

## HKEX GUIDANCE LETTER

HKEX-GL118-23 (December 2023)(Effective from 1 January 2024)

<b>Subject</b>	<b>Guidance on the electronic submission of prospectus and accompanying documents to the Exchange and the Companies Registry for authorisation and registration</b>
<b>Listing Rules and Regulations</b>	<b>Main Board Rules 2.07(3A), 9.11(33) and 9.22(2) and GEM Rules 2.21, 12.25(2) ,12.26E(2)</b>

**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. Listing applicants or listed issuers issuing prospectuses and their advisers are strongly advised to review the requirements as listed out in this guidance letter and in the relevant laws and regulations and ensure that the application for authorisation for registration of the prospectus, the prospectus, its related application forms and other accompanying documents delivered to the Exchange for authorisation of registration are duly prepared in accordance with those requirements. Unless otherwise specified, terms used in this letter shall have the same meaning as defined in the Listing Rules.*

### Purpose

1. This letter provides guidance on the manner in which documents must be electronically delivered to the Exchange for an application for authorisation of the registration of a prospectus in accordance with the Listing Rules<sup>1</sup> and the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32) (“**C(WUMP)O**”) (*subject to the effective date and transitional arrangements set out in paragraphs 15 to 17 below*).<sup>2</sup>

### Relevant Listing Rules and legislation

2. In respect of listing applicants, Main Board Rule 9.11(33)<sup>3</sup> provides that in cases where a listing document constitutes a prospectus under the C(WUMP)O, the following documents must be submitted to the Exchange by 11 a.m. on the intended date of authorisation of registration of the prospectus:
  - (a) an application for authorisation for registration of the prospectus under section 38D(3) or section 342C(3) of the C(WUMP)O (as the case may be);
  - (b) two copies of the prospectus, duly signed<sup>4</sup> in accordance with section 38D(3) or

<sup>1</sup> For the avoidance of doubt, all Listing Rule references in this letter are to the Main Board Listing Rules and GEM Rules in effect as of 31 December 2023 following the Consultation Conclusions on Proposals to Expand the Paperless Listing Regime and Other Rule Amendments published on 30 June 2023.

<sup>2</sup> For the avoidance of doubt, this includes listing documents relating to debt securities which must be registered in accordance with the C(WUMP)O and, pursuant to Main Board Rules 24.15 and 25.01 (GEM Rule 28.17 and 29.01), are subject to the procedures for authorisation for registration set out in Chapter 11A (GEM Rules Chapter 15) and Main Board Rule 9.11(33) (GEM Rule 28.15).

<sup>3</sup> GEM Rule 12.25(2).

<sup>4</sup> For the purpose of this guidance letter, the term “*signed*” in respect of the “signing” of a prospectus refers to, as the case may be: (a) the act of signing by every director or proposed director of the company or by his agent authorised

section 342C(3) of the C(WUMP)O and having endorsed thereon or attached thereto the documents required under the relevant section; and

- (c) in respect of every Chinese translation of the prospectus, a certificate issued by the translator certifying that the Chinese translation of the English version of the prospectus is true and accurate; or in respect of an English translation of the prospectus, a certificate issued by the translator certifying that the English translation of the Chinese version of the prospectus is true and accurate; and in either case, a certificate issued by a competent officer of the sponsor certifying that the translator is competent to give translations on prospectus documents.
3. In respect of listed issuers, Main Board Rule 9.22(2)<sup>5</sup> provides that in cases where a listing document constitutes a prospectus under the C(WUMP)O, the following documents must be submitted to the Exchange by 11 a.m. on the intended date of authorisation of registration of prospectus:
  - (a) an application for authorisation for registration of the prospectus under section 38D(3) or section 342C(3) of the C(WUMP)O (as the case may be);
  - (b) two copies of the prospectus, duly signed<sup>6</sup> in accordance with section 38D(3) or section 342C(3) of the C(WUMP)O and having endorsed thereon or annexed thereto the documents required under the relevant section;
  - (c) in respect of every Chinese translation of the prospectus,
    - (i) a certificate issued by the translator certifying that the Chinese translation of the English version of the prospectus is true and accurate; and
    - (ii) a certificate issued by the issuer certifying that the translator is competent to have given the above certificate; and
  - (d) any power of attorney, or other authority under which the prospectus is signed.
4. Note to Main Board Rule 2.07(3A)<sup>7</sup> states that, in respect of documents submitted to the Exchange for the purpose of the authorisation of the registration of a prospectus, they must be submitted in the manner and via the means prescribed by the C(WUMP)O and any related guidance materials published from time to time.
5. Under the C(WUMP)O<sup>8</sup>, a prospectus to be submitted for the purpose of seeking authorisation of the registration of a prospectus must be an *original* copy signed by such persons as required under section 38D(3) or section 342C(3) of the C(WUMP)O<sup>9</sup> (as the case may be) ("**Designated Signatories**"), while other documents ("**Accompanying Documents**") to be endorsed on or attached to the prospectus to be registered may be

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in writing under section 38D(3) of the C(WUMP)O; or (b) the act of certifying by two members of the governing body of the company or by their agents authorised in writing, as envisaged under section 342C(3) of the C(WUMP)O. See further information in paragraph 5.

<sup>5</sup> GEM Rule 12.26E(2).

<sup>6</sup> See footnote 4.

<sup>7</sup> GEM Rule 2.21.

<sup>8</sup> Sections 38D and 342C of the C(WUMP)O.

<sup>9</sup> See footnote 4.

*originals* or *certified* copies (certified as true copies by persons recognised under section 39C(b) or section 342CC(b) of the C(WUMP)O (as the case may be) (“**Approved Certifier**”)<sup>10</sup>).

6. The Electronic Transactions Ordinance (Cap 553) (“**ETO**”) establishes a framework under Hong Kong law for the recognition of electronic records<sup>11</sup> and signatures, giving them the same legal status as their paper counterparts. Under the ETO<sup>12</sup>, where a rule of law requires the signature of a person on a document, an electronic signature or, in the case where a Government entity is involved, a digital signature (as defined in the ETO) of that person satisfies such requirement.

## Guidance

7. A prospectus, its related application forms and its Accompanying Documents<sup>13</sup> to be submitted for the purpose of seeking authorisation of the registration of a prospectus pursuant to the C(WUMP)O must be submitted to the Exchange in electronic form.
8. Digital signatures must be used for: (a) signing<sup>14</sup> the original copies of the prospectus, its related application forms, and any Accompanying Documents<sup>15</sup> (if the original Accompanying Document is submitted); and (b) certifying a copy of any Accompanying Document as a true copy<sup>16</sup> (if a certified copy of the Accompanying Document is submitted).
9. A digital signature must be supported by a recognized certificate, generated within the validity of that certificate and used in accordance with the terms of that certificate (“**Recognised Digital Signature**”). The terms “*recognized certificate*” and “*within the validity of that certificate*” shall have the meanings ascribed to them under the ETO. The following certification authorities in Hong Kong are recognised for issuing digital certificates:
  - (a) The Postmaster General (Hongkong Post Certification Authority) issues recognised digital certificates under the brand name of “[e-Cert](#)”<sup>17</sup>;

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<sup>10</sup> The persons recognised under sections 39C(b) and 342CC(b) of the C(WUMP)O are: (a) a director (or a member of the governing body of the company) or the company secretary of the company or an agent of the director (or a member of the governing body of the company) or the company secretary authorised in writing for the purpose by the director (or such member) or company secretary; (b) a solicitor within the meaning of section 2(1) of the Legal Practitioners Ordinance (Cap 159) or a certified public accountant within the meaning of section 2 of the Professional Accountants Ordinance (Cap 50); and (c) a notary public within the meaning of section 2(1) of the Legal Practitioners Ordinance (Cap 159).

<sup>11</sup> An “electronic record” is defined under the ETO to mean a record generated in digital form by an information system, which can be (a) transmitted within an information system or from one information system to another; and (b) stored in an information system or other medium.

<sup>12</sup> Section 6 of the ETO.

<sup>13</sup> These documents include items 2 to 8 set out in Annex I. Pursuant to section 3 of and Schedule 1 to the ETO, powers of attorney are excluded from the application of the relevant sections of the ETO. Accordingly, powers of attorney cannot be executed by digital signature and shall be executed following appropriate wet ink procedures in accordance with applicable laws. Thus, no original power of attorney may be delivered in electronic form but copies of powers of attorney certified as true copies by Approved Certifiers’ personal Recognised Digital Signatures may be delivered in electronic form for seeking authorisation and registration.

<sup>14</sup> See footnote 4.

<sup>15</sup> See footnote 13.

<sup>16</sup> A scanned copy of a physical record bearing a physical signature will not be accepted nor will an electronic record bearing just an electronic signature that does not meet the requirements of this guidance letter.

<sup>17</sup> See [Hongkong Post e-Cert - Types of e-Cert](#) for further details.

- (b) Digi-Sign Certification Services Limited issues digital certificates with the brand name of "[ID-Cert](#)"<sup>18</sup>.
10. To apply for the authorisation of the registration of prospectus, a listing applicant/listed issuer (or their advisors) must submit, by email,<sup>19</sup> to the Exchange by 11 a.m. on the intended date of authorisation of the prospectus:<sup>20</sup>
- (a) an original copy of the prospectus, together with originals of its related application forms, signed<sup>21</sup> by the Designated Signatories using their Recognised Digital Signatures;
  - (b) original Accompanying Documents<sup>22</sup> signed by the relevant authorised signatories using their Recognised Digital Signatures, **or** copies of the Accompanying Documents certified as true copies by Approved Certifiers with their Recognised Digital Signatures; and
  - (c) where a prospectus or a related application form is signed by an authorised person by virtue of a power of attorney or any other authority:
    - (i) a copy of each power of attorney certified as true copy by an Approved Certifier with his Recognised Digital Signature; or
    - (ii) each original authority signed by the relevant signing party with Recognised Digital Signature or a copy thereof certified as true copy by an Approved Certifier with his Recognised Digital Signature;

provided that in case only a certified copy of any document has been submitted as aforesaid, the listing applicant/listed issuer (or their advisors) must, upon demand by the Exchange if it thinks fit, produce the original to the Exchange for inspection.

11. To grant an authorisation for registration of a prospectus, the Exchange will send the listing applicant/listed issuer (or their advisors), by email, a certificate of authorisation, the prospectus and its related application forms each signed by the Exchange with its own Recognised Digital Signature together with the Accompanying Documents authorised by

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<sup>18</sup> See [Digi-Sign Certification Services Limited \(dg-sign.com\)](#) for further details.

<sup>19</sup> The email(s) should be sent to the relevant team. The subject of the email(s) should contain the relevant information set out as follows: "[COMPANY NAME] (Applicant Code: [CODE]) - ([CASE NUMBER]) | Prospectus Registration Documents". Each email should not exceed a message size of 25MB and, if necessary, multiple emails may be used to send in the document bundle.

<sup>20</sup> All documents submitted to the Exchange for application of authorisation of registration of prospectus must be submitted in PDF, in a searchable and printable format; and in a file type, mode and setting that enables the Exchange to verify the digital signatures on the document and (in respect of a prospectus and its related application forms) apply the Exchange's digital signature to the document. Each digital signature must have a text statement inserted adjacent to the signature block which sets out the name and capacity of the signatory as follows: "[Digitally signed by [FULL NAME OF THE SIGNATORY AS PER GOVERNMENT ISSUED IDENTIFICATION DOCUMENT], [CAPACITY e.g. director, or authorised agent / attorney of [name of the person authorising or the donor of power]]". If certification wording in respect of a certification by a signatory is required to be set out in a document, such certification wording should be inserted as a text statement adjacent to the signature block of the related digital signature.

<sup>21</sup> See footnote 4.

<sup>22</sup> See footnote 13.

the Exchange.

12. The listing applicant/listed issuer (or their advisors) should forward the email(s) and the attachments it receives from the Exchange (as set out in paragraph 11 above), by email, to the Companies Registry for registration together with: (a) evidence of payment of the required registration fee; and (b) a statement in each email confirming to the Registrar of Companies that documents attached to the email so forwarded to the Companies Registry are documents issued or authorised by the Exchange for registration of prospectus and they have not been altered, substituted or otherwise modified subsequent to the issue of the Exchange's authorisation for registration.
13. **Annex I** to this letter sets out documentary requirements in full. **Annex II** contains a diagram illustrating the prospectus authorisation and registration workflow.
14. Under section 32 of the Companies Ordinance (Cap 622), the Registrar of Companies may, in relation to any document required or authorised to be delivered to the Registrar of Companies under the C(WUMP)O, specify the requirements as to the authentication of the document or the manner of delivery of the document. Market participants are encouraged to also refer to the latest Gazette notice and circular published by the Registrar of Companies from time to time for details of the latest requirements in relation to the delivery of prospectus and Accompanying Documents to the Companies Registry for registration as specified by the Registrar of Companies.

#### **Effective date and transitional period**

15. From 1 January 2024, listing applicants/listed issuers (and their advisors) may start submitting documents electronically for application for authorisation of registration of a prospectus by following the guidance set out in this letter.
16. From 1 July 2024, the Exchange will no longer accept documents sent to it for the purpose of the authorisation of registration of a prospectus that do not meet the requirements of this guidance letter.
17. During the transitional period from 1 January to 30 June 2024, listing applicants/listed issuers (or their advisors) must submit to the Exchange and the Companies Registry all the relevant documents either wholly in electronic form by email or wholly in hard copy form.

**Annex I<sup>23</sup>**

	<b>Action</b>	<b>Relevant Documents</b>	<b>Signing Party</b>	<b>Digital Signature Requirements</b>
<b>Prospectus Authorisation</b>				
1.	Listing applicant or listed issuer (or their advisors) to submit the documents for authorisation of registration of prospectus by email to the Exchange	Prospectus and related application forms	Designated Signatories	Signed by Designated Signatories using their personal Recognised Digital Signatures
2.		Power of Attorney	Donor of the power	In the case of originals ( <i>only for an authority other than a power of attorney</i> ): <ul style="list-style-type: none"> <li>Signed by the relevant signing parties using their organisational/personal (as the case may be) Recognised Digital Signatures</li> </ul> In the case of certified copies ( <i>for both power of attorney and other authority</i> ): <ul style="list-style-type: none"> <li>Certified by an Approved Certifier<sup>24</sup> using personal Recognised Digital Signature of the Approved Certifier</li> </ul>
		Other authority (i.e. any authority other than a power of attorney)	Signing parties of the authority	
3.		Translator Certificate	Translator	In the case of originals: <ul style="list-style-type: none"> <li>Signed by the relevant signing parties using their organisational/personal (as the case may be) Recognised Digital Signatures</li> </ul> In the case of certified copies: <ul style="list-style-type: none"> <li>Certified by an Approved Certifier using personal Recognised Digital Signature of the Approved Certifier</li> </ul>
4.		Translator Competency Certificate	Sponsors/listed issuers	
5.	Expert consent letters <sup>25</sup>	Experts		

<sup>23</sup> Please refer to the C(WUMP)O for further details on requirements on prospectus authorisation and registration.

<sup>24</sup> The Approved Certifier certifying a copy of a power of attorney or an authority as a true copy should not be the donee of that power of attorney or the authorised agent under that authority.

<sup>25</sup> Section 38D(3)(a) / section 342C(3)(a) C(WUMP)O

	<b>Action</b>	<b>Relevant Documents</b>	<b>Signing Party</b>	<b>Digital Signature Requirements</b>
6.		Material contracts <sup>26</sup>	Signing parties of the material contracts	
7.		A list of the name(s), description(s) and address(es) of the vendor(s) of the sale shares <sup>27</sup> , if any	N/A <sup>28</sup>	
8.		Statement of adjustments made by the reporting accountant, <sup>29</sup> if any	Reporting accountant	
<b>Authorisation of Registration and Registration of Prospectus</b>				
9.	The Exchange to send email(s) attaching the authorised documents and certificate of authorisation to the listing applicant or listed issuer (or their advisors)	Certificate of Authorisation	The Exchange	Signed by the Exchange using the Exchange's organisational Recognised Digital Signature
10.		Prospectus and related application forms	The Exchange	Signed by the Exchange using the Exchange's organisational Recognised Digital Signature

<sup>26</sup> Section 38D(3)(b)(i) / section 342C(3)(b)(i) C(WUMP)O

<sup>27</sup> Section 38D(3)(b)(ii) / section 342C(3)(b)(ii) C(WUMP)O

<sup>28</sup> No signature requirement for this document.

<sup>29</sup> Section 38D(3)(b)(iii) / section 342C(3)(b)(iii) C(WUMP)O

	<b>Action</b>	<b>Relevant Documents</b>	<b>Signing Party</b>	<b>Digital Signature Requirements</b>
11.		Accompanying Documents	N/A	N/A
12.	Listing applicant or listed issuer (or their advisors) to forward to the Companies Registry the email(s) (with the documents attached) from the Exchange together with evidence of payment of the required registration fee and a confirmation statement as set out in paragraph 12 of the guidance letter	N/A	N/A	N/A
13.	Companies Registry to send to the listing applicant or listed issuer (or their advisors) by email a letter confirming registration of the prospectus	Confirmation letter	Registrar of Companies	N/A



## Annex II

### Workflow for electronic submission of prospectus and accompanying documents for authorisation and registration

