

SECONDARY LISTING ON THE HONG KONG STOCK EXCHANGE UNDER LISTING RULES CHAPTER 19C 依据上市规则第 19C 章在香港联交所进行第二上市



In April 2018, in an attempt to attract well-established high growth companies from emerging and innovative sectors to list on its Main Board, the Hong Kong Stock Exchange introduced a new Chapter 19C to its Listing Rules. The new Chapter 19C offers a concessionary route for eligible companies to list, by way of a secondary listing, on the Main Board, thereby expanding its investor base. The new Chapter 19C is one of three new chapters introduced to the Listing Rules at that time, the others being Chapter 8A (introducing weighted-voting-rights structures) and Chapter 18A (introducing pre-revenue biotech companies).

2018 年 4 月，香港联交所推出新的上市规则第 19C 章，以吸引新兴及创新行业的成熟高增长公司在其主板上市。新的第 19C 章为符合条件的公司提供了在主板进行第二上市的渠道，从而扩大了其投资者基础。新设的第 19C 章是当时上市规则引入的三个新章节之一，其他章节是第 8A 章（引入不同投票权架构）和第 18A 章（引入未有收入的生物科技公司）。

At the beginning, interest in the concessionary route to secondary listing was muted, but in light of the Sino-US trade war and heightened Sino-US tensions, there has recently been a flurry of activity. Alibaba, NetEase and JD.com have already done so, and reports in the media have indicated that others, such as Ctrip and Baidu, have already indicated an intention to do so.

最初，新设的第二上市渠道并未吸引足够的关注，但鉴于中美贸易战和中美紧张局势的加剧，近期发行人的动作越趋频繁。阿里巴巴、网易以及京东已经付诸行动，亦有媒体暗示，其他企业，例如携程和百度，也有意紧随其后。

In light of these developments, we thought this might be a good opportunity to provide a refresher as to the features and requirements of a secondary listing under Chapter 19C of the Listing Rules.

鉴于这些动态，我们借此机会对依据上市规则第 19C 章进行第二上市的特征和要求展开回顾。

Basic Eligibility Criteria

合资格基本标准

A company wishing to make use of Chapter 19C must satisfy each of the three following basic criteria:
通过第 19C 章进行上市的公司必须满足全部下述三项基本要求：

1. The company must be eligible and suitable for listing. A qualifying issuer would normally be considered suitable for listing under Chapter 19C if it is an innovative company.
该公司必须合资格并且适合上市。合资格发行人如果是一家创新产业公司的话，一般会被认定为适合根据第 19C 章作第二上市。

The Stock Exchange would expect an innovative company to possess more than one of the following characteristics:

联交所要求一家创新产业公司应具备多于一项的下述特点：

- Its success is demonstrated to be attributable to the application, to the company's core business, of (1) new technologies; (2) innovations; and/or (3) a new business model, which also serves to differentiate the company from existing players
能证明公司成功运营有赖其核心业务应用了（1）新科技；（2）创新理念；及/或（3）新业务模式，亦以此令该公司有别于现有行业竞争者
- Research and development is a significant contributor to its expected value and constitutes a major activity and expense
研究及开发为公司贡献一大部分的预期价值，亦是公司的主要活动及占去大部分开支
- Its success is demonstrated to be attributable to its unique features or intellectual property; and/or
能证明公司成功运营有赖其独有业务特点或知识产权；及/或
- It has an outsized market capitalisation / intangible asset value relative to its tangible asset value

相对于有形资产总值，公司的市值/无形资产总值极高

2. The company must have a good record of compliance for at least two years on a qualifying stock exchange.
公司必须在一家合格交易所至少两年的良好合规记录。

There are currently three qualifying stock exchanges: (1) The New York Stock Exchange LLC; (2) NASDAQ Stock Exchange; and (3) the Main Market of the London Stock Exchange (the premium segment only).

上述合格交易所三家：（1）纽约证券交易所；（2）纳斯达克证券交易所；（3）伦敦证券交易所主市场（仅限于高级上市分类）。

3. Financial eligibility criteria:
财务合格标准：

- Non-greater China issuer (a qualifying issuer with its “centre of gravity” outside Greater China) without weighted voting rights: minimum market capitalisation at the time of secondary listing of at least HK\$10billion
同股同权的非大中华发行人（“业务重心”不在大中华区的合格发行人）：于第二上市时市值不得少于 100 亿港元；
- All other issuers: either
所有其他的发行人应符合以下任何一项：
 - minimum market capitalisation at the time of secondary listing of HK\$40billion; or
第二上市时的市值至少 400 亿港元；或
 - minimum market capitalisation of HK\$10billion at the time of secondary listing and revenue of at least HK\$1billion for the most recent audited financial year.
第二上市时的市值至少 100 亿港元，及最近一个经审计会计年度的收益至少 10 亿港元。

Other Listing Requirements

其它上市要求

Like other secondary-listed companies, a company obtaining a secondary-listing under Chapter 19C would enjoy some exemptions from full compliance with the Listing Rules.

同其它第二上市的公司一样，通过第 19C 章进行第二上市的公司可获特定的豁免，不需全面遵守上市规则。

We summarise below some of the ongoing Listing Rules requirements and related concerns.

以下，我们总结了一些上市规则的持续要求以及相应的考量。

For this purpose, the Stock Exchange distinguishes between Greater China companies who were already listed on a qualifying stock exchange prior to 15 December 2017 (called “Grandfathered Greater China Issuers”) and those who first listed only after 15 December 2017 (“Non-Grandfather Greater China Issuers”). This date is the date on which the Stock Exchange published its conclusions on the consultation paper titled ‘Concept Paper on New Board’; this conclusion paper being the first time that the proposal was first announced to the public. The Stock Exchange considers there is potential risk of regulatory arbitrage for Greater China companies who first listed overseas after this date.

就此，联交所区分了两种情形，一种是在 2017 年 12 月 15 日之前在合格交易所已经上市的大中华公司（称为“获豁免的大中华发行人”），另一种是在 2017 年 12 月 15 日之后才首次上市的公司（“不获豁免的大中华发行人”）。此日期为联交所公布其关于“有关建议设立创新板的框架咨询文件”的咨询总结之日。联交所认为在此日期后才在海外首次上市的大中华公司存在监管套利的风险。

	Grandfathered Greater China Issuers 获豁免的大中华发行人	Non-Grandfathered Greater China Issuers 不获豁免的大中华发行人	Non-Greater China Issuers 非大中华发行人
Automatic waivers from Listing Rules ordinarily	Apply 适用		

	Grandfathered Greater China Issuers 获豁免的大中华发行人	Non-Grandfathered Greater China Issuers 不获豁免的大中华发行人	Non-Greater China Issuers 非大中华发行人
applicable to secondary listing 一般情况下适用于第二上市的上市规则自动豁免			
Shareholder Protection Requirements 股东保障要求	<p>Required to demonstrate, to the Exchange's satisfaction, how the domestic laws, rules and regulations to which it is subject and its constitutional documents, in combination, provide the key shareholder protection standards. For this purpose, the Exchange may require the issuer to amend its constitutional documents to provide them.</p> <p>必须令联交所确信，其当地法律、规则及规例以及其组织章程文件合起来可以达到关键的股东保障水平。联交所或会要求发行人修订其组织章程文件以提供达到该等水准的股东保障。</p>	<p>Must, at the point of secondary listing, vary their constitutional documents in accordance with the requirements set out in the existing Listing Rules</p> <p>必须在第二上市之时，根据现行的上市规则修订其组织章程文件。</p>	<p>Required to demonstrate, to the Exchange's satisfaction, how the domestic laws, rules and regulations to which it is subject and its constitutional documents, in combination, provide the key shareholder protection standards. For this purpose, the Exchange may require the issuer to amend its constitutional documents to provide them.</p> <p>必须令联交所确信，其当地法律、规则及规例以及其组织章程文件合起来可以达到关键的股东保障水平。联交所或会要求发行人修订其组织章程文件以提供达到该等水准的股东保障。</p>
Companies with weighted voting rights structures (if applicable) 有不同投票权架构的公司（如适用）	<ul style="list-style-type: none"> ▪ Eligible to secondary list with their existing WVR structures 现存的不同投票权架构满足第二上市的要求 ▪ No need to comply with ongoing WVR safeguards (e.g. the restriction against increase in the number or proportion of WVR shares after listing, the requirement for certain resolutions to be subject to voting on a one vote per share basis) except for disclosure requirements 除披露要求以外，不需遵从持续性不同投票权保障要求（例如，对上市后增发不同投票权股份的数量或比例的限制，以及特定决议需采取一股一票制的要求） 	<p>Their WVR structures must conform to all primary listing requirements, including all ongoing WVR safeguards</p> <p>其不同投票权架构必须遵从所有主要上市要求，包括所有的持续性不同投票权保障要求。</p>	<ul style="list-style-type: none"> ▪ Eligible to secondary list with their existing WVR structures 现存的不同投票权架构满足第二上市的要求 ▪ No need to comply with ongoing WVR safeguards (e.g. the restriction against increase in the number or proportion of WVR shares after listing, the requirement for certain resolutions to be subject to voting on a one vote per share basis) except for disclosure requirements 除披露要求以外，不需遵从持续性不同投票权保障要求（例如，对上市后增发不同投票权股份的数量或比例的限制，以及特定决议需采取一股一票制的要求）

Migration of the Bulk of Trading to Hong Kong

股份主要成交地转到香港

If the majority of trading in the shares of an issuer migrates to Hong Kong from its primary exchange on a permanent basis (meaning 55% or more of the total worldwide trading volume, by dollar value, in the issuer's most recent financial year is on the Main Board), the issuer would be treated as having a dual-primary listing in Hong Kong and the other exchange on which it is listed. The automatic waivers would no longer apply and the issuer would need to apply for specific waivers on a case-by-case basis. The most common Listing Rules that would become applicable in such cases are those relating to continuing connected transactions and/or notifiable transactions. A 12-month grace period will be granted for such issuers to comply with the applicable requirements.

如果某一发行人的大部分股份交易永久性地从其主要交易所迁往香港（发行人最近一个财政年度的上市股份全球成交量总金额有 55%或以上在主板进行交易），则认定该发行人在香港及其已经上市的另一交易所进行了双重主要上市。自动豁免将不再适用，发行人需根据具体情况申请特定豁免。在这种情况下，最常见适用的上市规则是与持续关联交易及/或须予公布交易相关的上市规则。此等发行人将获得 12 个月的宽限期，以令其完全符合所有适用的上市规则的要求。

The Codes on Takeovers and Mergers and Share Buy-backs (the Takeovers Code) will not apply to the secondary listing of grandfathered Greater China issuers, but if the bulk of trading moves to Hong Kong and the issuer is treated as a dual-primary listed company in Hong Kong, the Takeovers Code would apply at that point.

《公司收购、合并及股票回购守则》（《收购守则》）不适用于获豁免的大中华区发行人的第二上市，但若发行人的股份主要成交地转到香港，因而其成为了在香港进行双重主要上市的公司的话，则《收购守则》会于此时适用。

Conclusions

结论

In light of the global geo-political situation, we anticipate that an increasing number of Greater China issuers will shift their listing focus to Asia. The Hong Kong Stock Exchange's concessionary route offers such issuers a way to make the shift gradually without losing their original market and listing. Issuers may take into account that unlike ordinary listing applications, an application for listing under Chapter 19C may be made as a confidential filing. This note is a brief summary only of the requirement to such companies to make use of this concessionary route.

鉴于全球地缘政治的形势，我们预计越来越多的大中华发行人将会把上市重点转移到亚洲。香港联交所的第二上市渠道为此等发行人提供在不放弃其原有市场和上市基础的情况下逐步实现转移的方法。有别于一般上市申请，依据第 19C 章提出的上市申请可以为保密申请，发行人可对此加以考虑。本文仅为这类公司采用第二上市渠道所需满足的要求提供简要摘要。

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