

SGX introduces Primary Listing Framework for Dual Class Share Structures

On 26 June 2018, the Singapore Exchange ("SGX") announced the introduction of rules (which took effect on the same date) to make possible the listing of companies with dual class share ("DCS") structures on the Mainboard ("Mainboard") of the Singapore Exchange Securities Trading Limited ("SGX-ST"). Please refer [here](#) for the specific amendments to the SGX-ST Listing Rules (Mainboard) ("**Mainboard Rules**").

The amendments to the Mainboard Rules follow two rounds of public consultation conducted by SGX in February 2017 (to seek feedback on broad policy considerations on whether to introduce a primary listing framework) (available [here](#)) and March 2018 (to seek feedback on the proposed amendments to the Mainboard Rules) (available [here](#)). The response to each of these rounds of consultation are available [here](#) and [here](#), respectively.

This Update provides an overview of the listing framework ("**Framework**") for DCS structures.

Dual Class Share Structures

A DCS structure refers to a share structure of an issuer that gives certain shareholders voting rights disproportionate to their shareholding. Shares in one class carry one vote ("**OV shares**"), while shares in another class carry multiple votes ("**MV shares**").

Holders of MV shares are typically the company's founders and their families, or other key executives (collectively, "**owner managers**"). DCS structures enable owner managers to have voting control without the corresponding financial investment risk and are favoured by high-technology companies (examples being Facebook, Amazon and Google) to protect their founders' influence after an initial public offering ("**IPO**").

With the introduction of the Framework, SGX joins the New York Stock Exchange, Nasdaq Stock Market, Toronto Stock Exchange, Nasdaq OMX Stockholm and, more recently, the Hong Kong Stock Exchange in permitting companies to list with a DCS structure.

Overview of the Listing Framework for DCS Structures

The Framework introduced by SGX sets out, among other things, the requirements for listing of companies with DCS structures as well as the safeguards identified by SGX to mitigate the entrenchment and expropriation risks commonly associated with DCS structures.

Available to New Listings only

Under the Framework, issuers seeking a primary listing on the Mainboard may choose to adopt a DCS structure. Existing issuers which had listed on the SGX-ST with a one-share-one-vote structure may not convert to a DCS structure post-listing.

Additional Listing Requirements

In addition to the general listing requirements set out in Chapter 2 of the Mainboard Rules, an issuer that intends to list with a DCS structure is required to satisfy the following, among other things:

Category	Criteria
<p>Suitability Factors</p>	<p>it must be suitable for listing with a DCS structure. Factors that SGX may take into account in assessing whether an issuer is suitable for listing with a DCS structure include:</p> <ul style="list-style-type: none"> ▪ the business model of the issuer, e.g., whether the issuer has a conceptualised long-term plan that contemplates ramping up growth at a fast pace; ▪ track record, including operating track record, of the issuer, group or business; ▪ the role and contribution of intended MV shareholders to the success of the issuer or business and, in the case of a permitted holder group (which refers to a group of persons or an entity permitted to hold multiple voting shares in accordance with Rule 210(10) of the Mainboard Rules) ("permitted holder group"), its relevance to the issuer or business; ▪ participation by sophisticated investors; ▪ if the permitted holder group is a trust or corporate vehicle, the suitability of the arrangement, including an assessment of whether sunset features or other safeguards are in place to govern the holding structure; and ▪ other features of the issuer or business that require a DCS structure. <p>SGX has also highlighted that these suitability factors are non-exhaustive and that it will make public, guidance on the suitability factors in precedent cases. In addition, initial cases will be referred to the Listings Advisory Committee ("LAC") of SGX for advice and a summary of the LAC's advice will be published by both SGX and LAC. Prospective listing applicants are encouraged to engage SGX and submit pre-IPO enquiries in relation to their suitability to list with a DCS structure.</p>

Category	Criteria
<p>Holders of MV Shares</p>	<p>it must ensure that:</p> <ul style="list-style-type: none"> ▪ a holder of MV shares must either be a director of the issuer or a member of the permitted holder group. In addition, a responsible director must be appointed for the permitted holder group; and ▪ the holders of MV shares are specified at the time of the IPO and, in the case of a permitted holder group, the issuer must specify the scope of the permitted holder group at the time of the IPO and may not add to the scope subsequently.
<p>Mandatory Automatic Conversion Provisions</p>	<p>it must ensure that its DCS structure includes automatic conversion provisions which provide that a MV share will be converted to an OV share on a one-for-one basis in the event that:</p> <ul style="list-style-type: none"> ▪ the MV share is sold or transferred to any person and, in the case of a permitted holder group, other than to persons in the permitted holder group; or ▪ a responsible director ceases services as a director (whether through death, incapacity, retirement, resignation or otherwise) and, in the case of a permitted holder group, other than where a new responsible director is appointed, <p>unless otherwise specifically approved by shareholders through the Enhanced Voting Process (where votes are cast on the basis that one MV share is limited to one vote). It bears mentioning that the relevant holder of the MV shares, the person to whom the MV share is to be sold or transferred and such responsible director (as the case may be), and their respective associates, must abstain from voting on such resolution. However, other disinterested MV shareholders may vote on the resolution.</p> <p>It may also voluntarily adopt additional conversion events in addition to the mandatory conversion events set out above.</p>
<p>Maximum Voting Differential</p>	<p>it must ensure that its DCS structure provides that each MV share shall not carry more than 10 votes per share. The number of votes per MV share must be specified at the time of the IPO.</p>

Category	Criteria
Lock-up Requirements for MV Holders	Holders of MV shares are required to give contractual undertakings to the issue manager to observe a moratorium on the transfer or disposal of their entire shareholdings in the issuer in respect of their interests in both MV shares and OV shares at the time of listing for at least 12 months after listing.
Rights of OV Shareholders	it must ensure that OV shareholders have the following rights: <ul style="list-style-type: none"> ▪ in any general meeting, the number of votes that may be cast by OV shareholders who are not also MV shareholders must be at least 10% of the total voting rights of the issuer; and ▪ OV shareholders holding at least 10% of the total voting rights on a one-share-one-vote basis must be able to convene a general meeting.
Independence Element in Board Committees	it must ensure that the majority of the members of its audit committee, nominating committee and remuneration committee, as well as the respective chairman of each of these board committees, are independent directors.
Constituent Documents	it must ensure that the requirements relating to the DCS structure and the rights of MV shares and OV shares in Rules 210(10)(c) to 210(10)(i) of the Mainboard Rules (set out in this table under "Holders of MV Shares", "Mandatory Automatic Conversion Provisions", "Maximum Voting Differential", "Rights of OV Shareholders", "Independence Element in Board Committees" and "Constituent Documents") (" Relevant Rules ") are prescribed in its constituent documents.
Additional Disclosures in the Prospectus	it must ensure that the following additional information is prominently provided in its prospectus, offering memorandum or introductory document: <ul style="list-style-type: none"> ▪ a statement on the cover page that the issuer is an issuer with a DCS structure; ▪ details of the DCS structure and its associated risks; ▪ the rationale for adopting the DCS structure; ▪ matters that are subject to the Enhanced Voting Process and the implications to holders of OV shares;

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	<ul style="list-style-type: none"> ▪ key provisions in its constituent documents relating to the DCS structure; and ▪ certain prescribed shareholding and voting details of each MV holder.

Additional Continuing Listing Obligations

In addition to the general continuing listing obligations set out in the Mainboard Rules, an issuer with a DCS structure is required to comply with the following on an ongoing basis, among other things:

Category	Criteria
General	it must comply with the requirements in the Relevant Rules on a continuing basis.
Changes in Share Capital	<p>it must not issue MV shares post-listing except in the event of a rights issue, bonus issue, scrip dividend scheme or consolidation or subdivision of shares, in each case in conjunction with the issuance of OV shares.</p> <p>In addition, any issuance of MV shares must be approved by a special resolution of the shareholders in a general meeting.</p> <p>It must also ensure that, in undertaking any corporate action, the proportion of the total voting rights of the MV shares as a class against those of the OV shares after the corporate action will not increase above that proportion existing prior to the corporate action.</p>
Changes in Voting Differential	it must not allow any increase in the voting differential post-listing. However, SGX has indicated that an issuer may reduce the voting differential post-listing, subject to the approval of SGX as well as the approval of shareholders through the Enhanced Voting Process.
Enhanced Voting Process for Certain Corporate Actions	<p>it must ensure that the following matters are voted through the Enhanced Voting Process:</p> <ul style="list-style-type: none"> ▪ change to the issuer's constituent documents; ▪ variation of rights attached to any class of shares; ▪ appointment and removal of independent directors and auditors;

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	<ul style="list-style-type: none"> ▪ reverse takeover of the issuer; ▪ winding-up of the issuer; and ▪ delisting of the issuer. <p>It is important to note that the relevant voting thresholds under law and the Mainboard Rules for these matters will also continue to apply.</p>
<p>Additional Disclosures in Announcements, Circulars and Annual Reports</p>	<p>it must ensure that it prominently includes:</p> <ul style="list-style-type: none"> ▪ a statement that it is an issuer with a DCS structure on the cover page of its announcements, circulars and annual reports; and ▪ information on the voting rights of each class of shares in its circulars; and ▪ certain prescribed shareholding and voting details of each MV holder in its annual reports.

If you would like information and/or assistance on the above or any other area of law, you may wish to contact the partner at WongPartnership that you normally deal with or the following partner:



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