

ACCEPTABLE JURISDICTION APPLICATION¹

1. The Joint Policy Statement regarding the Listing of Overseas Companies (“**JPS**”)² sets out guidance for overseas companies seeking to list in Hong Kong. Overseas applicants incorporated outside the Recognised Jurisdictions³ must demonstrate that their domestic laws, rules and regulations, their constitutional documents and potential arrangements that can be adopted, as a whole, meet the key shareholder protection standards at least equivalent to those provided in Hong Kong as set out in the JPS so that the jurisdiction in which they are incorporated will be qualified as an Acceptable Jurisdiction eligible for listing in Hong Kong.
2. The purpose of this document is to assist overseas applicants or relevant authorities to compare the key shareholder protection standards as set out in the JPS between their jurisdiction of incorporation and Hong Kong.
3. Applicants should not rely solely on the contents of this document and should read the JPS for the specific requirements for an Acceptable Jurisdiction application. Applicants may, in addition to this document, provide further information for matters that may assist the Exchange’s consideration of its Acceptable Jurisdiction application. Subject to the information provided by the applicants for this Acceptable Jurisdiction application, the Exchange and/or the Securities and Futures Commission (“**SFC**”) may make more enquiries.
4. The regulatory requirements as set out in this document are provided for reference only. In case of doubt, you may refer to the relevant rules and regulations, including the Rules Governing the Listing of Securities of The Stock Exchange of Hong Kong Limited (“**Hong Kong Listing Rules**”), Companies Ordinance (Chapter 622 of the Laws of Hong Kong) (“**Companies Ordinance**”), Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) (“**CWUMPO**”) and The Codes on Takeovers and Mergers and Share Buy-backs, for the specific requirements.

¹ Unless otherwise defined, capitalised terms used herein have the same meanings as in the JPS.

² https://www.hkex.com.hk/Listing/Rules-and-Guidance/Other-Resources/Listing-of-Overseas-Companies?sc_lang=en

³ Hong Kong, the People’s Republic of China, the Cayman Islands and Bermuda.

2. State whether:

Statutory securities regulator in the New Jurisdiction	Statutory securities regulator in the Applicant's PCMC
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(Yes or No)

(a) is a full signatory of the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information; or

(b) has entered into an appropriate bi-lateral agreement with the SFC which provides adequate arrangements with the SFC for mutual assistance and exchange of information for the purpose of enforcing and securing compliance with the laws and regulations of the New Jurisdiction and Hong Kong.

Note: If the answers are “No” to 2(a) or (b) above, please consult the Exchange before proceeding to complete this application form.

3. Provide a brief description of the regulatory framework that governs the corporate and securities activities and rights of shareholders of the companies incorporated in the New Jurisdiction⁶, in particular the key shareholder protection requirements as set out in Section 1 of the JPS.
4. Advise whether regulatory approvals are required for a company incorporated in New Jurisdiction to seek an overseas listing.

⁶ Regulatory framework that is applicable to the relevant type of company which will apply for listing in Hong Kong (for example, whether it is private or public, and/or whether the shares are traded on a local or foreign stock exchange), if the regulatory frameworks are different.

5. Advise if there are (i) any restrictions as to (a) the type of shares which may be issued; and (b) the identity of holders of the shares, in each case by a company incorporated in the New Jurisdiction; (ii) any limit on the percentage of shares in a company incorporated in the New Jurisdiction that can be held by national or foreign shareholders; and (iii) any other special criteria or restrictions for overseas listing of companies incorporated in the New Jurisdiction.

II. Key Shareholder Protection Standards under Section 1 of the JPS

Shareholder protection standard under JPS	Hong Kong requirements	Comparable / equivalent requirements of the New Jurisdiction, and explain (i) how they provide shareholder protection standard equivalent to those in Hong Kong; or (ii) potential conflict or shortfall	Proposed actions that a potential applicant incorporated in the New Jurisdiction will take to address the conflict or make up the shortfall (if applicable)
1. Matters requiring a super majority vote			
[JPS §36-38] A super-majority⁷ vote of members is required to approve:	Special resolution (i.e. resolution of members passed by a majority of at least 75%) is required for:		
(a) changes to the rights attached to any class of shares of an overseas company (vote by members of that class);	variation of rights attached to a class of shares in a company (<i>Section 180 of Companies Ordinance</i>);	<i>[Example: Under the laws of the New Jurisdiction, resolutions for changes to class rights, material changes to their constitutive documents, and their voluntary winding-up, only require simple majority votes from members with no quorum requirements.]</i>	<i>[Example: Applicants incorporated in the New Jurisdiction may modify their constitutional documents to specify that resolutions for changes to class rights, material changes to their constitutive</i>

⁷ Some jurisdictions have a super-majority threshold of a three-quarter or a two-third majority of votes by members present at the general meeting with no special requirement as to the quorum. Others impose a higher quorum requirement with a lower majority, such as, a quorum of 50% of share capital plus a majority of more than 50% of share capital, or a quorum of two-thirds of share capital plus a simple majority approval by those members present. The Exchange requires a super-majority vote to mean at least a two-thirds majority where an overseas company has a low quorum requirement (e.g. two members). When an overseas company's threshold for deciding the matters set out in JPS §36 is a simple majority only (50% plus 1 vote), these matters must be decided by a significantly higher quorum.

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			<i>documents, and their voluntary winding-up must be approved by a super-majority vote of members or by a simple majority vote of members plus a significantly higher quorum.]</i>
(b) material changes to an overseas company's constitutive documents, however framed; and	alterations to the articles of association of a company (other than the maximum number of shares that a company may issue which may be made by an ordinary resolution (i.e. resolution of members passed by a simple majority)) <i>(Section 88 of Companies Ordinance); and</i>		
(c) voluntary winding-up of an	voluntary winding-up of a company		

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overseas company.	<i>(Section 228 of CWUMPO).</i>		
2. Individual members to approve increase in member's liability			
[JPS §39] There should not be any alteration in an overseas company's constitutional document to increase an existing member's liability to the company unless such increase is agreed by such member in writing.	A member is not bound by any alteration of the articles of association effective after becoming a member if the alteration increases the member's liability to contribute to the company's share capital or to pay money to the company, unless the member agrees to be bound by such alteration in writing <i>(Section 92 of Companies Ordinance).</i>		

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3. Appointment of auditors			
<p>[JPS §40] Appointment, removal and remuneration of auditors must be approved by a majority of an overseas company's members or other body that is independent of the board of directors, for example the supervisory board in systems that have a two tier board structure.</p>	<p><u>Appointment</u> Other than the appointment of the first auditors by the directors, a company must appoint the auditors by way of an ordinary resolution (<i>Sections 395 and 396 of Companies Ordinance</i>).</p>		
	<p><u>Removal</u> A company may remove the auditors by way of an ordinary resolution (<i>Section 419 of Companies Ordinance</i>).</p>		
	<p><u>Remuneration</u> The remuneration of the auditors (unless</p>		

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	appointed by the directors or the court) may be fixed by an ordinary resolution or in the manner specified in such resolution (<i>Section 404 of Companies Ordinance</i>).		
4. Proceedings at general meetings			
[JPS §41] An overseas company is required to hold a general meeting each year as its annual general meeting. Generally not more than 15 months should elapse between the date of one annual general meeting of the overseas company and the next.	A company must hold a general meeting each year as its annual general meeting. The annual general meeting must be held within 6 months after the end of the company's accounting reference period (<i>Section 610 of Companies Ordinance</i>).		

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<p>[JPS §42] An overseas company must give its members reasonable written notice of its general meetings.</p>	<p>A general meeting of a company must be called by notice of (a) at least 21 days for an annual general meeting; and (b) at least 14 days for other meetings.</p> <p>If the company's articles of association require a longer notice period, such longer notice period shall apply (<i>Section 571 of Companies Ordinance</i>).</p>		
<p>[JPS §43] Members must have the right to speak and vote at a shareholder meeting except where a member is required, by the Hong Kong Listing Rules, to abstain</p>	<p>A member is entitled to appoint another person as a proxy to exercise all or any of the member's rights to attend and to speak and vote at a general meeting of the company</p>	<p><i>[Example:</i> <i>Under the laws of the New Jurisdiction, all shareholders are entitled, in person or represented by a proxy authorised in writing, to attend and address the general meeting and exercise voting rights pro rata to their shareholdings, regardless whether the member has any material interest in a transaction or arrangement.]</i></p>	<p><i>[Example:</i> <i>Applicants incorporated in the New Jurisdiction may propose to adopt a dual vote counting mechanism for resolutions, under which the first count would</i></p>

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from voting to approve the transaction or arrangement (e.g. the member has a material interest in the transaction or arrangement)⁸.	<i>(Section 596 of Companies Ordinance)</i> , subject to the requirement of the Hong Kong Listing Rules that a member abstain from voting if the member has a material interest in the transaction or arrangement.		<i>involve all votes cast whilst the second count would include all votes cast excluding interested shareholders' votes, and both share counts must result in a simple majority before the resolution is considered approved.]</i>
[JPS §44] Members holding a minority stake in an overseas company must be allowed to convene an extraordinary general meeting and add resolutions to a meeting agenda. The minimum level of members' support	Members holding at least 5% of the total voting rights in the company may requisition the directors to call a general meeting. The requisition may include the text of a resolution that may be moved at the		

⁸ If an overseas company is subject to a foreign law or regulation that prevents the restriction of members' right to speak and vote at shareholders' meetings, the company can enter into an undertaking with the Exchange to put in place measures that achieve the same outcome as the Hong Kong Listing Rule restriction (e.g. any votes cast by or on behalf of a member in contravention of the Hong Kong Listing Rule restriction must not be counted towards approving the transaction or arrangement).

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required to convene a meeting must be no higher than 10%.	general meeting (<i>Section 566 of Companies Ordinance</i>).		
[JPS §45] A recognised Hong Kong clearing house must be entitled to appoint 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.	A recognised Hong Kong clearing house may authorise any person(s) it thinks fit to act as its representative(s) at any meeting of the company. Such representative(s) are entitled to exercise the same powers on behalf of the clearing house as that clearing house could exercise if it were an individual member of the company (<i>Section 607 of Companies Ordinance</i>).		

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<p>[JPS §46] Where the laws of an overseas jurisdiction prohibit a recognised clearing house from appointing proxies/corporate representatives, the overseas company must make the necessary arrangements with Hong Kong Securities Clearing Company Nominees Limited (<i>HKSCC Nominees</i>) to ensure that Hong Kong investors holding shares through HKSCC Nominees enjoy the rights to vote, attend (personally or by proxy) and speak at general meetings.</p>	<p>No such prohibition in Hong Kong.</p>		

III. Appendix 3 to the Hong Kong Main Board Listing Rules on the Contents of Constitutional Documents

Paragraph	Requirements	Comparable / equivalent requirements of the New Jurisdiction, and explain (i) how they comply with the Hong Kong Listing Rules requirement; or (ii) potential conflict or shortfall	Proposed actions that a potential applicant incorporated in the New Jurisdiction will take to address the potential conflict or make up the shortfall (if applicable)
Transfer and registration			
1(1)	That 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 Hong Kong Listing Rules.		
1(2)	That fully-paid shares shall be free from any restriction on the right of transfer (except when permitted by the Exchange) and shall also be free from all lien.		
1(3)	That where power is taken to limit the number of shareholders in a joint account, such limit shall not prevent the registration of a maximum of four persons.		

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Definitive certificates			
2(1)	That all certificates for capital must be under seal, which may only be affixed with the authority of the directors, or be executed under signature of appropriate officials with statutory authority.		
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 reasonable doubt that the original has been destroyed.		
Dividends			
3(1)	That any amount paid up in advance of calls on any share may carry interest but shall not entitle the holder of the share to participate in respect thereof in a dividend subsequently declared.		
3(2)	Where power is taken to forfeit unclaimed dividends, that power shall not be exercised		

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	until six years or more after the date of declaration of the dividend.		
Directors			
4(1)	That, 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 close associates has a material interest nor shall he be counted in the quorum present at the meeting.		
4(2)	That any person appointed by the directors to fill a casual vacancy on or as an addition to the board shall hold office only until the next following annual general meeting of the issuer, and shall then be eligible for re-election.		
4(3)	That, where not otherwise provided by law, the issuer in general meeting shall have power by ordinary resolution to remove any director (including a managing or other		

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	executive director, but without prejudice to any claim for damages under any contract) before the expiration of his period of office.		
4(4)	That the minimum length of the period, during which notice to the issuer of the intention to propose a person for election as a director and during which notice to the issuer by such person of his willingness to be elected may be given, will be at least 7 days.		
4(5)	That the period for lodgment of the notices referred to in sub-paragraph 4(4) will commence no earlier than the day after the despatch of the notice of the meeting appointed for such election and end no later than 7 days prior to the date of such meeting.		
Accounts			
5	That a copy of either (i) the directors' report, accompanied by the balance sheet (including every document required by law		

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	to be annexed thereto) 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 member.		
Rights			
6(1)	That adequate voting rights will, in appropriate circumstances, be secured to preference shareholders.		
6(2)	That the quorum for a separate class meeting (other than an adjourned meeting) to consider a variation of the rights of any class of shares shall be the holders of at least one-third of the issued shares of the class.		

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Notices			
7(1)	That where power is taken to give notice by advertisement such advertisement may be published in the newspapers.		
7(2)	That an overseas issuer whose primary listing is or is to be on the Exchange shall give notice sufficient to enable members, 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 will not normally request the issuer to change its articles to comply with this paragraph where it would be unreasonable to do so.		
7(3)	That there is no prohibition on the giving of notice to members whose registered address is outside Hong Kong.		

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Redeemable shares			
8	That, where the issuer has the power to purchase for redemption a redeemable share:		
8(1)	purchases not made through the market or by tender shall be limited to a maximum price; and		
8(2)	if purchases are by tender, tenders shall be available to all shareholders alike.		
Capital structure			
9	That the structure of the share capital of the issuer be stated and where such capital consists of more than one class of share it must also be stated how the various classes shall rank for any distribution by way of dividend or otherwise.		

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Non-voting or restricted voting shares			
10(1)	That, where the capital of the issuer includes shares which do not carry voting rights, the words “non-voting” must appear in the designation of such shares.		
10(2)	That, where the equity capital includes shares with different voting rights, the designation of each class of shares, other than those with the most favourable voting rights, must include the words “restricted voting” or “limited voting”		
Proxies			
11(1)	That where provision is made in the articles as to the form of proxy, this must be so worded as not to preclude the use of the two-way form.		
11(2)	That a corporation may execute a form of proxy under the hand of a duly authorised officer.		

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Disclosure of interests			
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 company.		
Untraceable members			
13(1)	That 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.		
13(2)	That where power is taken to sell the shares of a member who is untraceable it will not be exercised unless:		

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13(2)(a)	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		
13(2)(b)	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.		
Voting			
14	That, where any shareholder is, under the Hong Kong Listing Rules, required to abstain from voting on any particular resolution or restricted to voting only for or only against any particular resolution, any votes cast by or on behalf of such shareholder in contravention of such requirement or restriction shall not be counted.		

IV. Compliance with The Codes on Takeovers and Mergers and Share Buy-backs (“Codes”)

The Codes apply to takeovers, mergers and share buy-backs affecting Hong Kong public companies and companies and Real Estate Investment Trusts with a primary or dual-primary listing on the Exchange. The Codes do not apply to a secondary listed company on the Exchange unless it is a “public company in Hong Kong” within the meaning of the Codes. The SFC will consider all the circumstances including the factors set out in section 4.2 of the Introduction to the Codes⁹ to determine whether a secondary listed company is a “public company in Hong Kong”.

1. Provide a brief description of the regulatory framework that governs takeovers, mergers and share buy-backs of companies incorporated in the New Jurisdiction.
2. Specify and provide full analysis of:
 - (a) any conflicts between the laws and regulations of the New Jurisdiction and the Codes;
 - (b) the laws and regulations of the New Jurisdiction which would render an offeror, offeree company or their related parties being unable to comply with the Codes; and
 - (c) the proposed actions that a potential applicant incorporated in the New Jurisdiction will take to resolve these conflicts or differences, including any waivers or exemptions available under the local jurisdictions the waiver/exemption of which would allow the parties to fully comply with the Codes, and the relevant procedures.
3. Provide details of any statutory takeovers or mergers regime in the New Jurisdiction which provides for (a) compulsory acquisition or squeeze out rights; and (b) appraisal rights for dissenting shareholders.
4. Advise whether the New Jurisdiction permits treasury shares to be held and if permitted, the voting rights and dividend entitlement attached to such treasury shares.

⁹ <https://www.sfc.hk/web/EN/rules-and-standards/codes-and-guidelines/codes/>