

Frequently Asked Questions No. 078-2022 to 082-2022

Core Shareholder Protection Standards (Effective on 1 January 2022)

Status of “Frequently Asked Questions”

The following frequently asked questions (“**FAQs**”) are designed to assist applicants and professional advisers to understand and comply with the Listing Rules on the listing of overseas companies, which became effective on 1 January 2022.

The FAQs are not a substitute for the Listing Rules. If there is any discrepancy between these FAQs and the Listing Rules, the Listing Rules prevail. Defined terms used in this document have the same meaning as that given to them in the Listing Rules, unless stated otherwise. You should seek advice from qualified professional advisers, where appropriate.

In formulating our “responses”, we may have assumed certain underlying facts, selectively summarised the Listing Rules or concentrated on one particular aspect of the question. They are not definitive and do not apply to all cases where the scenario may at first appear similar. In any given case, regard must be given to all the relevant facts and circumstances.

Please contact the Listing Division at the earliest opportunity with any queries for a confidential consultation.

Release Date	Main Board Rules	GEM Rules	FAQ No.	Query	Response
17/6/2022	Paragraph 14(1) of Appendix 3	Paragraph 14(1) of Appendix 3	078-2022	<p>Under Paragraph 14(1) of Appendix 3, an issuer must hold a general meeting for each financial year as its annual general meeting (AGM). Generally, an issuer must hold its AGM within 6 months after the end of its financial year.</p> <p>Does an overseas issuer (listed prior to the Rule change) comply with this core standard if its constitutional document requires holding of an AGM each year and within 15 months from the date of the previous AGM pursuant to the relevant requirements applicable at the time of listing¹?</p>	Yes. See also paragraphs 87 to 89 of the Consultation Paper for Listing Regime for Overseas Issuers (the Consultation Paper) published in March 2021.
17/6/2022	Paragraph 14(2) of Appendix 3	Paragraph 14(2) of Appendix 3	079-2022	Under Paragraph 14(2) of Appendix 3, an issuer must give its members “reasonable written notice” of its general meetings. “Reasonable written notice” generally means at least 21 days for an AGM and at least 14 days for other general meetings.	Yes for both (i) and (ii). See also paragraphs 92, 93 and 95 of the Consultation Paper.

¹ Paragraph 4(2) of the repealed Appendix 13A, Paragraph 4(2) of the repealed Appendix 13B, the repealed Rule 19C.07(4), and Paragraph 41 of the withdrawn Joint Policy Statement regarding the Listing of Overseas Companies (as the case may be).

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				<p>Does an issuer comply with this core standard in the following circumstances?</p> <p>(i) The constitutional document of a PRC issuer requires a minimum notice period of 20 days for an AGM and 15 days for other general meetings in accordance with the PRC company law.</p> <p>(ii) The constitutional document of an overseas issuer (listed prior to the Rule change) provides for a shorter written notice period as permitted at the time of listing.</p>	
17/6/2022	Paragraph 17 of Appendix 3	Paragraph 17 of Appendix 3	080-2022	<p>Under Paragraph 17 of Appendix 3, the appointment, removal and remuneration of auditors must be approved by a majority of the issuer's members or other body that is independent of the board of directors.</p> <p>Does an issuer comply with this core standard in the following circumstances?</p>	<p>Yes, as the provisions in the issuer's constitutional document are in line with the Hong Kong Companies Ordinance (Chapter 622, laws of Hong Kong) ("HKCO")², which permits (i) appointment of auditor by the board to fill a casual vacancy until the next AGM; and (ii)</p>

² Sections 397, 402 and 404 of the HKCO.

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				<p>(i) An issuer's constitutional document permits the appointment of an auditor by the issuer's board to fill a casual vacancy. The auditor so appointed shall hold office until the next AGM and shall be eligible for re-election.</p> <p>(ii) An issuer's constitutional document permits the auditor's remuneration to be fixed by an ordinary resolution passed at a general meeting, or in the manner specified in such a resolution.</p>	determination of auditor's remuneration in the manner specified in a shareholders' resolution.
17/6/2022	Paragraph 17 of Appendix 3	Paragraph 17 of Appendix 3	081-2022	<p>Under Paragraph 17 of Appendix 3, the appointment, removal and remuneration of auditors must be approved by a majority of the issuer's members or other body that is independent of the board of directors.</p> <p>(i) For issuers incorporated in Bermuda, the company laws of Bermuda provide for this core standard, except that a <i>super-majority vote</i> is required to remove an auditor. Do they comply with the core standard?</p>	<p>(i) Yes. A higher voting threshold for removal of auditors is acceptable if it is required by the domestic laws. See also paragraph 121 of the Consultation Paper.</p> <p>(ii) No. The higher voting threshold stipulated in</p>

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				<p>(ii) For issuers incorporated in the Cayman Islands, the company laws of the Cayman Islands do not provide for this core standard.</p> <p>Does an issuer comply with this core standard if its constitutional document requires approval of the removal of an auditor by a <i>super-majority vote</i> of shareholders in general meeting?</p>	<p>the constitutional document does not conform to this core standard. The issuer should amend its constitutional document to comply with the rule.</p>
17/6/2022	Paragraph 20 of Appendix 3	Paragraph 20 of Appendix 3	082-2022	<p>Under Paragraph 20 of Appendix 3, an issuer's branch register of members in Hong Kong shall be open for inspection by members but the issuer may <i>close the register on terms equivalent to section 632 of the HKCO</i>³.</p> <p>Does an issuer comply with this core standard in the following circumstances?</p>	Yes for both (i) and (ii).

³ Section 632 of HKCO permits closure of register of members for a period(s) not exceeding in the whole 30 days in a year, which may be extended by member's resolution for a further period(s) not exceeding 30 days in the year. Section 7(2) of the Company Records (Inspection and provision of Copies) Regulation (Chapter 622I) provides that the requirement to make company records available for inspection is not applicable during the period when the register is closed under section 632 of the HKCO.

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				<p>(i) The constitutional document of an overseas issuer or the domestic laws provide for a shorter book closure period compared to that allowed under the HKCO.</p> <p>(ii) A PRC issuer may close the register of members for the registration of transfer of shares⁴ for a period longer than that allowed under the HKCO, but its members are still permitted to inspect the register during such period.</p>	

⁴ Article 38 of the Mandatory Provisions for Companies Listing Overseas requires that during the 30 days prior to any general meeting, there shall not be any change in the register of members of a PRC issuer resulted from share transfer.