

APPENDIX 13

Part D

THE PEOPLE'S REPUBLIC OF CHINA

Section 1. Additional required provisions for articles of association

Section 2. Modifications and additional requirements

Section 1

ADDITIONAL REQUIREMENTS FOR THE ARTICLES OF ASSOCIATION OF ISSUERS INCORPORATED IN THE PEOPLE'S REPUBLIC OF CHINA

(see rule 19A.~~23~~21)

In addition to the provisions of Appendix 3 (see also rules 19A.~~42-46~~ to 19A.~~4549~~), the articles of association of issuers incorporated in the People's Republic of China whose primary listing is or is to be on the Exchange (see rules 19A.01 to 19A.03) must include:—

- (a) the Mandatory Provisions for Companies Listing Overseas set forth in Zheng Wei Fa (1994) No. 21 issued on 27 August 1994 by the State Council Securities Policy Committee and the State Commission for Restructuring the Economic System (the "Mandatory Provisions");
- (b) in addition to article 36 of the Mandatory Provisions, a provision to the effect that the part of the register of holders of overseas listed foreign shares relating to holders of shares listed on the Exchange shall be maintained in Hong Kong;
- (c) in addition to article 140 of the Mandatory Provisions, a provision to the effect that for its overseas listed foreign shares listed on the Exchange, the issuer shall appoint as receiving agents a company which is registered as a trust company under the Trustee Ordinance of Hong Kong;
- (d) in addition to article 104 of the Mandatory Provisions, provisions that set out the voting procedures of the supervisory committee and must include provisions to the following effect:—
 - (i) the election or removal of the chairman of the supervisory committee shall be decided by two-thirds or more of the supervisors; and
 - (ii) decisions of the supervisory committee shall be made by the affirmative vote of two-thirds or more of the supervisors;
- (e) in addition to article 148 of the Mandatory Provisions, provisions that set out the procedures for the change, removal and resignation of auditors and must include provisions to the following effect:—
 - (i) Where a resolution at a general meeting of shareholders is passed to appoint as auditor a person other than an incumbent auditor, to fill a casual vacancy in the office of auditor, to reappoint as auditor a retiring auditor who was appointed by

the board of directors to fill a casual vacancy, or to remove an auditor before the expiration of his term of office, the following provisions shall apply:—

- (A) A copy of the proposal shall be sent before notice of meeting is given to the shareholders to the person proposed to be appointed or the auditor proposing to leave his post or the auditor who has left his post (leaving includes leaving by removal, resignation and retirement).
- (B) If the auditor leaving his post makes representations in writing and requests their notification to the shareholders, the issuer shall (unless the representations are received too late):—
 - (x) in any notice of the resolution given to shareholders, state the fact of the representations having been made; and
 - (y) send a copy of the representations to every shareholder entitled to notice of general meetings.
- (C) If the auditor's representations are not sent under [article corresponding to (B) above] the auditor may (in addition to his right to be heard) require that the representations be read out at the meeting.
- (D) An auditor who is leaving his post shall be entitled to attend:—
 - (x) the general meeting at which his term of office would otherwise have expired;
 - (y) any general meeting at which it is proposed to fill the vacancy caused by his removal; and
 - (z) any general meeting convened on his resignation;

and to receive all notices of, and other communications relating to, any such meeting, and to be heard at any such meeting which he attends on any part of the business of the meeting which concerns him as former auditor of the issuer.

- (ii) An auditor may resign his office by depositing at the issuer's seat a notice in writing to that effect and containing:—
 - (A) a statement to the effect that there are no circumstances connected with his resignation which he considers should be brought to the notice of the shareholders or creditors of the issuer; or
 - (B) a statement of any such circumstances.

Any such notice shall terminate his office on the date on which it is deposited or on such later date as may be specified therein.

- (iii) Where a notice is deposited under [article corresponding to 1(e)(ii)], the issuer shall within 14 days send a copy of the notice to the competent authority. If the notice contained a statement under [article corresponding to 1(e)(ii)(B)], a copy of the notice shall also be sent to every person entitled to obtain a copy of the issuer's financial statements.

- (iv) Where the auditor's notice of resignation contains a statement under [article corresponding to 1(e)(ii)(B)], he may require the board of directors to convene an extraordinary general meeting of shareholders for the purpose of receiving an explanation of the circumstances connected with his resignation; and
- (f) a provision to the following effect:—

In addition to holders of other classes of shares, holders of domestic shares and overseas listed foreign shares are deemed to be different classes of shareholders; provided however that the special procedures for approval by separate class shareholders shall not apply to the following circumstances:—

- (i) where the issuer issues, upon approval by a special resolution of its shareholders in a general meeting, either separately or concurrently once every twelve months, not more than twenty per cent. of each of the existing issued domestic shares and overseas listed foreign shares of the issuer; or
- (ii) where the issuer's plan to issue domestic shares and overseas listed foreign shares on establishment is implemented within fifteen months from the date of approval by the State Council Securities Policy Committee.”

Section 2

MODIFICATIONS AND ADDITIONAL REQUIREMENTS

(see rule 19A.2927(2))

1. A summary of the constitutive documents required by rule 19A.2927(2) must be set out under the following headings and where any item is not applicable the words “not applicable” should be inserted under the relevant heading:—
 - (1) directors
 - (a) power to allot and issue shares
 - (i) summary
 - (ii) differences
 - (b) power to dispose of the PRC issuer's or any of its subsidiaries' assets
 - (i) summary
 - (ii) differences
 - (c) compensation or payments for loss of office
 - (i) summary
 - (ii) differences
 - (d) loans to directors
 - (i) summary
 - (ii) differences
 - (e) giving of financial assistance to purchase the PRC issuer's or any of its subsidiaries' shares

- (i) summary
 - (ii) differences
- (f) disclosure of interests in contracts with the PRC issuer or any of its subsidiaries
 - (i) summary
 - (ii) differences
- (g) remuneration
 - (i) summary
 - (ii) differences
- (h) retirement, appointment, removal
 - (i) summary
 - (ii) differences
- (i) borrowing powers
 - (i) summary
 - (ii) differences
- (2) alterations to constitutional documents
 - (i) summary
 - (ii) differences
- (3) variation of rights of existing shares or classes of shares
 - (i) summary
 - (ii) differences
- (4) special resolutions - majority required
 - (i) summary
 - (ii) differences
- (5) voting rights (generally, on a poll and right to demand a poll)
 - (i) summary
 - (ii) differences
- (6) requirements for annual general meetings
 - (i) summary
 - (ii) differences
- (7) accounts and audit
 - (i) summary
 - (ii) differences
- (8) notice of meetings and business to be conducted thereat

- (i) summary
 - (ii) differences
- (9) transfer of shares
 - (i) summary
 - (ii) differences
- (10) power of the PRC issuer to purchase its own shares
 - (i) summary
 - (ii) differences
- (11) power of any subsidiary of the PRC issuer to own shares in its parent
 - (i) summary
 - (ii) differences
- (12) dividends and other methods of distribution
 - (i) summary
 - (ii) differences
- (13) proxies
 - (i) summary
 - (ii) differences
- (14) calls on shares and forfeiture of shares
 - (i) summary
 - (ii) differences
- (15) inspection of register of members
 - (i) summary
 - (ii) differences
- (16) quorum for meetings and separate class meetings
 - (i) summary
 - (ii) differences
- (17) rights of the minorities in relation to fraud or oppression thereof
 - (i) summary
 - (ii) differences
- (18) procedures on liquidation
 - (i) summary
 - (ii) differences
- (19) any other provisions material to the PRC issuer or the shareholders thereof.

2. The Exchange will require the formal application for listing to be accompanied by a copy of a letter to the PRC issuer from the PRC issuer's Hong Kong legal advisers confirming that they have reviewed the summaries of the relevant PRC law and the constitutive documents and that in their opinion, on the basis of the legal advice received from qualified PRC lawyers, the listing document sets out the material differences between Hong Kong law and applicable PRC law. The letter should also confirm that the constitutive documents contain provisions complying with the provisions of the Exchange Listing Rules.