

1. **Name of Product**  
Hong Kong Listed Companies: Law & Practice  
2<sup>nd</sup> Edition

*ISBN: 978-988-79356-5-0*

2. **Product Group\***  
Legal & Business

3. **Product Type\***
  1. Bound Book

4. **Product Code**
  1. 2082H (Book Code)
  2. BHKLR (BOLD Code)

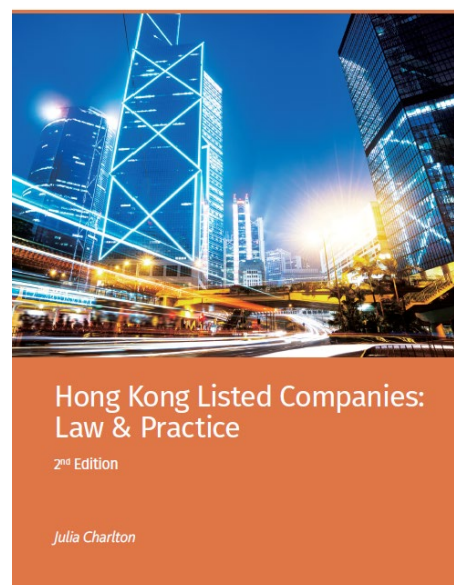
5. **Brief write up of the product\***

With the SEHK's Listing Rules being subject to constant review and revision, the author offers important updates on amendments and fresh regulations introduced since the first edition. Beginning with the basics – What is a public company? What is a stock exchange? ***Hong Kong Listed Companies: Law & Practice 2nd Edition*** works its way methodically through the SEHK's many provisions for regulation and compliance. It is a volume of depth and substance which sets the standard for financial industry reference books.

6. **Key Features (what are the salient points to this publication) \***

The new 2<sup>nd</sup> Edition delivers more than 400 pages of new, and up-to-date commentary in relation to the Hong Kong Listing Rules:-

- These include but not limited to extensive changes to the **sponsor regulatory regime** introduced in 2013 and the major listing reforms in 2018 which added three new chapters (**Chapter 8A, 18C and 19A**) to the listing rules aimed at attracting the listing of **Pre-revenue Biotech and Innovative Companies**, including those with **Weighted Voting Rights (WVR)** structures and providing a new **secondary listing** route for companies primary listed on certain Qualifying Exchanges.
- More recent listing reforms in 2021 – covering the listing regime for **overseas issuers**, **Special Purpose Acquisition Companies (SPAC)**, the SEHK's **new Corporate Governance Code** and the new requirements in relation to **Environmental, Social and Governance (ESG)** – are also highlighted.
- How to handle ongoing obligations on listed companies under the Listing Rules.
- Ongoing obligations on listed companies and their shareholders under other legislation, primarily the **Securities and Futures Ordinance Cap. 671** (such as market misconduct, insider dealing, disclosure of interests).



## 7. Key Benefits (How will readers profit from reading this title)\*

For participants and stakeholders engaged in stock market activities, this second edition of ***Hong Kong Listed Companies: Law & Practice 2nd Edition*** is an essential companion, providing the ultimate guide with regard to the Stock Exchange of Hong Kong's (SEHK) exhaustive regulatory regime.

Easy to follow, with information presented in logical order and plain language, this publication, expertly updated by experienced corporate finance lawyer **Julia Charlton** serves as an invaluable guide for seasoned practitioners, in-house counsel, chartered governance professional, accountants, other practitioners and students who require an understanding of the legal background and practical application of the rules and legislation that apply to listed companies. Other benefits included but not limited to:

- Reduces time wastage and increases productivity by serving as a step by step guide to the understanding of the Listing Rules, the Securities and Futures Ordinance and the Companies Ordinance
- Provides concise commentary on the law to aid readers in determining the best approach to adopt in line with their business needs
- Case studies, diagrams, flow charts ease the company secretary's day to day workflow, by illustrating the rules and giving examples of their application.

## 8. Topics Covered\*

- Overview of the Hong Kong Market for Listed Companies
- Requirements for Listing
- Routes to Listing
- Dual Primary and Secondary Listings (**New**)
- Listing Companies with Weighted Voting Rights (**New**)
- Listing Pre-Revenue Biotech Companies (**New**)
- Listing Mineral Companies
- IPOs – Sponsors and other IPO Parties
- The IPO Process
- Responsibilities and Liability
- Disclosure and other Continuing Obligations
- Notifiable Transactions
- Reverse Takeovers and Cash Companies (**New**)
- Connected Transactions
- Corporate Governance and Environmental, Social and Governance (**New**)
- GEM Listing Requirements and Continuing Obligations
- Market Misconduct
- Disclosure of Interests

## 9. Target Audience

- Lawyers, in-house counsel
- Compliance professionals engaged in matters related to Listed Companies
- Governance professionals
- Company Directors and Company Secretaries of Listed Companies
- Tax professionals/in-house tax consultants
- ESG consultants engaged in preparation of ESG report for Listed Companies
- Students preparing for their professional qualification examinations

**10. What does the purchase include? (eg, book with PRC Briefing)\***

A soft-cover bound book / 1,026 pages.

**11. Price**

HK\$1,980

**12. About the Author**



**Julia Charlton** is one of Hong Kong's most prominent corporate finance lawyers. She is an accomplished practitioner with a particular focus on securities law, capital markets, private equity, M&A, investment funds, restructuring and regulatory issues. Much in demand, she advises financial institutions and listed companies on the Listing Rules of both the Main Board and GEM of the Stock Exchange of Hong Kong.

A senior fellow of the Hong Kong Securities Institute, Julia sits on a variety of regulatory, investigative and advisory bodies. A member of the Listing Committee of the Hong Kong Stock Exchange from 2012 to 2018, she now serves on the independent Listing Review Committee. Fluent in Mandarin, she is also vastly experienced in private equity investment in mainland China, advising European, US and Hong Kong-based funds on investment in a range of sectors.

Julia gained her law degree (first class with honours) at Kings College, University of London, followed by a postgraduate diploma from the University of Oxford. She is Principal Partner of Charltons, the renowned boutique law firm she founded in 1998.

**About Charltons**

Charltons is an award-winning Hong Kong law firm specialising in corporate finance. It has offices in Beijing and Shanghai and is one of the few Hong Kong legal practices with a presence in Yangon, Myanmar. The firm's practice areas include capital markets, M&A, regulatory and securities work, natural resources law, corporate and commercial, private equity and funds, corporate restructuring and offshore and China funds.

Over more than 20 years, Charltons has built a strong track record in representing a wide variety of clients, from local start-ups to multinational corporations, on a broad range of matters. In particular, the firm is experienced in advising companies, controlling shareholders, sponsors and underwriters on initial public offerings on both the Main Board and Growth Enterprise Market of the Stock Exchange of Hong Kong.

For more information, please visit: <https://www.charltonslaw.com/>



New listing regime for overseas issuers .....	¶11-180
New SPAC listing regime .....	¶11-190
<b>Chapter 2: Eligibility for Main Board Listing.....</b>	<b>41</b>
Introduction .....	¶12-000
Absolute discretion and suitability .....	¶12-010
<b>Financial tests</b>	
Financial tests .....	¶12-020
Profit test .....	¶12-030
Market capitalisation/revenue/cash flow test.....	¶12-040
Market capitalisation/revenue test .....	¶12-050
<b>Track record period requirements</b>	
Operating history/trading record/track record period .....	¶12-060
Relaxation of the TRP requirement.....	¶12-070
Management continuity .....	¶12-080
Ownership continuity.....	¶12-090
<b>Other requirements</b>	
Due incorporation and jurisdiction of incorporation .....	¶12-100
Cash companies .....	¶12-110
Requirements relating to the securities to be listed .....	¶12-120
Competing businesses and independence from controlling shareholders and directors .....	¶12-130
Working capital statements and profit forecasts .....	¶12-140
Requirements to be satisfied on listing — how are they assessed?.....	¶12-150
Minimum market capitalisation .....	¶12-160
Open market — minimum public float.....	¶12-170
Open market — minimum number and spread of shareholders.....	¶12-180
Management presence — directors and secretary .....	¶12-190
Corporate governance requirements.....	¶12-200
<b>Suitability</b>	
Suitability for listing.....	¶12-210
Non-compliances .....	¶12-220
Business sustainability.....	¶12-230
Contractual arrangements.....	¶12-240
Shell company issue .....	¶12-250

<b>Jurisdiction of incorporation</b>	
Introduction.....	¶12-260
Recognised Jurisdictions: Hong Kong, the Cayman Islands, Bermuda and the PRC.....	¶12-270
The JPS .....	¶12-280
Chapter 19 of the Listing Rules .....	¶12-290
Appendix 3 to the Listing Rules.....	¶12-300
Listing Rules' application to overseas issuers.....	¶12-310
Overseas Issuers Consultation Conclusions .....	¶12-320
<b>Listing of PRC businesses</b>	
Introduction.....	¶12-330
H share listings.....	¶12-340
Red-chip listings .....	¶12-350
PRC foreign investment laws and VIE structures.....	¶12-360
<b>Chapter 3: Routes to Listing.....</b>	<b>121</b>
<b>Introduction</b>	
Overview .....	¶13-000
New listing or further issue of shares by an already listed company?.....	¶13-010
Underwriting .....	¶13-020
Initial listings .....	¶13-030
Public offerings vs placings.....	¶13-040
<b>IPOs</b>	
Introduction.....	¶13-050
A typical Hong Kong IPO .....	¶13-060
A typical Hong Kong IPO — institutional tranche vs retail tranche .....	¶13-070
Controlling shareholders in Hong Kong IPOs.....	¶13-080
Introductions .....	¶13-090
Spin-offs.....	¶13-100
Pre-IPO investments .....	¶13-110
Post-listing continuance of rights attaching to pre-IPO investments .....	¶13-120
Cornerstone investors .....	¶13-130
<b>Secondary offerings</b>	
Overview.....	¶13-140

Rights issues.....	¶13-150
Open offers.....	¶13-160
Placings and top-up subscriptions.....	¶13-170
Restriction on highly dilutive capital raisings.....	¶13-180
<b>Chapter 4: Secondary Listings.....</b>	<b>165</b>
<b>Overview</b>	
Introduction.....	¶14-000
Key differences between the two secondary listing routes.....	¶14-010
<b>Joint Policy Statement (JPS) route</b>	
Introduction.....	¶14-020
Recognised stock exchanges and regulatory reliance.....	¶14-030
Centre of gravity outside of Greater China.....	¶14-040
Waivers under the JPS.....	¶14-050
<b>Chapter 19C of the Listing Rules route</b>	
Introduction.....	¶14-060
Qualifying Issuers and Qualifying Exchanges.....	¶14-070
Greater China Issuers v Non-Greater China Issuers.....	¶14-080
Grandfathered Greater China Issuers v Non-Grandfathered Greater China Issuers.....	¶14-090
Suitability for listing.....	¶14-100
Qualifications for listing.....	¶14-110
Automatic waivers.....	¶14-120
Equivalent standards of shareholder protection.....	¶14-130
Weighted voting rights (WVRs).....	¶14-140
Variable interest entities (VIEs).....	¶14-150
Confidential filings.....	¶14-160
Foreign Private Issuers.....	¶14-170
Migration of the bulk of trading to the SEHK's markets.....	¶14-180
<b>Chapter 19 of the Listing Rules</b>	
Introduction.....	¶14-190
Shareholder protection standards.....	¶14-200
Prior grant of overseas listing.....	¶14-210
Disapplication of public float requirement.....	¶14-220
Listing documents.....	¶14-230
Continuing obligations.....	¶14-240

Share buy-backs.....	¶14-250
Pre-emptive rights.....	¶14-260
Annual reports and accounts.....	¶14-270
Other requirements.....	¶14-280
Majority of trading on the SEHK.....	¶14-290
<b>Revised secondary listing regime</b>	
Revised secondary listing regime .....	¶14-300
<b>Chapter 5: Listing Companies with Weighted Voting Rights .....</b>	<b>203</b>
Introduction.....	¶15-000
Eligible WVR structures.....	¶15-010
<b>Requirements for listing</b>	
Introduction.....	¶15-020
Suitability.....	¶15-030
Minimum market capitalisation .....	¶15-040
WVR beneficiaries .....	¶15-050
Minimum economic interest.....	¶15-060
Ownership continuity and control .....	¶15-070
Public float requirement.....	¶15-080
Limits on WVR powers .....	¶15-090
Non-WVR shareholders' rights .....	¶15-100
<b>Ring-fencing and anti-avoidance</b>	
Ring-fencing and anti-avoidance .....	¶15-110
<b>Other rights and restrictions associated with WVRs</b>	
WVR shareholders' rights.....	¶15-120
Restriction on transfer of WVR shares .....	¶15-130
Conversion of WVR shares into ordinary shares.....	¶15-140
<b>Cessation of WVRs</b>	
Cessation of WVRs.....	¶15-150
<b>Disclosure requirements</b>	
Disclosure requirements.....	¶15-160
<b>Connected persons and core connected persons</b>	
Connected persons and core connected persons .....	¶15-170
<b>Enhanced corporate governance requirements</b>	
Introduction.....	¶15-180
Corporate Governance Committee .....	¶15-190



Corporate Governance Reports .....	¶15-200
Nomination Committee and INEDs .....	¶15-210
Compliance adviser .....	¶15-220
WVR training .....	¶15-230
Constitutional backing.....	¶15-240
<b>Corporate WVR beneficiaries</b>	
Corporate WVR beneficiaries .....	¶15-250
<b>Enforcement</b>	
Enforcement .....	¶15-260
<b>Chapter 6: Listing Pre-Revenue Biotech Companies.....</b>	<b>225</b>
Introduction.....	¶16-000
<b>Requirements for listing</b>	
Introduction.....	¶16-010
Suitability requirement.....	¶16-020
Expected market capitalisation .....	¶16-030
Track record .....	¶16-040
Working capital requirements.....	¶16-050
Ownership continuity.....	¶16-060
Public float.....	¶16-070
Subscription of IPO shares by existing shareholders and Cornerstone Investors.....	¶16-080
Clawback mechanism.....	¶16-090
<b>Listing document disclosure requirements</b>	
Accountants' reports.....	¶16-100
Enhanced disclosure required under Listing Rule 18A.04....	¶16-110
SEHK guidance on listing document disclosure in Guidance Letter GL107-20 .....	¶16-120
<b>Biotech companies' continuing obligations</b>	
Introduction.....	¶16-130
Enhanced disclosure in financial reports .....	¶16-140
Calculation of percentage ratios for notifiable transactions .....	¶16-150
Material change of business .....	¶16-160
De-listing of Biotech Companies .....	¶16-170
Stock marker.....	¶16-180
Meeting the Listing Rule 8.05 financial eligibility tests.....	¶16-190

<b>Chapter 7: Listing Mineral Companies .....</b>	<b>245</b>
Introduction.....	¶17-000
Definition of Mineral Companies.....	¶17-010
<b>Listing eligibility requirements</b>	
Introduction.....	¶17-020
Eligibility of exploration companies .....	¶17-030
Rights of active participation .....	¶17-040
Working capital requirements.....	¶17-050
Waiver from Listing Rule 8.05 financial tests .....	¶17-060
<b>Listing document requirements</b>	
Introduction.....	¶17-070
Competent Persons' Reports.....	¶17-080
Additional disclosure requirements for pre-production stage Mineral Companies .....	¶17-090
Additional disclosure requirements for production stage Mineral Companies .....	¶17-100
Other additional disclosure requirements for Mineral Companies .....	¶17-110
SEHK Guidance Letter GL52-13.....	¶17-120
Reporting standards and requirements .....	¶17-130
<b>Competent Persons' Reports and Valuation Reports</b>	
Competent Person's Report .....	¶17-140
Competent Person's Report – disclosure requirements for listing documents .....	¶17-150
Petroleum Competent Persons' Reports .....	¶17-160
Competent Person requirements .....	¶17-170
Valuation Reports.....	¶17-180
Timing of reports and material changes .....	¶17-190
Disclaimers and indemnities .....	¶17-200
Competent Person and Evaluator consent .....	¶17-210
Sponsors' obligations .....	¶17-220
SEHK dispensations .....	¶17-230
<b>Disclosure standards</b>	
Introduction.....	¶17-240
Reporting standards and codes.....	¶17-250
Requirements for statements of resources/reserves.....	¶17-260

Requirements for statements of petroleum resources/reserves .....	¶17-270
<b>Continuing obligations</b>	
Disclosure requirements.....	¶17-280
Acquisitions and disposals of mineral or petroleum assets.....	¶17-290
<b>Chapter 8: IPOs – Sponsors and Other IPO Parties .....</b>	<b>267</b>
Introduction.....	¶18-000
<b>Sponsors</b>	
Role of sponsors .....	¶18-010
Sponsor eligibility and appointment .....	¶18-020
Sponsor staffing and continuing requirements .....	¶18-030
Sponsor due diligence obligations.....	¶18-040
Other sponsor obligations in respect of a listing appointment .....	¶18-050
GEM transfers .....	¶18-060
Compliance advisers.....	¶18-070
Regulation of sponsors and compliance advisers.....	¶18-080
Sponsor liability.....	¶18-090
Underwriters.....	¶18-100
2021 Consultation on bookbuilding and placing activities.....	¶18-110
<b>Reporting accountants</b>	
Role of reporting accountants.....	¶18-120
Accountants' report .....	¶18-130
Accounting standards .....	¶18-140
TRP and stub periods .....	¶18-150
Other important accounting documents.....	¶18-160
Verification notes .....	¶18-170
<b>Lawyers</b>	
Hong Kong legal advisers .....	¶18-180
Issuer's lawyers.....	¶18-190
Sponsor's lawyers.....	¶18-200
US legal advisers.....	¶18-210
PRC legal advisers.....	¶18-220

Offshore lawyers: lawyers of jurisdiction of incorporation of the applicant.....	¶18-230
Other foreign legal advisers .....	¶18-240
<b>Other parties</b>	
Property valuers.....	¶18-250
Other valuers .....	¶18-260
Competent Persons .....	¶18-270
Registrars .....	¶18-280
Receiving banks.....	¶18-290
Industry experts.....	¶18-300
Internal controls consultants .....	¶18-310
Public relations consultants .....	¶18-320
Printers and translators.....	¶18-330
Regulatory authorities .....	¶18-340
<b>Chapter 9: The IPO Process</b> .....	323
Introduction.....	¶19-000
Overview.....	¶19-010
<b>The IPO process in stages</b>	
<b>Stage 1 — Kick-off and preparation</b>	
Kick-off and engagement of professional parties .....	¶19-020
Pre-IPO enquiries.....	¶19-030
Group re-organisation .....	¶19-040
Preparation of the prospectus/listing document.....	¶19-050
Verification .....	¶19-060
Due diligence.....	¶19-070
Site visits, management discussions and interviews with third parties.....	¶19-080
Searches .....	¶19-090
Internal controls and corporate governance.....	¶19-100
Other activities during the preparation phase.....	¶19-110
<b>Stage 2 — Submission of Form A1, the Application Proof and related documents</b>	
Submission of Form A1 .....	¶19-120
The Application Proof.....	¶19-130
Return Decisions.....	¶19-140
Filing requirements .....	¶19-150

<b>Stage 3 — Vetting process</b>	
SEHK vetting.....	¶19-160
SFC vetting.....	¶19-170
<b>Stage 4 — Listing Committee Hearing</b>	
Listing Committee Hearing.....	¶19-180
Review procedures.....	¶19-190
Marketing the deal, pre-deal research reports and publicity materials.....	¶19-200
<b>Stages 5 to 7 — From approval in principle to listing</b>	
Stage 5 — Approval in principle, PHIP, long board meeting and launch of roadshow.....	¶19-210
Stage 6 — Registration of the prospectus and public offer period.....	¶19-220
Stage 7 — Results, pricing, allocation and listing.....	¶19-230
<b>Consultations</b>	
Consultations on new IPO settlement platform and uncertificated securities market.....	¶19-240
<b>Stage 8 — Post-listing activities</b>	
Disclosure of interests filings.....	¶19-250
Stabilisation and the over-allotment option.....	¶19-260
<b>Chapter 10: Responsibilities and Liability</b> .....	387
<b>Overview</b>	
Introduction.....	¶110-000
Rationale and limitations.....	¶110-010
Breach of the Listing Rules.....	¶110-020
The SFC's powers under the SMLR.....	¶110-030
<b>Statutory liability</b>	
Civil and criminal liability.....	¶110-040
Financial Dispute Resolution Centre.....	¶110-050
Prospectus liability.....	¶110-060
Criminal liability under the C(WUMP)O.....	¶110-070
Civil liability under the C(WUMP)O.....	¶110-080
<b>Criminal liability under the SFO</b>	
Introduction.....	¶110-090
Section 107 of the SFO.....	¶110-100

Section 298 of the SFO .....	¶110-110
Section 390 of the SFO .....	¶110-120
Section 103 of the SFO .....	¶110-130
Section 300 of the SFO .....	¶110-140
Section 384 of the SFO .....	¶110-150
<b><i>Other criminal liability</i></b>	
Criminal liability under section 21 of the Theft Ordinance .....	¶110-160
Fraud-related offences.....	¶110-170
<b><i>Civil liability under the SFO</i></b>	
Section 108 of the SFO .....	¶110-180
Section 277 of the SFO .....	¶110-190
Section 391 of the SFO .....	¶110-200
Section 213 of the SFO .....	¶110-210
Cases under section 213 of the SFO .....	¶110-220
Section 214 of the SFO .....	¶110-230
Civil liability for market misconduct .....	¶110-240
SFC's disciplinary powers under sections 194 and 196 of the SFO.....	¶110-250
<b><i>Other civil liability</i></b>	
Other civil liability .....	¶110-260
<b><i>Listing Rules</i></b>	
Consequences for inaccuracies in listing documents .....	¶110-270
<b>Verification</b>	
Verification .....	¶110-280
Example verification question.....	¶110-290
<b>Chapter 11: Disclosure and Other Continuing Obligations .....</b>	<b>451</b>
<b>Overview</b>	
What are "continuing obligations" .....	¶111-000
Categories of continuing obligations .....	¶111-010
<b>Disclosure of inside information statutory regime</b>	
Introduction.....	¶111-020
What is inside information? .....	¶111-030
When should inside information be disclosed?.....	¶111-040
Inside information must be kept confidential.....	¶111-050

How inside information is disclosed.....	¶111-060
Dual or secondary listed issuers.....	¶111-070
Officers' liability and internal controls .....	¶111-080
Safe harbours .....	¶111-090
MMT proceedings and sanctions.....	¶111-100
Civil right of action .....	¶111-110
MMT case: Magic Holdings International Limited .....	¶111-120
<b>Post-listing obligations under the Listing Rules</b>	
Introduction.....	¶111-130
<b><i>Obligations immediately after listing</i></b>	
Introduction.....	¶111-140
Restriction on issues of securities .....	¶111-150
Compliance adviser requirement .....	¶111-160
Fundamental change in principal business activities .....	¶111-170
Controlling shareholder lock-up requirements .....	¶111-180
<b><i>General post-listing disclosure requirements</i></b>	
Introduction.....	¶111-190
General disclosure obligation.....	¶111-200
SEHK enquiries .....	¶111-210
Issuers' obligation to apply for a trading halt or suspension .....	¶111-220
No selective disclosure .....	¶111-230
<b><i>Disclosure of financial information</i></b>	
Introduction.....	¶111-240
Annual reports.....	¶111-250
Interim reports.....	¶111-260
Results announcements .....	¶111-270
Quarterly reporting.....	¶111-280
<b><i>Securities</i></b>	
Introduction.....	¶111-290
Issued shares .....	¶111-300
Public float.....	¶111-310
General mandate and non pro-rata issues .....	¶111-320
Share buy-backs.....	¶111-330
<b><i>Other disclosure requirements</i></b>	
Specific matters relevant to the issuer's business and other disclosure requirements.....	¶111-340

Breach of loan agreement .....	¶11-350
Advance to an entity .....	¶11-360
Financial assistance and guarantees to affiliated companies .....	¶11-370
Controlling shareholders: pledging of shares and loan agreements with covenants .....	¶11-380
Dual and secondary listed companies .....	¶11-390
Corporate matters .....	¶11-400
Board approval .....	¶11-410
Winding-up and liquidation .....	¶11-420
Vetting and publication requirements .....	¶11-430

***Other ongoing obligations***

AGMs .....	¶11-440
Suitability for listing .....	¶11-450
Sufficiency of operations and assets .....	¶11-460
Prohibition on cash companies .....	¶11-470
Trading and settlement requirements .....	¶11-480
Independent shareholders' approval .....	¶11-490

**Non-compliance with the Listing Rules,  
suspensions and delistings**

Introduction .....	¶11-500
Disciplinary action .....	¶11-510
Disciplinary process .....	¶11-520
Trading halts, suspension, cancellation and withdrawal of listing .....	¶11-530

**Chapter 12: Notifiable Transactions .....543**

**Overview**

Purpose of notifiable transaction rules .....	¶12-000
Protection offered by Chapter 14 .....	¶12-010
Relationship with other Chapters of the Listing Rules .....	¶12-020
Notifiable transactions .....	¶12-030
Reverse takeovers and extreme transactions .....	¶12-040

**Definitions of "listed issuer" and "transaction"**

Who do the rules apply to? .....	¶12-050
What is a "transaction"? .....	¶12-060
Transactions of a revenue nature .....	¶12-070



### **Classification — the size tests**

Introduction.....	¶12-080
Assets test .....	¶12-090
Profits test.....	¶12-100
Revenue test.....	¶12-110
Consideration test.....	¶12-120
Equity capital test.....	¶12-130

### **Classification of notifiable transactions**

Classification.....	¶12-140
Aggregation .....	¶12-150

### **Procedural requirements**

Introduction.....	¶12-160
Notification, announcement and suspension.....	¶12-170

### ***Announcements***

Announcements .....	¶12-180
Clearance .....	¶12-190
Timing of announcements.....	¶12-200
Initial announcements — content requirements .....	¶12-210

### ***Circulars***

Introduction.....	¶12-220
Timing of circulars.....	¶12-230
Circulars — content requirements.....	¶12-240

### ***Shareholders' approval***

Introduction.....	¶12-250
Abstentions.....	¶12-260
Written shareholders' approval.....	¶12-270

### ***Other compliance obligations***

Part XIVA SFO .....	¶12-280
---------------------	---------

### **Requirements for specific transactions**

Introduction.....	¶12-290
-------------------	---------

### ***Acquisition or disposal of equity capital***

Underlying values.....	¶12-300
Adjustments to the numerator.....	¶12-310
Share transactions.....	¶12-320

***Acquisition or disposal of assets via a non-wholly  
owned subsidiary***

Introduction.....	¶12-330
Profit and revenue tests.....	¶12-340
Consideration test.....	¶12-350

***Deemed disposal***

Introduction.....	¶12-360
Ceases to be a subsidiary.....	¶12-370
Continues to be a subsidiary.....	¶12-380

***Property transactions***

Introduction.....	¶12-390
Transactions of a revenue nature.....	¶12-400
Exemptions for Qualified Property Acquisitions.....	¶12-410
Assets ratio for property companies.....	¶12-420

***Joint ventures***

Introduction.....	¶12-430
How to calculate the size tests for joint ventures.....	¶12-440
Joint ventures of a revenue nature.....	¶12-450

***Options***

No control by issuer.....	¶12-460
Control by issuer.....	¶12-470
Value unknown.....	¶12-480
Prior approval for exercise of option.....	¶12-490

***Other transactions***

Consideration cannot be ascertained.....	¶12-500
Transaction involving an acquisition and a disposal.....	¶12-510
Financial assistance.....	¶12-520
Guaranteed profits or net assets.....	¶12-530
Distribution in specie to shareholders.....	¶12-540
Alternative size tests.....	¶12-550

**Appendices — Example accounts**

Target Limited — Audited Income Statement.....	¶12-560
Target Limited — Audited Balance Sheet.....	¶12-570
Listco Limited — Audited Income Statement.....	¶12-580
Listco Limited — Audited Balance Sheet.....	¶12-590

**Chapter 13: Reverse Takeovers and Cash Companies .....629****Introduction**

Introduction..... ¶13-000

**Reverse takeovers (“RTOs”) and extreme transactions**

Whether an acquisition(s) constitute(s) an RTO? ..... ¶13-010

The bright line tests ..... ¶13-020

The principle based test..... ¶13-030

Whether the acquisition(s) constitute(s) an extreme transaction? ..... ¶13-040

Requirements for RTOs and extreme transactions..... ¶13-050

***Requirements for RTOs***

Treatment as a new listing applicant ..... ¶13-060

Shareholders’ approval requirement ..... ¶13-070

Announcement and other requirements..... ¶13-080

RTO listing document requirements ..... ¶13-090

***Requirements for extreme transactions***

Shareholders’ approval and disclosure requirements ..... ¶13-100

Due diligence requirements ..... ¶13-110

***Other requirements for RTOs and extreme transactions***

Series of transactions and/or arrangements..... ¶13-120

Conspiracy to defraud case..... ¶13-130

Summary of the RTO Rules ..... ¶13-140

**Backdoor listing through large scale issue of securities**

Backdoor listing through large scale issue of securities .... ¶13-150

**Restriction on disposals**

Restriction on disposals..... ¶13-160

**Cash companies**

Cash companies ..... ¶13-170

**Sufficient operations and assets**

Listing Rule 13.24 ..... ¶13-180

SEHK Guidance Letter GL106-19..... ¶13-190

Issuers with minimal operations..... ¶13-200

Business model that lacks business substance ..... ¶13-210

Newly established or acquired business..... ¶13-220

The SEHK’s assessment of compliance with Listing Rule 13.24(1) and issuers’ general obligations ..... ¶13-230

Suspension of trading and re-compliance .....	¶13-240
Shell activities .....	¶13-250
<b>Chapter 14: Connected Transactions .....</b>	<b>681</b>
<b>Overview</b>	
Introduction .....	¶14-010
What are connected transactions? .....	¶14-020
What is the purpose of the connected transaction rules? .....	¶14-030
How do the rules provide protection? .....	¶14-040
Who do the rules apply to? .....	¶14-050
Hong Kong .....	¶14-060
Related parties .....	¶14-070
Notifiable transactions .....	¶14-080
<b>Definition of “connected person”</b>	
Introduction .....	¶14-090
Connected persons .....	¶14-100
Connected persons at the issuer level vs subsidiary level .....	¶14-110
Connected subsidiaries .....	¶14-120
Associates .....	¶14-130
Deemed connected persons .....	¶14-140
Exceptions .....	¶14-150
<b>What are connected transactions?</b>	
Definition of “transaction” .....	¶14-160
Definition of “connected transaction” .....	¶14-170
<b>Procedural requirements</b>	
Introduction .....	¶14-180
Written agreements .....	¶14-190
Announcements .....	¶14-200
Shareholders’ approval .....	¶14-210
Circulars .....	¶14-220
Annual reports .....	¶14-230
<b>Continuing connected transactions</b>	
Introduction .....	¶14-240
Terms of the written agreement .....	¶14-250

Annual cap.....	¶14-260
Changes to cap or terms of agreement .....	¶14-270
Annual review by INEDs and auditors.....	¶14-280
Continuing transaction subsequently becomes connected.....	¶14-290

### **Connected transactions exemptions**

Classification and exemptions .....	¶14-300
Non-exempt connected transactions .....	¶14-310
Classification of connected transactions.....	¶14-320
De minimis exemptions.....	¶14-330
Financial assistance exemptions .....	¶14-340
Partial exemption for transactions with connected persons at the subsidiary level.....	¶14-350
Fully exempt connected transactions.....	¶14-360

### **Financial assistance**

Introduction.....	¶14-370
Financial assistance provided by the listed issuer's group....	¶14-380
Financial assistance received by the listed issuer's group.....	¶14-390

### **Other requirements**

Introduction.....	¶14-400
Option arrangements .....	¶14-410
Guaranteed profits or net assets .....	¶14-420
Proposed transaction becomes connected .....	¶14-430

### **Waivers**

Introduction.....	¶14-440
Connected transactions with non-executive directors.....	¶14-450
Guarantees or indemnities to third party creditors for public sector contracts awarded by tender .....	¶14-460
Continuing connected transactions of new listing applicants .....	¶14-470

<b>Chapter 15: Corporate Governance and Environmental, Social and Governance .....</b>	<b>775</b>
--	------------

### **Introduction**

What is corporate governance .....	¶15-000
How is good corporate governance implemented? .....	¶15-010

Applicability of corporate governance to Hong Kong .....	¶15-020
ESG .....	¶15-030
Listing Rules .....	¶15-040

### **Corporate governance**

Corporate governance rules and the Corporate Governance Code .....	¶15-050
Directors' duties and responsibilities .....	¶15-060
Board composition .....	¶15-070
INEDs .....	¶15-080
Chairman of the board .....	¶15-090
Appointment, re-election and removal of directors .....	¶15-100
Directors' remuneration, letters of appointment and service agreements.....	¶15-110
Board committees .....	¶15-120
Corporate governance function of the board.....	¶15-130
Board diversity.....	¶15-140
Board meetings .....	¶15-150
Model Code and directors' dealings .....	¶15-160
Shareholder communications and general meetings .....	¶15-170
Constitutional documents and shareholder protections.....	¶15-180
Company secretary .....	¶15-190
Compliance adviser .....	¶15-200
Authorised representatives.....	¶15-210
Risk management and internal controls.....	¶15-220
Financial reporting .....	¶15-230
WVR .....	¶15-240
Corporate governance reports and other disclosure requirements .....	¶15-250
Amendments taking effect on 1 January 2022 .....	¶15-260

### **Environmental, social and governance ("ESG")**

The ESG Reporting Guide .....	¶15-270
Overall approach.....	¶15-280
Governance and responsibility of the board.....	¶15-290
Reporting principles.....	¶15-300
ESG discussions in the business review section of the directors' report.....	¶15-310

Mandatory disclosure requirements.....	¶15-320
“Comply or explain” provisions.....	¶15-330
Independent assurance.....	¶15-340
Applicants for listing.....	¶15-350

## **Chapter 16: GEM Listing Requirements and Continuing Obligations .....837**

### **Introduction**

Introduction.....	¶16-000
-------------------	---------

### **GEM listing requirements**

Introduction.....	¶16-010
Jurisdiction and primary listing .....	¶16-020
Financial eligibility requirements .....	¶16-030
Open market .....	¶16-040
Continuity of management and ownership .....	¶16-050
Trading record period requirements .....	¶16-060
Active business .....	¶16-070
Methods of listing and placings .....	¶16-080
Statement of business objectives .....	¶16-090
No underwriting requirement.....	¶16-100
No overall coordinator sponsor requirement.....	¶16-110
Mineral companies.....	¶16-120
GEM listing application process.....	¶16-130

### **GEM continuing obligations**

Introduction.....	¶16-140
Controlling shareholder lock-up .....	¶16-150
Compliance adviser requirement .....	¶16-160
Compliance officer requirement .....	¶16-170
Achievement of business objectives.....	¶16-180
Annual, interim and quarterly reports.....	¶16-190

### **Transfers from GEM to the Main Board**

No longer a “stepping stone” .....	¶16-200
Current transfer requirements .....	¶16-210
Post-transfer: modified requirements to the Main Board Listing Rules .....	¶16-220

<b>Chapter 17: Market Misconduct</b> .....	865
<b>Introduction</b>	
The Securities and Futures Ordinance.....	¶17-010
Relationship between the SFC and the SEHK.....	¶17-020
Market misconduct.....	¶17-030
<b>Criminal and civil regimes</b>	
Introduction.....	¶17-040
Investigation and report.....	¶17-050
<b>Civil regime</b>	
The MMT.....	¶17-060
Sanctions and orders.....	¶17-070
The SFC's power to discipline regulated persons.....	¶17-080
Section 213 proceedings.....	¶17-090
<b>Criminal regime</b>	
Introduction.....	¶17-100
<b>Criminal and civil regimes</b>	
"Double jeopardy".....	¶17-110
Private right of civil action for damages.....	¶17-120
Obligation of officers.....	¶17-130
Safe harbours.....	¶17-140
<b>Insider dealing</b>	
Introduction.....	¶17-150
Inside information.....	¶17-160
Dealing.....	¶17-170
<b>Connected persons and takeover bidders</b>	
Introduction.....	¶17-180
Connected persons.....	¶17-190
Takeover bidders.....	¶17-200
<b>Structure of sections 270 and 291</b>	
Introduction.....	¶17-210
Dealing.....	¶17-220
Tipping off.....	¶17-230
Receiving from a tipper.....	¶17-240
Dealing outside Hong Kong.....	¶17-250
<b>Cases</b>	
Introduction.....	¶17-260



Criminal cases — insider dealing .....	¶117-270
Civil cases — insider dealing .....	¶117-280

### ***Defences***

Introduction .....	¶117-290
Chinese walls .....	¶117-300
No profit motive or innocent purpose defence .....	¶117-310
Off-market transactions between insiders .....	¶117-320
Dealing with an insider .....	¶117-330
Market information .....	¶117-340
Trustees and personal representatives .....	¶117-350
Exercise of pre-existing right .....	¶117-360
Agency .....	¶117-370
Market contract .....	¶117-380
Other defences .....	¶117-390

### ***Relationship with the Listing Rules and Part XIVA of the SFO***

Relationship with the Listing Rules and Part XIVA of the SFO .....	¶117-400
---	----------

### ***False trading***

Introduction .....	¶117-410
False or misleading appearance of active trading .....	¶117-420
Artificial price .....	¶117-430
Wash sales and matched orders .....	¶117-440
Cases — false trading .....	¶117-450

### ***Price rigging***

Introduction .....	¶117-460
Wash sales .....	¶117-470
Artificial transactions .....	¶117-480
Case — Price rigging (wash sales) .....	¶117-490

### ***Disclosing information about prohibited transactions***

Prohibition .....	¶117-500
Defences .....	¶117-510

### ***Disclosing false or misleading information inducing transactions***

Introduction .....	¶117-520
Prohibition .....	¶117-530
Defences .....	¶117-540

Case — Disclosing false or misleading information inducing transactions.....	¶¶17-550
<b>Stock market manipulation</b>	
Stock market manipulation .....	¶¶17-560
<b>Additional criminal offences</b>	
Introduction.....	¶¶17-570
Employing fraudulent or deceptive devices, etc. in transactions involving securities, futures contracts or leveraged foreign exchange trading.....	¶¶17-580
Disclosure of false or misleading information inducing others to enter into leveraged foreign exchange contracts .....	¶¶17-590
Falsely representing dealings in futures contracts on behalf of others .....	¶¶17-600
Common law conspiracy to defraud case .....	¶¶17-610
<b>Chapter 18: Disclosure of Interests.....</b>	<b>921</b>
<b>Overview</b>	
Introduction.....	¶¶18-010
Application .....	¶¶18-020
Objective.....	¶¶18-030
Criminal penalties .....	¶¶18-040
<b>Concepts underlying the DI regime</b>	
Two regimes.....	¶¶18-050
Equity derivatives .....	¶¶18-060
Underlying shares.....	¶¶18-070
Physically settled vs. cash settled.....	¶¶18-080
Long and short positions .....	¶¶18-090
Stock borrowing .....	¶¶18-100
<b>Substantial shareholders' regime</b>	
Introduction.....	¶¶18-110
Voting shares .....	¶¶18-120
Interest.....	¶¶18-130
Deemed interests.....	¶¶18-140
Percentage levels and percentage figures.....	¶¶18-150
Disclosure of short positions.....	¶¶18-160

Relevant events .....	¶118-170
Change in the nature of interest.....	¶118-180
<b>Sale and purchase of shares</b>	
Introduction.....	¶118-190
Purchaser.....	¶118-200
Seller .....	¶118-210
Exemptions .....	¶118-220
Controlled corporations.....	¶118-230
The “wholly owned group” exemption.....	¶118-240
<b>Directors’ and chief executives’ regime</b>	
Introduction.....	¶118-250
Differences from substantial shareholders’ regime .....	¶118-260
Associated corporations.....	¶118-270
Relevant events .....	¶118-280
<b>Practicalities</b>	
Forms.....	¶118-290
Disclosures.....	¶118-300
Filing .....	¶118-310
Registers.....	¶118-320
Power of listed company to investigate ownership.....	¶118-330
Relationship with the Takeovers Code.....	¶118-340
<b>Abbreviations</b> .....	
<b>Index</b> .....	
<b>Section Finding List</b> .....	

# CHAPTER 5

## LISTING COMPANIES WITH WEIGHTED VOTING RIGHTS

	Para
Introduction.....	¶15-000
Eligible WVR structures.....	¶15-010
<b>Requirements for listing</b>	
Introduction.....	¶15-020
Suitability.....	¶15-030
Minimum market capitalisation.....	¶15-040
WVR beneficiaries.....	¶15-050
Minimum economic interest.....	¶15-060
Ownership continuity and control.....	¶15-070
Public float requirement.....	¶15-080
Limits on WVR powers.....	¶15-090
Non-WVR shareholders' rights.....	¶15-100
<b>Ring-fencing and anti-avoidance</b>	
Ring-fencing and anti-avoidance.....	¶15-110
<b>Other rights and restrictions associated with WVRs</b>	
WVR shareholders' rights.....	¶15-120
Restriction on transfer of WVR shares.....	¶15-130
Conversion of WVR shares into ordinary shares.....	¶15-140
<b>Cessation of WVRs</b>	
Cessation of WVRs.....	¶15-150

**Disclosure requirements**

Disclosure requirements..... ¶15-160

**Connected persons and core connected persons**

Connected persons and core connected persons ..... ¶15-170

**Enhanced corporate governance requirements**

Introduction..... ¶15-180

Corporate Governance Committee ..... ¶15-190

Corporate Governance Reports ..... ¶15-200

Nomination Committee and INEDs ..... ¶15-210

Compliance adviser ..... ¶15-220

WVR training ..... ¶15-230

Constitutional backing..... ¶15-240

**Corporate WVR beneficiaries**

Corporate WVR beneficiaries ..... ¶15-250

**Enforcement**

Enforcement..... ¶15-260

## ¶15-000 Introduction

As part of the 2018 SEHK listing regime reforms aimed at attracting the listing of tech companies (and discussed at ¶11-000 to ¶11-010), tech and other “innovative” companies with weighted voting rights (“WVR”) structures have been allowed to list on the Main Board of the SEHK (but not on the GEM) since April 2018. Chapter 8A of the Listing Rules sets out additional rules and modifications to the general Listing Rules for applicants and listed issuers with WVR structures and provides an exception for tech companies from the Listing Rules’ “one share one vote” principle.

Companies with WVR structures typically have dual-class stocks where the company’s shareholders own Class A shares carrying one vote per share while the founders and management hold Class B shares carrying multiple votes per share. Prior to the 2018 Listing Rule changes, the “one share one vote” principle of Listing Rule 8.11 (discussed at ¶12-120) prevented companies with WVR structures from listing. Chapter 8A listings are now an explicit exception to Listing Rule 8.11.

The “one share one vote” principle proved problematic because WVR structures are commonly adopted by tech companies which need to raise large amounts of capital but whose founders want to retain control and be able to pursue their vision for the company with a reduced shareholding. Arguments in favour of WVR structures are that they allow founders to fend off hostile takeover bids and protect the company from the short-term focus of institutional investors. Many of the new breed of tech giants including Facebook, Alibaba and Baidu have adopted the structure. Hong Kong’s prohibition of WVR structures meant that the new Chinese tech companies with the highest growth prospects could not list in Hong Kong – historically the preferred offshore listing venue for Chinese companies. They were also prevented from listing in China and listed instead on the New York Stock Exchange (the “NYSE”) and NASDAQ. Both these exchanges have allowed WVR listings for many years for all companies irrespective of sector.

The impetus for change in Hong Kong was the SEHK losing the biggest IPO in history, Alibaba Group Holding Limited’s US\$21.8 billion IPO, to the NYSE in 2014. A long and contentious debate on WVR listings

ensued involving several public consultations before the Listing Rules were finally changed in 2018.

### ¶5-010 Eligible WVR structures

Weighted voting rights are defined in Listing Rule 8A.02 as the voting power attached to a share of a particular class that is greater than the voting power attached to an ordinary share, or another governance right or arrangement which is disproportionate to the beneficiary's economic interest in a listed company's shares.

Only companies with share-based WVR structures – that is where the superior voting powers are attached to a class of the company's shares – are allowed to list under Chapter 8A.<sup>1</sup> The SEHK will not list companies with a “board-based” WVR structure which gives certain individuals control of the board which is disproportionate to their equity stake in the company.

It is worth noting, however, that Non-Greater China Issuers and Grandfathered Greater China Issuers (i.e. those primary listed on or before 15 December 2017 on a Qualifying Exchange<sup>2</sup>) with non-share-based WVR structures are able to secondary list in Hong Kong under Chapter 19C of the Listing Rules without changing their existing WVR structures. This is because Listing Rule 19C.12 exempts these companies from the Chapter 8A requirements for the WVR structures of primary listing applicants<sup>3</sup> (including the requirement for a share-based WVR structure) when they secondary list under Chapter 19C. This exception allowed Alibaba Group Holding Limited to secondary list in Hong Kong with a non-share-based WVR structure. Please refer to ¶4-060 to ¶4-180 for information on Chapter 19C listings.

In November 2021, the SEHK published its “Consultation Conclusions on the Listing Regime for Overseas Issuers” (the “Overseas Issuers

---

1 LR 8A.07

2 For the purpose of Chapter 19C, the “Qualifying Exchanges” are the NYSE, NASDAQ and the “Premium Listing” segment of the London Stock Exchange's Main Market (LR 19C.01)

3 Under LR 19C.12, LRs 8A.07-8A.36, LR 8A.43 and LR 8A.44 do not apply to Non-Greater China Issuers or Grandfathered Greater China Issuers that secondary list on the SEHK under Chapter 19C of the Listing Rules

Consultation Conclusions”). The conclusions are discussed at ¶11-180, ¶12-320 and ¶14-300. The Listing Rule amendments will take effect on 1 January 2022.

As set out in the Overseas Issuers Consultation Conclusions, the dual-primary listing regime and the secondary listing regime will be aligned with respect to Grandfathered Greater China Issuers and Non-Greater China Issuers with WVR structures. The provision currently set out in Listing Rule 19C.12 will be moved (and modified) in a new Listing Rule 8A.46. The new Listing Rule 8A.46 will provide that a Grandfathered Greater China Issuer or a Non-Greater China Issuer will not need to comply with the Chapter 8A requirements for WVR structures of primary listing applicants<sup>4</sup> if the issuer has or is seeking either:

- (i) a dual-primary listing on the SEHK, provided that the issuer satisfies Listing Rule 8A.06 (see ¶15-040 below) and has two full financial years of good regulatory compliance on a Qualifying Exchange; or
- (ii) a secondary listing under Chapter 19C.

As set out in note 1 to new Listing Rule 8A.46, the SEHK will reserve the right, in its absolute discretion, to refuse a listing of securities of an overseas issuer if its WVR structure represents an extreme case of non-conformance with corporate governance norms. Note 2 to new Listing Rule 8A.46 will stipulate that the exemption will only be applicable to the WVR structure in effect at the time of the issuer’s dual-primary or secondary listing on the SEHK.

A new guidance letter on change of listing status from secondary listing to dual-primary or primary listing will come into effect on 1 January 2022. According to the Overseas Issuers Consultation Conclusions, it will provide that a Grandfathered Greater China Issuer or a Non-Greater China Issuer which becomes primary listed on the SEHK (due to the migration of a majority of its trading to Hong Kong, the de-listing of its shares from the stock exchange of its primary listing or a voluntary conversion of its secondary listing to a dual-primary listing on the SEHK)

---

4 Under new LR 8A.46 (to come into effect 1 January 2022), LRs 8A.07-8A.36, LR 8A.43 and LR 8A.44 will not apply to Non-Greater China Issuers or Grandfathered Greater China Issuers that dual-primary list on the SEHK (and satisfy certain requirements) or secondary list under Chapter 19C



will be allowed to retain a non-compliant WVR structure which exists at the time of its SEHK listing.

## REQUIREMENTS FOR LISTING

### ¶5-020 Introduction

WVR-structured applicants must satisfy the listing eligibility and suitability requirements applicable to all issuers (discussed in Chapter 2 of this book) – other than the “one share one vote” principle. They are also required to meet the additional requirements set out in Chapter 8A.

### ¶5-030 Suitability

Listing Rule 8A.04 requires that a WVR-structured applicant must be eligible and suitable to list with a WVR structure. SEHK Guidance Letter GL93-18 “Suitability for Listing with a WVR Structure” sets out the characteristics a WVR-structured applicant needs to demonstrate in order to be considered suitable for listing with a WVR structure. These characteristics are summarised below:

1. ***Innovative company***: The applicant must be an “innovative” company which is normally demonstrated by the company having more than one of the following characteristics:
  - (a) its success is attributable to the application of new technologies, innovations and/or a new business model to its core business, which differentiates the applicant from existing players. If its peers are utilising similar technology or a similar business model, the SEHK will consider whether it was a “first mover” in the industry;<sup>5</sup>
  - (b) research and development (“R&D”) significantly contributes to its expected value and constitutes a major activity and expense. The applicant should provide the amount of its R&D expenses during the track record period (both as a figure and as a percentage of revenue/total expenses) and explain how the R&D contributes value to the applicant.

---

5 SEHK Frequently Asked Questions on Listing Regime for Companies from Emerging and Innovative Sectors (Released on 24 August 2018 / Last Updated in April 2020) FAQ 030-2018

The SEHK will examine whether the R&D expenses are capitalised as intangible assets in the applicant's accounts as an indicator of the value generated through the R&D activities;<sup>6</sup>

- (c) its success is attributable to its unique features or intellectual property; and/or
- (d) it has an outsized market capitalisation/intangible asset value relative to its tangible asset value.

What is considered to be “innovative” may of course change over time. A WVR-structured company with an “innovative” business model may qualify for listing, but once that business model becomes widely adopted, it may cease to be “innovative”, so that WVR-structured companies adopting the same business model in the future may not necessarily qualify for listing.

The superficial application of new technology to an otherwise conventional business will not satisfy the suitability criteria. For example, where a retail business merely develops an online sales platform, this would not be suitable for listing with a WVR structure unless it can demonstrate other distinctive features.

2. **Success of the company:** The applicant is required to have a track record of high business growth, which can be objectively measured by operational metrics, for example business operations, users, customers, unit sales, revenue, profits and/or market value (as appropriate). The high growth trajectory should also be expected to continue.
3. **Contribution of WVR holders:** Each WVR beneficiary must have been materially responsible for the business' growth, through his/her skills, knowledge and/or strategic direction in circumstances where the company's value is largely attributable or attached to intangible human capital.
4. **Role of WVR holders:** The WVR beneficiaries must be individuals who each have an active executive role within the business and have materially contributed to the business'

---

<sup>6</sup> Ibid.

growth. Each WVR beneficiary must be a director of the company when it lists on the SEHK. Please see ¶5-250 for the position on corporate WVR beneficiaries.

5. **External validation:** The applicant must have previously received meaningful third-party investment (that is more than just a token investment) from one or more sophisticated investors who are still investors at the time of the IPO.

There are no bright line tests for determining who is a “sophisticated investor” or what is a “meaningful investment”. GL93-18 defines sophisticated investors as investors the SEHK considers to be sophisticated by reference to factors including their net assets or assets under management, their relevant investment experience, and their knowledge and expertise in the relevant field. In its 2018 “Consultation Conclusions on a Listing Regime for Companies from Emerging and Innovative Sectors” (the “2018 Consultation Conclusions”), the SEHK stated that in determining whether an investment is “meaningful”, it will examine the nature and timing of the investment, the amount invested, and the size of the stake taken up. An applicant that is a spin-off from a parent company will not normally be required to demonstrate that it has received meaningful third-party investment.

GL93-18 requires sophisticated investor(s) to retain 50% of their investment at listing for at least six months after listing, although there are exceptions for de minimis investments by specific investors where the main investors comply with the requirement.

GL93-18 notes that the SEHK exercises its discretion to determine a WVR-structured applicant as being suitable to list sparingly and that it considers all relevant circumstances in determining an applicant’s suitability. The suitability factors listed in the guidance letter are not exhaustive or binding. Moreover, there is no guarantee that a company which demonstrates these characteristics will be considered suitable for listing as the SEHK retains a discretion to reject listing applications. In particular, the SEHK reserves the right to reject a listing application where the applicant’s WVR structure represents an extreme case of

non-conformance with governance norms, for example if the ordinary shares carry no voting rights.

### **¶15-040 Minimum market capitalisation**

Under Listing Rule 8A.06, applicants with WVR structures must have a market capitalisation of at least HK\$40 billion (approximately US\$5.2 billion) at listing, or a market capitalisation of at least HK\$10 billion (approximately US\$1.3 billion) at listing and at least HK\$1 billion (approximately US\$130 million) of revenue for the most recent audited financial year.

### **¶15-050 WVR beneficiaries**

Currently, WVR beneficiaries must be natural persons who, pursuant to Listing Rule 8A.11, must be directors at the time the company lists on the SEHK. As directors, they owe fiduciary duties to the company under Listing Rule 3.08 (elaborated on at ¶15-060). Please refer to ¶15-250 for the position on allowing corporate WVR beneficiaries.

As noted above, the suitability requirements for WVR listings set out in GL93-18 require that WVR beneficiaries are individuals with an active executive role within the business who have materially contributed to the business' growth through their skills, knowledge and/or strategic direction.

### **¶15-060 Minimum economic interest**

At the time of listing, a company's WVR beneficiaries must collectively beneficially own at least 10% of the underlying economic interest in its total issued share capital.<sup>7</sup> This requirement does not continue after listing. A shareholding below 10% may be accepted by the SEHK on a case by case basis, if it still represents a very large amount in absolute dollars terms, for example where the applicant's expected market capitalisation at listing is above HK\$80 billion (approximately US\$10.3 billion).

---

<sup>7</sup> LR 8A.12

## ¶15-070 Ownership continuity and control

Questions were raised in the 2018 consultation exercise as to how an applicant which adopts a WVR structure on listing can comply with the Listing Rules' requirement that new applicants must demonstrate ownership and control for at least their most recent audited financial year<sup>8</sup> (discussed at ¶12-090). The concern related to whether there would be considered to be a change in ownership continuity and control where the persons granted WVRs only met the definition of controlling shareholders on listing due to the increase in their voting power under the WVR structure. The SEHK noted in response that an applicant may be able to rebut a presumption that there has been a change in ownership continuity and control, by demonstrating that there was no material change in influence on management notwithstanding the technical change in controlling shareholder(s) resulting from an increase in voting power conferred by the WVR structure.<sup>9</sup>

## ¶15-080 Public float requirement

A WVR beneficiary and any vehicle through which the beneficiary holds shares carrying WVRs are deemed to be core connected persons of the listed issuer (if they are not already) under Listing Rule 8A.20. Since shares held by the core connected persons of an issuer are excluded from the public float under Listing Rule 8.24, WVR shares cannot be counted towards meeting the public float requirement under Listing Rule 8.08 (elaborated on at ¶12-170).

## ¶15-090 Limits on WVR powers

Listing Rules 8A.07 and 8A.08 stipulate that WVRs can only attach to a class of shares and that class is not eligible for listing. As set out in the 2018 Consultation Conclusions, the SEHK expects only one share class to carry WVRs. However, the SEHK will consider listing applications from companies with more than one share class holding WVRs on a case by case basis where the company's particular circumstances justify

---

8 LR 8.05(1)(c), LR 8.05(2)(c) or LR 8.05(3)(c), as applicable

9 SEHK "Consultation Conclusions: A Listing Regime for Companies from Emerging and Innovative Sectors" ("2018 Consultation Conclusions") (April 2018) at chapter 4, paragraphs 197-200

having more than one class of WVR shares and the WVR structure is not an extreme case of non-conformance with governance norms. A WVR structure which provides for non-voting ordinary shares would be regarded as an extreme case.

Listing Rule 8A.07 further provides that WVRs can only confer enhanced voting power on resolutions tabled at general meetings, but cannot confer enhanced voting power on resolutions which Listing Rule 8A.24 requires to be passed on a one vote per share basis. These are resolutions to approve:

- changes to the listed issuer's constitutional documents;
- changes to the rights attached to any class of shares;
- the appointment or removal of an independent non-executive director ("INED");
- the appointment or removal of the listed issuer's auditors; and
- the voluntary winding-up of the listed issuer.

With the exception of enhanced voting rights, the rights attached to WVR shares must be the same as the rights attached to the issuer's ordinary shares.

Listing Rule 8A.10 imposes a limit on the voting rights that can attach to WVR shares. WVR beneficiaries must not be entitled to more than 10 times the voting power of ordinary shares.

### **¶15-100 Non-WVR shareholders' rights**

A listed issuer's non-WVR shareholders must be entitled to cast at least 10% of the votes that are eligible to be cast on resolutions at the issuer's general meetings.<sup>10</sup> Under Listing Rule 8A.23, non-WVR shareholders holding 10% or more of the voting rights on a one vote per share basis must be able to convene an extraordinary general meeting and add resolutions to the meeting agenda.

---

10 LR 8A.09

## RING-FENCING AND ANTI-AVOIDANCE

### ¶5-110 Ring-fencing and anti-avoidance

As set out in Listing Rule 8A.05, the SEHK only allows new applicants to list with a WVR structure. Listed issuers are not permitted to adopt a WVR structure after listing. The note to Listing Rule 8A.05 contains an anti-avoidance provision which gives the SEHK the discretion to reject listing applications from companies which have tried to circumvent or avoid this rule, for example by de-listing as a conventional company and then applying to list as a WVR company.

After listing, issuers with WVR structures are prohibited from increasing the proportion of WVR shares from the proportion in issue at the date of listing.<sup>11</sup>

A WVR listed company is also subject to restrictions under Listing Rule 8A.14 on further issues of shares with WVRs. It can only allot, issue or grant shares carrying WVRs in a *pro rata* offer to all shareholders, a *pro rata* issue of securities to all shareholders by way of scrip dividends, or a stock split or other capital reorganisation which will not increase the proportion of shares holding WVRs. The SEHK's prior approval is required in each of these situations.

If a WVR beneficiary does not take up any WVR shares or rights to WVR shares in a *pro rata* offer, the shares or rights not taken up can be transferred to another person, but the transferred rights must only entitle the transferee to an equivalent number of ordinary shares.

Where a listed company reduces the number of its issued shares, the WVR beneficiaries are required by Listing Rule 8A.15 to reduce their WVRs proportionately if the reduction in issued shares would cause an increase in the proportion of shares carrying WVRs.

Listed companies are also prohibited under Listing Rule 8A.16 from changing the terms of a class of shares carrying WVRs to increase the WVRs carried by that share class. However, they can reduce the WVRs carried with the SEHK's approval, provided that they comply with relevant legal requirements.

---

<sup>11</sup> LR 8A.13