

THE INITIAL PUBLIC OFFERINGS LAW REVIEW

FOURTH EDITION

Editor

David J Goldschmidt

THE LAW REVIEWS

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PREFACE

Welcome to the fourth edition of *The Initial Public Offerings Law Review*. This publication introduces the reader to the main stock exchanges around the globe and their related initial public offering (IPO) regulatory environments, and provides insight into the legal and procedural IPO landscapes in 20 different jurisdictions. Each chapter gives a general overview of the IPO process in the region, addresses regulatory and exchange requirements, and presents key offering considerations.

The global IPO landscape is ever-changing. While several of the oldest stock exchanges, such as the New York Stock Exchange and London Stock Exchange, are still at the forefront of the global IPO market, the world's major stock exchanges now are scattered around the globe, and many are publicly traded companies themselves. IPOs take place in nearly every corner of the world and involve a wide variety of companies in terms of size, industry and geography. Aside from general globalisation, shifting investor sentiment and economic, political and regulatory factors have also influenced the development and evolution of the global IPO market.

Virtually all markets around the globe have experienced significant volatility in recent years; however, 2019 marked a year of continued strength for many IPO markets. While the number of 2019 IPOs decreased both domestically and globally, total proceeds raised were up significantly in the US, and relatively stable throughout the rest of the world, reflecting an increased proportion of IPOs by larger companies throughout the world. Despite the temperamental nature of global economics, and the potential repercussions of various ongoing and expected geopolitical events, there is continued cautious optimism for 2020 in terms of both global deal count and proceeds. The global IPO pipeline includes many well-known companies across a range of industries, and it is anticipated that these companies will seek to list on a variety of stock exchanges around the world.

Every exchange operates with its own set of rules and requirements for conducting an IPO. Country-specific regulatory landscapes are often dramatically different among jurisdictions as well. Whether a company is looking to list in its home country or is exploring listing outside of its own jurisdiction, it is important that the company and its management are aware from the outset of the legal requirements as well as potential pitfalls that may impact the offering. Moreover, once a company is public, there are ongoing jurisdiction-specific disclosure and other requirements with which it must comply. This fourth edition of *The Initial Public Offerings Law Review* introduces the intricacies of taking a company public in these jurisdictions, and serves as a guide for issuers and their directors and management.

David J Goldschmidt

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New York
March 2020

CHINA

Chen Yang¹

I INTRODUCTION

There are two primary stock exchanges in China, the Shanghai Stock Exchange (SSE) and the Shenzhen Stock Exchange (SZSE). The SSE consists of the Main Board and the Technology Innovation Board, whereas the SZSE consists of the Main Board, the Small and Medium Enterprises Board (the SME Board) and ChiNext (a board consisting mainly of high-technology companies).

According to the 2018 Annual Report of the China Securities Regulatory Commission (CSRC), as of the end of 2018, 3,584 companies were listed on the SSE and SZSE, with 99 new listings throughout 2018, 1,923 companies were listed on the Main Boards of the SSE and the SZSE, 922 companies were listed on the SME Board and 739 companies were listed on ChiNext. The total market capitalisation of these listed companies was 43.50 trillion yuan, which was 48.32 per cent of China's total 2018 GDP.

There were two major developments in China's capital markets in 2019. First, the SSE officially launched the Technology Innovation Board, which is based on a registration-based system and permits the listing of pre-profit technology companies. As of the end of 2019, 70 companies have successfully listed on the Technology Innovation Board. Second, on 28 December 2019, China adopted the 2019 amendment of its Securities Law (the 2019 Securities Law), which will take effect on 1 March 2020. The 2019 Securities Law codifies a registration-based system that will apply to all stock exchanges, not just the Technology Innovation Board. Furthermore, for the first time at the legislative level, the 2019 Securities Law delegates listing review powers to the stock exchanges themselves, as opposed to the prior practice where the CSRC had such review powers. The SSE and SZSE will be responsible for administering CSRC rules, and are empowered by the CSRC to enact rules under the CSRC's supervision in the very near future. Accordingly, as of 1 March 2020, the stock exchanges will have the power to examine and verify IPO listing applications, determine whether applications fulfil issuance and information disclosure requirements, and provide comments on the content of information disclosure.

Although the 2019 Securities Law sets forth the basic principle that IPOs in China will be registration-based as of 1 March 2020, the supporting implementation regulations have yet to be issued. Therefore, the standards and procedures set forth in this chapter will still follow the existing Securities Law and its relevant regulations.

¹ Chen Yang is a partner at Han Kun Law Offices.

II GOVERNING RULES

i Main stock exchanges

As discussed in Section I, the SSE consists of the Main Board and the Technology Innovation Board, whereas the SZSE consists of the Main Board, the SME Board and ChiNext.

Main Board (SSE and SZSE)

The Main Board of the SSE primarily attracts established blue-chip companies such as state-owned enterprises. In recent years, however, the Main Board of the SSE attracted private companies from industries other than traditional state-owned blue-chip companies.

SME Board

The SME Board targets small and medium-sized enterprises with shares in circulation of under 100 million. The listing requirements for the SME Board and the Main Board are nearly identical.

ChiNext

ChiNext was established on 30 October 2009 to support small and medium-sized enterprises, especially in the high-technology sector. Although the overall listing requirements for ChiNext are lower than the ones set forth for the Main Board and the SME Board, the CSRC generally exercises greater regulatory scrutiny, such as increasing the number of members on the issuance review committee, prolonging the sponsor's supervisory period and imposing more rigorous delisting rules.

Presently, there are only a few Chinese companies (primarily state-owned) that are dual listed in China and an overseas exchange (usually the Hong Kong Stock Exchange). Chinese companies are not prevented from pursuing dual listings after listing on a domestic stock exchange, though this would require approval from the CSRC.

Some Chinese companies choose to list on foreign exchanges in lieu of listing on a domestic exchange, such as the Hong Kong Stock Exchange, Nasdaq and the New York Stock Exchange (NYSE). Among foreign-listed Chinese companies, some choose to list overseas mainly for business reasons, such as avoiding profitability threshold requirements. Others choose to list overseas because of China's restrictions on foreign investment in certain industries. Particularly in the technology, media and telecommunications sectors, owing to regulatory restrictions and practice that effectively prevents controlling foreign ownership in a Chinese operating company, some issuers adopt foreign parent entities and list abroad using the variable interest entity (VIE) structure. However, joint ventures involving foreign ownership in a non-restricted sector are permitted to list on China's domestic exchanges.

Technology Innovation Board

On 1 March 2019, the CSRC and the SSE issued the Rules of the Technology Innovation Board, which took effect on the same day. These rules introduced a registration-based system and eased listing standards to accommodate qualified technology companies. On 22 July 2019, the Technology Innovation Board officially opened for trading. As of the end of 2019, 70 companies have listed on the Technology Innovation Board.

The Technology Innovation Board may be considered a breakthrough in China's capital market for the following reasons:

- a Removal of profit requirement: pre-profit technology industries such as information technology, high-tech manufacturing, new materials, new energy and environmental protection, along with pre-revenue bio-tech companies, may list on the Technology Innovation Board. In practice, pre-profit companies such as Suzhou Zelgen Biopharmaceuticals Co, Ltd have successfully passed the SSE's examination and have completed registration procedures with the CSRC, allowing them to list on the Technology Innovation Board.
- b Unweighted voting rights: the Technology Innovation Board permits, for the first time in the mainland capital markets, technology companies with unweighted rights to list. In practice, UCloud Technology Co, Ltd, which had an unweighted voting rights structure, successfully passed the SSE's examination and has completed the registration procedure with the CSRC, allowing it to list on the Technology Innovation Board.
- c Red-chip companies may list: red-chip companies (those whose parent entity is incorporated outside mainland China and whose primary business activities are in China, including VIE structure companies), may apply for a public offering of its stock in mainland China or through the issuance of Chinese depository receipts (CDRs), though listing standards are higher (see below). In practice, China Resources Microelectronics Limited (CRM) successfully passed the SSE's examination and is awaiting registration with the CSRC.
- d Spun-off companies may list: the Technology Innovation Board permits, for the first time in mainland capital markets, spun-off technology companies to list.

ii Overview of listing requirements

At present, all listing applications are submitted to and approved by the CSRC except for the Technology Innovation Board, which has a registration-based system.² If an applicant engages in a business subject to regulatory oversight by specific agencies, the CSRC will require these agencies to issue a no-objection letter in respect of the applicant.

Table 1 sets forth the main requirements for the Main Board, SME Board, ChiNext and the Technology Innovation Board. Tables 2a and 2b set forth the main requirements for red-chip companies. These companies must be qualified enterprises, whether they are listing stocks or CDRs, in addition to satisfying the requirements under the rules of the Technology Innovation Board.

² Under the Technology Innovation Board's registration-based system, listing applications are submitted for approval to the SSE. If approved, the application is then registered with the CSRC.

Table 1: Issuers incorporated in China

IPO requirements	Main Board and SME Board	ChiNext	Technology Innovation Board
Issuer qualifications	A company limited by shares that is duly incorporated and validly existing in China.		
Business records	At least three years of continuous operations or as otherwise approved by the State Council (where a limited liability company is converted into a company limited by shares through the conversion of the entire original book value of its net assets, the term 'continuous operation' may start from the date the limited liability company was established).		
Profitability	<ul style="list-style-type: none"> • Annual aggregate net profit exceeding 30 million yuan in each of the past three fiscal years (net profit shall be calculated based on the lower net profit before and after deduction of non-regular profits or losses); • aggregate net cash flow over 50 million yuan, or aggregate revenue of over 300 million yuan, in each case for the past three fiscal years; and • no unrecovered losses at the end of the most recent accounting period. 	<ul style="list-style-type: none"> • Annual aggregate net profit of not less than 10 million yuan for the past two years (net profit shall be calculated based on the lower net profit before and after deduction of non-regular profits or losses); or • annual aggregate net profit of not less than 50 million yuan in the past year. 	N/A
Pre-profit alternatives for the Technology Innovation Board only	<p>One of the following five thresholds (four of which do not have profitability requirements) where expected market value:</p> <ul style="list-style-type: none"> • is not less than 1 billion yuan, net profit in the past two years is positive, and the aggregate net profit is not less than 50 million yuan; or expected market value is not less than 1 billion yuan, net profit in the last year is positive, and operating income is not less than 100 million yuan (net profit shall be calculated based on the lower net profit before and after deduction of non-regular profits or losses); • is not less than 1.5 billion yuan; operating income in the past year is not less than 200 million yuan; and total R&D investment in the past three years accounts for not less than 15 per cent of business income in the past three years; • is not less than 2 billion yuan; operating income in the past year is not less than 300 million yuan; and net cash flow generated from business activities in the past three years is not less than 100 million yuan; • is not less than 3 billion yuan; operating income in the past year is not less than 300 million yuan; and • is not less than 4 billion yuan; significant business or products need to be approved by relevant governmental departments; and significant market space and phased results. For pharmaceutical applicants, at least one core product needs to be approved to carry out Phase II clinical trials for new drugs. Other applicants are required to possess 'obvious technological advantages' and meet corresponding conditions. 		
Expected market value means total equity following the IPO multiplied by the offering price.			
Assets	Proportion of intangible assets (after deduction of land use aquaculture, mining and similar rights) at the end of the most recent accounting period in net assets of ≤20 per cent.	Net assets at the end of most recent accounting period of ≥20 million yuan and no uncovered losses.	N/A
Capital	Pre-listing capitalisation of ≥30 million yuan; or post-listing capitalisation of ≥50 million yuan.	Post-listing capitalisation of ≥30 million yuan.	
Major business	No significant changes in the past three years.	Only one major business; no significant changes in the past two years.	No significant changes in the past two years.
Directors and senior management	No significant changes in the past three years.	No significant changes in the past two years.	

IPO requirements	Main Board and SME Board	ChiNext	Technology Innovation Board
Actual controller	No change in the past three years (the definition of 'actual controller' is based on several legally prescribed factors that are applied to each individual case based on the facts and circumstances of such case).	No change in the past two years.	
Internal control	<ul style="list-style-type: none"> • Effective internal control systems in all significant respects; and • an unreserved internal control report issued by a certified accountant. 	<ul style="list-style-type: none"> • Effective internal control systems in all significant respects, proving the issuer's operational efficiency, legality and compliance, and the accuracy of its audit report; and • an unreserved internal control report issued by a certified accountant. 	
Competition	<p>The issuer's business must not compete with the business of the issuer's controlling shareholder, actual controller, or other enterprises controlled by such controlling shareholder or actual controller. The definitions of 'controlling shareholder' and 'actual controller' are based on several legally prescribed factors that are applied to each individual case based on the facts and circumstances of such case.</p> <p>Although this item was officially removed in a 2015 revision of the listing rules on the condition that there is full disclosure of this item in the prospectus, in practice, the CSRC still devotes special attention to this item. Therefore, it is effectively still a listing requirement.</p>	<p>The business of the issuer's controlling shareholder, actual controller, or other enterprises controlled by such controlling shareholder or actual controller must not compete with the issuer's business in a manner that may have a significant adverse impact on the issuer.</p>	
Related-party transactions	No unreasonable related-party transactions; related-party transactions must be at arm's length and must not manipulate profits.	Related-party transactions must not significantly influence the issuer's independence or be unreasonable.	
Fund management	Rigorous fund-management procedures; the issuer's fund is not controlled by any controlling shareholder, actual controller or other enterprises controlled by any controlling shareholder or actual controller in respect of borrowing, the use of debt as compensation, advance payments or any other similar form.	Not a listing requirement, but required to be disclosed in the prospectus.	N/A
Tax	Taxes paid in accordance with law; no heavy reliance on tax preferences.	Not a listing requirement, but required to be disclosed in the prospectus.	N/A
Debt	No major credit risk; not a party to any major contingent liability such as a guarantee, litigation or arbitration that may adversely affect the issuer's continuous operation.	Not a listing requirement, but required to be disclosed in the prospectus.	No need to significantly rectify ownership of major assets, core technologies, trademarks, etc.; no major credit risk; not a party to any major contingent liability such as a guarantee, litigation or arbitration that may adversely affect the issuer's continuous operation.
Use of proceeds	Definitive plan for use of IPO proceeds; generally, IPO proceeds will be used for the principal business and investment projects.	Definitive plan for use of IPO proceeds; generally, IPO proceeds will be used for the principal business but not necessarily for investment projects.	N/A

IPO requirements	Main Board and SME Board	ChiNext	Technology Innovation Board
Legal compliance	<ul style="list-style-type: none"> In the past 36 months, no unauthorised direct or indirect public offering of shares, or if any of the above illegal practices are still currently in existence; and no other material non-compliance in the past 36 months. 	<ul style="list-style-type: none"> In the past three years no unauthorised direct or indirect public offering of shares, or if any of the above illegal practices are still currently in existence; and in the past three years, neither the issuer, its controlling shareholder nor its actual controller have committed a materially unlawful act that harms the legitimate rights and interests of investors and the public. 	<ul style="list-style-type: none"> The issuer's operations comply with laws and administrative regulations and national industrial policy; in the past three years, neither the issuer, its controlling shareholders nor its actual controllers have committed the criminal offences of embezzlement, bribery, embezzlement of property, misappropriation of property or destruction of the order of the socialist market economy, nor have they committed any major offences involving national security, public security, environmental security, production security, public health security, etc.; and in the past three years, neither the issuer, its controlling shareholder or its actual controller have committed a materially unlawful act that harms the legitimate rights and interests of investors and the public.
Other authorities' opinion	Subject to the opinions of the provincial government.	N/A	N/A

Table 2a: Red-chip issuers: qualifying enterprises

Issuer qualifications	Large red-chip companies already listed overseas	Large unlisted red-chip companies
Expected market value/operating income/valuation	Expected market value is not less than 200 billion yuan.	Operating income is not less than 3 billion yuan in the past year; and valuation is not less than 20 billion yuan.
Alternatives	N/A	Accelerated operating income, independent R&D capability, leading international technology and advantageous market position with an expected market value not less than 10 billion yuan or an expected market value not less than 5 billion yuan and operating income not less than 500 million yuan in the past year.
Status	Issuer conforms to standards relating to national strategy, achieving core technology and market acceptance.	
Industry	Innovative enterprises that have achieved considered scale such as the internet, big data, cloud computing, artificial intelligence, software and integrated circuits, high-tech manufacturing, bio-tech and other high-tech industries, and strategic emerging industries.	

Table 2b: Technology Innovation Board Rules for red-chip issuers

Requirements	Issuance of stock	Issuance of CDRs
Listing requirements	<p>Be a qualifying enterprise (see Table 2a).</p> <p>Satisfy the other threshold listing requirements of the Technology Innovation Board.</p>	<ul style="list-style-type: none"> Basic listing requirements in Article 13 of the Securities Law of the People's Republic of China (2014 amendment); complete and seamlessly operating organisation; capacity to achieve profits continuously and sound financial status; no false record in its financial statements over the past three years; no other major irregularity; and any other requirements as prescribed by the securities regulatory authority under the State Council, which have been approved by the State Council. <p>(The capacity to achieve profits continuously does not mean the profits have to be realised at the time of listing.)</p>
Jurisdiction	The company law of the issuer, but higher standards will be applied for the purposes of investor protection.	
Disclosure	Full disclosure of any VIE structure, unweighted voting rights or other similar arrangement.	

Compared with the NYSE, Nasdaq and the Hong Kong Stock Exchange, Chinese stock exchanges (except for the Technology Innovation Board) are currently unique in the following respects (however, as stated above, the Technology Innovation Board's reforms that have already taken effect and the 2019 Securities Law will substantially alter China's IPO landscape):

- a Applicant eligibility: unlike the NYSE, Nasdaq and the Hong Kong Stock Exchange, A-share applicants have to be companies limited by shares that are incorporated in China. Therefore, foreign issuers (such as Hong Kong, US or Cayman parent companies) cannot be listed on Chinese stock exchanges. However, a joint venture incorporated in China operating in a non-restricted industry where foreign investment is permitted may list on Chinese stock exchanges. Furthermore, eligible red-chip companies may apply to list on the Technology Innovation Board.
- b Financial criteria: unlike the NYSE, Nasdaq and the Hong Kong Stock Exchange, each financial listing threshold requires the issuer's net profits to be positive. However, pre-profit companies are permitted to apply to list on the Technology Innovation Board. Furthermore, we note that the 2019 Securities Law revised a core listing condition for IPOs in China from 'sustainable profitability' to 'sustainable operational capability', which means there is a good chance that profitability requirements on all stock exchanges, not just the Technology Innovation Board, may be lifted in the future.
- c Review process: the CSRC currently still uses an approval (rather than a registration) system that requires substantive review of all issuers. As a result, review times tend to be relatively longer and susceptible to policy considerations. As mentioned above, after the comprehensive promotion of the registration-based system, the role of the CSRC will turn towards being responsible for review of registration applications and supervision of the capital market. However, with the introduction of the registration-based system under the 2019 Securities Law, the CSRC will no longer be responsible for reviewing listing applications. Rather, the CSRC will instead review registered applications and supervise capital markets generally.

- d Board of supervisors requirement: A-share listed companies are required to have a board of supervisors consisting of at least three members. Employee representative supervisors may not be less than one-third of the board of supervisors. Directors and senior management may not concurrently be supervisors. The purpose of the supervisor is to oversee the activities of the board of directors and the senior management.
- e Competition: the CSRC devotes special attention to analysing potential competition between the issuer, on the one hand, and its controlling shareholder, actual controller or the enterprises controlled by the controlling shareholder or actual shareholder on the other. Generally, mere disclosure of such potential competition in the prospectus will be insufficient and the absence of such competition is effectively still a listing requirement, even though this item was officially removed in the 2015 revision of the listing rules.
- f Foreign investment restrictions: if the issuer conducts business in an industry where foreign investment is restricted or prohibited (according to law or in practice), the issuer may not list in China. The CSRC will not accept indirect control arrangements such as VIE structures, unlike the NYSE, Nasdaq and Hong Kong Stock Exchange. However, red-chip enterprises (including those with VIE structures) can now apply to list on the Technology Innovation Board. Segway-Ninebot Limited, a company with a VIE structure, has applied to list on the Technology Innovation Board through the issuance of CDRs, though to date the application has not passed yet.
- g Lock-up periods: the listing rules for Chinese IPOs specifically state that the controlling shareholder or actual controller is subject to a three-year lock-up period. All other shareholders are generally subject to a one-year lock-up period. This differs from other jurisdictions where lock-up periods are primarily determined by the underwriters and not by the listing rules. The length of the lock-up period is also longer compared with Hong Kong, where controlling shareholders are only subject to a six-month lock-up period.

iii Overview of law and regulations

The listing requirements for the Main Board (SSE and SZSE) are set forth in the Administrative Measures for Initial Public Offerings and Listings of Shares. The listing requirements for ChiNext are set forth in the Administrative Measures on Initial Public Offerings of and Listing of Shares on ChiNext. All listings must comply with the requirements set forth by the Company Law, the Securities Law, and other specific rules and requirements of the applicable exchange.

With regard to the CSRC's application of these rules, there have been the following general trends.

Accelerated review

The CSRC's review schedule accelerated, starting in the middle of November 2016. In 2017, the CSRC's issuance examination committee reviewed 488 IPO applications – a much faster pace than in previous periods. In 2018 and 2019, the CSRC maintained this accelerated pace. In fact, in practice, for stock exchanges other than the Technology Innovation Board, the time between pre-disclosure and approval in 2018 and 2019 was approximately 15 months, shorter than the approximately 19-month wait in 2017. With the introduction of the registration-based system under the 2019 Securities Law, we believe that the pace of

review will be accelerated after 1 March 2020. For the Technology Innovation Board, the review period in practice has been shorter, with an average time of no more than six months, in line with or even shorter than international standards.

Increased success rate of applications

Although the CSRC has accelerated its review of prospective applications, its practice of only selecting high-quality applicants that meet its listing standards reduced the overall success rate of applications in 2018. In 2016, the CSRC's issuance examination committee reviewed 266 applications, of which 241 were successful, resulting in a pass rate of 90.6 per cent. However, in 2017, the CSRC's issuance examination committee reviewed 488 applications (83 per cent more than the previous year), of which 380 were successful, resulting in a pass rate of 77.87 per cent. In particular, from 17 October 2017 (the date when the new issuance examination committee took office) to 28 December 2017, the pass rate for IPO applications was at just 57.78 per cent, significantly lower than before.³ In 2018, the CSRC's issuance examination committee reviewed 185 applications (a much lower number than previous years), of which 111 were successful, resulting in a pass rate of about 60 per cent,⁴ which is the lowest in the past five years.

In 2019, the pass rate for Technology Innovation Board IPOs was 95 per cent.⁵ Perhaps due to the roll-out of the Technology Innovation Board in 2019, the CSRC's approach to applicants proposing to list on other stock exchanges also changed with a bias towards approval. The issuance examination committee reviewed 164 applications, of which 138 were successful, resulting in a pass rate of over 80 per cent,⁶ which is much higher than the 60 per cent pass rate in 2018.

III THE OFFERING PROCESS

i General overview of the IPO process

Listing in China involves steps that are common in other jurisdictions (due diligence, document preparation, including the prospectus), as well as steps that are unique to China (pre-listing review, conversion from a limited liability company to a company limited by shares, the CSRC approval). Below is a brief overview of the IPO process in China. For stock exchanges except the Technology Innovation Board, the time frames set forth in Table 3A reflect common practice prior to the effectiveness of the 2019 Securities Law. The time frames set forth in Table 3B reflect common practice for applicants proposing to list on the Technology Innovation Board. Specific time frames for individual applicants may vary from those set forth in Table 3A and Table 3B.

³ Prior to 17 October 2017, the issuance examination committee consisted of two different committees, one for the Main Board and the SME Board, and one for ChiNext. From 17 October 2017 onwards, these two committees were combined into one committee.

⁴ Based on public data of the CSRC.

⁵ Based on public data of the SSE.

⁶ Based on public data of the CSRC.

Table 3A: The IPO process for Stock Exchanges Other Than the Technology Innovation Board

Step	Particulars	Timetable
Due diligence	The sponsor, auditors, legal advisers and other stakeholders conduct due diligence of the issuer, set IPO terms (such as the target amount to be raised), advise the issuer on the IPO process and assist the issuer in complying with IPO requirements.	T-90 days
Restructuring	The issuer is restructured into a company limited by shares (as required under law); stakeholders prepare a restructuring plan, audit and appraise the issuer's assets, and prepare sponsor agreements and the issuer's articles of association; the issuer executes the restructuring plan and establishes relevant internal departments in accordance with listing rules.	T-45 days
Pre-filing review	The local counterpart of the CSRC conducts pre-listing guidance work.	T-15 days
Filing	The sponsor files the IPO application documents with the CSRC; once the CSRC states the application documents are complete, the CSRC decides whether to accept the filing within five business days.	T*
CSRC procedures	<ul style="list-style-type: none"> • Acceptance of the application from the CSRC; • pre-disclosure; • feedback; • face-to-face meeting; • reply to the CSRC's feedback; • pre-disclosure updates; • preliminary review; • examination of selected disclosures (if any); • attendance of the issuance examination committee meeting; • reply to the issuance examination committee's questions or requirements (if any); • sealing of IPO application-related documents; • post-meeting review by the issuance examination committee; and • obtaining of official approval and issuance. 	
Preparation by the exchange	<ul style="list-style-type: none"> • Approval from the CSRC; • negotiation with traders about stock abbreviation, stock code, etc; • submission of documents to the relevant exchange; • amendment registration with the Administration for Industry and Commerce; and • listing and trading on the relevant exchange. 	

* T refers to the date when the CSRC accepts the IPO application. Days are calendar days.

Table 3B: The IPO process for the Technology Innovation Board

Step	Particulars	Timetable
Due diligence	The sponsor, auditors, legal advisers and other stakeholders conduct due diligence of the issuer, set IPO terms (such as the target amount to be raised), advise the issuer on the IPO process and assist the issuer in complying with IPO requirements.	T-90 days
Restructuring	The issuer is restructured into a company limited by shares (as required under law); stakeholders prepare a restructuring plan, audit and appraise the issuer's assets, and prepare sponsor agreements and the issuer's articles of association; the issuer executes the restructuring plan and establishes relevant internal departments in accordance with listing rules. The foregoing does not apply to applicants proposing to list under the CDR regime.	T-45 days
Pre-filing review	Communicate potential issues with the SSE electronically or in person.	T-15 days
Filing	The sponsor files the IPO application documents with the SSE; once the SSE states the application documents are complete, it has five business days to decide whether to accept the filing.	T*

Step	Particulars	Timetable
SSE procedures	<ul style="list-style-type: none"> • Acceptance of the application from the SSE; • pre-disclosure; • first round of inquiries; • face-to-face meeting (if necessary); • feedback; • multiple rounds of further inquiries; • reply to the SSE's feedback; • consultation with the SSE regarding industry issues; • face-to-face inquirers (if necessary); • issuance of the audit report by a department of the SSE; • pre-disclosure; • attendance of the issuance examination committee meeting; • hearing; • release of the issuance examination committee's opinion; and • SSE issues opinion. 	T+180 days
CSRC procedures	<ul style="list-style-type: none"> • Report to the CSRC and obtain its official approval; • pre-disclosure updates; and • disclosure of the prospectus. 	T+240 days

* T refers to the date when the SSE accepts the IPO application. Days are calendar days.

ii Pitfalls and considerations

Under the current IPO process (except for the Technology Innovation Board), the CSRC will conduct a thorough, substantive review of all IPO application documents. In recent years, the CSRC has raised mainly the following issues with respect to unsuccessful applicants:

- a failure to satisfy qualification requirements;
- b failure to satisfy sustainable profitability requirements;
- c competition involving the controlling shareholder, actual controller or other enterprises controlled by such controlling shareholder or actual controller;
- d use of proceeds-related issues;
- e disclosure issues;
- f corporate governance issues;
- g compliance issues;
- h finance and accounting issues; and
- i defective reports issued by advisers.

This is not an exhaustive list of reasons, and one factor may not necessarily be decisive in an application's denial. However, they serve as a useful guide for prospective issuers. With the roll-out of the registration-based system for all issuers on 1 March 2020 pursuant to the 2019 Securities Law, we anticipate that internal controls, and the transparency, authenticity and accuracy of disclosures will be decisive factors in the IPO process.

iii Considerations for foreign issuers

As stated above, prior to the launch of the Technology Innovation Board, an issuer must be a company limited by shares incorporated in China. Accordingly, non-Chinese corporate bodies may not list on Chinese stock exchanges. However, these restrictions do not prevent joint ventures with foreign ownership that do not operate in a restricted or prohibited industry from listing in China. Established offshore incorporated eligible red-chip companies may list on the Technology Innovation Board.

IV POST-IPO REQUIREMENTS

Listed companies in China are subject to continuous disclosure requirements, including regular and ad hoc reporting. Generally, regular reporting includes the annual report, biannual report and quarterly reports. Ad hoc reporting is required when listed companies encounter significant events or shareholding changes (e.g., over 5 per cent shareholding, change in shareholding of directors or senior management). Tender offer rules also apply for shareholders who acquire more than 30 per cent of the issuer's shareholding after listing.

V OUTLOOK AND CONCLUSION

The most significant changes in China's domestic IPO market in 2019 were the launch of the Technology Innovation Board and the promulgation of the 2019 Securities Law, which extends the Technology Innovation Board's registration-based system to all other stock exchanges.

The accelerated review periods and high success rates of applicants, including pre-profit companies and those with unweighted voting rights structures, suggests that the Technology Innovation Board will be a viable and attractive option for high-tech Chinese companies going forward.

While the 2019 Securities Law will officially take effect on 1 March 2020, we observe that the CSRC has recently focused not only on an applicant's financial performance and sustainable profitability, but also on internal controls, and the transparency, authenticity and accuracy of disclosures. This may preview the approach taken by the stock exchanges and the CSRC when reviewing IPO applications in the future.

The central government's recent emphasis on the capital market's importance in the real economy, along with the implementation of the Technology Innovation Board and the promulgation of the 2019 Securities Law, means IPO activity in the China may rise further in 2020.

Appendix 1

ABOUT THE AUTHORS

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Ms Chen's practice focuses on capital markets, mergers and acquisitions, and venture capital and private equity. She has helped clients establish company structures, conduct due diligence investigations and draft related legal documents. Ms Chen has represented many Chinese and international clients in a wide variety of cross-border transactions in different industries such as TMT, education, real estate and energy.

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