

## Client Alert

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## Why the new delisting regime is relevant to all listed companies?

### Summary

On 25 May 2018, The Stock Exchange of Hong Kong Limited (HKEx) has published its [consultation conclusion](#) on the delisting regime. The amended Listing Rules relating to the new delisting regime will take effect on **1 August 2018**.

The new delisting regime is relevant to all listed companies, not only to those that are in challenging situation. To maintain good regulatory compliance, all listed companies should be mindful of HKEx's regulatory actions and the resumption process and criteria for three specific circumstances, including where the issuer (a) fails to maintain sufficient public float; (b) fails to maintain sufficient operations or assets; or (c) is no longer suitable for listing.

### Major Listing Rules amendments

To minimize prolonged trading suspension and to provide certainty about the circumstances where delisting will be triggered and where resumption of trading will be granted, the amended Listing Rules has imposed the following changes:

#### A. Fixed period delisting criterion

HKEx has adopted a fixed period (i.e. a deadline) for issuers to develop a viable action plan to resume trading:

- Main Board issuers: 18 months (MB Rule 6.01A(1))
- GEM issuers: 12 months (GEM Rule 9.14A(1))

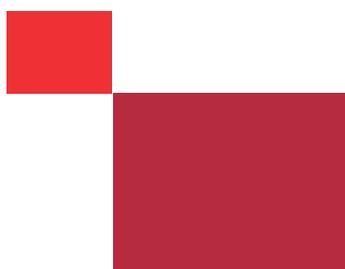
With this bright line test in place, HKEx has the power to delist an issuer with prolonged trading suspension amid the not so clear delisting considerations under MB Rule 6.01 (or GEM Rule 9.14).

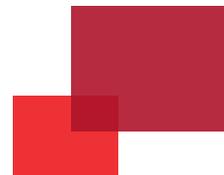
#### B. Trading halt and suspension

To avoid ambiguity, HKEx has removed the original MB Rule 6.01(1) which provided that a material breach of the Listing Rules as a specific ground for suspension (as this is the disciplinary decision of HKEx under MB Chapter 2A). Now, HKEx may direct a trading halt or suspension in the following three specific circumstances:

- 1) insufficient public float (Rule 8.08(1));
- 2) insufficient level of operations or assets (Rule 13.24); or
- 3) the issuer or its business is unsuitable for listing.

In appropriate circumstances, HKEx may (i) publish a delisting notice and give the issuer a specific period to remedy the relevant issues to avoid delisting, or (ii) delist the issuer immediately (MB Rule 6.10).





## C. Other amendments

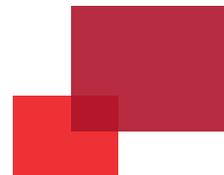
In line with the proposals set out in the consultation paper, HKEx has adopted the following changes:

1. removing Practice Note 17 (PN 17) which currently sets out a three stage delisting procedure;
2. setting a prescribed remedial period for the resolution of the relevant issues and resumption of trading, as opposed to submission of resumption proposal as in the current regime (paragraph 12 of GL 95-18);
3. requiring suspended issuers to announce updates of their developments including progress on satisfying resumption conditions on a quarterly basis (Rule 13.24A);
4. removing the bright line trading halt requirement for non-publication of a share transaction or a major (or above) transaction or other notifiable transactions which constitute inside information (inside information requirement is still required under Rule 13.10A) (MB Rule 14.37 / GEM Rule 19.37 repealed); and
5. adding two characteristics of issuers who would be unable to demonstrate sufficient operations (note to MB Rule 13.24):
  - i. financial difficulties which seriously impair an issuer's ability to continue its business; and/or
  - ii. issuers whose liabilities exceed their assets.

## Transitional arrangements

HKEx may delist Main Board issuers whose shares have been suspended from trading for a continuous period of **18 months** with the following transitional arrangements:

Status of the Main Board issuers as of 1 August 2018	Transitional arrangements
Suspended issuers who are placed in a delisting stage under PN 17	PN 17 continues to apply (Rule 6.01A(2)(a))
Issuers who have been suspended for less than 12 months	HKEx may delist the issuer after 1 February 2020 (i.e. 18 months after 1 August 2018) (MB Rule 6.01A(2)(b)(i))
Issuers who have been suspended for more than 12 months	HKEx may delist the issuer after 1 August 2019 (i.e. 12 months after 1 August 2018) (MB Rule 6.01A(2)(b)(ii))
Issuers that are subject to a decision and a notice period to commence the delisting procedure	The specific decision and notice period continue to have effect on the relevant issuer, notwithstanding that the actual cancellation of listing has not taken place. (Rule 6.01A(2)(c))



HKEx may delist GEM issuers whose shares have been suspended from trading for a continuous period of **12 months** with the following transitional arrangements:

Status of the GEM issuers as of 1 August 2018	Transitional arrangements
Any suspended issuers	HKEx may delist the issuer after 1 August 2019 (i.e. 12 months after 1 August 2018) (GEM Rule 9.14A(2)(a))
Issuers that are subject to a decision and a notice period to commence the delisting procedure	The specific decision and notice period continue to have effect on the relevant issuer, notwithstanding that the actual cancellation of listing has not taken place. (GEM Rule 9.14A(2)(b))

## Next consultation on continuing listing criteria

HKEx is separately reviewing its regulation relating to continuing listing criteria (including the delisting criteria and insufficient operation criteria). A separate consultation paper setting out HKEx's proposals will be published soon.

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