Guidance for overseas issuers

I. Background and purpose

1. This letter provides guidance for new listing applicants and listed issuers that are incorporated outside of Hong Kong or the PRC (i.e. overseas issuers), including those seeking a dual-primary or secondary listing. The guidance is also set out in Chapter 2.1 of the Guide for New Listing Applicants (**Guide**). See also the "Listing of Overseas Issuers" on the Exchange's website for further information.

2. Overseas issuers may face practical or operational difficulties complying with the Listing Rules or the Codes on Takeovers and Mergers and Share Buy-backs (**Codes**) where there is a potential conflict between the laws and regulations of its home jurisdiction and the Listing Rules or the Codes:

Below are some examples of foreign laws and regulations that may cause compliance difficulties with the Listing Rules or the Codes:

- Those that prohibit a company from restraining or restricting its shareholders from voting on any particular resolution, including shareholders with a material interest in the transaction or arrangement being voted upon.
- Those that require a management or supervisory body of a company to approve matters that, under the Listing Rules, would require shareholders' approval.
- Those that require a company to employ a board of statutory auditors, instead of establishing a board committee to oversee accountability and audit related matters. A board of statutory auditors may play a role similar to audit committees under the Listing Rules and may have broader oversight responsibilities and greater independence.
- Those that do not recognise a nominee company holding securities on behalf of third parties, such as HKSCC Nominees Limited (**HKSCCN**) that holds listed securities on behalf of CCASS participants.

3. Overseas issuers subject to such compliance difficulties may need to take alternative procedures, including providing undertakings to the Exchange to put in place a shareholder protection measure or by demonstrating it has adopted internal compliance measures that achieve the same outcome. Companies are strongly encouraged to consult the Exchange and the Takeovers Executive[1] (where applicable) at the earliest opportunity.

[1] The Takeovers Executive refers to the Executive Director of the Corporate Finance Division or any delegate of the Executive Director of SFC.

II. Core shareholder protection standards and admission to CCASS

4. MB/GEM Appendix A1 requires an issuer to demonstrate how the domestic laws, rules and regulations to which it is subject and its constitutional documents, in combination (**Domestic Standards**) provide the shareholder protection standards set out therein (**Core Shareholder Protection Standards**). For this purpose, the Exchange may require an overseas issuer to amend its constitutional documents to provide the Core Shareholder Protection Standards.

5. Each overseas issuer is required to comply with the following requirements:

   (a) (a) Its constitutional documents conform with the Core Shareholder Protection Standards, and on the whole, are not inconsistent with the Listing Rules and the laws of the place where the overseas issuer is incorporated or otherwise established; (b) there are no material issues identified in relation to the matters under Part I of Form M120 (Information Required From Overseas Issuers) (**Form M120**)[2]; and (c) it can comply with other applicable requirements set out in this letter (collectively the **Shareholder Protection Requirements**); and

   (b) The overseas issuer is incorporated in a jurisdiction where securities of companies incorporated therein is eligible for admission into CCASS for trading on the Exchange (the **Admission Requirement**).

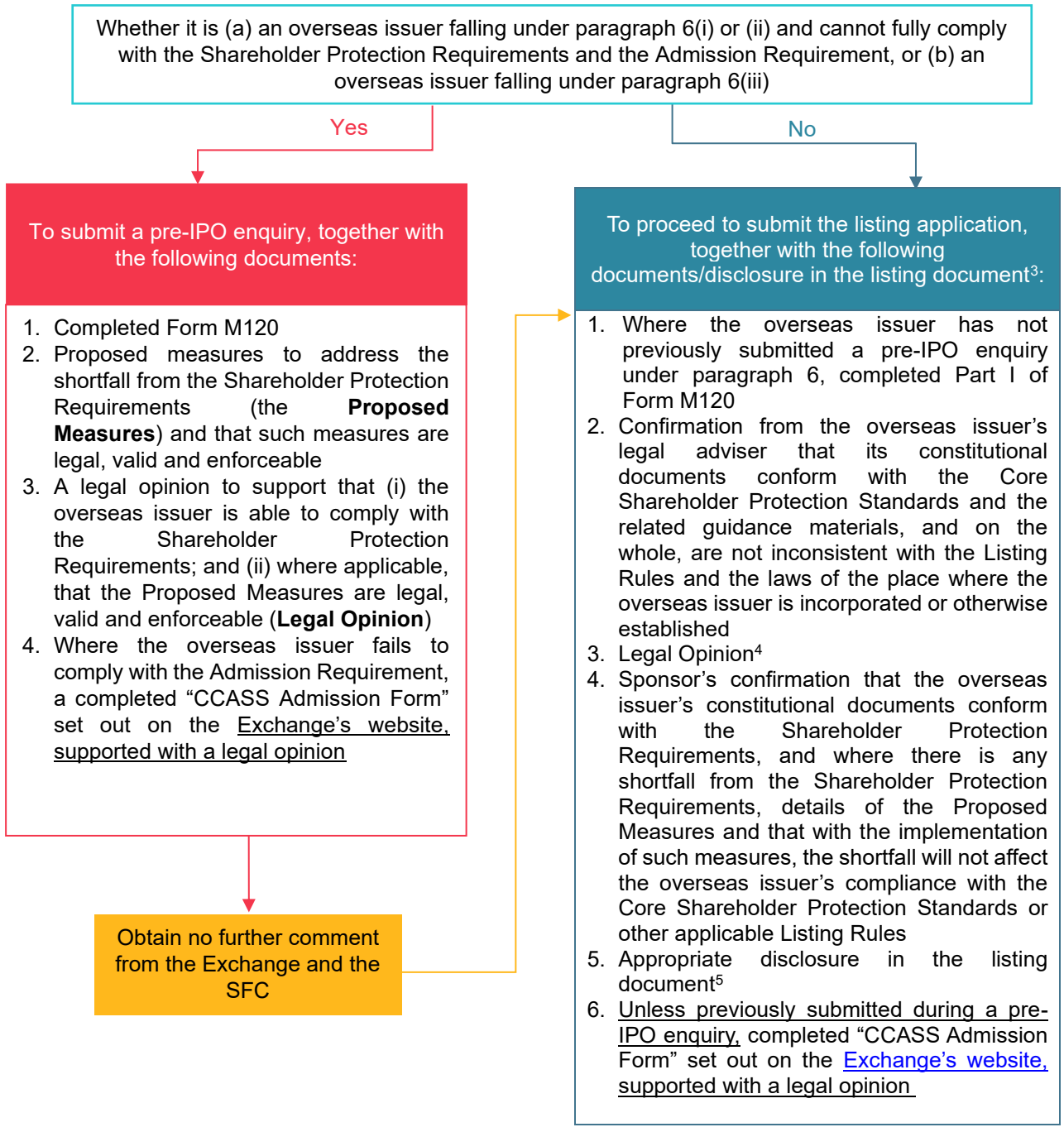
6. Prior to filing a listing application, an overseas issuer and sponsor should check its compliance with the Shareholder Protection Requirements and the Admission Requirement and assess whether a pre-IPO enquiry is required:

[2] The Exchange reserves the right to require any overseas issuer to complete and submit the Form M120 where it considers necessary.

	(i) Overseas Issuer Incorporated in Bermuda or Cayman Islands	(ii) Overseas Issuers incorporated in a jurisdiction listed on the "List of Overseas Jurisdictions of Incorporation" published on the Exchange's website	(iii) Overseas Issuers other than paragraph 6(i) and (ii)
To comply with the Shareholder Protection Requirements and identify any material issues	Yes		
To comply with the Admission Requirement	Yes		
Whether a pre-IPO enquiry is required	Generally no, unless the overseas issuer cannot fully comply with the Shareholder Protection Requirements and the Admission Requirement	Depends on whether the overseas issuer can fully comply with the Shareholder Protection Requirements and the Admission Requirement (and where applicable, further guidance on specific jurisdictions published on the Exchange's website)	Yes

7. An overseas issuer that is required to make a pre-IPO enquiry based on the assessment under Paragraph 6 above can only submit its listing application after the Exchange and the SFC have confirmed they have no further comment on the issues.

8. The diagram below sets out the documentary requirements and when such documents are required to be submitted:



[3] Overseas issuers incorporated in Bermuda or the Cayman Islands are not required to submit items 1, 4 and 6, unless they have previously submitted a pre-IPO enquiry under paragraph 6.

[4] If any legal opinion has been provided at the pre-IPO enquiry stage, the overseas issuer only needs to provide a bring-down legal opinion confirming that the position in the earlier legal opinion is still valid at the time of submitting a listing application. If a legal opinion cannot be obtained, the requirement may be met by the submission of a written confirmation issued by the overseas issuer's legal adviser.

[5] (i) The major differences between Domestic Standards and the Core Shareholder Protection Standards and details of the Proposed Measures; and (ii) the risk that the extent to which Hong Kong courts may be used as an avenue for aggrieved shareholders of non-Hong Kong issuers is subject to certain limitations concerning, for example, enforcement of a Hong Kong judgment against the overseas assets, operations and/or directors of a non-Hong Kong issuer listed on the Exchange and enforcement of an overseas judgment in Hong Kong courts.

9. Listed overseas issuers should monitor their on-going compliance with the Core Shareholder Protection Standards. They must, at the earliest opportunity, inform the Exchange of any material changes in the overseas laws, rules and market practices that would, or may, adversely affect their compliance with the Core Shareholder Protection Standards and other Listing Rules. Where applicable, the Exchange will publish guidance on the relevant jurisdictions[6].

10. With regard to matters not covered by any Core Shareholder Protection Standard or Listing Rules, reliance will be placed on a combination of the overseas laws and regulations to which the overseas issuers are subject and their constitutional documents.

11. Overseas issuers are reminded that they are required under the Listing Rules to ensure all information provided to the Exchange must be accurate and complete in all material respects. They should notify the Exchange of any material matters that may assist the Exchange's consideration of its listing application. The Exchange reserves the right to reject an overseas issuer on suitability grounds where the issuer fails to address any material issue.[7]

12. It is the responsibility of each overseas issuer to exercise reasonable judgment (after seeking professional advice where necessary) as to what falls within the scope of the requirement under paragraph 11 and how material issues associated with the applicable laws and regulations or the overseas issuer's constitutional documents should be addressed. We will determine, on a case-by-case basis, whether an overseas issuer has satisfactorily addressed such matters to ensure a sufficient level of investor protection.

III. Eligibility of securities and admission of securities into CCASS

13. HKSCC is a recognised clearing house under the SFO. It operates the CCASS which provides deposit, clearance and settlement services to participants of CCASS subject to the General Rules of HKSCC and HKSCC Operational Procedures in effect from time to time.

14. All listing applicants must make arrangements with HKSCC to ensure their securities are accepted as eligible for deposit, clearance and settlement in CCASS in accordance with the General Rules of HKSCC[8]. See paragraph 8 above for documentary requirements and the Exchange's website for further information on admission of securities into CCASS.

15. An overseas issuer is encouraged to notify the Exchange at an early stage of the nature of the securities it plans to issue and list, particularly as to:

(i) The form of its securities:	(a) Physical scrip; or (b) Scripless/book entry;
(ii) Where physical scrip is issued, whether:	(a) It will be in definitive or global form; and (b) The certificate will be in registered or bearer form;

6 Prior to 2021, the Exchange had published country guides on various jurisdictions to provide specific guidance for overseas issuers incorporated in those jurisdictions on the relevant comparison between the Domestic Standards and the then applicable shareholder protection standards, as well as the Exchange's expectations, practices, procedures and the criteria it considers when applying the Listing Rules to overseas issuers incorporated in such jurisdictions. From 2021, guidance may be issued on a case-by-case basis if there are novel issues relating to the listing of securities (including securities of companies incorporated in a jurisdiction not covered by any guidance materials).

7 See MB Rule 9.03(3A) and paragraph (b) of MB Appendix E1; GEM Rule 12.09(3A) and paragraph (b) of GEM Appendix E1.

8 MB Rule 8.13A; GEM Rule 11.29.

(iii) Where securities are to be issued in scripless form	The applicant must inform the Exchange of the holding structure of the securities with details of: (a) How Hong Kong investors (through HKSCCN) will hold the securities; (b) The financial intermediaries or depositories holding the securities on behalf of Hong Kong investors, in particular their roles and responsibilities under the relevant overseas jurisdiction's rules and regulations; and (c) Who will be recognised as the legal owners of the securities in the applicant's place of incorporation[9];
(iv) How will its Hong Kong branch register of members be maintained and when the register will be opened for inspection by members[10];	
(v) If securities are in physical scrip, what are the procedures to replace lost certificates and whether there will be any restrictions on holding or transfer of the new certificates; and	
(vi) Whether there will be any restrictions on Hong Kong investors' right to attend the applicant's general meetings to vote and/or to appoint proxies.	

IV. Cross-border clearing and settlement

16. The Hong Kong securities market adopts a T+2 settlement period in the post-IPO market. This means that executed trades are settled in CCASS two business days after the trade day.

17. Dual-primary or secondary listed companies normally have their principal share registers in their overseas markets and a branch register in Hong Kong. To ensure liquidity in the Hong Kong registered shares, dual-primary or secondary listed companies must ensure there are a sufficient number of registered shares on their Hong Kong share registers.

18. A dual-primary or secondary listed company that does not conduct a public offering is expected to transfer a sufficient number of shares to its Hong Kong share register from its overseas share register before listing. The estimate of "sufficient number of shares" should be based on the historical trading statistics of the issuer's securities in its overseas market and the expected increase in trading upon listing in Hong Kong. This can be arranged by the appointed share registrars cancelling and re-issuing share certificates[11] in the issuer's respective markets.

19. An overseas issuer that has a listing on the Exchange and another exchange must adopt precautionary measures to mitigate price volatility of its shares upon listing and the demand/supply imbalances between its overseas market and Hong Kong to ensure sufficient liquidity. The precautionary measures must take into account the issuer's shareholding structure and availability of arbitrage opportunities between Hong Kong and the other market where it is listed. Overseas issuers may refer to Chapter 4.12 of the Guide on some precautionary measures for overseas issuers listed in Hong Kong by way of introduction.

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9 The need for these notifications will be reviewed upon the implementation of an uncertificated securities market in Hong Kong. The consultation conclusions for this regime was published on 8 April 2020.

10 The overseas issuer must also inform members of the conditions for inspection.

11 Unless where the securities are issued in scripless form.

V. HDRs

20. HDRs can be held by Hong Kong investors in substantially the same way as shares. They are issued by a financial institution acting as a depositary and represent a particular ratio to an applicant's shares.

21. See (i) information on the HDR Framework section of the Exchange's website; and (ii) Chapter 5.1 of the Guide for further details on HDRs.

VI. Alternative procedures for U.S. "domestic issuers"

22. "Domestic issuers" within the meaning of Regulation S (**Regulation S**) under the United States Securities Act of 1933 who wish to offer their equity securities (**Regulation S Securities**) in "offshore transactions" within the meaning of, and in reliance on the safe harbor provided by, Regulation S must fulfil the requirements of that regulation (the **Regulation S Category 3 Requirements**).

23. Given the manner in which securities are traded and settled on the Exchange, it is not feasible for such "domestic issuers" and their underwriters to comply strictly with certain of the Regulation S Category 3 Requirements in connection with a listing of Regulation S Securities on the Exchange. Accordingly, the Exchange has formulated certain alternative procedures tailored to address the underlying policy concerns. See the Exchange's website for further details.

VII. Stock name identification

24. To enable investors to identify the following types of listed overseas issuers, such overseas issuers that are listed on the Exchange are required to clearly label their stock short names with appropriate suffixes. The specified stock short names/codes for such overseas issuers are as follows:

Suffix "DR" and a stock code between 6200-6399	Listed HDRs.
Suffix "RS" and a stock code between 6300-6399	Incorporated in the U.S. with listed securities/HDRs that are restricted securities under U.S. federal securities laws.
Suffix "S"	Secondary listing in Hong Kong.
Suffix "TP"	Secondary listed issuer in Hong Kong that voluntarily converts or delists it shares or depositary receipts from the overseas exchange on which it is primary listed but cannot comply fully with the applicable Listing Rules immediately upon the change of its listing status and has applied for a grace period as time-relief waiver.

VIII. Company Information Sheet

25. Company Information Sheets must be prepared by (i) all secondary listed issuers (see MB Rule 19C.24); and (ii) any other primary listed or dual-primary listed overseas issuers (including issuers incorporated in Bermuda and Cayman Islands) that meet any of the criteria set out in MB Rule 19.60 (GEM Rule 24.27).

26. The Exchange may also at its own discretion require a primary listed or dual-primary listed overseas issuer to publish a Company Information Sheet where the Exchange believes the publication of a Company Information Sheet would be informative to investors (for example, to provide them with information on overseas laws and regulations to which the issuer is subject and which may be unfamiliar to investors in Hong Kong). The issuers and their advisers should determine the materiality of information to be included in the Company Information Sheet. Issuers are encouraged to consult the Exchange if they are uncertain about the requirements.

27. A listed overseas issuer required to issue a Company Information Sheet as stated above shall publish the Company Information Sheet within 3 months from the time of the Exchange's request.

IX. Financial reporting standards, auditing standards and taxation

Financial reporting standards

28. The Listing Rules state that the annual financial statements[12] and the accountants' reports of overseas issuers must be prepared and drawn up in conformity with financial reporting standards acceptable to the Exchange, which will normally be HKFRS or IFRS. However, the Exchange may allow a report to be drawn up otherwise than in conformity with HKFRS and IFRS[13].

29. The suitability of a body of alternative financial reporting standards depends on whether there is any significant difference between the foreign financial reporting standards and IFRS, and whether there is any concrete proposal to converge or substantially converge the foreign financial reporting standards with IFRS.

30. On this basis, the Exchange has accepted that the financial statements and accountants' reports of overseas issuers can be prepared in conformity with the financial reporting standards set out in the table below subject to the prescribed scope therein:

Standard	Prescribed Scope
EU-IFRS	For issuers incorporated in a member state of the European Union.
U.S. GAAP	For (i) issuers with, or seeking, a dual-primary or secondary listing in the U.S. and on the Exchange; (ii) subsidiaries of a U.S.-listed parent seeking to list on the Exchange; and (iii)

[12] A listed issuer must also prepare its interim report in accordance with the same accounting standards that it adopted in the preparation of its most recent published annual financial statements (paragraph 38 of MB Appendix D2 and note 5 to GEM Rule 18.55).

[13] Primary Listing: MB Rules 19.13 and 19.14 and GEM Rules 7.12 and 7.14 (accountants' reports) and MB Rule 19.25A and GEM Rule 24.18A (annual financial statements). Secondary Listing: MB Rules 19C.10D (accountants' reports) and 19C.23 (annual financial statements).

Standard	Prescribed Scope
	companies with substantial business operation(s) in the U.S. seeking to list on the Exchange.
Australian Accounting Standards	Only issuers with, or seeking, a primary listing in the same jurisdiction as the standard setter that have, or are seeking, a dual primary listing or secondary listing on the Exchange.
Generally Accepted Accounting Principles of Canada	
Accounting Principles Generally Accepted in Japan issued by the Accounting Standards Board of Japan	
Singapore Financial Reporting Standards	
UK Adopted International Accounting Standards	

31. An overseas issuer adopting a body of financial reporting standards other than HKFRS or IFRS for the preparation of its financial statements must include a reconciliation statement setting out the financial effect of any material differences between those financial statements and financial statements prepared using HKFRS or IFRS in its accountants' reports and annual/interim reports[14]. See Chapter 3.11 of the Guide for further details on the preparation of the reconciliation statement and the waiver requirement[15].

~~*The use of U.S. GAAP for existing secondary listed issuers*~~

~~32. Existing secondary listed issuers listed in the U.S. are allowed to use U.S. GAAP[16] will be able to continue to do so, but will be required to include a reconciliation statement in their annual financial statements starting from the first full financial year commencing on or after 1 January 2022 and in all subsequent financial statements (including interim financial statements[17]).~~

Auditing standards

~~33.~~32. The Listing Rules state that an accountants' report and annual financial statements of an overseas issuer must be audited to a standard comparable to that required by the Hong Kong Institute of Certified Public Accountants (**HKICPA**) or the International Auditing and Assurance Standards Board (**IAASB**)[18].

~~34.~~33. The Exchange is satisfied that the following seven sets of alternative standards are comparable to

[14] Primary Listing: MB Rule 19.14 and GEM Rule 7.14 (accountants' reports) and MB Rule 19.25A and GEM Rule 24.18A (annual/interim financial statements). Secondary Listing: MB Rules 19C.10D (accountants' reports) and 19C.23 (annual/interim financial statements).

[15] For automatic waivers and common waivers, please refer to MB Rule 19.58 (GEM Rule 24.25) (for issuers with, or seeking a dual primary listing) and MB Rule 19C.11B (for issuers with, or seeking a secondary listing) for details.

~~[16] For the avoidance of doubt, overseas issuers with, or seeking, a dual primary listing that prepare their financial statements using U.S. GAAP are required to continue to comply with the requirement to prepare reconciliation statements for the annual and interim financial statements and accountants' report.~~

~~[17] A secondary listed issuer listed in the U.S. is not required to prepare a reconciliation statement in respect of its U.S. GAAP quarterly financial statements which are published pursuant to overseas rules and regulations.~~

[18] Primary Listing: MB Rule 19.12 and GEM Rule 7.17A (accountants' reports) and MB Rule 19.21 and GEM Rule 24.14 (annual financial statements). Secondary Listing: MB Rules 19C.10C (accountants' reports) and 19C.17 (annual financial statements).

those required by HKICPA or the IAASB, and allows them to be used in the auditing of overseas issuers' financial statements:

(i) Australian Auditing Standards;

(ii) The Generally Accepted Auditing Standards of Canada;

(iii) Professional auditing standards applicable in France in accordance with the French Commercial Code;

(iv) Italian Auditing Standards;

(v) Singapore Standards on Auditing;

(vi) International Standards on Auditing (UK); and

(vii) The U.S. Public Company Accounting Oversight Board auditing standards.

~~35.~~34. Overseas issuers seeking to adopt a body of financial reporting standards or auditing standards that is not covered by this letter should consult the Exchange at the earliest opportunity.

X. Taxation

~~36.~~35. If withholding tax on distributable entitlements or any other tax is payable by shareholders (e.g. capital gains, inheritance or gift taxes), an overseas issuer must bring this to the Exchange's attention at the earliest possible opportunity prior to listing. The overseas issuer must disclose in its listing document details of the stamp duty and tax payable by shareholders, and whether Hong Kong investors have any tax reporting obligations and related procedures.

XI. Recognition of overseas audit firms under the AFRCO

~~37.~~36. AFRC is Hong Kong's independent regulator of listed entity auditors. All audit firms intending to carry out a PIE Engagement are subject to a system of registration (for Hong Kong audit firms) and recognition (for non-Hong Kong audit firms[19]) as PIE Auditors.

~~38.~~37. Any overseas audit firm is required to be recognised by the AFRC before the overseas audit firm can (i) undertake (i.e. accept an appointment to carry out) any PIE Engagement; and (ii) carry out any PIE Engagement for an overseas issuer. Under the AFRCO, the Exchange needs to issue a statement of no objection ("**SNO**") before the AFRC considers an application of the overseas audit firm to be recognised as a Recognised PIE Auditor. The overseas audit firm must not accept an appointment for carrying out any PIE Engagement for an overseas issuer unless the application for recognition has been granted by the AFRC.

~~39.~~38. The overseas issuers are reminded that they should plan their applications ahead[20] and allow

[19] Recognition of overseas audit firms does not apply to audit firms located in Mainland China. Under the AFRCO, the endorsed Mainland audit firms (for the PRC issuers only) will be recognised as a PIE Auditors without a recognition application being made to the AFRC.

[20] It is the responsibility of the overseas issuer to submit the application for appointing an overseas audit firm for the PIE Engagement,

sufficient time to seek the SNO and obtain the AFRC's approval for recognition of a Recognised PIE Auditor. For further details on the recognition of overseas audit firms, please refer to the AFRC's website.

Important note:
This letter does not override the Listing Rules and is not a substitute for advice from qualified professional advisers. If there is any conflict or inconsistency between this letter and the Listing Rules, the Listing Rules prevail. You may consult the Listing Division on a confidential basis for an interpretation of the Listing Rules, or this letter.

together with a SNO issued by the Exchange. The AFRC considers the application of an overseas audit firm on a case-by-case basis.