

HKEx GUIDANCE LETTER
Cite as HKEx-GL12-09 (September 2009)

Summary	
Subject	Streamlined procedures for listing overseas companies
Listing Rules	Chapter 19 of the Main Board Rules; Chapter 24 of the GEM Rules
Related Publications	1. Joint Policy Statement dated 7 March 2007 2. Listing Decisions: HKEx-LD65-1; HKEx-LD65-2; HKEx-LD65-3; HKEx-LD71-1 3. A List of Acceptable Overseas Jurisdiction updated September 2009
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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 can consult the Listing Division on a confidential basis for interpretation of the Listing Rules, or this letter.*

1. Purpose

This letter gives guidance on listing of overseas companies.

2. Background

- 2.1 Since the publication of the Joint Policy Statement regarding the Listing of Overseas Companies (JPS) on 7 March, 2007, the Listing Committee has considered and accepted in principle a number of new jurisdictions of incorporation for overseas companies seeking a listing on the Exchange.
- 2.2 Today, eight jurisdictions have been accepted for this purpose. They are Australia, Canada (British Columbia), Canada (Ontario), Cyprus, Germany, Luxembourg, Singapore, and United Kingdom.
- 2.3 This represents a significant expansion from the four jurisdictions currently recognised under the Listing Rules (Hong Kong, the People's Republic of China, Bermuda and the Cayman Islands).

3. Our Streamlining Commitments

- 3.1 Since the publication of JPS, we have developed vetting practices to facilitate the IPO listing process. These vetting practices are set out in this letter. We will update them from time to time.
- 3.2 We will continue to admit new jurisdictions of an issuer's incorporation when an application to do so is brought before the Exchange. For example, we are considering the jurisdictions of British Virgin Islands, Israel, Jersey and Russia.

We encourage early consultation

- 3.3 We encourage potential overseas issuers and their advisers to consult us early on the jurisdiction acceptance issue before submitting a formal listing application. We will accept filing in cases after consultation with the Listing Committee.

We publish newly accepted jurisdictions on our website

- 3.4 We will publish [A List of Acceptable Overseas Jurisdictions](#) on a timely basis on the HKEx website.
- 3.5 The list contains hyperlinks to relevant Listing Decisions and issuers' listing documents for ease of reference.

We allow second comers to ride on first issuer's arrangements

- 3.6 We follow a simpler process for subsequent issuers (i.e. second comers) from jurisdictions which have already been considered and accepted. By this, we mean that a second comer does not need to complete a detailed line-by-line comparison of the shareholder protection matters in the JPS. Instead, where the jurisdiction was accepted on the basis that differences in shareholder protection standards were addressed by the previous issuer (first comer) amending its constitutional document or by other means, the Exchange will accept the second comer adopting similar arrangements. In so doing, the second comer must also consider its own constitutional documents and circumstances and decide what amendments to its constitutional documents are necessary or what other means are available to address the shareholder protection differences.
- 3.7 This process is set out in the listing decision reporting on the acceptance of Germany published as HKEx-LD71-1 in September 2009.

We allow cross-benchmarking

- 3.8 We allow cross-benchmarking to demonstrate the acceptability of a new jurisdiction. This means that a potential issuer can show that its shareholder protection standards (provided under the laws of its home jurisdiction as supplemented by its constitutional documents) are comparable to the standards of any one of the recognised or accepted jurisdictions, instead of benchmarking directly to Hong Kong standards.

- 3.9 For example, a potential issuer from a country within the European Union may choose to compare its home corporate laws with Luxembourg or German laws to assess equivalence of shareholder protection.

We adopt purposive interpretation of shareholder protection equivalence requirement

- 3.10 We adopt a purposive interpretation of the requirements for “equivalence” to Hong Kong corporate regulation standards¹.
- 3.11 We do not require textual equivalence. For example, Hong Kong law requires a three-quarter majority vote of shareholders to pass certain resolutions, whereas the corresponding law of an overseas jurisdiction may only require a two-third majority vote of shareholders. This is still regarded as acceptable although it is not strictly equivalent to the Hong Kong requirement. The issuer, however, must disclose the differences in its prospectus.

We do not rigidly require issuers to change their constitutional documents

- 3.12 We do not rigidly require an issuer to change its constitutional documents. We are aware that there are circumstances where amendment to constitutional provisions is not permitted under the laws of the issuer’s jurisdiction of incorporation or may be too burdensome. We allow an issuer to demonstrate equivalence through alternative means, e.g. by demonstrating that compliance with rules of the local exchange on which it is listed would result in the same investor protection.

We do not require issuers to regularly review laws of jurisdictions of incorporation

- 3.13 Upon acceptance of a new jurisdiction of an issuer’s incorporation, we do not require the issuer to review the laws in its home jurisdiction and report on compliance with the JPS on a regular basis. We expect the issuer to inform the market of any change in the laws of their home jurisdiction which is price sensitive in nature according to its reporting obligations under Main Board Rule 13.09 or GEM Rule 17.10.

¹ Main Board Rules 19.05(1)(b) and 19.30(1)(b); GEM Rule 24.05(1)(b).