

Morgan Lewis

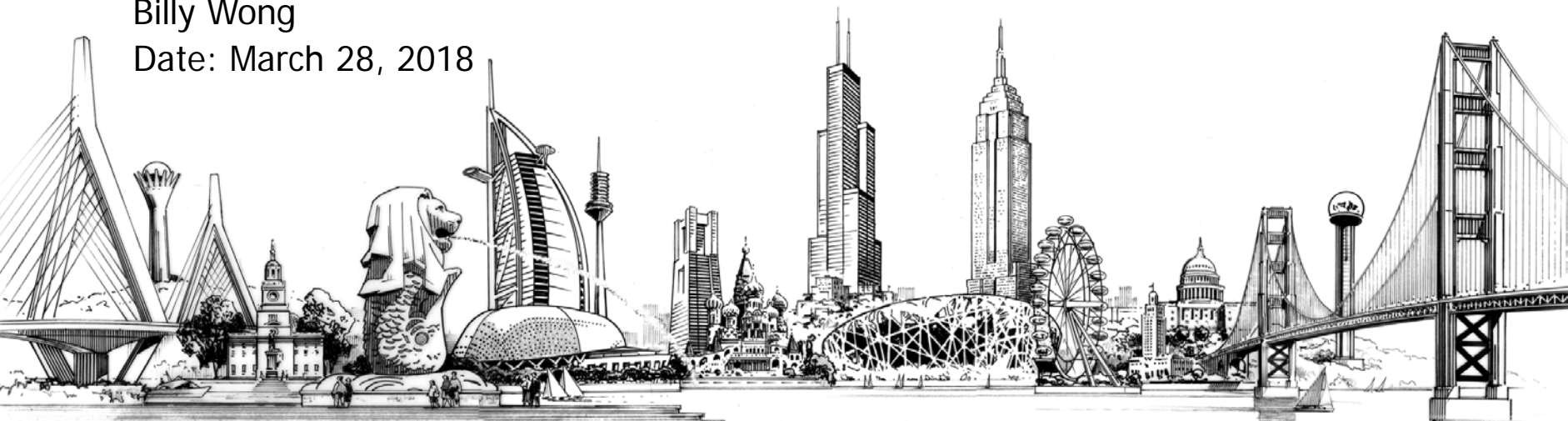
LISTING IN ASIA – SINGAPORE AND HONG KONG

Presenters:

Bernard Lui

Billy Wong

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OVERVIEW OF LISTING ON SEHK

Overview of Listing on the Hong Kong Stock Exchange (SEHK)

- Hong Kong is one of the most developed and internationalized financial centre in Asia
- One of the world's largest stock exchange in terms of market capitalization
- As of Feb 28, 2018, SEHK had 2,162 listed companies with a combined market capitalization of \$4.5 trillion
- 160 IPOs launched in 2017 (vs 174 IPOs in the US) – 3rd most active globally
- SEHK is an offshore market for world's companies and investors (including mainland China) to raise international capital
- Free access to large amounts of capital and no restriction on foreign investments and currency

Overview of Listing on SEHK (cont'd)

- **Advantages:**

- Asian trading time and gain access to new capital to develop the business
- strategic political connections and geographic proximity to Mainland China, and leveraging on Mainland China's growth
- international accounting & corporate governance standard
- well established legal system and sound regulatory frame
- free flow of capital and information
- "Stock Connect" with access to investors in Mainland China

Overview of IPO Process on the SEHK

- Overview of Listing on SEHK
- Listing Criteria
- Key Laws & Regulations
- IPO Process

LISTING CRITERIA

Listing Criteria – Main Board Principal Requirements

- trading record of not less than 3 financial years;
- management continuity for the last 3 financial years;
- ownership continuity and control for at least the most recent audited financial year;
- 25% minimum public float;
- Minimum 300 shareholders; and
- fulfill various financial requirements

Listing Criteria – Main Board

Financial Requirements

	(i) Profit Test	(ii) Market Cap / Revenue Test	(iii) Market Capitalization / Revenue / Cash Flow Test
Profit	Last 3 financial yrs: ≥ HK\$50 million (US\$6.4 million) [most recent yr: ≥ HK\$20 million (US\$2.6 million); & 2 preceding yrs: ≥ HK\$30 million (US\$3.8 million) (in aggregate)]	N/A	N/A
Market Capitalization	At listing: ≥ HK\$500 million (US\$64 million)	At Listing: ≥ HK\$4 billion (US\$513 million)	At listing: ≥ HK\$2 billion (US\$256 million)
Revenue	N/A	Most recent audited financial yr: ≥ HK\$500 million (US\$64 million)	Most recent audited financial yr: ≥ HK\$500 million (US\$64 million)
Cash Flow	N/A	N/A	Last 3 financial yrs: ≥ HK\$100 million (US\$13 million) (in aggregate) (from operating activities)

Listing Criteria – Growth Enterprise Market

Principal Requirements

- trading record of not less than 2 financial years;
- management continuity for the last 2 financial years;
- ownership continuity and control for at least the most recent audited financial year;
- 25% minimum public float;
- Minimum 100 shareholders; and
- Less stringent financial requirements

Listing Criteria – Growth Enterprise Market Financial Requirements

	Market Capitalization / Cash Flow Test
Market Capitalization	At listing: ≥ HK\$150 million (US\$19 million)
Cash Flow	Last 2 financial yrs: ≥ HK\$30 million (US\$3.8 million) (in aggregate) (from operating activities)

Acceptable Overseas Jurisdictions

- Traditionally recognized under the Listing Rules: Hong Kong, Bermuda, Cayman Islands, People's Republic of China
- Currently also acceptable:

Australia	Germany	South Korea
Brazil	Guernsey	Labuan
British Virgin Islands	Isle of Man	Luxembourg
Canada – British Columbia, Ontario	Israel	Russia
Cyprus	Italy	Singapore
England & Wales	Japan	US: California, Delaware, Nevada
France	Jersey	

KEY LAWS & REGULATIONS

Key Laws & Regulations

- Rules Governing the Listing of Securities on the Main Board of The Stock Exchange of Hong Kong Limited (“Listing Rules”)
- Listing Decisions of the Listing Division and the Listing Committee (“LD”)
- Codes on Takeovers and Mergers and Share Repurchases
- Securities and Future Ordinance (Chapter 571 of the Laws of Hong Kong) and its subsidiary legislations
- Companies Ordinance (Chapter 32 of the Laws of Hong Kong)
- Other relevant laws and regulations in the place of business and place of incorporation

IPO PROCESS

IPO Process

Key Parties of a Hong Kong IPO:

- Issuer (i.e. listing vehicles)
- Issuer's counsels (*HK, US and other relevant jurisdictions*)
- Sponsor/Joint Sponsors
- Sponsor's counsels (*HK, US and other relevant jurisdictions*)
- Auditors and reporting accountants
- Property valuer

IPO Process (cont'd)

Four principal stages of a Hong Kong IPO:

Stage 1 – Preparatory Stage

Stage 2 – Application and Vetting Stage

Stage 3 – Post-Hearing Stage

Stage 4 – Post-Listing Stage

IPO Process

Stage 1 – Preparatory Stage

<u>Major Tasks:</u>	<u>Recommended Timeframe:</u>
Due Diligence Process	<i>at least 3 months before (an ongoing process)</i>
Corporate Reorganization	<i>at least 3 months before</i>
Prospectus Drafting & Other Documentary Preparation	<i>2 months before submission</i>
Verification of Prospectus	<i>along prospectus drafting (an ongoing process)</i>
Formation of Board of Directors and Board Committees & Training	<i>at least 1 month before</i>

Listing application – A1 Submission

***NOTE:** The above is for illustrative purpose only. The preparatory work and the timeframe vary from one company to another. Orrick will work with the company to formulate a work plan early in the process.*

Stage 1 – Preparatory Stage

Due Diligence

- **Purpose**
 - part of the lawyers' duties
 - identify issues and risks
 - obtain objective evidence to support drafting of submissions/prospectus/documents
- **Major areas**
 - legal, financial and business
- **Sponsor's independent due diligence**

Stage 1 – Preparatory Stage

Corporate Reorganization

- “Offshore” and “onshore” entities
- All professional parties (including sponsors, counsels and accountants) will assist the issuer in structuring the reorganization plan
- Issuer’s counsels to set out detailed steps in a reorganization memorandum (submitted as part of the listing application package)

Stage 1 – Preparatory Stage

Prospectus Drafting

- **Prospectus**
 - A legal document
 - the one and only marketing document
- **Key sections**
 - Business
 - Risk Factors
 - Management Discussion and Analysis (MD&A)
 - History and Corporate Structure
- **Appendices**
 - Accountants' Report, Valuation Report, Profit Forecast, Statutory and General Information and others

Stage 1 – Preparatory Stage Verification

- **A unique feature in the Hong Kong IPO market**
 - Not common practice in US, Singapore and other jurisdictions
- **Purpose**
 - to ensure that information contained in the prospectus is true and accurate and not otherwise misleading
 - to protect parties involved in the IPO from criminal and/or civil liabilities
- **How**
 - obtain objective evidence to support statements made in the prospectus

Stage 1 – Preparatory Stage

Corporate Governance

- **Board of directors**

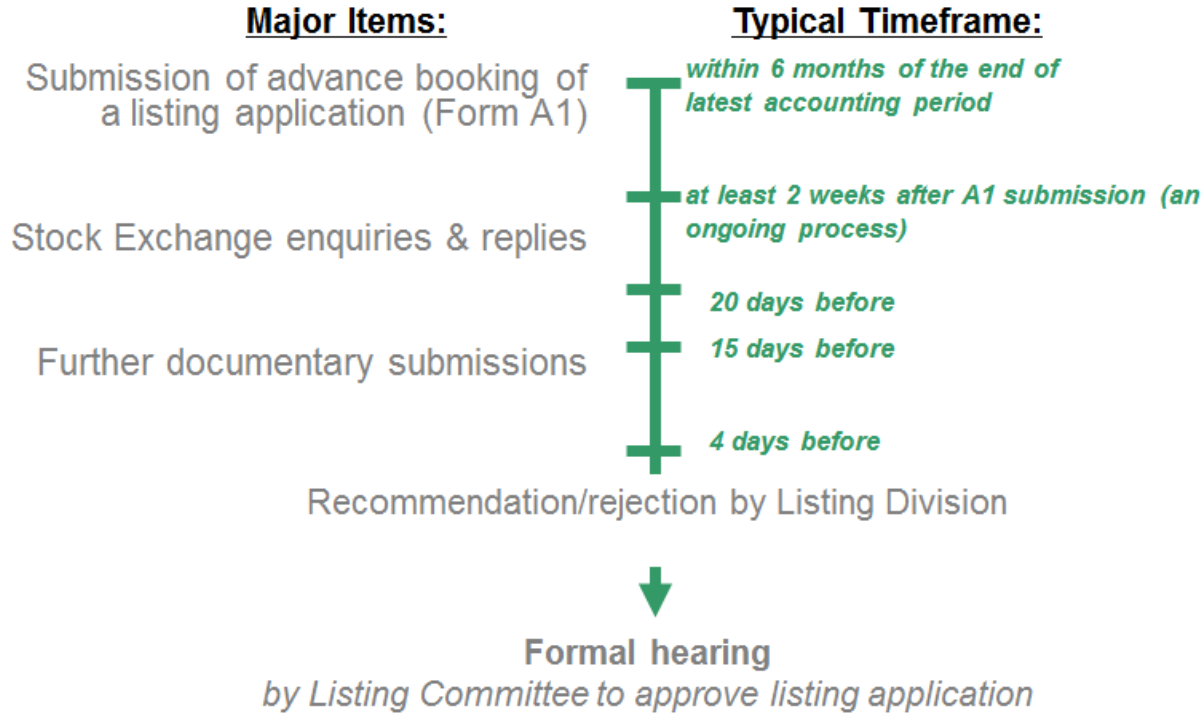
- at least 3 independent non-executive directors (“**INEDs**”) and one-third of the board
- at least 1 INED must have appropriate professional qualifications or accounting or related financial management expertise
- chairman and chief executive to be separate

- **Board of committees**

- audit committee
- remuneration committee
- nomination committee
- corporate governance committee

IPO Process

Stage 2 – Application and Vetting Stage



Stage 2 – Application and Vetting Stage

Stock Exchange Enquiries and Replies

- **Dual-filing system**
 - comments on the listing application from SEHK and Hong Kong Securities and Futures Commission (through SEHK)
 - wide discretion
- **Disclosure**
 - revision to prospectus Disclosure
- **Legal issues**
- **Financial / Accounting issues**

IPO Process

Stage 3 – Post-Hearing Stage

Approval of Formal Hearing



Publication of Post Hearing Information Pack,
issuing pre-deal research & commencing pre-marketing



Issuing "red-herring" prospectus,
commencing road show & "book building" process (about 2 weeks)



Signing HK underwriting documents and
registering & issuing prospectus



IPO Process

Stage 3 – Post-Hearing Stage (cont'd)

Public Offer opens (normally four business days)



Public Offer closes



Institutional Placing & Final Placing



Announcing results of pricing & allocations



Issuing Shares



IPO Process

Stage 4 – Listing & Post-Listing Stage

Formal approval for listing granted by SEHK



Commencement of trading of shares



Placing underwriters may exercise
an over-allotment option
(up to 15% of shares offered in IPO)

NEW ECONOMY

New Economy

Proposed Changes to Listing Criteria

- 3 new chapters to the Main Board Listing Rules
- Listing of biotech issuers – pre-profit / pre-revenue
- Issuers from emerging and innovative sectors with Weighted Voting Rights (WVR) structures – subject to certain disclosure and safeguards
- Concessionary secondary listing route for emerging and innovative sectors primary listed on another leading overseas stock exchange
- Other increase in listing requirements

LISTING IN ASIA - SINGAPORE

COMPARISON OF MAINBOARD AND CATALIST LISTING GUIDELINES (SGX)

Mainboard - Quantitative Criteria

Company must satisfy any one of the following criteria:

- Criterion 1: minimum consolidated pre-tax profit of at least S\$30 million for the latest financial year and have operating track record of at least three years.
- Criterion 2: profitable in the latest financial year, has an operating track record of at least three years and has a market capitalisation of at least S\$150 million based on the issue price and post-invitation issued share capital.
- Criterion 3: operating revenue in the latest completed financial year and a market capitalization of not less than S\$300 million based on the issue price and post-invitation issued share capital. Real Estate Investment Trust and Business Trusts who have met the S\$300 million market capitalization test but do not have historical financial information may apply under this rule if they are able to demonstrate that they will generate operating revenue immediately upon listing.

Mainboard - Shareholding Spread

- For market capitalisation below S\$300 million, at least 25% post invitation share capital should be publicly held.
- For market capitalisation greater than S\$300 million, between 12% - 20% post invitation share capital should be publicly held.
- At least 500 shareholders at IPO.

Mainboard - Timeline for Listing



Mainboard - Pre-Listing

- SGX reviews the IPO documents and approves the listing. 2-stage approval (Part A and Part B).

Mainboard - Offer Documents

- Prospectus to be lodged and registered with MAS.
- Prospectus will be lodged on MAS' OPERA website.

Mainboard - Post Listing

- SGX directly supervises company.

Mainboard - Supervision

- Issue managers have no supervisory role, and are not formally “admitted” by SGX.

Mainboard - Regulation of Sponsor / Issue Manager

- Issue managers are not subject to SGX rules.

Mainboard - Changes in Capital

- Can obtain a general mandate to issue up to 50% of the total number of issued shares excluding treasury shares on a pro rata basis.
- Aggregate number of shares and convertible securities issued other than on a pro rata basis to existing shareholders must be not more than 20% of the total number of issued shares excluding treasury shares.

Mainboard - Acquisitions & Realisations

- Shareholder approval required for transactions when any of the relative figures as computed on the bases set out in Rule 1006 of the Listing Manual exceeds 20%.

Mainboard - Directors

- At least 2 independent directors, with at least 2 Singapore-resident independent directors for foreign companies.

Mainboard - Circulars & Announcements

- Reviewed by SGX.

Mainboard - Miscellaneous

Additional Mainboard admission criteria:

- IPO shares issued must be at least S\$0.50 each.

Catalist - Quantitative Criteria

- No minimum earnings, operational track record or minimum market capitalisation needed.

Catalist - Shareholding Spread

- At least 15% post invitation share capital should be publicly held.
- At least 200 shareholders at IPO.

Catalist – Timeline for Listing



Catalist - Pre-Listing

- Sponsor decides if company is suitable for the listing.

Catalist - Offer Documents

- Offer document is subject to the same disclosure requirements as a prospectus.
- Offer document does not need to be lodged with MAS, but will be posted on SGX's Catalodge website for at least 14 days.

Catalist - Post Listing

- No direct supervision by SGX, although SGX retains disciplinary authority.

Catalist - Supervision

- Sponsors, who are authorised and regulated by the SGX, supervise the companies.

Catalist - Regulation of Sponsor / Issue Manager

- Sponsors are subject to SGX admission rules and have continuing obligations.

Catalist - Changes in Capital

- Can obtain a general mandate to issue up to 100% of the total number of issued shares excluding treasury shares on a pro rata basis.
- If the mandate is approved by ordinary resolution, aggregate number of shares and convertible securities issued other than on a pro rata basis to existing shareholders must be not more than 50%.
- If the mandate is approved by special resolution, aggregate number of shares and convertible securities issued, whether on a pro rata or non pro rata basis to existing shareholders must be not more than 100%.

Catalist - Acquisitions & Realisations

- Shareholder approval required for acquisitions when any of the relative figures as computed on the bases set out in Rule 1006 of the Catalist Listing Rules exceeds 75%.
- Shareholder approval required for disposals when any of the relative figures as computed on the bases set out in Rule 1006 of the Catalist Listing Rules exceeds 50%.
- Shareholder approval required for transactions which will result in a fundamental change in the company's business.

Catalist - Directors

- At least 2 independent directors, with at least 1 Singapore-resident independent director for foreign companies.

Catalist - Circulars & Announcements

- Reviewed by Sponsor.

Catalist - Miscellaneous

- IPO shares issued must be at least S\$0.20 each.

Additional listing rules for company whose principal activities consist of exploration for minerals, oil and gas:

- Need to establish the existence of adequate resources in a defined area where the company has exploration and exploitation rights. Must be substantiated by an independent qualified person's report.
- Sufficient working capital for at least 18 months after listing (c.f. other Catalist companies who only need to demonstrate that they have sufficient working capital for at least 12 months after listing).

COMPARISON OF MAINBOARD AND CATALIST LISTING GUIDELINES (SGX)

Mainboard - Quantitative Criteria

Company must satisfy any one of the following criteria:

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Mainboard - Acquisitions & Realisations

- Shareholder approval required for transactions when any of the relative figures as computed on the bases set out in Rule 1006 of the Listing Manual exceeds 20%.

Mainboard - Directors

- At least 2 independent directors, with at least 2 Singapore-resident independent directors for foreign companies.

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CLE Information

- If you registered noting that you need CLE the code is **FISH318**. Please save this number; you will need this to receive a Certificate of Attendance. You will be contacted within 30-60 days by our CLE administrative team.
- We will process your credits for other states where this program has been approved.
- Questions? Please email Aisha Khan at Aisha.khan@morganlewis.com

THANK YOU

If you have any further queries,
please feel free to contact us for assistance:



Bernard LUI

Director

Morgan Lewis Stamford LLC

Email: bernard.lui@morganlewis.com

Direct line: +65 6389 3092

General line: +65 6389 3000

THANK YOU

If you have any further queries,
please feel free to contact us for assistance:



Billy WONG

Partner

Corporate Business Transactions

Email: billy.wong@morganlewis.com

Direct line: +852 3551 8555

General line: +852 3551 8500

THANK YOU

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