

March 2018 Legal and Regulatory Update

Hot Trends

Getting ready for AGM (Part 1)

-HK Voting Policy Guidelines 2018 (ISS and Glass Lewis)

- **Influential reports of proxy advisors**, widely followed by institutional investors
- **Little changed** from previous year generally
- Main change affects **PRC companies**
 - more stringent approach in considering Articles amendment to add “**Communist Party Committees**”
- Key lessons of 2017 season
 - **general mandate** (both firms: maximum 10% issuance; ISS: max 10% price discount, Glass Lewis: 15%)
 - **director “over boarding”** (ISS: max public directorships: 6; Glass Lewis: 5)
- For your **planning + brief your board**
 - manage expectations: for company; personal re-election

Click: [ISS Guidelines](#); [Glass Lewis Guidelines](#)

Regulators

HKEX published another Listing Decision ([LD118-2018](#)), along the theme of **combating listed “shells”** which are susceptible to speculative activities. This reflects its tightened approach in applying Rule 13.24, as regards “**sufficiency of operations/assets of sufficient value**” for **continued listing**. It would apply the rule in “extreme cases” with certain characteristics: (i) a very low level of operating activities and revenue; (ii) not a temporary downturn; (iii) the assets do not generate sufficient revenue and profits to support a continued listing. Obligation is on the issuer to support its case.

Issuer failed to demonstrate its case. **Its existing business** (second-hand vehicles sales in HK) recorded declining revenue for the past 5 years (near 95%, to less than \$5m); net loss and negative operating cash flow; total assets (HK\$50m, mostly cash, loan/interest receivables, etc.).

HKEX rejected its submission regarding **a new business**, for being: substantially different (wholesale distribution of new vehicles in PRC); “preliminary/uncertain” (significant portion of projected revenue not based on legally binding commitments).

Published by Practising Governance Limited

April 2018