

## Client Alert

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## SEHK's new review structure for Listing Committee decisions will take effect around mid-2019

### Summary

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On 18 January 2019, The Stock Exchange of Hong Kong Limited (SEHK) published its [consultation conclusions](#) on proposed changes to the review structure for Listing Committee decisions, which largely adopts the proposals in the consultation paper with modification to the size of the new Listing Review Committee. The amended Main Board ("**MB**") Listing Rules and GEM Listing Rules (collectively the "**New Rules**") will become effective around mid-2019 ("**Effective Date**"), subject to the establishment of the new Listing Review Committee.

### What will be changed?

1. The Listing Appeals Committee ("**LAC**") will be discontinued without being replaced.
2. The current review structure will be revised so that "**decisions of material significance**" made by the Listing Committee will be subject to only one level of review. Decisions of material significance refer to:
  - (i) rejection of a new applicant's listing application solely on the ground of unsuitability for listing;
  - (ii) cancellation of listing; and
  - (iii) imposition of certain disciplinary sanctions.
3. The existing Listing (Review) Committee ("**LRC**") and the Listing (Disciplinary Review) Committee ("**LD(R)C**") will be replaced by an independent review committee (to be named the "**Listing Review Committee**"), which will serve as the final review body.
4. The Securities and Futures Commission (SFC) may request a review of any disciplinary decision, including a decision of the Listing Committee by the new Listing Review Committee (MB Rule 2A.16A).
5. The key features of the Listing Review Committee are:

#### (a) **Composition**

- At least 20 members. An individual who was a member of the Listing Committee may be eligible for appointment as a member of the Listing Review Committee after the lapse of two years from the date on which he / she last vacates office of the Listing Committee. (MB Rule 2A.37A)
- At least six individuals who will represent the interests of investors; and (b) the remaining members who represent listed companies,



	<p>lawyers, accountants, corporate finance advisers and SEHK participants (or their officers), and who have experience and expertise in the Listing Rules matters, or are familiar with the work of the Listing Committee. (MB Rule 2A.37B)</p> <ul style="list-style-type: none"> <li>No current Listing Committee members or representatives of the SFC or Hong Kong Exchanges and Clearing Limited shall be members of the Listing Review Committee. (MB Rule 2A.37B)</li> </ul>
<b>(b) Quorum</b>	<ul style="list-style-type: none"> <li>Five members present in person (MB Rule 2A.37L)</li> </ul>
<b>(c) Conduct of meetings</b>	<ul style="list-style-type: none"> <li>Rehear the case and decide it afresh, after considering all the relevant evidence and arguments made at the earlier hearings and any additional evidence or information (MB Rule 2A.37L)</li> </ul>
<b>(d) Chairperson pool</b>	<ul style="list-style-type: none"> <li>At least four members of the Listing Review Committee will form a chairperson pool. (MB Rule 2A.37E)</li> <li>Any review hearing by the Listing Review Committee will ordinarily be chaired by a member from such chairperson pool.</li> </ul>
<b>(e) Terms of appointment</b>	<ul style="list-style-type: none"> <li>Normally for a term of approximately twelve months and may only remain in office for a maximum of six consecutive years. (MB Rule 2A.37F and MB Rule 2A.37I)</li> </ul>
<b>(f) Powers and functions</b>	<ul style="list-style-type: none"> <li>The decision of the Listing Review Committee shall be conclusive and binding on the review applicant or, in the case of IPO, the new applicant and the sponsor (MB Rule 2A.11 &amp; MB Rule 2B.05(2)(b)).</li> </ul>
<b>(g) Publication of non-disciplinary decisions</b>	<ul style="list-style-type: none"> <li>The conclusive and binding decisions of the Listing Review Committee will be routinely published on SEHK's website on a "no-names" basis or on a delayed basis. (MB Rule 2B.13A).</li> </ul>
<b>(h) Transitional arrangement for non-disciplinary review hearings</b>	<ul style="list-style-type: none"> <li>All non-disciplinary review hearings in respect of the following decisions will be conducted under the MB Listing Rule in force immediately before the implementation of the New Rules (MB Rule 2B.17(1)):             <ol style="list-style-type: none"> <li>subject to (b) and (c) below, any first instance non-disciplinary decision made before the implementation of the New Rules;</li> </ol> </li> </ul>

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	<p>(b) any decision made under Practice Note 17;</p> <p>(c) any decision made under Rule 6.10(1) before the implementation of the New Rules and any follow on or further decision made in relation to those decisions (including a decision to cancel the listing if a listed company fails to remedy the specified matters within the specified period); and</p> <p>(d) any review decision of the decisions referred to in (a), (b) or (c) above.</p> <ul style="list-style-type: none"> <li>▪ The Committees in existence before the implementation of the New Rules will continue in existence until all relevant review proceedings have been concluded and the rules and procedures then in force will continue to apply for the purpose of the conduct of the above matters (MB Rule 2B.17(2)).</li> </ul>
<p><b>(i) Transitional arrangement for disciplinary review hearings</b></p>	<ul style="list-style-type: none"> <li>▪ All disciplinary review hearings for disciplinary proceedings commenced before the implementation of the New Rules will be conducted under the Listing Rules in force as at the time of commencement of disciplinary proceedings. The Committees in existence before the implementation of the New Rules will continue in existence until all such proceedings have been concluded and the rules and procedures then in force will continue to apply for the purpose of the conduct of these matters (MB Rule 2A.39).</li> </ul>

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6. During the transitional period, the LAC, the LRC and the (LD(R)C) will continue to operate, concurrently with the new Listing Review Committee, for a certain period.

## What's next?

In the first half of 2019, SEHK will conduct a separate consultation on (i) its disciplinary powers and sanctions; and (ii) the procedural issues for disciplinary hearings and non-disciplinary review hearings. The implementation of the new review structure will not be affected by such consultation.

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