

# Corporates

We oversee listing and takeovers matters in Hong Kong, including takeovers and merger activities, vetting of listing applications, disclosure requirements, corporate conduct and the listing-related functions of the Stock Exchange of Hong Kong Limited (SEHK). We review listing and takeovers policies to promote the development of a fair and orderly securities market in Hong Kong.

## Listing policy

To strengthen Hong Kong's position as an international financial centre and enhance the quality of our market, we work with SEHK to regularly review listing-related policies. In May 2021, the SFC and SEHK issued a joint statement on misconduct related to initial public offerings (IPOs) and our regulatory approach to tackling these issues.

Following our recommendation, SEHK launched a two-month consultation in August 2020 on proposals to enhance its disciplinary powers and sanctions. The consultation conclusions were published in May 2021. The new rules, which will come into effect in July 2021, strengthen SEHK's ability to hold directors and other individuals accountable for misconduct and rule breaches.

In January 2020, SEHK launched a public consultation on whether corporate shareholders should be allowed to hold weighted voting rights (WVR) in Hong Kong listed companies. The proposals included safeguards similar to those provided under Chapter 8A<sup>1</sup> of the Main Board Listing Rules. However, the legal and regulatory complexities of allowing corporate WVR need to be addressed.

After considering the public's diverse views<sup>2</sup> and consulting us, SEHK decided in October 2020 to give more time for the market to develop a better understanding of Hong Kong's regulatory approach. We worked closely with SEHK throughout the consultation exercise to develop a consensus on the way forward.

Meanwhile, SEHK decided to extend the existing grandfathering arrangements to include qualifying Greater China corporate WVR issuers<sup>3</sup> which meet



specified criteria and allow them to secondary list in Hong Kong without having to amend their existing corporate WVR structures.

Working with us, SEHK reviewed the current overseas listing regime with a view to facilitating "homecoming" migration by high-quality Greater China issuers seeking a secondary listing. In March 2021, SEHK published a consultation paper on proposals permitting secondary listings by large, high-quality Greater China issuers from traditional industries and normalising the requirements for all issuers without WVR structures.

In November 2020, SEHK published a consultation paper on increasing the minimum profit requirement for new listings on the Main Board. The consultation conclusions paper was issued in May 2021.

In a July 2020 report, we reviewed SEHK's performance in its regulation of listing matters during 2018. Our review focused on the management of potential conflicts of interest by Hong Kong Exchanges and Clearing Limited (HKEX), including the interaction between the Listing Department and HKEX's business units in pre-IPO enquiries, oversight of the Listing Department and the Listing Committee's supervisory role, SEHK's handling of share option schemes and complaints about listing applicants and issuers.

<sup>1</sup> Chapter 8A sets out rules, and modifications to existing rules, applicable to issuers with, or which are seeking, a listing with a WVR structure.

<sup>2</sup> There were wide-ranging public views on how the proposed corporate WVR regime would operate in practice and whether modifications were required for it to operate as intended.

<sup>3</sup> Greater China issuers which are (a) controlled by corporate WVR beneficiaries as at 30 October 2020; and (b) primary listed on a qualifying exchange (the New York Stock Exchange, Nasdaq or the Main Market of the London Stock Exchange) on or before 30 October 2020.

## New listing applications

	2020/21	2019/20	2018/19
Listing applications received <sup>a</sup>	257	303	394
Listing applications lapsed/withdrawn/rejected during the year	121	172	166
Listing applications returned <sup>b</sup>	1	3	0
New listings <sup>c</sup>	148	182	193

a Including applications for transfer from GEM to the Main Board (2020/21: 17; 2019/20: 29; 2018/19: 16).

b Listing applications were returned by SEHK because the application proofs or related documents were not substantially complete. The listing applicants can only submit a new listing application with a new application proof not less than eight weeks after the return.

c Including successful transfers from GEM to the Main Board (2020/21: 6; 2019/20: 16; 2018/19: 11).

## Shareholders' meetings

Following the Government's regulation restricting the size of group gatherings amidst the COVID-19 outbreak, we issued a statement jointly with SEHK in April 2020 to provide guidance to listed companies on the timing and conduct of general meetings.

## Debt market

Together with SEHK, we regularly review the debt capital market regime. SEHK published consultation conclusions in August 2020 on changes to the listing regime for debt issues to professional investors only<sup>4</sup>, including raising the net asset requirements for issuers and introducing the minimum issuance size.

## IPO applications

We vet listing applications and raise enquiries to determine whether an application gives rise to any concerns under the Securities and Futures (Stock Market Listing) Rules (SMLR). We may object to a listing of securities based on one or more of the grounds set out in section 6(2)<sup>5</sup> of the SMLR.

During the year, we vetted 257 new listing applications, including nine from companies with a WVR structure and 22 from pre-profit biotech companies. Twelve companies achieved secondary listings on the Main Board under Chapter 19C of the Listing Rules<sup>6</sup> during the year.



Exercising our powers under the SMLR, we issued seven letters of concern and 24 requisition letters directly to 27 listing applicants during the year. Amongst our concerns were the accuracy and completeness of the information submitted, legal and regulatory compliance issues, lack of sufficient public interest in the listing applicant's business and the genuineness of the financial information in the prospectus. Three of these listing applicants satisfactorily addressed our concerns, and were subsequently listed. As at 31 March 2021, 14 of these listing applicants had left our concerns unaddressed and not proceeded to listing.

4 Chapter 37 of the Main Board Rules: "Debt Issues to Professional Investors Only".

5 Under section 6(2) of the SMLR, the SFC may object to a listing if it appears to the SFC that: (a) the listing application does not comply with SEHK's requirements or an applicable provision of law, or does not contain sufficient information to enable an investor to make an informed decision; (b) the application is false or misleading; (c) the applicant has failed to furnish information as may be reasonably required by the SFC under section 6(1) of the SMLR; or (d) it would not be in the interest of the investing public or in the public interest for the securities to be listed.

6 Chapter 19C sets out the additional requirements, modifications or exceptions for companies that have, or are seeking, a secondary listing.

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### Takeovers activities

	2020/21	2019/20	2018/19
General and partial offers under Code on Takeovers and Mergers	38	41	55
Privatisations	31	15	6
Whitewash waiver applications	33	13	21
Other applications under Code on Takeovers and Mergers <sup>^</sup>	361	281	275
Off-market and general offer share buy-backs	5	7	9
Other applications under Code on Share Buy-backs <sup>^</sup>	1	2	7
Total	469	359	373

<sup>^</sup> Including stand-alone applications and those made during the course of a Code-related transaction.  
Note: Also see Table 1 in Breakdown of SFC activity data on page 159 for more details.

### Corporate conduct

As part of our front-loaded approach to preventing corporate misconduct, we conduct daily reviews of corporate announcements to identify “red flags” and irregularities. During the year, we issued section 179<sup>7</sup> directions to gather additional information in 61 cases and wrote to listed issuers detailing our concerns in six cases where, for example, there were indications that a corporate action or transaction may be conducted in a manner which is oppressive or unfairly prejudicial to shareholders.

The number of suspect transactions which appeared to warrant front-loaded intervention declined compared to the previous year. This suggests an encouraging improvement in corporate conduct following our active interventions in earlier years.

### Takeovers

Despite the pandemic, we saw a surge in the number of takeovers with complex deal structures and difficult issues during the year. We remained vigilant in supervising and regulating takeovers activities in a manner consistent with the SFC’s front-loaded approach.

We identified a number of areas where we believe enhanced disclosure or clarification would help improve market integrity, efficiency and transparency in transactions to which the Codes on Takeovers and Mergers and Share Buy-backs apply. These improvements were communicated to the market via our quarterly *Takeovers Bulletin*.

<sup>7</sup> Section 179 of the Securities and Futures Ordinance gives the SFC the power to compel the production of records and documents from persons related to a listed company.

Investigations and enquiries are an integral part of our regulatory functions and we sanctioned a number of parties during the year:

- In June 2020, we publicly censured Fu Kwan, chairman of Macrolink Capital Holdings Limited, for acquiring shares in the company within six months after the close of an offer at above the offer price in breach of dealing restrictions under the Takeovers Code<sup>8</sup>.
- In the same month, CICC Financial Trading Limited and China International Capital Corporation Limited were publicly criticised for breaching the dealing disclosure requirements during the offers for Dalian Port (PDA) Company Limited and Maanshan Iron & Steel Company Limited in 2019.
- In September 2020, we commenced disciplinary proceedings before the Takeovers Panel against Ngai Lai Ha. Ngai acquired shares of International Housewares Retail Company Limited in 13 instances during March to May 2019, triggering a mandatory general offer obligation each time. The proceedings were discontinued when we censured and imposed an 18-month cold-shoulder order against Ngai in November 2020.
- In October 2020, we publicly censured So Yuk Kwan and imposed a 24-month cold shoulder order on him for breaching the mandatory general offer requirement which was triggered by his and his nominee's acquisition of shares in AV Concept Holdings Limited.

<sup>8</sup> The Code on Takeovers and Mergers.