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Tricor operating companies that provide core services in China & Hong Kong:

Tricor Services Limited
Tricor Investor Services Limited
Tricor Consultancy (Beijing) Limited

Global Provider of Integrated Business, Corporate & Investor Services



# HKEX's New Listing Regime for Emerging and Innovative Companies

The Hong Kong Exchanges and Clearing Limited ("HKEX") on 24 April 2018 published the conclusions to its consultation paper "A Listing Regime for Companies from Emerging and Innovative Sectors" (the "Consultation Conclusions") and introduced three chapters to the Main Board Listing Rules (the "MB Rules") to:

- (1) permit listings of biotech companies that do not meet any of the financial eligibility tests under the MB Rules;
- (2) permit listings of innovative and high growth companies with a weighted voting right ("WVR") structure; and
- (3) establish a concessionary secondary listing route for emerging and innovative Greater China and international companies ("Qualified Issuers") that are primarily listed on a Qualified Exchange<sup>1</sup>.

The new MB Rules took effect on 30 April 2018, from which date companies seeking to list under the new regime can submit formal applications.

This *TechNews* highlights certain key features of the conditions for listing and additional requirements / investor safeguards that companies seeking to list under the new regime have to comply with. HKEX has also published guidance letters setting out the relevant listing eligibility and suitability criteria.

	Conditions for Listing	Additional Requirements / Investor Safeguards
Biotech Companies	<ul> <li>At least HK\$1.5 billion initial market capitalization</li> <li>At least 2 financial years' operation in current line of business under substantially the same management</li> <li>Primarily engaged in research and development ("R&amp;D"), application and commercialization of biotech products, processes or technologies</li> <li>At least one core product beyond the concept stage, with completion of the relevant clinical trial(s) or an equivalent process endorsed by a Competent Authority², and R&amp;D for a minimum of 12 months prior to listing</li> <li>Sufficient working capital covering at least 125% of the group's costs (substantially consisting of general, administrative and operating costs and R&amp;D) for at least the next 12 months</li> <li>Must have received meaningful third-party investment (as set out in HKEX's guidance letter) from Sophisticated Investor(s)³ at least 6 months before the proposed listing date</li> </ul>	<ul> <li>A portion of the total number of issued shares with a market capitalization of at least HK\$375 million are to be held by the public at the time of listing, excluding any shares allocated to cornerstone investor(s) and any shares subscribed for by existing shareholders of the company at the time of listing</li> <li>HKEX's prior approval required for fundamental change of principal business</li> <li>If the company fails to meet the continuing obligation to maintain sufficient operations or assets and cannot re-comply with such requirement within 12 months, HKEX may cancel the listing of the shares of the company under the accelerated de-listing process</li> <li>Stock marker "B" at the end of the stock name</li> </ul>

#### **Conditions for Listing**

## Additional Requirements / Investor Safeguards

# Companies with a WVR Structure

- At least HK\$40 billion initial market capitalization or at least HK\$10 billion initial market capitalization and revenue of at least HK\$1 billion in the most recent audited financial year
- Must be an innovative company as defined by HKEX's guidance letter and can demonstrate a track record of high business growth
- Each WVR beneficiary must be an individual who has an active executive role within the business and has contributed to ongoing business growth, and must be a director of the company at the time of listing
- WVR beneficiaries must beneficially own collectively at least 10% of the economic interest in total issued share capital at the time of listing
- Must have received meaningful thirdparty investment from Sophisticated Investor(s) who will retain 50% investment for at least 6 months post-IPO (subject to exceptions)

- WVR shares shall be unlisted shares
- Non-WVR shareholders must be entitled to cast at least 10% of voting rights at general meetings
- WVR shares must not entitle beneficiaries to more than 10 times the voting power of ordinary shares
- No increase in the proportion of WVR shares and ordinary shares after listing
- Rights attached to WVR shares shall cease if the beneficiary is deceased, no longer a director, or deemed by HKEX to be incapacitated or no longer meeting the requirements of a director; or has transferred the economic interests in or control over the WVR shares
- Conversion of WVR shares into ordinary shares must occur on a one-to-one ratio subject to HKEX's prior approval of the listing of such ordinary shares
- WVR structure must lapse when all WVR beneficiaries at the time of initial listing cease to have beneficial ownership of WVR shares
- Key matters such as change of constitutional documents and variation of class rights of shares must be decided on "one-share one-vote" basis
- Enhanced corporate governance
  - To engage a compliance adviser on a permanent basis
  - To establish a corporate governance committee comprised entirely of independent nonexecutive directors ("INEDs"), which will report on its work on at least half-yearly and yearly basis and will disclose, on a comply or explain basis, its recommendations to the board in respect of conflict of interests, risks related to WVR structure and appointment and removal of compliance adviser
  - To establish a nomination committee (chairman must be an INED)
  - To confirm to HKEX (as part of listing application) that the directors (including WVR beneficiaries and INEDs), senior management and company secretary have undertaken training on rules and risks associated with a WVR structure
- Enhanced disclosure
  - To include the relevant warning statement and/ or description of WVR structure and associated risks in corporate documents
  - To disclose WVR beneficiaries and any dilution impact of potential conversion of WVR shares into ordinary shares in listing documents, interim and annual report
- Stock marker "W" at the end of the stock name

#### Additional Requirements / Conditions for Listing **Investor Safeguards Secondary** • Greater China issuers and/or non-Greater • Must be subject to the Key Shareholder Protection Standards<sup>4</sup> (amendments Listing of China issuers, with or without WVR Qualified structure, and an innovative company as to constitutional documents where **Issuers** considered by HKEX necessary) as required by HKEX At least 2 full financial years' track record • Exceptions to ongoing compliance requirements (e.g. notifiable of good regulatory compliance on a Qualifying Exchange transactions) • In the case of a non-Greater China • Exceptions to WVR rules and issuer, at least HK\$10 billion market requirements (except for disclosure capitalization at the time of secondary requirements) available to the following Qualifying Issuers with a WVR structure listing • In all other cases, at least HK\$40 billion - Greater China issuers listed after 15 market capitalization at the time of December 2017 secondary listing or at least HK\$10 billion market capitalization at the time of - Non-Greater China issuers secondary listing and revenue of at least HK\$1 billion in the most recent audited • If more than 55% of the trading volume, financial year by dollar value, in the shares of a Greater China issuer over its most recent financial year takes place in Hong Kong, HKEX will regard such issuer as having a dual-primary listing on a permanent basis and the exceptions to ongoing compliance requirements will no longer • Stock marker "S" at the end of the stock name

#### Notes:

- 1. "Qualified Exchange" refers to NYSE, NASDAQ or the Main Market of the LSE (and belonging to the "Premium Listing" segment of the Financial Conduct Authority of the UK).
- 2. "Competent Authority" refers to the US Food and Drug Administration, China Food and Drug Administration, European Medicines Agency or any other national or supranational authority which HKEX recognizes as a Competent Authority on a case-by-case basis.
- 3. "Sophisticated Investor" refers to an investor that HKEX considers to be sophisticated by reference to factors such as net assets or assets under management, relevant investment experience, and the investor's knowledge and expertise in the relevant field
- 4. "Key Shareholder Protection Standards" refers to the shareholder protection standards set out in the Joint Policy Statement Regarding the Listing of Overseas Companies jointly issued by the Securities and Futures Commission and HKEX.

This *TechNews* is not exhaustive and only highlights some of the key features and requirements under the new listing regime set out in the Consultation Conclusions. Please refer to HKEX's press release "Hong Kong's Listing Regime Enters New Era, Featuring Emerging and Innovative Firms", the Consultation Conclusions and the relevant amendments to the MB Rules on the HKEX website.

Please contact a Tricor executive or email info@hk.tricorglobal.com for assistance or enquiries. www.hk.tricorglobal.com

#### **OTHER OFFICES**

#### **AUSTRALIA**

Tricor ChewandDormers Pty Ltd info@au.tricorglobal.com

#### **BARBADOS**

Tricor Caribbean Limited Caribbean Corporate Services Limited info@bb.tricorglobal.com

BRITISH VIRGIN ISLANDS Tricor Services (BVI) Limited info@bvi.tricorglobal.com

#### **BRUNEI**

Tricor (B) Sdn Bhd info@bn.tricorglobal.com

#### **CAYMAN ISLANDS**

Tricor Services (Cayman Islands) Limited info@ky.tricorglobal.com

#### INDIA

SKP Tricor Corporate Services Pvt Ltd skpt.info@skptricor.com

#### **INDONESIA**

PT Amalgamated Tricor info@id.tricorglobal.com

#### **IRELAND**

MBSL Limited info@ie.tricorglobal.com

#### JAPAN Tricor K.K.

info@jp.tricorglobal.com

#### **KOREA**

International Outsourcing Inc. info@ioikorea.com

#### **LABUAN**

Tricor Trustco (Labuan) Limited info@my.tricorglobal.com

#### MACAU

Tricor Services (Macau) Limited tricor@macau.ctm.net

#### **MALAYSIA**

Tricor Services (Malaysia) Sdn Bhd info@my.tricorglobal.com

#### SINGAPO<u>RE</u>

Tricor Singapore Pte Ltd info@sg.tricorglobal.com

#### TAIMAN

Tricor Services (Taiwan) Limited info@tw.tricorglobal.com

#### THAILAND

Tricor Outsourcing (Thailand) Limited Tricor Executive Recruitment Limited info@th.tricorglobal.com

#### UNITED KINGDOM

Tricor Services Europe LLP info@uk.tricorglobal.com

#### VIETNAM

Tricor Vietnam Company Limited contact@tsvservices.com

www.tricorglobal.com



Tricor operating companies that provide core services in China & Hong Kong:

TRICOR SERVICES LIMITED
TRICOR INVESTOR SERVICES LIMITED
TRICOR CONSULTANCY (BEIJING) LIMITED

#### **Tricor Key Contacts**

### Chief Executive Officer - China & Hong Kong Executive Director

#### **Natalia Seng**

Tel: (852) 2980 1688 natalia.seng@hk.tricorglobal.com

#### **Executive Directors**

#### **Betty Yeung**

Tel: (852) 2980 1882 betty.yeung@hk.tricorglobal.com

#### Susan Lo

Tel: (852) 2980 1618 susan.lo@hk.tricorglobal.com

#### **Directors - Corporate Services**

#### Amy Ho

Tel: (852) 2980 1893 amy.ho@hk.tricorglobal.com

#### Caron Lee

Tel: (852) 2980 1610 caron.lee@hk.tricorglobal.com

#### Ella Wong

Tel: (852) 2980 1619 ella.wong@hk.tricorglobal.com

#### Ivy Chow

Tel: (852) 2980 1877 ivy.chow@hk.tricorglobal.com

#### Patsy Cheng

Tel: (852) 2980 1338 patsy.cheng@hk.tricorglobal.com

#### Wendy Kam

Tel: (852) 2980 1680 wendy.kam@hk.tricorglobal.com

#### **Aries Cheung**

Tel: (852) 2980 1365 aries.cheung@hk.tricorglobal.com

#### Connie Luk

Tel: (852) 2980 1848 connie.luk@hk.tricorglobal.com

#### **Esther Choy**

Tel: (852) 2980 1670 esther.choy@hk.tricorglobal.com

#### Kitty Chan

Tel: (852) 2980 1884 kitty.chan@hk.tricorglobal.com

#### Rita Li

Tel: (852) 2980 1668 rita.li@hk.tricorglobal.com

#### Winnie Yuen

Tel: (852) 2980 1639 winnie.yuen@hk.tricorglobal.com

#### **Carmen So**

Tel: (852) 2980 1609 carmen.so@hk.tricorglobal.com

#### **Cynthia Wong**

Tel: (852) 2980 1328 cynthia.wong@hk.tricorglobal.com

#### Eva Ngai

Tel: (852) 2980 1398 eva.ngai@hk.tricorglobal.com

#### Maggie Chan

Tel: (852) 2980 1661 maggie.chan@hk.tricorglobal.com

#### Wendy Ho

Tel: (852) 2980 1620 wendy.ho@hk.tricorglobal.com

Tricor Group (Tricor) is a global provider of integrated Business, Corporate and Investor Services. As a business enabler. Tricor provides outsourced expertise that allows clients to concentrate on what they do best – Building Business.

Tricor's mission is to be the Business Enabler of Choice

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