

# Legal Commentary

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## Filing-based System for Overseas Listing (VIII) – Post Listing

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With the full implementation of the New Filing Rules, in addition to the requirements for domestic enterprises to file with the CSRC within three (3) business days after the submission of overseas listing application documents, the New Filing Rules also clarify the requirements for the reporting or filing procedures for domestic enterprises after overseas offerings and listings, including the filing requirements for follow-on securities offerings or the development in multiple capital markets of domestic enterprises after overseas offerings and listings, and the reporting obligations of information with regard to the overseas offerings and listings as well as the material events occurred to the domestic enterprises after overseas offerings and listings.

As the eighth episode of the series of *New Era of Filing-based System for Overseas Offerings and Listings*<sup>1</sup>, this article introduces and interprets the key points of the procedures that domestic enterprises shall perform or pay attention to after the completion of overseas initial public offerings under the New Filing Rules.

### Filing obligations of domestic enterprises after overseas offerings and listings

#### I. Circumstances triggering filing obligations

The New Filing Rules specify the corresponding filing requirements for the refinancing and developments in multiple capital markets of domestic enterprises listed in overseas markets, which requirements will come into force from the effective date of the New Filing Rules (i.e., March 31, 2023) and are summarized as follows:

<sup>1</sup> Terms or attributes used in this article but not defined herein shall have the meaning ascribed to them in articles in the series of *New Era of Filing-based System for Overseas Offering and Listing*.

Types of transactions	Filing date	Key points	Exceptions
Securities offerings in the same overseas market	Within three (3) business days after the completion of the offerings	<ul style="list-style-type: none"> <li>■ <b><u>The scope of “securities”:</u></b> based on the Trial Measures and the relevant provisions of the Guideline No.1, the “Securities Offerings” not only include the issuance of additional shares but also cover the issuance of convertible notes, exchangeable bonds or preferred shares after the overseas offerings and listings, which are also required to be filed.</li> <li>■ <b><u>Paying attention to the coordination with industrial regulation procedures:</u></b> for the issuance of convertible notes overseas, the domestic enterprises shall also complete the review and registration procedures for foreign debts in advance in accordance with the regulations promulgated by the foreign debt regulatory authorities.</li> </ul>	<ul style="list-style-type: none"> <li>■ The filing requirements will not apply to the issuance of securities for the implementation of equity incentives, the conversion of capital reserve into corporate capital, the distribution of stock dividends or share split.</li> <li>■ For securities offerings in installments within the authorized scope, the enterprises shall file with the CSRC after the completion of the initial offering and report the unitary combined offering information to the CSRC after the completion of the remaining offerings.</li> </ul>
Developments in multiple capital markets	Within three (3) business days after the submission of application documents for the public offerings and listings to the overseas stock exchanges	<ul style="list-style-type: none"> <li>■ Secondary listings or primary listings in other overseas markets</li> </ul>	For the conversion of listing status (such as the conversion from a secondary listing to a dual primary listing) and the transfer of listing board in the overseas markets, which do <b>NOT</b> involve the issuance of securities, the domestic enterprises are not required to file with the CSRC but shall report to the CSRC within three (3) business days after the occurrence and announcement of such matters.

## II. Requirements for the filing materials

The filing materials for follow-on offerings and listings in different overseas markets by domestic enterprises listed in overseas markets are consistent with those required for the initial public offerings and listings, while the filing materials required for the follow-on securities offerings in the same overseas market are simplified, and the issuer is only required to provide a filing report and relevant commitments, as well as the legal opinions issued by its PRC counsels (the “**Domestic Legal Opinions**”) (attached with relevant commitments). Please refer to the previous articles of this series for more details on the introduction and analysis of the contents of relevant filing materials.

### Obligations to report the information of overseas offerings and listings

#### I. Summary of the report on overseas offerings and listings

After the completion of overseas offerings and listings, the issuers shall prepare and submit a report on the information of overseas offerings and listings to the CSRC according to the Trial Measures and the Guideline No.3. For the follow-on overseas issuance of securities after the overseas offerings and listings of the domestic enterprises, the issuers are only required to specify the information of overseas offerings and listings as required by the Guideline No. 3 in the filing materials submitted to the CSRC rather than prepare a separate report on overseas offerings and listings.

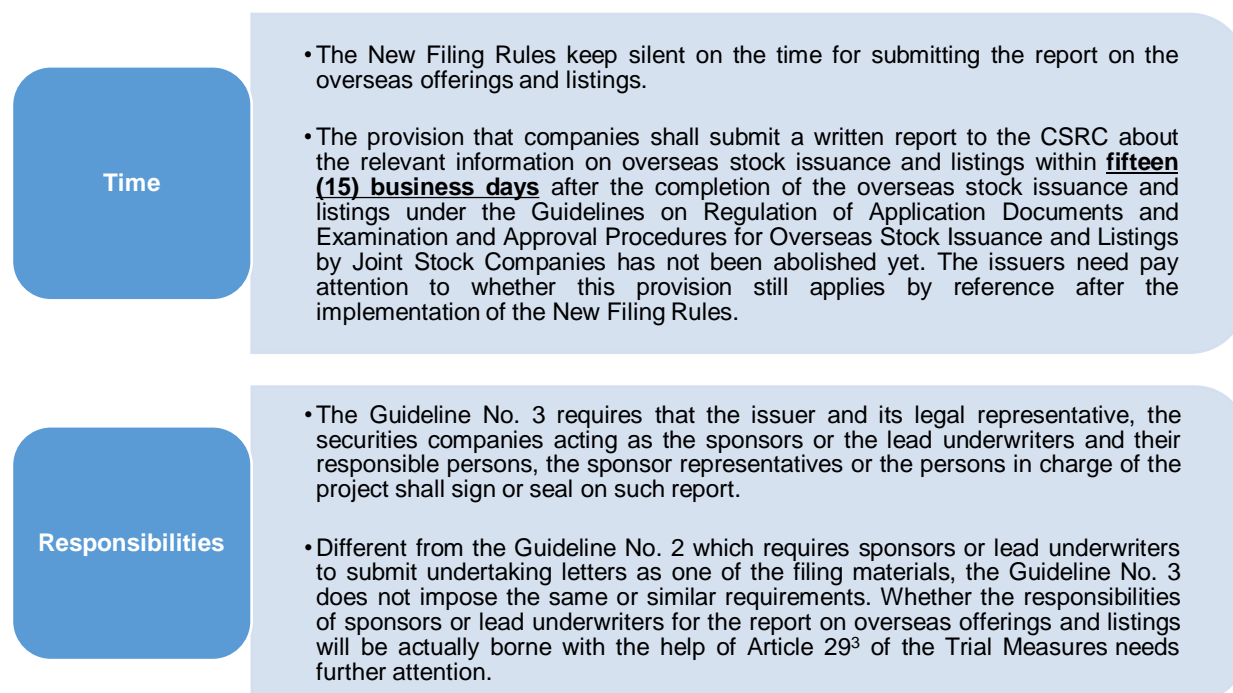
The report on the overseas offerings and listings shall include the following contents:

Contents of the report	Key points
Overview of the offering	<ul style="list-style-type: none"> <li data-bbox="464 1223 1425 1290">■ The issuer’s name, the securities abbreviation and number, and the overseas market of the offering.</li> <li data-bbox="464 1305 1425 1458">■ The relevant time points of the offering, including the approval of the foreign regulatory authorities for the offering and the time of such approval, the time of receiving the proceeds, and the listing time of the securities.</li> <li data-bbox="464 1473 1425 1883">■ Type and number (including over-allotment) of the securities issued in the offering and its proportion in the total share capital after the offering, par value, conversion ratio to underlying securities, offering method, underwriting method (such as firm-commitment underwriting, best-efforts underwriting, etc.), listing method (such as primary listing, secondary listing, listing by introduction, etc.), the offering price and its ratio to the benchmark price, the gross proceeds, and breakdown of the offering costs and expenses. Where the securities issued in the offering are financial instruments convertible to ordinary shares, the issuer shall also report the interest rate (dividend yield ratio), term, conversion period, conversion price, redemption and buyback terms, etc. of the securities.</li> <li data-bbox="464 1899 1425 2089">■ The issuer shall indicate the changes in the shareholding structure before and after the offering according to the list of major shareholders, and shall list the affiliate relationships between the new major shareholders after the offering and the issuer and the issuer’s shareholders. If the offering involves a change of control, the issuer shall provide the details</li> </ul>

Contents of the report	Key points
	of such change of control.
Subscription of the securities and the restricted sale	<p>In addition to the public offering to the market, if the offering involves placing, firm commitment underwriting or other methods of offerings to specific investors, the issuer shall also specify the following information:</p> <ul style="list-style-type: none"> <li>■ The subscription information of the specific investors.</li> <li>■ Information of the firm commitment underwriting.</li> <li>■ Information of the assets transactions of the domestic enterprises.</li> </ul>
Register and custody of relevant securities	For the direct overseas offering and listing, the issuer shall state the information and time of the centralized register and custody of relevant securities after the completion of the offering and listing.

## II. Key points requiring further attention

The Guideline No. 3 sets out the preparation and reporting requirements for the report on the overseas offerings and listings, but the issuers shall still pay attention to the following key points:



## Post Supervision: report on material events after overseas listings

Based on Article 22 of<sup>2</sup> the Trial Measures and the Guideline No. 3, in respect of the specific material

<sup>2</sup> Article 22 of the Trial Measures stipulates that upon the occurrence of any of the material events specified below after an issuer has offered and listed securities in an overseas market, the issuer shall submit a report thereof to the CSRC within 3 business days after the occurrence and public disclosure of the event: (1) change of control; (2) investigations or sanctions imposed by overseas securities regulatory agencies or other relevant competent authorities; (3) conversion of listing status or transfer of listing board; (4) voluntary or mandatory delisting. Where an issuer's main business undergoes material changes after overseas offering and listing, and is therefore beyond the scope of business stated in the filing documents, such issuer shall submit to the CSRC an ad hoc report and a relevant legal opinion issued by a domestic law firm within three (3) business days after occurrence of the changes.

events occurred after the overseas listings, the issuers shall report the details to the CSRC within three (3) business days after the occurrence and announcement of the relevant events. The material events required to be reported and their key points are summarized as follows:

Events to be reported	Key points
Change of control	<ul style="list-style-type: none"> <li>■ Summary of the change of control: time and method of the change, the performance of information disclosure obligations, and comparison of the number, shareholding percentage, nature and the lock-up information of the shares held by the major shareholders before and after the change.</li> <li>■ If there is any ultimate controlling person of the issuer after the change of control, the issuer shall report the basic information of the controlling shareholder(s) and the ultimate controlling person(s) after the change, as well as the specific information on the shares of the issuer controlled by such ultimate controlling person(s) after the change, or the detailed information on taking control by such ultimate controlling person(s) through equity control relationships, agreements or other arrangements rather than the acquisition of the shares of the issuer.</li> <li>■ If there is no ultimate controlling person after the change of control, the issuer shall state the grounds for determining that the issuer has no ultimate controlling person.</li> </ul>
Investigations or sanctions imposed by overseas securities regulatory agencies or other relevant competent authorities	<ul style="list-style-type: none"> <li>■ The issuer shall report the occurrence time of such material event and its detailed contents.</li> <li>■ The New Filing Rules keep silent on which information shall be included in the report. It remains to be clarified in the subsequent practice.</li> </ul>
Conversion of listing status or transfer of listing board	
Voluntary or mandatory delisting	
Main business undergoes material changes and is beyond the scope of business stated in the filing documents	<ul style="list-style-type: none"> <li>■ The issuer shall submit a specific report and legal opinions issued by its PRC counsels to the CSRC to report the relevant information.</li> </ul>

<sup>3</sup> Article 29 of the Trial Measures stipulates that where a securities company or securities service provider, failing to practice with due diligence, either: 1) makes misrepresentation, misleading statement or material omission in documents produced and issued in compliance with domestic laws, administrative regulations or relevant rules promulgated by the state, or; 2) makes misrepresentation, misleading statement or material omission in documents produced and issued in compliance with rules of the overseas listing market, and thereby disrupts domestic market order and undermines lawful rights and interests of domestic investors, the CSRC and competent authorities under the State Council shall issue correction orders and warnings, and impose a fine of between one and ten times of the revenue if any, or of between RMB 500,000 yuan and RMB 5,000,000 yuan in the absence of a revenue therefrom or if the revenue was less than RMB 500,000 yuan. Directly liable persons-in-charge and other directly liable persons shall be warned and each imposed a fine of between RMB 200,000 yuan and RMB 2,000,000 yuan.

## ***Important Announcement***

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