

Chapter 25

EQUITY SECURITIES

ISSUERS INCORPORATED IN THE PEOPLE'S REPUBLIC OF CHINA

Preliminary

25.01 [Repealed 1 August 2023]

25.01A The GEM Listing Rules apply as much to PRC issuers as they do to Hong Kong issuers. This Chapter sets out the additional requirements, modifications or exemptions which apply to PRC issuers listed or to be listed on GEM. Rules 24.01 to 24.28 (inclusive) do not apply in the case of such PRC issuers.

25.02 [Repealed 1 August 2023]

25.02A The Exchange may exercise its power under rule 2.07 to waive, modify or not require compliance with a GEM Listing Rule for a PRC issuer with, or seeking, a listing under this chapter on a case by case basis. For PRC issuers with, or seeking, a dual listing under this chapter, the Exchange will consider applications for waivers from strict compliance with a GEM Listing Rule based on the underlying principle that the issuer can demonstrate that strict compliance with both the relevant GEM Listing Rule and the regulations of the other exchange of primary listing would be unduly burdensome or unnecessary (including where the requirements under the GEM Listing Rules contradict the applicable overseas laws or regulations and strict compliance with the GEM Listing Rules would result in a breach of applicable overseas laws or regulations) and that the granting of such waivers by the Exchange will not prejudice the interest of the investing public.

25.03 [Repealed 1 August 2023]

Definitions

25.04 In this Chapter

- (1) the term "close associate" means:—
 - (a) in relation to an individual means:—
 - (i) his spouse;
 - (ii) any child or step-child, natural or adopted, under the age of 18 years of the individual or of his spouse (together with (a)(i) above, the "family interests");
 - (iii) the trustees, acting in their capacity as such trustees, of any trust of which he or any of his family interests is a beneficiary or, in the case of a discretionary trust, is (to his knowledge) a discretionary object;
 - (iv) [Repealed 3 June 2010]

- (v) any company (including an equity joint venture established under PRC law) in the equity capital of which he, his family interests, and/or any of the trustees referred to in (a)(iii) above, acting in their capacity as such trustees, taken together are directly or indirectly interested so as to exercise or control the exercise of 30% (or any amount specified in applicable PRC law as the level for triggering a mandatory general offer or for otherwise establishing legal or management control over a business enterprise) or more of the voting power at general meetings, or to control the composition of a majority of the board of directors and any subsidiary of this company; and
 - (vi) any company with which or individual with whom he, his family interests, and/or any of the trustees referred to in (a)(iii) above, acting in their capacity as such trustees, taken together are directly or indirectly interested in a cooperative or contractual joint venture (whether or not constituting a separate legal person) under PRC law where he, his family interests, and/or any of the trustees referred to in (a)(iii) above, acting in their capacity as such trustees, taken together directly or indirectly have 30% (or any amount specified in applicable PRC law as the level for triggering a mandatory general offer or for otherwise establishing legal or management control over a business enterprise) or more interest either in the capital and/or assets contributions to such joint venture or in the contractual share of profits or other income from such joint venture; and
- (b) in relation to a company means:—
- (i) its subsidiary or holding company or a fellow subsidiary of its holding company;
 - (ii) the trustees, acting in their capacity as trustees, of any trust of which the company is a beneficiary or, in the case of a discretionary trust, is (to the company's knowledge) a discretionary object;
 - (iii) [Repealed 3 June 2010]
 - (iv) any other company (including an equity joint venture established under PRC law) in the equity capital of which the company, its subsidiary or holding company, a fellow subsidiary of its holding company, and/or any of the trustees referred to in (b)(ii) above, acting in their capacity as such trustees, taken together are directly or indirectly interested so as to exercise or control the exercise of 30% (or any amount specified in applicable PRC law as being the level for triggering a mandatory general offer or for otherwise establishing legal or management control over a business enterprise) or more of the voting power at general meetings, or to control the composition of a majority of the board of directors and any subsidiary of this other company; and

- (v) any other company with which or any individual with whom the company, its subsidiary or holding company, a fellow subsidiary of its holding company, and/or any of the trustees referred to in (b)(ii) above, acting in their capacity as such trustees, taken together are directly or indirectly interested in a cooperative or contractual joint venture (whether or not constituting a separate legal person) under PRC law where it, its subsidiary or holding company, a fellow subsidiary of its holding company, and/or any of the trustees referred to in (b)(ii) above, acting in their capacity as such trustees, taken together directly or indirectly have 30% (or any amount specified in applicable PRC law as the level for triggering a mandatory general offer or for otherwise establishing legal or management control over a business enterprise) or more interest either in the capital and/or assets contributions to such joint venture or in the contractual share of profits or other income from such joint venture,
- (2) the term “PRC Governmental Body” means:—
- (a) PRC Central Government, including the State Council of the PRC (中國國務院), State Ministries and Commissions (國家部委), Bureaus and Administrations directly under the State Council (國務院直屬機構), State Council Offices and Institutions (國務院辦事機構及直屬國務院事業單位), Bureaus supervised by State Ministries and Commissions (國家部委代管局);
 - (b) PRC Provincial-level Governments, including Provincial Governments (省政府), Municipalities directly under the Central Government (直轄市) and Autonomous Regions (自治區), together with their respective administrative arms, agencies and institutions; or
 - (c) PRC Local Governments immediately under the PRC Provincial-level Governments, including prefectures (區), municipalities (市) and counties (縣), together with their respective administrative arms, agencies and institutions that is not engaging in commercial business or operating another commercial entity.

Note: For clarity, entities under the PRC Government that are engaging in commercial business or operating another commercial entity will be excluded from this definition.

Chapter 5 – Directors, Company Secretary, Board Committees, Authorised Representatives and Corporate Governance Matters

- 25.04A In the case of a PRC issuer, the requirements of rules 5.02A and 5.13A also apply to supervisors of the issuer with the term “directors” replaced by “supervisors”:
- 25.04B In addition to the requirements under rule 5.02B, every director of a PRC issuer must also, in the exercise of his powers and duties as a director of the PRC issuer:
- (1) comply to the best of his ability with all applicable laws, rules, regulations and normative statements (規範聲明) from time to time in force in the PRC relating to the governing, operation, conduct or regulation of public companies in the PRC or elsewhere;
 - (2) comply to the best of his ability with the provisions of the PRC issuer’s articles of association (including all provisions regarding the duties of directors) and use his best endeavours to procure the PRC issuer to act at all times in accordance with its articles of association;

- (3) inform the Exchange forthwith and in writing, at any time while he is a director of the PRC issuer (or within 12 months of his ceasing to be a director of the PRC issuer), of any administrative or governmental notice or proceeding alleging a breach by the PRC issuer or any of its subsidiaries or directors of any applicable laws, rules, regulations or normative statements (規範聲明) in force in the PRC relating to the governing, operation, conduct or regulation of public companies; and
- (4) use his best endeavours to procure any alternate of his to comply with the provisions set out in rule 25.04B (1) to (3) and rule 5.02B (1), (2) and (4).

25.04C Every supervisor of a PRC issuer must, in the exercise of his powers and duties as a supervisor of the PRC issuer:

- (1) comply to the best of his ability with all applicable laws, rules, regulations and normative statements (規範聲明) from time to time in force in the PRC relating to the responsibilities, duties and obligations of a supervisor in connection with the governing, operation, conduct or regulation of public companies in the PRC or elsewhere;
- (2) comply to the best of his ability with the provisions of the PRC issuer's articles of association (including all provisions regarding the duties of supervisors) and use his best endeavours to procure the PRC issuer and its directors to act at all times in accordance with its articles of association;
- (3) use his best endeavours to procure the PRC issuer and its directors to comply with the GEM Listing Rules, the Takeovers Code, the Share Buy-backs Code and all other relevant securities laws and regulations from time to time in force in Hong Kong;
- (4) inform the Exchange forthwith and in writing, at any time while he is a supervisor of the PRC issuer, of the initiation by the PRC issuer's supervisory committee of legal proceedings against any director of the PRC issuer;
- (5) comply to the best of his ability, as if the same applied to supervisors to the same extent as it does to directors, with Parts XIVA and XV of the Securities and Futures Ordinance, rules 5.46 to 5.67 of the GEM Listing Rules relating to securities transactions by directors, the Takeovers Code, the Share Buy-backs Code, and all other relevant securities laws and regulations from time to time in force in Hong Kong; and
- (6) use his best endeavours to procure that any alternate of his to comply with the provisions set out in (1) to (5) above.

25.04D The requirements under rules 5.02A, 5.02C and 5.13A shall apply to every supervisor of a PRC issuer with the term "director" being replaced by "supervisor".

Chapter 6A – Sponsors

25.05 [Repealed 1 October 2013]

Chapter 9 – Suspension and Resumption of Trading, Cancellation and Withdrawal of Listing

25.06 The references in rules 9.19, 9.20 and 9.23 to "shareholders" shall be construed to mean "holders of H shares".

Chapter 11 – Qualifications for Listing

25.07 The following modifications and additional requirements apply:—

- (1) the Exchange reserves the right, in its discretion, to refuse a listing of securities of a PRC issuer if it believes that it is not in the interest of the public in Hong Kong to list them;
- (2) the PRC issuer must appoint, and maintain throughout the period its securities are listed on GEM the appointment of, a person authorised to accept service of process and notices on its behalf in Hong Kong, and must notify the Exchange of his appointment and any termination of his appointment and details of:—
 - (a) his address for service of process and notices;
 - (b) if different, his place of business or, if he does not maintain a place of business, his residential address;
 - (c) his business, residential and mobile telephone number;
 - (d) his facsimile number and electronic mail address, if any; and
 - (e) any change in the above particulars;

Note: The person appointed under this rule may also be the person authorised to accept service required to be appointed under Part 16 of the Companies Ordinance, if applicable.

- (3) provision must be made for a register of holders to be maintained in Hong Kong, or such other place as the Exchange may agree, and for transfers to be registered locally. The Exchange may, however, consider an alternative proposal for registering transfers for Hong Kong holders in exceptional circumstances;
- (4) unless the Exchange otherwise agrees, only securities registered on the Hong Kong register may be traded on GEM; and
- (5) where two or more registers or branch registers of securities are maintained by a PRC issuer, it will not be necessary for the Hong Kong register to contain particulars of the shares registered on any other register or branch register.

25.07A Rule 11.23 is amended by adding the following provision to sub-paragraph (9):

Where a PRC issuer has shares apart from the H shares for which listing is sought, the total securities of the issuer held by the public (on all regulated market(s) including the Exchange) at the time of listing must be at least 25% of the issuer's total number of issued shares (excluding treasury shares). However, the issuer's H shares (for which listing is sought) must represent at least 15% of its total number of issued shares (excluding treasury shares), having an expected market capitalisation at the time of listing of not less than HK\$45,000,000.

25.08 [Repealed 1 July 2008]

25.09 [Repealed 1 July 2008]

25.10 Under rule 11.04, the Exchange requires a new applicant to make disclosure where it has a director, or controlling shareholder and, in relation only to the initial listing document, substantial shareholder (including the respective close associates of each) with a business or interest which competes or may compete with the business of the group. In this connection, in the case of a new applicant which is a PRC issuer, “controlling shareholder” means any shareholder or other person or group of persons together entitled to exercise, or control the exercise of 30% (or such other amount as may from time to time be specified in applicable PRC law as being the level for triggering a mandatory general offer or for otherwise establishing legal or management control over a business enterprise) or more of the voting power at general meetings of the new applicant (*Note*) or who is in a position to control the composition of the majority of the board of directors of the new applicant. For the purposes of this rule, the Exchange will normally not consider a PRC Governmental Body (as defined in rule 25.04) as a controlling shareholder of a PRC issuer.

Note: Voting rights attaching to treasury shares are excluded.

25.11 [Repealed 1 January 2012]

25.12 Rules 11.02, 11.30 and 17.28 only apply to H shares of a PRC issuer.

25.13 (1) In addition to the requirements of Chapter 5, the independent non-executive directors of a PRC issuer must also be able to demonstrate an acceptable standard of competence and adequate commercial or professional experience to ensure that the interests of the general body of shareholders will be adequately represented.

(2) Supervisors of a PRC issuer must have the character, experience and integrity and be able to demonstrate a standard of competence commensurate with their position as supervisors. The Exchange may request further information regarding the background, experience, other business interests or character of any supervisor or proposed supervisor.

25.14 [Repealed 1 August 2023]

Chapter 12 – Application Procedures and Requirements

25.15 (1) [Repealed 1 October 2013]

(2) [Repealed 31 December 2023]

25.16 [Repealed 1 October 2013]

25.17 [Repealed 1 October 2013]

25.17A [Repealed 1 August 2023]

Chapter 13 – Restrictions on Purchase, Disposal and Subscription

25.18 A PRC issuer may purchase its own shares on GEM and hold them as treasury shares in accordance with the provisions of this rule and rules 13.03 to 13.14. Although such provisions normally apply to a PRC issuer's equity securities which are listed on GEM and which are or are proposed to be purchased on GEM, when seeking shareholders' approval to make purchases of such securities on GEM or when reporting such purchases, a PRC issuer should provide information on the proposed or actual purchases of any or all of its equity securities, whether or not listed or traded on GEM. Therefore, in the case of a PRC issuer, rule 13.06 is amended and restated in its entirety to read as follows:

"For the purposes of rules 13.03 to 13.14, "shares" shall mean shares of all classes listed on GEM and securities listed on GEM which carry a right to subscribe or purchase shares of the PRC issuer, provided that references to "shares" in rules 13.08, 13.13 and 13.14B shall also include shares of all classes listed on any stock exchange and securities that are listed on any stock exchange which carry a right to subscribe or purchase shares of such PRC issuer, and provided further that the Exchange may waive the requirements of those rules in respect of any fixed participation shares which are, in the opinion of the Exchange, more analogous to debt securities than equity securities. References to purchases of shares include purchases by agents or nominees on behalf of the PRC issuer or subsidiary of the PRC issuer, as the case may be."

25.19 (1) [Repealed 1 August 2023]

(2) For a PRC issuer, rule 13.08(7) is restated in its entirety as follows:—

"a statement as to the consequences of any purchases which shall arise under either or both of the Takeovers Code and/or any similar applicable law of which the directors are aware, if any."

(3) For a PRC issuer, the reference to "10 per cent of the number of issued shares (excluding treasury shares) of the issuer" in rule 13.09(1) shall mean "10 per cent of the total number of issued H shares (excluding treasury shares) of the PRC issuer".

Chapter 14 – Listing Documents

25.20 The following modifications and additional requirements apply to the contents of listing documents:

- (1) some of the items of information specified in Appendices D1A and D1B may be inappropriate. In such a case, the item should be appropriately adapted so that equivalent information is given;
- (2) the listing document must contain a summary of all provisions of the constitutional documents of the PRC issuer in so far as they may affect shareholders' rights and protection and directors' powers (using, and covering at the least, the same subject headings as required under the attachment to Appendix D1A);
- (3) the listing document must contain a summary of the relevant PRC law; and

Note: In general, the relevant PRC law to be summarised normally would be expected to cover matters such as taxation on the PRC issuer's income and capital, tax (if any) deducted on distributions to shareholders, foreign exchange controls or restrictions, company law, securities regulations or other relevant laws or regulations, and any PRC law which regulates or limits the PRC issuer's major business(es) or the industry in which it mainly operates.

- (4) the documents to be published on the Exchange’s website and the issuer’s own website will be the documents corresponding to those mentioned in paragraph 52 of Appendix D1A and paragraph 42 of Appendix D1B, and where any such documents are not in English or Chinese, a certified English or Chinese translation thereof must be published on the Exchange’s website and the issuer’s own website. In addition, where rule 25.20(3) applies, the PRC issuer must publish on the Exchange’s website and the issuer’s own website a copy of any statutes or regulations which are relevant to the summary of relevant PRC law. In particular cases, the Exchange may require other additional documents to be published on the Exchange’s website and the issuer’s own website.

25.20A Rules 25.20(2) and (3) do not apply to listing documents issued by listed issuers unless they are issued in connection with an introduction or a deemed new listing under the GEM Listing Rules.

Chapters 17 and 18 – Continuing Obligations and Financial Information

General

25.21 [Repealed 1 August 2023]

25.22 [Repealed 1 August 2023]

25.22A The reference to “every member” in rule 18.03 shall mean and refer to only registered holders of the PRC issuer’s H shares.

Pre-emptive rights

25.23 For a PRC issuer, the references to shareholder(s) that is/are resident outside Hong Kong in rule 17.41(1) and note 2 to rule 17.41(1) shall mean shareholder(s) that is/are resident outside the PRC and Hong Kong.

Annual report and accounts and auditors’ report

25.24 The following modifications and additional requirements apply to Chapter 18 and to the extent such modifications and additional requirements conflict with the provisions of Chapter 18, the following provisions shall apply.

25.25 The annual accounts must be audited by a person, firm or company who must be a practising accountant of good standing. Such person, firm or company must also be independent of the PRC issuer to the same extent as that required of an auditor under the Companies Ordinance and in accordance with the requirements on independence issued by the International Federation of Accountants and must be:—

- (1) a Registered PIE Auditor under the AFRCO; or
- (2) an overseas firm of practising accountants that is a Recognised PIE Auditor of that issuer under the AFRCO; or
- (3) [Repealed 1 January 2022]

- (4) under the mutual recognition agreement, a PRC firm of practising accountants which has been approved by the China Ministry of Finance and the China Securities Regulatory Commission as being suitable to act as an auditor or a reporting accountant for a PRC incorporated company listed in Hong Kong and is a Recognised PIE Auditor under section 20ZT of the AFRCO on the condition that the PRC issuer has adopted CASBE for the preparation of its annual financial statements.

Notes:

1. *In relation to an application for the recognition of an overseas firm of practising accountants under the AFRCO, on a request made by a PRC issuer, the Exchange may provide a statement of no objection to that issuer for appointing an overseas firm of practising accountants to carry out a PIE Engagement for that issuer under section 20ZF(2)(a) of the AFRCO (see note 2 to rule 7.02(1)).*
2. *The mutual recognition agreement referred to in (4) above means the agreement between the Mainland of China and Hong Kong in 2009 for mutual recognition of qualified auditors from either jurisdiction (home jurisdiction) to act as auditors of corporations incorporated in the home jurisdiction and listed in the other jurisdiction.*

- 25.26 The accounts must be audited to a standard comparable to that required in Hong Kong or under International Standards on Auditing or China Auditing Standards.
- 25.27 The report of the auditors must be annexed to all copies of the annual accounts required to be sent by the PRC issuer and indicate whether in the opinion of the auditors the accounts give a true and fair view:
- (1) in the case of the issuer's balance sheet, of the state of its affairs at the end of the financial year and in the case of the issuer's profit and loss account, of the profit or loss and in the case of the issuer's cash flow statement, of the cash flows for the financial year; and
 - (2) in the case where consolidated accounts are prepared, of the state of affairs, the profit or loss and the cash flows of the issuer and the group of which the issuer is the holding company.
- 25.28 The report of the auditors must indicate the act, ordinance or other legislation in accordance with which the annual accounts have been drawn up and the authority or body whose auditing standards have been applied.
- 25.29 If the PRC issuer is not required to draw up its accounts so as to give a true and fair view but is required to draw them up to an equivalent standard, the Exchange may allow its accounts to be drawn up to that standard. Reference must, however, be made to the Exchange.
- 25.30 An auditors' report in a different form may be applicable in the case of banking and insurance companies. The wording of such an auditors' report should make it clear whether or not profits have been stated before transfers to or from undisclosed reserves.

Information to accompany annual report and accounts

- 25.31 A PRC issuer shall include in its directors report and accounts the information necessary to enable holders of its securities to obtain any relief from taxation to which they are entitled by reason of their holding of such securities.
- 25.32 A PRC issuer shall include in its directors' report and accounts those additional disclosures required of Hong Kong incorporated companies under the provisions of the Companies Ordinance and subsidiary legislations set out in rule 18.07A.
- 25.33 The statement of reserves available for distribution to shareholders required pursuant to rule 18.37 shall be calculated in accordance with any statutory provisions applicable in the PRC or, in the absence of such provisions, with generally accepted accounting principles.

Interim reports

- 25.34 If the PRC issuer publishes an interim report in the PRC, the Exchange may authorise it to publish that report (if necessary, translated into English and Chinese) instead of the interim report provided for in Chapter 18, provided that the information given is equivalent to that which would otherwise have been required.

Despatch of circular and listing document

25.34A [Repealed 1 August 2023]

25.34B [Repealed 1 August 2023]

Chapter 19 – Notifiable Transactions

25.34C Rule 19.07(4) is amended by adding the following provisions:

Where the shares of a PRC issuer (other than H shares) are listed on a PRC stock exchange, the market capitalisation of its PRC listed shares is to be determined based on the average closing price of those shares for the 5 days on which trading is conducted on the relevant PRC stock exchange immediately preceding the transaction.

Where a PRC issuer has issued unlisted shares, the market capitalisation of its unlisted shares is calculated by reference to the average closing price of its H shares for the 5 days on which trading is conducted on the relevant PRC stock exchange immediately preceding the transaction.

Chapter 23 – Share Schemes

25.34D The Exchange may waive the exercise price requirement under rule 23.03E for a share option scheme of a PRC issuer dually listed on the Exchange and a PRC stock exchange, provided that: (i) the scheme involves only shares listed on the PRC stock exchange; and (ii) the scheme contains provisions to ensure that the exercise price of the options is no less than the prevailing market price of the relevant shares on the PRC stock exchange at the time of grant of the options.

25.34E For a PRC issuer, rule 23.01(4) is restated in its entirety as follows:

In this Chapter 23, references to new shares or new securities of a PRC issuer include its treasury shares listed on GEM, and references to the issue of shares or securities include the transfer of treasury shares listed on GEM.

25.34F For a PRC issuer, a share scheme funded by its treasury shares not listed on GEM is subject to rule 23.12. The transfer of treasury shares not listed on GEM to a connected person pursuant to such scheme may be exempt as a de minimis transaction under rule 20.74.

Listing on a PRC stock exchange

25.35 [Repealed 1 August 2023]

Constitutional documents

25.36 [Repealed 1 August 2023]

Other requirements applicable to PRC issuers

25.37 [Repealed 1 August 2023]

25.37A [Repealed 1 August 2023]

25.38 A PRC issuer shall appoint one or more receiving agents in Hong Kong and pay to such agents dividends declared and other monies owing in respect of securities listed on GEM to be held, pending payment, in trust for the holders of such securities.

25.39 [Repealed 1 August 2023]

25.40 [Repealed 1 August 2023]

25.41 [Repealed 1 August 2023]

25.42 [Repealed 1 August 2023]

25.43 [Repealed 1 August 2023]

General

25.44 [Repealed 1 August 2023]

25.45 All documents furnished by a PRC issuer, including accounts, which are in a language other than English or Chinese must be accompanied by a certified English or Chinese translation. If the Exchange so requires, an additional translation must be prepared in Hong Kong at the PRC issuer's expense by such person or persons as the Exchange shall specify.

25.46 Information to be supplied by PRC issuers in a listing document or accounts notwithstanding any obligation in the GEM Listing Rules, the Statutory Rules or any obligation imposed by the laws of Hong Kong shall not be less than that required to be supplied by the PRC issuer under applicable PRC law.