

# August 2024 Legal and Regulatory Update

## Top stories

### HKEX consultation on new phase of paperless reforms

HKEX published a consultation paper on proposals to further expand its paperless listing regime and other rule amendments. The consultation period will close after 18 October. ([Press release](#); [full document](#)).

Our focus is on proposals regarding continuing obligations of issuers of listed equity securities:

*(Note: some proposals are not applicable to other types of issuers, e.g. public debt issuers; see Table 1, P.3 of consultation paper)*

- **(1) Electronic instructions from securities holders:** to provide an **option** for securities holders to send “requested communications” to issuers electronically  
*(Note: previous HKEX paperless reforms relate to communications from issuers)*
- **(2) Real-time electronic payment of “Corporate Action Proceeds”:** **option** for securities holders to receive the same (*e.g. dividends*) electronically via **CHATS** (*Clearing House Automated Transfer System, operated by Hong Kong Interbank Clearing Limited*)
- **(3) Hybrid general meetings and E-voting:** *(to the extent permitted by applicable laws)* **issuers** to ensure their **constitutional documents** enable them to do so

**Proposals 1 and 2** are also related to the “Uncertificated Securities Market” regime (USM). It is intended that they will come into effect **when USM is implemented**, expected to be around the **end of 2025**.

**Proposal 3** is expected to be implemented shortly after the consultation conclusions are published.

Further details on Proposal 1 are set out below.

### *What you should know*

#### Electronic instructions from securities holders

- **Option** for securities holders to send requested communications to issuers electronically
  - **“Meeting Instructions”** re: a meeting of securities holders, including an indication as to attendance and proxy-related instructions
  - **“Non-meeting Instructions”** re: “Actionable Corporate Communications” (*except response to provisional allotment letter in a rights issue*)

- Issuers might need to **amend constitutional documents**
- Issuers expected to have appropriate arrangements to **verify the authenticity** of requested communications
  - **Free to choose** authentication mechanisms
- **Transitional period**
  - 1 year for “Standardised Requested Communications” (*dividend election instructions, meeting instructions*)
  - Longer for “Non-standardised Requested Communications” (*e.g. relating to a rights issue*)

### **What you should do:**

- In light of the **consultation period**, to make responses as appropriate
- Note the interaction with the **USM** regime, for future preparations

## **Also in this issue**

### **Regulators**

(i) AFRC published its 2024 Annual Compliance and Investigation Report. ([Press release, Report](#))

Our focus is on AFRC’s guidance for stakeholders, including **board of directors, audit committee and management** of listed companies (Section 4 of report, P.51).

### **What you should do**

#### **Guidance for directors/audit committee/management**

##### **Board of directors**

- Current challenging global economy brings uncertainties to listed companies, making them more **susceptible to fraudulent activities**
- Should establish a **proper control environment**
- Maintain **policies and procedures for internal controls** to detect fraud and errors

##### **Audit committees**

- Maintain a **constructive dialogue with external auditors throughout the entire process**
  - From planning to completion
- **In-depth and timely communications**
  - On identified risks, significant findings and observations made by the **auditors**

- In the event of a **change of auditor**
  - Ensure that **disclosures** on resignation are complete and accurate, especially re: unresolved audit issues and disagreements with management
  - Ensure that **incoming auditors** possess the necessary competence and capabilities

#### **Management of listed companies**

- Engage in **effective planning**
- Allocate sufficient **resources** and competent **personnel** to assist in preparing the financial statements.

### **Legislation**

**(ii) The Privacy Commissioner for Personal Data (“PCPD”) issued a new version of the “Code of Practice on the Identity Card Number and other Personal Identifiers: Compliance Guide for Data Users” (the Compliance Guide). ([Press release](#), [Compliance Guide](#), [Leaflet](#))**

The Compliance Guide aims to assist organisations in complying with the requirements under PCPD’s “Code of Practice on the Identity Card Number and other Personal Identifiers” as regards the collection, retention, use and security of ID card numbers, copies of the ID card and other personal identifiers.

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