing issuer for this item.</p>	