

# Sept 2024 Legal and Regulatory Update

## Top stories

### ESG and digitalisation: further progress in HK market

(1) **ESG:** The HK Institute of Certified Public Accountants (**HKICPA**) published exposure drafts of local sustainability reporting standards, **HKFRS S1** (*General Requirements for Disclosure of Sustainability-related Financial Information*) and **HKFRS S2** (*Climate-related Disclosures*) for public consultation. Consultation closed after 27 Oct.

HKICPA is proposing **full convergence with ISSB standards** (*IFRS S1 and IFRS S2*), to be effective from **1 August 2025**. ([Press Release](#))

**This is part of the HK roadmap for the local adoption of ISSB standards.**

### (2) Further digitalisation of HK market

**A. HKEX published [amendments to the Listing Rules](#) relating to severe weather trading, and updated Guides relating to such amendments.**

Effective 23 Sept, HKEX removed severe weather arrangements so that trading, clearing and settlement services and operations can continue in both the securities and derivatives markets.

For listed issuers, it is noteworthy that **Practice Note 8** (*Emergency share registration arrangements during bad weather signals*) has been updated. **Updated guides** have also been published:

- Consolidated version: [Consolidated version of Guides on the Exchange's Practices and Procedures for Handling Listing-related Matters](#)
- Individual guides:
  - [Guide on trading arrangements for selected types of corporate actions \(marked up version showing changes\)](#)
  - [Guide on disclosure of record date, book closure and latest time for lodging transfers of shares \(marked up\)](#)
  - [Guide on distribution of dividends and other entitlements \(marked up\)](#)
  - [Guide on general meetings \(marked up\)](#)

**[Appendix II \(P.40\) of the relevant HKEX Consultation Conclusions](#)** also sets out **useful examples** of their impact on corporate actions. (*e.g. cash dividend*)

**B. The government published consultation conclusions, proposing to amend the Companies Ordinance (“CO”) to introduce an “implied consent” mechanism for promoting paperless communications in HK companies. ([Press release](#))**

Upon such amendments becoming effective, *(subject to their constitutional documents)* listed companies incorporated in HK would be able to take advantage of *(effective Dec 2023)* HKEX’s revised Listing rules permitting an “implied consent” mechanism. *(On HKEX revised Listing Rules: see our [May/June 23 legal update](#)).*

It is planned to introduce an **amendment bill** into Legislative Council **within 2024**.

### **What you should do**

- *(For HK incorporated companies)* **review your constitutional documents**; consider and plan necessary amendments

## **Also in this issue**

### **Regulators**

**HKEX criticises 3 former executive directors (including Chairman & CEO) of (delisted) National Arts Group Holdings Limited. ([Announcement](#); [Statement of Disciplinary Action](#))**

This case concerns **acquisitions** by the company.

In 2021, the directors approved the company’s acquisitions of target companies which held **property units under construction in Malaysia**. The target companies had not fully paid the developers. Under the acquisition terms, the vendors would remain responsible for such outstanding payment obligations.

**The company made full payment upfront by issuing new shares** to the vendors *(value: \$108.8m)*. There was a lock-up arrangement re: the consideration shares allotted to one vendor, but the company later agreed for this to be partially released.

The vendors failed to discharge their outstanding payment obligations. Construction was delayed. None of the property units had been delivered to the company. The vendors had sold most of the consideration shares.

The directors were found to have breached their **duties to exercise reasonable skill, care and diligence in respect of the acquisitions**.

The directors should have been aware that the acquisitions involved **major risks**, including that the vendors might not fulfil the outstanding payment obligations, and/or the property

construction might not be completed. The credit risk in respect of the vendors was material. They failed to:

- Conduct **due diligence** in respect of the financial capability of the vendors
- **Properly monitor** the projects after the acquisitions
  - E.g. payments were being made
  - Construction was progressing

### *What you should watch out for*

#### **HKEX key messages in announcement**

- Directors must take **active steps to manage risks** pertaining to investments of the issuer. They should conduct **proper due diligence and risk assessment**, particularly when the **risks are evidently high**
- Directors must **properly monitor investment projects**. They should ensure receipt of timely updates and that mechanisms are in place to keep the issuer informed

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