

COUNTRY GUIDE –

The Grand Duchy of Luxembourg

(20 December 2013, last updated in ~~April 2014~~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 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 or their respective advisers 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.~~

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 Information in this country guide may be outdated upon the introduction of such listing regime.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 Exchange¹. 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. A new applicant for listing that is incorporated in the Grand Duchy of Luxembourg (“Luxembourg”) must confirm to the Exchange, with its initial application for listing, that the Luxembourg laws, regulations and market practices contained in this guide are still applicable, or

¹ 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.

~~provide us with details of any changes, and inform us of any other Luxembourg laws, regulations and market practices that are relevant to its circumstances.~~

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 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). ~~the Joint Policy Statement Regarding Listing of Overseas Companies (27 September 2013)~~². All issuers incorporated in Luxembourg can apply for one or more “common waivers”³ and those with, or seeking, a secondary listing⁴ do not need to apply for waivers of certain Rules which are automatically waived for them (Updated in January 2022)⁵.

Summary of our Approach

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

The statutory securities regulator in Luxembourg, the Commission de Surveillance du Secteur Financier, is a full signatory to the IOSCO MMOU⁶ and Luxembourg 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. These issuers must ~~contain~~ include a reconciliation statement of 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 accountant's reports and financial statements (Updated in January 2022).

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

² Available on the HKEx website at:

~~http://www.hkex.com.hk/eng/rulesreg/listrules/listsptop/listoc/Documents/new_jps_0927.pdf~~

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

⁴ JPS, Section 5.

⁵ Main Board Rule 19C.11 JPS, paragraph 88.

⁶ IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information

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1. Background

- 1.1 Luxembourg's equivalent to the Hong Kong Companies Ordinance (Cap. 622) and the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) is the Luxembourg Companies Law, which sets requirements for Luxembourg incorporated companies. The Commission de Surveillance du Secteur Financier (the "CSSF") is the statutory securities regulator in Luxembourg (*Updated in April 2014*).

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 Luxembourg. We do not accept applications for secondary listing on GEM.

3. International Regulatory Co-operation Measures

- 3.1 ~~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. 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 for regulatory co-operation⁷. This requirement is met for issuers incorporated in Luxembourg as the CSSF is a full signatory ~~of to~~ the IOSCO MMOU (*Updated in January 2022*)⁸.~~
- 3.2 If a listing applicant is incorporated in Luxembourg but its place of central management and control⁹ is elsewhere, ~~the statutory securities regulator of that jurisdiction must also be a full signatory to the IOSCO MMOU (*Updated in January 2022*) similar international co-operation arrangements must generally also be in place with that other jurisdiction.~~

⁷ ~~JPS, paragraphs 42 to 44.~~

⁸ ~~International Organisation of Securities Commission's Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information.~~

⁹ ~~JPS, paragraph 45~~ Main Board Rule 8.02A.

4. JPS-Core Shareholder Protection Standards

4.1 ~~Subject to~~ Luxembourg 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 (Updated in January 2022).

~~Based on submissions by a potential applicant, we demonstrating¹⁰ how their practices, as set out below, conform to the JPS requirements, we do not consider Luxembourg's shareholder protection standards to be materially different to our own¹¹. We have set out below details of the differences between these practices in Luxembourg and the then JPS requirements in the Joint Policy Statement Regarding the Listing of Overseas Companies (the "JPS") (repealed as of 1 January 2022), save for 'Right to speak and vote at general meetings', since this is a new JPS requirement and we have not yet received any submissions describing the differences. Where we have in the past accepted a practice and is still relevant for assessment under the new listing regime for overseas issuers, we have stated this below. Luxembourg 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 Luxembourg 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)

¹⁰ ~~We list the key shareholder protection standards with which applicants must demonstrate equivalence in Section 1 of the JPS.~~

¹¹ ~~Notes to Main Board Rules 19.05(1) and 19.30(1) and JPS, paragraphs 27 and 28.~~

Proceedings at general meetings

4.2 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 the date of one annual general meeting and the next¹². Luxembourg law requires an annual general meeting to be held within six months of the end of the financial year (Updated in January 2022).

Subsequent Development since 1 January 2022

~~4.3~~ ~~The requirement comparable to the then JPS requirement was codified with modification in paragraph 14(1) of the revised Appendix 3 of the Listing Rules, which provides that an issuer must hold a general meeting for each financial year as its annual general meeting and generally, an issuer must hold its annual general meeting within six months after the end of its financial year. Luxembourg incorporated applicants must demonstrate how they will comply with this requirement, which may necessitate an amendment to their constitutional documents (Added in January 2022).~~

~~4.4~~ ~~Notice of general meetings~~: Under the then JPS, an overseas company must give its members reasonable written notice of general meetings¹³. Under Luxembourg law, the notice period for convening a general meeting is eight days if all the shares of the company are in the form of registered shares (Updated in January 2022).

~~4.3~~ ~~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).~~

The Exchange has previously accepted the notice requirement for convening general meetings specified in the constitutional documents of Luxembourg incorporated issuers in accordance with Hong Kong Companies Ordinance (Cap. 622) and the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) as was then in force (Updated in April 2014).

¹² ~~JPS, paragraph 36.~~

¹³ ~~JPS, paragraph 37.~~

Subsequent Development since 1 January 2022

The requirement comparable to the then JPS requirement was codified with modification in paragraph 14(2) of the revised Appendix 3 of the Listing Rules as a Core Shareholder Protection Standard. Luxembourg incorporated applicants must demonstrate how they will comply with this requirement, which may necessitate an amendment to their constitutional documents (Added in January 2022).

- 4.4 Right to speak and vote at general meetings: The then JPS requires that all members must have the right to speak and vote at a general meeting, except in cases where members have a material interest in a transaction or arrangement, in which case they are required, by the Rules, to abstain from voting to approve the transaction or arrangement¹⁴. Luxembourg incorporated listing applicants must demonstrate how they will comply with this requirement, which may necessitate an amendment to their constitutional documents (Updated in January 2022).

Subsequent Development since 1 January 2022

The requirement comparable to the then JPS requirement was codified in paragraphs 14(3) and 14(4) of the revised Appendix 3 of the Listing Rules. Luxembourg incorporated applicants must demonstrate how they will comply with this requirement, which may necessitate an amendment to their constitutional documents (Added in January 2022)

-Other Core Shareholder Protection Standards

- 5.—4.5 Compared to the then JPS and the previous Appendix 3¹⁵ to the Listing Rules, two new shareholder protection standards, namely, members' right to appoint proxies and corporate representatives¹⁶ and inspect Hong Kong Branch Register¹⁷ are added to require the applicants to demonstrate conformity. Applicants incorporated in Luxembourg 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).

¹⁴ JPS, paragraph 38.

¹⁵ The previous version of Appendix 3 of the Listing Rules that was in effective on or prior to 31 December-2021

¹⁶ Appendix 3, paragraph 18

¹⁷ Appendix 3, paragraph 20

6.5. Practical and Operational Matters

6.15.1 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 Division if they envisage difficulties in complying with such matters, where applicable (Updated in January 2022).

7.6. Constitutional Documents

7.16.1 Applicants should contact Listing Division if Luxembourg law, rules and regulation- and-or the applicants’ constitutional documents ~~cannot meet~~ do not provide the Core Shareholder Protection Standards –the standards under Appendix 3 to the Main Board Rules/ Appendix 6 to GEM Rules (Updated in January 2022).

8.7. Accounting and Auditing Related Requirements

8.17.1 We normally require the accountants’ reports and financial statements of overseas issuers seeking a primary or a secondary listing on the Exchange to conform to the Hong Kong Financial Reporting Standards (“**HKFRS**”) or the International Financial Reporting Standards (“**IFRS**”)¹⁸ (Updated in January 2022).

Our Approach

8.27.2 ~~We are prepared to accept financial statements that conform to As set out in the JPS, IFRS as endorsed by the European Union (“EU-IFRS”)¹⁹ for use by European Union companies- is acceptable to the Exchange²⁰.~~ We have accepted the auditing standards issued by the International Auditing and Assurance Standards Board as adopted for Luxembourg by the “Commission de Surveillance du Secteur Financier” (“**IAASB-Luxembourg**”). We are therefore prepared to consider allowing a Luxembourg incorporated issuer to use EU-IFRS for its accountants’ reports and all subsequent financial statements, and for these to be audited to the IAASB-Luxembourg auditing standards. However, this is on the condition the issuer includes a reconciliation statement ~~of setting out~~ the financial effect of the material differences (if any) from either HKFRS or IFRS,

¹⁸ 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.

¹⁹ 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.

²⁰ JPS, paragraph 59(a).

in its accountants' reports and subsequent financial statements²¹ (Updated in January 2022).

9.8. Taxation

9.18.1 Capital gain tax from sales of securities: Capital gains from trading in the shares of a Luxembourg incorporated issuer are subject to capital gains tax in Luxembourg. As a result of a double tax treaty between Luxembourg and Hong Kong, a Hong Kong resident will not be subject to Luxembourg capital gain tax and is not required to take any action in order to enjoy the exemption.

9.28.2 Withholding tax on dividends²²: ~~Under the then JPS, d~~ Dividends received by the shareholders of a Luxembourg issuer are subject to withholding tax in Luxembourg. In addition, Hong Kong investors will enjoy certain exemptions or reductions in dividend withholding tax:

- (i) a Hong Kong resident is subject to withholding tax at a reduced rate of 10%; and
- (ii) a company which holds directly 10% or more of the company's issued capital or Shares with acquisition cost of €1.2 million is exempted from withholding tax.

9.38.3 However, in order to benefit from such withholding tax exemption or reduced rates, a proof of address in Hong Kong or a certificate of resident status issued by the Hong Kong Inland Revenue Department will have to be provided by shareholders who are residents of Hong Kong to the company at its registered office within such period of time before any particular dividend payment date as shall be specified by the company in its announcement of dividend payments.

Our Approach

9.48.4 We expect a Luxembourg issuer to disclose the following prominently in its listing document:

- (a) the rate of tax investors in its securities will have to pay. This disclosure must break down the tax payable by the relevant factors that affect the tax rate (e.g. residence in Luxembourg, percentage of share capital owned, timing of dividend payment, corporate or individual shareholding etc.);

²¹ Primary listing: Main Board Rule 19.14 and GEM Rules 7.14 (accountants' reports) and Main Board Rule 19.25A and GEM Rule 24.18A (annual/ interim/ quarterly financial statements). Secondary listing: Main Board Rules 19C.10D (accountants' reports) and 19C.23 (annual/ interim financial statements)

²² Guidance for Overseas Issuers HKEX GL111-22 JPS, paragraph 379.

- (b) details of any treaty between Luxembourg 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; and
- (d) the procedures for claiming any tax relief or exemptions (if any).

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 Luxembourg laws and regulations.

Subsequent Development since 1 January 2022

9.58.6 Such requirement is now relocated to paragraph 39 of Guidance for Overseas Issuers (HKEX-GL111-22) (Added in January 2022).