

Listing a PRC based business in Hong Kong

December 2002

IMPORTANT: This newsletter contains general information and does not constitute legal advice. This information should not be applied to any particular set of facts without seeking legal advice.

In recent years, there has been an increasing number of listings in Hong Kong of companies with businesses and operations in the People's Republic of China ("PRC"). The attractions of listing in Hong Kong are:

- Ability to attract international investment because of Hong Kong's established status as an international financial centre
- Closer to investors' base and the market where they operate
- Existence of the Growth Enterprise Market ("GEM") as a second board facilitates growth companies to raise capital

Summary of listing requirements on GEM and the Main Board of The Stock Exchange of Hong Kong Limited

	GEM	Main Board
Theme of market	Capital raising for growth companies from all industries of all sizes with a focussed line of business	Capital raising for larger and more established companies with a profit track record
Target investors	Professional and informed investors	Investors of whole spectrum
Method of listing	(a) Direct listing (H shares listing) - Must be joint stock limited company incorporated in the PRC (b) Indirect listing (offshore company structure) - Listing vehicle must be incorporated in Hong Kong, Bermuda or the Cayman Islands	Same as GEM
Profit requirement	No profit requirement	Profits of HK\$50 million in the last 3 years (HK\$20 million in the most recent year and an aggregate of HK\$30 million in the 2 preceding years)
Operating track record	24 months' active business pursuits under substantially the same management and ownership May be reduced to 12 months if certain turnover, asset value or market capitalisation requirements are satisfied	3 years' trading record under substantially the same management Requisite period may be reduced for the following companies: natural resources exploration companies, newly formed project companies and exceptional circumstances for companies with at least 2 financial years' trading record
Focussed line of business	Must actively pursue a focussed line of business rather than 2 or more disparate businesses	No such requirement but in practice the main line of business must meet the minimum profit requirement
Spread of shareholders	A minimum of 100 public shareholders	A minimum of 100 shareholders (with not less than 3 shareholders for each HK\$1 million of the issue)
Minimum public float	(a) H shares listing - A minimum of HK\$30 million in public hands - If issuer has other existing shares in issue in addition to H shares: (i) all H shares must be held by the public (ii) H shares in (i) must not be less than 10% of total issued share capital (iii) aggregate of H shares in (i) and other securities held by the public must not be less than 20% of total issued share capital or other higher percentages, depending on market capitalisation - If issuer has H shares only: (i) For market capitalisation of over HK\$4 billion at time of listing: a minimum public float of 20% (or a higher percentage which will result in at least HK\$1 billion worth of shares in public hands)	(a) H shares listing - A minimum of HK\$50 million in public hands - If issuer has other existing shares in issue in addition to H shares: - Same as GEM except (iii), where aggregate of H shares and other securities held by the public must not be less than 25% - If issuer has H shares only: not less than 25%, but for market capitalisation of over HK\$ 4 billion at time of listing, between 10% and 25%

Overseas and Associated Offices

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	GEM	Main Board
	(ii) For market capitalisation of not exceeding HK\$4 billion at time of listing : a minimum public float of 25%	
	(b) Offshore structure listing - Same as H shares listing where issuer has H shares only	(b) Offshore structure listing : HK\$50 million or 25% of issued share capital, whichever is higher at time of listing (but can be lowered to 10% if market capitalisation exceeds HK\$4 billion)
Min. market capitalisation	No specific requirement, but in practice not less than HK\$46 million at time of listing	HK\$1 billion at time of listing
Sponsorship period post listing	Must appoint a sponsor for the remaining financial year of the listing and the 2 financial years thereafter	(a) H shares listing: must retain a sponsor for at least 1 year after listing (b) Offshore structure listing: no such requirement
Underwriting	Need not be underwritten, but if new funds are raised, issuer must indicate minimum amount to be raised and listing is conditional on such amount being raised	Must be fully underwritten
Moratorium	(a) Management shareholders (i) Initial management shareholders with no more than 1% shareholding: no disposal in first 6 months after listing (ii) Other initial management shareholders: no disposal in first year after listing (b) Significant shareholders: no disposal in first 6 months after listing (c) Controlling shareholders: same as management shareholders	Controlling shareholders: (a) no disposal in first 6 months after listing (b) no disposal in second 6 months after listing if disposal would result in such shareholder ceasing to be a controlling shareholder
Corporate governance	No requirement for directors or officers to be ordinarily resident in Hong Kong Appointment of 2 independent non-executive directors Designating an executive director as compliance officer and a qualified accountant to supervise the accounting and financial reporting procedures and internal control An audit committee to be set up and chaired by an independent non-executive director	At least 2 executive directors to be ordinarily resident in Hong Kong Same as GEM No such requirement Setting up of audit committee is encouraged but not compulsory
Continuing obligations of issuer and directors	Issuer required to publish annual reports, half-yearly reports and quarterly reports Directors required to give to the Stock Exchange certain undertakings in connection with compliance with the Listing Rules and other laws relating to securities	Issuer required to publish annual reports and half-yearly reports Same as GEM
Approval of CSRC	H shares listing: CSRC's approval required	Same as GEM

Our experience

We have extensive experience in listing work involving PRC based businesses and operations, including both direct H shares listing and listing by way of offshore structures. We have acted for both the company and the underwriter. Our lawyers are capable of communicating with clients in Putonghua, Cantonese and English.

We have contacts with sponsors, accountants, property valuers and other professionals whose services are required for a listing in Hong Kong and can assist in effecting introductions if required.

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